



The Town of Niagara-On-The-Lake

Telephone (905) 468-3266
Facsimile (905) 468-2959

1593 Four Mike Creek
Road
P.O. Box 190
Virgil, Ontario
L0S 1T0

Report: UDC-21-002 **Committee Date: March 30, 2021**

Report To: Urban Design Committee
Subject: 22 Angels Drive
Proposed New Dwelling

1. RECOMMENDATION

It is respectfully recommended that:

1.1 The Urban Design Committee provides comments on the design for the proposed new dwelling at 22 Angels Drive.

2. PURPOSE / PROPOSAL

The applicant is appearing before the Urban Design Committee (the "UDC") for detailed review of a proposed new dwelling as a requirement of the Subdivision Agreement. The site plan and building elevations are attached as **Appendix I**.

The Subdivision Agreement for the Fiorucci Estates Subdivision is authorized through By-laws 4461-11 and 4461B-12 (attached as **Appendix II**). Schedule H of the agreement provides development and design principles and standards, which requires:

10. The exterior facade of buildings and landscape design of the through lots on York Road and Street 'A' shall be subject to a design review approval by the Town Urban Design Committee.

3. BACKGROUND

3.1 Site Description and Surrounding Land Use

22 Angels Drive is a corner lot located within the Fiorucci Estates Subdivision in the urban area of St. Davids (see **Figure 1**). The subject lands are a vacant through lot with frontage on Angels Drive and York Road. The subject lands are flat with no mature trees. Surrounding land uses are primarily single-detached dwellings with service commercial uses outside the urban boundary to the west.



Figure 1 - Subject property outlined in yellow

The Official Plan designation for the subject lands is “Low Density Residential”, and the zoning is “St. Davids Community Zoning District - Residential (R1-16).”

4. DISCUSSION / ANALYSIS

4.1 Town of Niagara-on-the-Lake Official Plan, 2017 Consolidation, as amended

The Town Official Plan provides the following applicable policies under Section 6.32.3 Special Policy Area A-3 (St. Davids):

Urban Design

2. All development, redevelopment, and infill in St. Davids shall be designed in a manner consistent with urban design guidelines adopted by Council.

Schedule H of the Subdivision Agreement sets out the following relevant design guidelines:

11. The facade and built form of all the new homes and garages shall be consistent with the St. Davids Urban Design Guidelines including specific guidelines for rooflines, entranceways, windows, garages and accessory structures, architectural elements, and building materials in addition to the following general design principles:

- *New development should be consistent in form and design with the surrounding existing built fabric. Detailed building and garage setbacks and placement guidelines should be consistent with those for new residential areas.*
- *A strong public face should be created. Public streets and open spaces should generally be faced by the primary facades of houses as the houses that line the street substantially create the collective image of the streetscape.*
- *Diverse housing types and designs create great streets in which to live and visit. On any given street in St. Davids there is a striking lack of repetition; lot sizes, house types, building heights, material and colours are consistently different. The rich architectural language should inspire designers of new buildings. On each street, a variety of building types and sizes should be provided to prevent monotony and encourage a diverse community fabric. However, a sub-neighbourhood area may be distinguished by a dominant housing type, provided there is some intermixing of dwelling types and a variety of visible building elements and materials within each block.*
- *Dwellings on corner and flank lots, at gateways, and at the termini of streets should employ building elements and designs that emphasize their visibility and potential role as landmark or orienting structures within the neighbourhood.*
- *Automobile storage should be subordinate. Garages should not be readily visible from the street; this allows the house facade to have greater expression through the emphasis on the front entrance, porch, bay windows, etc.*

The proposed dwelling is compatible in scale and design with the existing surrounding residential area and the sub-neighbourhood character that exists within Fiorucci Estates Subdivision. The subject lands are an irregularly shaped lot on the interior corner of Angel's Drive, therefore the garage is angled in relation to the front facade of the dwelling. The proposed 2-car garage is pushed back further from the front lot line than the covered front porch. The proposed design incorporates two (2) separate garage doors as recommended within the design guidelines as opposed to one double-wide garage door. In addition, the garage doors are less than 50% the width of the dwelling facade as recommended in the design guidelines.

The proposed design creates a strong public face on both Angels Drive and York Road through the use of covered front and rear porches, decorative gables and an ample amount of glazing (windows). Staff note that, the coniferous tree cover from York Road has matured since the earliest dwellings in the subdivision were constructed offering substantial screening from York Road (see **Figure 3**).



Figure 3 - Subject lands as viewed from York Road through mature coniferous screening

Staff are of the opinion that the proposed dwelling is compatible with surrounding dwellings and creates a strong public face from both streetscapes.

5. STRATEGIC PLAN

Not applicable.

6. OPTIONS

Not applicable.

7. FINANCIAL IMPLICATIONS

There is no fee for UDC Review and Staff review and administrative costs are borne by the Town.

8. COMMUNICATIONS

The Urban Design Committee Minutes will be forwarded to Council as part of the Information Package where all recommendations will be publicly available.

9. CONCLUSION

The applicant has submitted a proposed site plan and building elevations for a new dwelling on a vacant lot at 22 Angels Drive. The Committee is asked for their comments on the proposed dwelling design and conformity with the applicable design guidelines.

Respectfully submitted,

DHorne

**Denise Horne, MA, Diploma Heritage Conservation, CAHP
Planner II**

M. Iamarino

**Mark Iamarino, MCIP, RPP
Senior Planner**

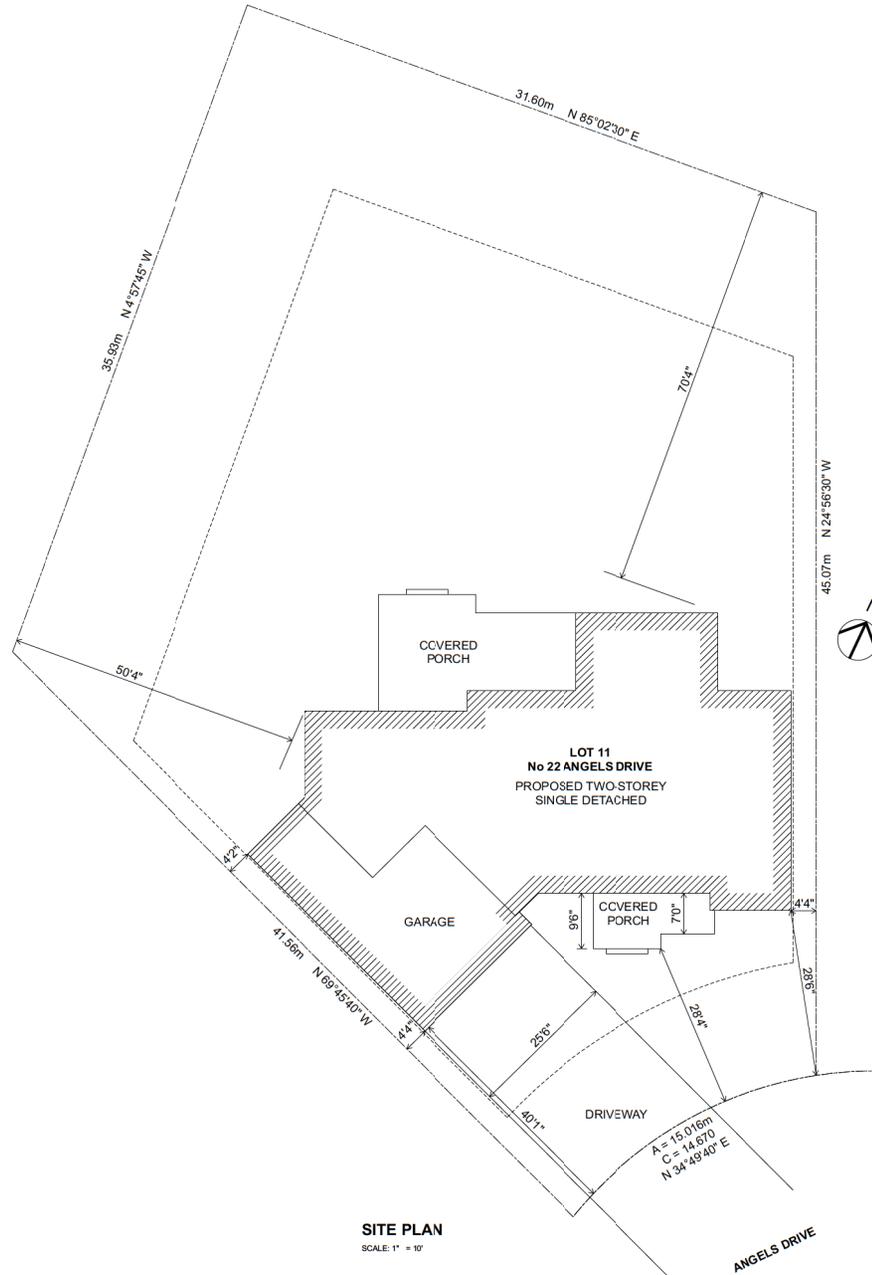
ATTACHMENTS



Appendix II - Fiorucci Estates Subdivision Agreement.pdf Appendix I - Site Plan and Elevation Drawings.pdf

First Capital of Upper Canada - 1792

Appendix I



SITE PLAN
SCALE: 1" = 10'

ZONING INFORMATION

RESIDENTIAL ZONE - R1-16

MINIMUM AREA	: 669.04 m ² (201.81F)
MINIMUM LOT FRONTAGE	: 17.1 m (56 ft)
MINIMUM FRONT YARD	: 6 m
MINIMUM REAR YARD	: 7.5 m
MINIMUM SIDE YARD	: 1.2 m
MINIMUM FRONT PORCH DEPTH	: 2 m
MAXIMUM HEIGHT TO PEAK	: 9.75 m (32.42 ft)
GARAGE DOOR NOT MORE 50% OF FACADE	
GARAGE MUST BE MORE SETBACK 1m FROM HOUSE	
SINGLE GARAGE DOORS REQUIRED	
MAXIMUM GARAGE WIDTH	: 7.93 m (26 ft)
LOT COVERAGE	: 33%

LOT AREA	: 1734.9 m ² (4200.1 sqft)
BUILDING AREA	: 417.7 m ² (458.8 sqft)
LOT COVERAGE	: 23.9%
HEIGHT	: 8.5 m (27'11")

ARCHITECTURAL CONTROL GUIDELINES

	: 7.62 m (25 ft) TO HOUSE AND 4.57m (15 ft) TO PORCH
	: 1.52 m (5 ft)



FRONT PERSPECTIVE

NOT TO SCALE



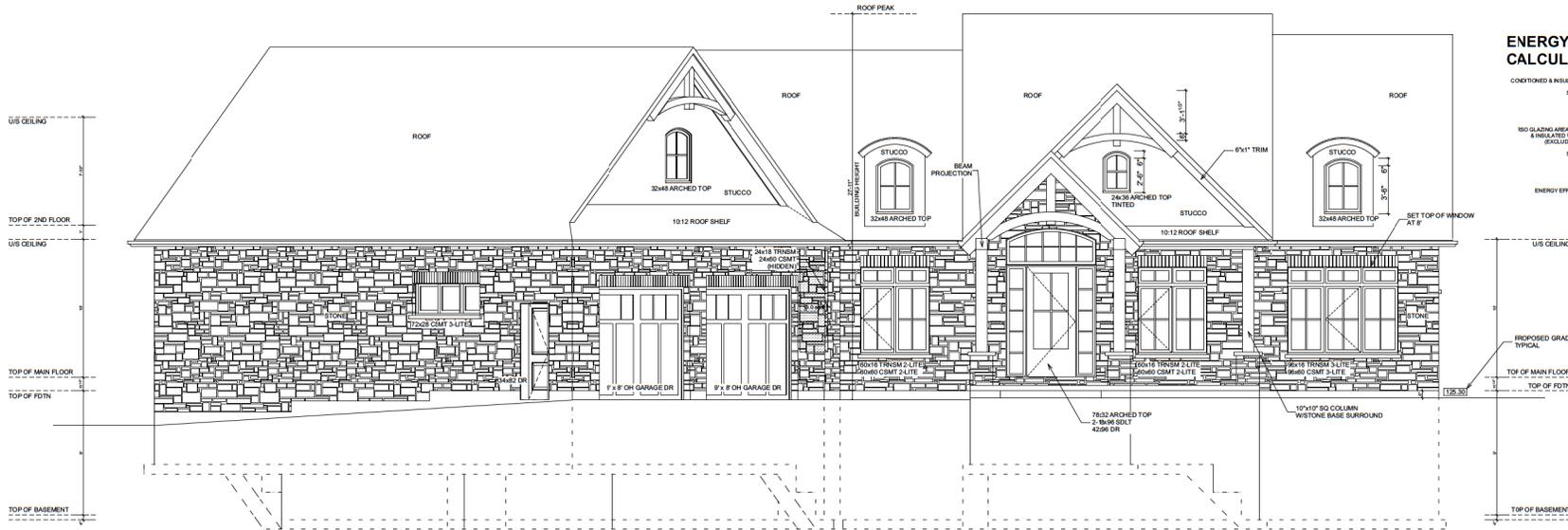
REAR PERSPECTIVE

NOT TO SCALE

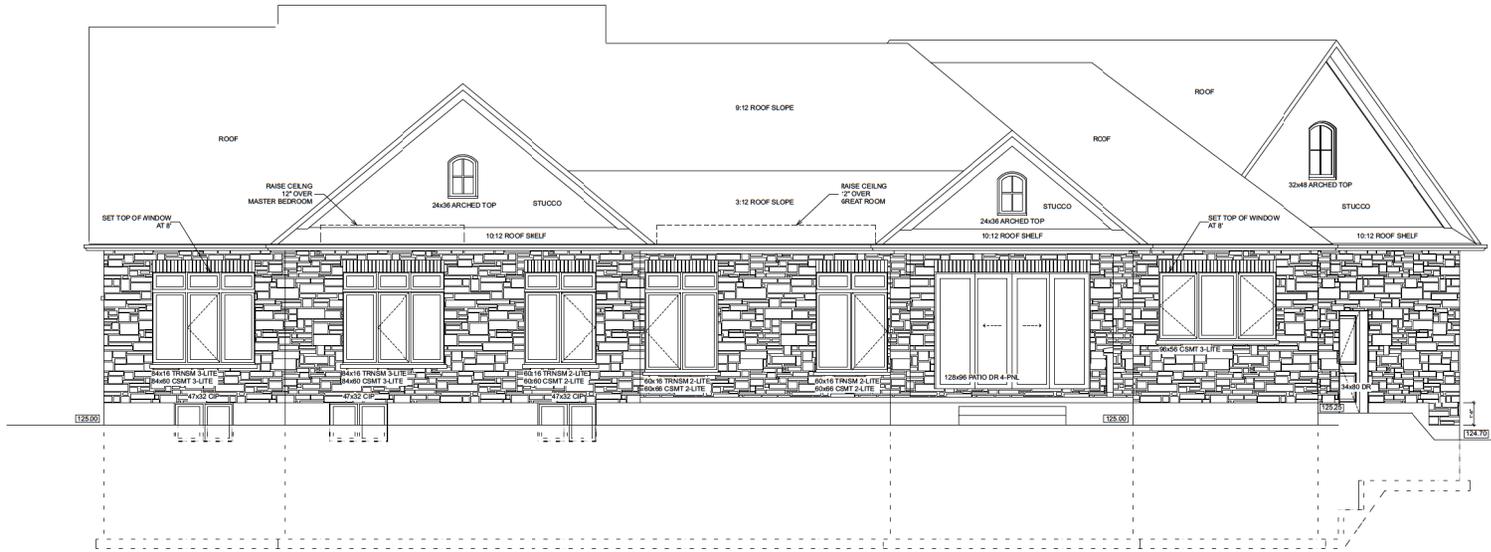
NOTES
All construction and/or levels shall verify all dimensions, notes, and any report and discrepancies prior to construction. The drawings are to be used as a guide only and shall not be used for any other purpose. The designer and/or contractor shall be responsible for obtaining all necessary permits and approvals. The drawings are to be used as a guide only and shall not be used for any other purpose. The designer and/or contractor shall be responsible for obtaining all necessary permits and approvals. The drawings are to be used as a guide only and shall not be used for any other purpose. The designer and/or contractor shall be responsible for obtaining all necessary permits and approvals.

REVISION	DATE
ISSUED	FEBRUARY 19, 2021
DESIGNED BY	DESIGNS BY
	SANTY
	DR. INDIANAS (L.D.) - 57-010-0000 - 037-271-0000
BUILDER	BUILDER
PROJECT NAME & ADDRESS	RAPONE RESIDENCE (LOT 11) 22 ANGELS DRIVE ST. DAVID'S, ONTARIO
PROJECT TITLE	SITE PLAN
DESIGNED FOR	CONSTR.
DESIGNER SIGNATURE	<i>Santy Yeh</i>
DESIGNER NAME	SANTY YEH
DESIGNER NO.	21034
DATE	20-06-30
FRM NO.	42520
PAGE	1 OF 8
DRAWN BY	SY
CHECKED BY	SY
SCALE	1 OF 8

Appendix I



SOUTH (FRONT)
SCALE: 1/4" = 1'-0"



NORTH (REAR)
SCALE: 1/4" = 1'-0"

NOTES
All contractors and trades shall verify all dimensions, notes, and any report and discrepancies prior to construction. The drawings are for the owner's use only. All drawings, prints, and related documents are the property of the designer and shall not be returned, copied, reproduced, or otherwise used without the written consent of the designer. Drawings to be for the owner's use only.

ENERGY EFFICIENCY CALCULATIONS FOR SB-12

CONDITIONED & INSULATED HALL AREA	
SOUTH FRONT	1152.8 SQFT
NORTH FRONT	1194.8 SQFT
WEST ELEV	1093.8 SQFT
EAST FRONT	1014.8 SQFT
TOTAL	4356.2 SQFT

150 GLAZING AREA IN CONDITIONED & INSULATED HALL AREA TOTAL (EXCLUDING FRONT DOOR)	
SOUTH FRONT	144.7 SQFT
NORTH FRONT	338.8 SQFT
WEST ELEV	4.8 SQFT
EAST FRONT	48.9 SQFT
TOTAL	497.2 SQFT

ENERGY EFFICIENCY RATIO	11.2%
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REVISION	DATE
ISSUED	FEBRUARY 19, 2021

DESIGNS BY
SANTY
340 N. HARRIS ST. - SUITE 100 - CHICAGO, IL 60610
630-420-1111
www.santy.com

BUILDER
RAPONE RESIDENCE (LOT 11)
22 ANGELS DRIVE
ST. DAVID'S, ONTARIO

PAGE TITLE
ELEVATIONS

DESIGNED BY: CONSTR

DESIGNER SIGNATURE: *Santy Yeh*
DESIGNER TITLE: **SANTY YEH**
DESIGNER NO.: 21034
DATE: 20-08-30

FRM NO.: 42520
PAGE: 2 OF 8

SCALE: 1/4" = 1'-0"



PLACING 5" AMP FOR STRUCTURAL ITEMS AS NOTED WITH ASTERISK ONLY - ALL ELSE IS DESIGNED AND RESPONSIBILITY BY OTHERS.

ENGINEERING BASED ON FLOOR AND ROOF LAYOUTS AND SPANS/DIRECTIONS AS SHOWN IN THESE DRAWINGS. ANY DEVIATIONS OF FLOOR OR TRUSS NULLIFIES ENGINEERING.

ENGINEERING DETAIL SHEETS S1 AND S2 SHALL ACCOMPANY AND BE READ IN CONJUNCTION WITH THIS DRAWING SET FOR PERMIT AND CONSTRUCTION.

**THE CORPORATION
OF THE
TOWN OF NIAGARA-ON-THE-LAKE
BY-LAW NO. 4461-11**

Fiorucci Subdivision
Roll No # 2627 020 025 11800

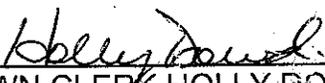
A BY-LAW TO AUTHORIZE A SUBDIVISION AGREEMENT
BETWEEN THE CORPORATION OF THE TOWN OF NIAGARA-ON-
THE-LAKE AND ANGELO FIORUCCI AND ANGELA FIORUCCI
and Royal Bank of Canada

BE IT ENACTED AS A BY-LAW OF THE CORPORATION OF THE
TOWN OF NIAGARA-ON-THE-LAKE as follows:

1. THAT the Agreement dated the 2nd day of May 2011 between the Corporation of the Town of Niagara-on-the-Lake and Angelo Fiorucci and Angela Fiorucci be and the same is hereby approved; and
and Royal Bank of Canada
2. THAT the Lord Mayor and Clerk be authorized to affix their hands and the Corporate Seal; and
3. THAT this by-law shall come into force and take effect immediately upon the passing thereof.

**READ A FIRST, SECOND AND THIRD TIME AND PASSED THIS 2nd DAY OF
MAY 2011**


LORD MAYOR DAVE EKE


TOWN CLERK HOLLY DOWD

THIS INDENTURE made this 2nd day of May, 2011.

BETWEEN:

THE CORPORATION OF THE TOWN
OF NIAGARA-ON-THE-LAKE
(Hereinafter called the 'Town')

OF THE FIRST PART,

-And- ANGELO FIORUCCI
ANGELA FIORUCCI
(Hereinafter called the 'Developer')

OF THE SECOND PART,

And Royal Bank of Canada (mortgagee)

WHEREAS the Developer is the Owner of the lands in the Town of Niagara-on-the-Lake described in Schedule A attached hereto, and has applied to the Town of Niagara-on-the-Lake for approval of a Subdivider's Agreement for the purpose of registering the same in the Land Titles Office for Niagara North;

AND WHEREAS the Developer desires to subdivide and develop the Lands in accordance with a proposed final plan of subdivision;

AND WHEREAS the Town agrees that it will release the Plan for registration subject to the terms and conditions of this Agreement and the conditions of draft plan approval;

AND WHEREAS the Town requires the Developer, before final approval of the proposed Subdivision Agreement, to pay for the construction and installation of certain municipal services hereinafter described to serve such a Subdivision and to agree to the provisions herein contained;

AND WHEREAS this Agreement applies to the "Fiorucci Subdivision", being part of Part of Lot 95 in the Town of Niagara-on-the-Lake, prepared by William A. Mascoe Surveying Ltd, Ontario Land Surveyor, dated November 15, 2010, showing 37 single detached residential lots and 1 block for access reserve and the hypotenuse of the daylight triangle.

AND WHEREAS this Agreement is an agreement executed under the authority of s. 51(26) of the Planning Act, R.S.O. 1990, c. P.13, as amended, and as such may be registered against title in the Land Titles Office for Niagara North.

NOW THEREFORE THIS INDENTURE WITNESSETH that in consideration of the Town approving the said plan of subdivision and, in consideration of the sum of One Dollar (\$1.00) of lawful money of Canada now paid by the developer to the Town (the receipt thereof is hereby acknowledged), the parties hereto covenant and agree one with the other as follows:

1 DEFINITIONS

In this Agreement: unless there is something in the subject matter or context inconsistent therewith:

- 1.1 'Approved plans' means the required plans as approved by the Town and other government agencies including conservation authorities.
- 1.2 'Assumption of the Subdivision' shall mean the date when all works under the Agreement have been completed, the maintenance period for Public Works has expired, no other obligations under the Agreement remain outstanding other than as may be specified on the date of assumption.
- 1.3 'Certificate of Completion' means the certificate of completion of all primary, secondary, tertiary services issued by the Director of Public Works, acting reasonably, upon being satisfied that the primary, secondary, tertiary services have been completed.
- 1.4 'Conditions' means the conditions of draft approval for the Draft Plan of Subdivision imposed by the Town in accordance with the requirements of the Planning Act, Ontario.
- 1.5 'Developer' includes the successors, assigns, heirs, executors, administrators, or other legal representatives of the Developer to whom the context can apply according to law.
- 1.6 'Easement' means easements that are to be conveyed to the Town or Region to service the Lands.
- 1.7 'Final approval' means final approval of the Plan for registration given by the Town in accordance with the requirements of the Planning Act (Ontario).
- 1.8 'Final Certificate of Approval' means the certificate issued by the Director of Public Works, acting reasonably, upon being satisfied with the completion of the primary, secondary and tertiary services and the completion of all maintenance required during the one (1) year maintenance periods provided for herein.
- 1.9 'Final Plan' means a Plan prepared at the request of the Developer and submitted to the approval authority as a Final Plan suitable for registration. Upon registration the registered plan shall be the final plan for the purposes of this Agreement.
- 1.10 'Highway' means land dedicated as a public highway by the Plan and includes a proposed public highway and proposed road widening shown on the Draft Plan.
- 1.11 'Inspector' means the Inspector appointed by the Town of Niagara-on-the-Lake for the Subdivision and provides inspection services on behalf of the Town.
- 1.12 'Install' shall also mean reinstall, provide, construct, or reconstruct.

- 1.13 'Lands' means all of the lands shown on the Draft Approved Plan and described in Schedule 'A'.
- 1.14 'Primary Services' means road signs, hydro wiring, street lighting, sidewalks (where required as primary services in Schedule 'C'), watermains, sewers, both sanitary and storm, and any pumping station, catch basins or other appurtenances, the base road including base asphalt, curbs and gutters, community mail box pads and lot pre-grading including sodded swales.
- 1.15 'Required Plans' means all of the plans and specifications for all of the works, matters, and things required to be designed, installed, and done by the Developer by this Agreement for the subdivision and development of the Lands, including without limiting the generality of the forgoing, servicing plans, street lighting plans, landscape and fencing plans (which include the plans for the noise attenuation works), etc. Where the subject matter or context of a particular section of this Agreement requires reference to any one of the required plans, it may be referred to by its individual name, ie. 'required street lighting plans'.
- 1.16 'Secondary Services' means top coat of asphalt, sidewalks (where required as secondary service in Schedule 'D') and any services not included in 'Primary' or 'Tertiary Services'.
- 1.17 'Street Lighting' means street lighting and park walkway lighting system which includes all poles, standards, arms, lights, fixtures, wires, ducts and related equipments that are necessary for the safe illumination of the roadway, boulevard, park and walkway to the Town requirements.
- 1.18 'Surveyor' means an Ontario Land Surveyor.
- 1.19 'The Engineer' shall refer to the Developer's Consulting Engineer.
- 1.20 'The Land' means the property shown in Schedule 'A'.
- 1.21 'Tertiary Services' means those services or lot improvements that must be carried out as the buildings on each individual lot are completed and include tree planting, curb cut, driveway paving on the road allowance, final lot grading and sodding of boulevards.

2 ORGANIZATION OF AN AGREEMENT

- 2.1 This Agreement shall define the obligations and duties of the Developer with respect to the plan of subdivision of the Lands, and without limiting the generality of the foregoing, shall include the installation, construction, repair and maintenance of the public works to be provided and payments required to be made to the Town and such other matters as are more specifically set out herein and shall further define the responsibilities of the Developer related to the acceptance and assumption of the said plan of subdivision.

- 2.2 All Schedules attached hereto shall form part of this Agreement and shall have the same force and effect as if the information on them were contained in the body of this agreement.

3 PRECONDITIONS TO THE SIGNATURE OF THE AGREEMENT BY THE TOWN

- 3.1 The Developer covenants and agrees to pay all arrears of taxes outstanding and all taxes for the current year in respect to the Lands described in Schedule A, prior to the execution of this Agreement by the Town.
- 3.2 The Developer covenants and agrees to commute and pay, upon execution of this Agreement, all designated charges, local improvement charges, and imposed rates now assessed and levied upon the Land, including but not limited to levies under the *Local Improvement Act*, *Ontario Water Resources Act*, *Public Utilities Act*, *Drainage Act*, and the *Municipal Act, 2001*, and any other special levies or charge against the property, save and except development charges.
- 3.3 The Developer shall prepare cost estimates for the construction of all Primary, Secondary and Tertiary off-site and on-site services and estimate the number of working days associated with the construction of such services upon which the calculation for inspections, Letters of Credit and security deposits shall be based.
- 3.4 The Developer covenants and agrees to grant to the Town and all appropriate authorities, free from encumbrances, the lands and easements for public purposes, as described in Schedule B hereto. The documents for all lands described in Schedule B shall be deposited with the Town before execution of this Agreement by the Mayor and Clerk, with the plan numbers left blank in the description in the document. The Town is hereby authorized to fill in such blanks after the plan of subdivision is registered and a plan number is assigned.
- 3.5 The Developer shall comply with all conditions of the Subdivision Agreement, which are hereby referentially incorporated.
- 3.6 The Developer hereby covenants and agrees that this Agreement and the Schedules hereto, or any part thereof, will be registered by the Town upon the title of the Land within the proposed plan of subdivision and a copy of the registered Agreement will be given to the Developer.
- 3.7 The Developer shall pay to the Town cash in the amount of 5 % of the appraised value of the lands described in Schedule A to satisfy the requirements for Parks Dedication pursuant to section 51.1 (1) of the Planning Act and as detailed in Schedule F attached hereto.

- 3.8 The Developer shall name all public roads within the development to the satisfaction of the Town.
- 3.9 The Developer further covenants and agrees to submit a Final Plan of Subdivision for approval.
- 3.10 The Developer agrees that the commitment of servicing allocation by the Regional Municipality of Niagara will be assigned at the time of final approval of the Subdivision for registration purposes.
- 3.11 The Developer shall provide the Regional Niagara Planning and Development Department with a written undertaking that all offers and agreements of purchase and sale, which may be negotiated prior to registration of this subdivision, shall contain a clause clearly indicating that a servicing allocation for this subdivision will not be assigned until the plan is granted final approval for registration.
- 3.12 The Developer is aware that if final approval is not given to this plan within three (3) years of the draft approval date and no extensions have been granted, draft approval shall lapse. If the Developer wishes an extension to the draft approval, a written explanation with reasons why the extension is required, must be received by the Town prior to the lapsing date.
- 3.13 The Developer shall obtain Ministry of the Environment Certificates of Approval for the necessary servicing (water, sanitary sewer and storm water drainage) for the development prior to final approval for registration.
Note: The design of any new stormwater management system should be submitted directly to the Ministry of the Environment, Toronto office, for approval and issuance of a Certificate of Approval.
- 3.14 The Developer shall provide to the Regional Public Works Department (Development Services Division) a Phase I Environmental Site Assessment (ESA) in accordance with Ministry of Environment (MOE) Regulation 153/04. If a Phase 1 ESA indicates that further evaluation and soil testing should be done, a Phase II ESA should be undertaken with any required remediation completed with a Record of Site Condition (RSC) filed with the Ministry registry and acknowledged by the Ministry of the Environment.
- 3.15 The Developer shall submit to the Regional Planning and Development Department (Development Services Division) for review and approval two (2) copies of a detailed stormwater management plan for the subdivision and the following plans designed and sealed by a suitably qualified professional engineer 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:

3.15.1 Detailed lot grading and drainage plans, noting both existing and proposed grades and the means whereby overland flows will be accommodated across the site;

3.15.2 Detailed sediment and erosion control plans.

Note; The Region will request the Niagara Peninsula Conservation Authority to review the stormwater management plan and other related plans on the Region's behalf and to submit comments to the Regional Planning and Development Department regarding the approval of these plans and the subsequent clearance of related conditions by Regional Planning staff.

4 PRECONDITIONS FOR CONSTRUCTION OF SERVICES

Before any work is commenced:

- 4.1 The Developer hereby agrees and undertakes to save harmless and keep indemnified the Town, its successors and assigns from and against all manner of actions or claims for loss, costs, charges, damages, injuries, expenses or otherwise arising before the issuance of the Final Certificate of Approval and during the maintenance period, in connection with the work required to be done herein by the Developers, contractors, servants or agents.
- 4.2 The Developer shall supply the Town with a liability insurance policy in the amount of \$5,000,000.00 in a form satisfactory to the Town, indemnifying the Town from any loss arising from claims or damages, injury or otherwise in connection with the work done by or on behalf of the Developer of the plan of subdivision. The said policy shall specifically refer to all work to be undertaken by the Developer or its agents on public road allowances. The policy shall be maintained in full force and effect until the Town assumes the plan of subdivision. In the event any renewal premium is not paid, the Town, in order to prevent the lapse of such liability insurance policy, may pay the renewal premium or premiums and the Developer agrees to pay the cost of such renewal or renewals within fourteen (14) days of the account therefore being rendered by the Town. The Developer covenants and agrees that the Town reserves the right to draw on and use the proceeds from the Letter(s) of Credit filed for the Agreement to make such payment if payment is not provided as requested.
- 4.3 The Developer shall submit satisfactory evidence that the contractor is qualified, experienced and has the equipment to successfully complete the works.
- 4.4 The Developer shall ensure that the contractor's bond guarantees the completion of the works and the maintenance thereof for a period of one (1) year from the completion of such works.

- 4.5 The Developer shall employ a professional engineer, approved by the Director of Public Works, to carry out the engineering services required herein to the Town design criteria and standards.
- 4.6 The Developer will convey gratuitously to the Regional Municipality of Niagara a one foot reserve along Regional Road No. 81 (York Road) at the rear of lots 1 to 11 inclusive and the hypotenuse of the daylight triangle on Tanbark Road in order to preclude access in perpetuity.
- 4.7 The Developer shall submit detailed design drawings complete with calculations for the watermain system, the sanitary sewer system and the stormwater drainage system including fire hydrant locations required to service the subdivision to the Regional Public Works (Development Services Division), Town Public Works Department and the Town Fire Department for review and approval.
- 4.8 The Developer shall submit verification of the required fire flows and verification of existing system flows. The approval of the servicing plans will be subject to the delivery of adequate water system pressure and fire flows.
- 4.9 The Developer agrees to submit site servicing plans in accordance with current Town specifications and subject to approvals by the Ministry of Environment (MOE) and the Town Public Works Department.
- 4.10 The Developer agrees to provide a grading plan to the Town for review and approval by the Director of Public Works. The plan will have regard for all the adjacent property elevations and drainage and provide elevations and notes for the following:
- 4.10.1 Lot corners
 - 4.10.2 Apron elevations
 - 4.10.3 Sump pump discharge locations
 - 4.10.4 Note for roof leader discharge
 - 4.10.5 Note that the maximum height of the concrete showing on the foundation wall shall not be more than 30.48 cm (12 inches) above the final approved grade elevation
- 4.11 The individual lot grading plans, submitted at building permit application stage, must be prepared by the Developer's design consultant to accommodate the specific house design and topography.
- 4.12 The Developer shall ensure all proposed infrastructure will be constructed to current Town specifications and subject to Town inspection at the Developer's expense.
- 4.13 The Developer shall submit a residential street lighting plan for approval by the Town Public Works Department.
- 4.14 The Developer shall be responsible for all costs to construct a 1.5m concrete sidewalk along the internal roadway adjacent to lots 19 to 31

inclusive, along Warner Road adjacent to Lots 18, 19, 32 to 37 inclusive, along Tanbark Road adjacent to lots 1, 31 and 32 and along York Road adjacent to Lots 1 to 11. Sidewalks are to be constructed as primary services.

- 4.15 The Developer will contribute towards the reconstruction cost of Warner Road adjacent to lots, 18, 19 and 32-37 inclusive. The contribution cost will be based on 50% of the reconstruction cost of the road.
- 4.16 The Developer's Engineer shall design all the works covered by the Agreement and further file with the Town a written undertaking, to the effect that he shall do all works, required of him, as per Schedule G to this Agreement.
- 4.17 The Developer agrees that the Town at its discretion may retain the services of an independent Professional Engineer for the purposes of reviewing and approving servicing plans or inspecting any of the work required pursuant to this Agreement, such engineer shall be paid out of and deducted from the monies held on deposit. Such fees shall be set in accordance with the Schedule of Fees for Consulting Engineer services recommended by the Association of Professional Engineers of Ontario on costs and as identified in Schedule F attached.
- 4.18 In order to establish the appropriate security deposits, the Developer will provide the following information to the Town:
- 4.18.1 Cost of all on-site and off-site works, with subtotals for primary, secondary and tertiary services.
- 4.18.2 Number of working days required to complete the proposed works
- 4.19 The Developer will be required to post with the Town Letters of Credit and cash deposits relating to primary, secondary and tertiary works, plan reviews, site inspections (based on working days), signs and barricades and road clean up prior to commencing the installation of any services. The amount of securities will be in accordance with the amounts detailed on Schedule F attached.
- 4.20 The Developer shall provide Letter(s) of Credit which shall be in a form approved by the Town, and the Developer covenants and agrees that the Letter(s) of Credit shall be kept in full force and effect and that it will pay all premiums as the Letter(s) of Credit becomes due or until such time as the Town returns the Letter of Credit in accordance with this Agreement.
- 4.21 The Developer shall post letters of credit or cash deposits with the Town for the Subdivision or the first phase to provide security for the provision of the primary, secondary and tertiary services necessary for the Subdivision or the current phase thereof, based on the estimated cost of construction as follows:

- 4.21.1 Primary Services-Letter of Credit equal to 20% of the estimated cost.
- 4.21.2 Secondary Services-Letter of Credit equal to 100% of the estimated cost.
- 4.21.3 Tertiary Services-Letter of Credit equal to 100% of the estimated cost.
- 4.22 The Developer hereby covenants and agrees that should there be a deficiency in or failure to carry out any work or matter required by any clause of this Agreement, whether or not such work or matter is specifically secured by way of letter of credit, and the Developer fails to comply, within thirty (30) days written notice, with a direction to carry out such work or matter, the Town may draw on the Letter(s) of Credit and enter onto the subject lands and complete all outstanding works or matters, and pay all costs and expenses incurred thereby from the proceeds so drawn.
- 4.23 The Developer hereby covenants and agrees that the Town reserves the right to draw on and use the proceeds from the Letter(s) of Credit to complete any work or matter required to be done by the Developer pursuant to this Agreement.
- 4.24 The Developer further covenants and agrees that, notwithstanding Schedules F to this Agreement, in the event that the Town determines that any reduction in the Letter(s) of Credit will create a shortfall with respect to securing the completion of any work or matter remaining to be carried out by the Developer pursuant to this Agreement, the Town will not be obligated to reduce the Letter(s) of Credit as outlined in this Agreement until such time as such work is satisfactorily completed or the Town has sufficient security to ensure that such work will be completed.
- 4.25 The Developer agrees that wherever in this Agreement a Letter(s) of Credit is required to be filed with the Town, the Developer may deposit with the Treasurer, cash or a certified cheque to be cashed, in an amount equal to the Letter(s) of Credit and such deposit shall be held by the Town as security in accordance with this Agreement provided that no interest shall be payable on any such deposit.
- 4.26 The Developer acknowledges that upon the transfer of Ownership of any of the subject lands to another Developer, the Town will not return any Letter(s) of Credit required under this Agreement until the new Owner files with the Town, substitute letters of credit in the required amounts.
- 4.27 The Developer agrees to enter into a separate Development Agreement with Niagara-on-the-Lake Hydro for the provision of hydro services.
- 4.28 The Developer agrees that he will not undertake any development on the lands, save and except for model homes until such time as sanitary sewers can be adequately provided.

- 4.29 The Developer agrees that no landscaping, signs or fences will be permitted to be constructed within the Region's right-of-way.
- 4.30 The Developer agrees that no grading or other soil disturbances or construction of underground services take place on the subject property prior to the Ministry of Culture clearance letter being submitted to the Regional Public Works Department (Development Services Division) and the Town of Niagara-on-the-Lake confirming that all archaeological resource concerns have met licensing and resource conservation requirements and that a copy of the Archaeological Assessment report has been submitted to the Town Planning and Development Services Department.
- 4.31 The Developers shall pay cash deposits to erect street name signs and regulatory signs (e.g. stop signs; no exit signs, etc) to be installed by the Public Works Department in accordance with the amount detailed in Schedule F attached.
- 4.32 The Developer shall comply with the Regional Municipality of Niagara's Waste Collection guidelines for minimum road allowance and pavement width for waste collection to collect household waste without the need to reverse.

5 CONSTRUCTION OF SERVICES

- 5.1 The Developer agrees to construct, and to pay the entire cost of such construction and materials required for all of the works referred to in this Agreement and Schedules attached hereto, and in accordance with the conditions and specifications contained in such Schedule. All materials supplied shall be to the specifications and satisfaction of the Director of Public Works.
- 5.2 The Developer shall submit detailed calculations to the Town's Public Works Department identifying any lots that may require sewage injector pumps.
- 5.3 The Developer will direct all stormwater flows, including foundation drains, to the existing stormwater management pond constructed as part of the Vineyard Creek Estates subdivision works. In return, the Developer agrees to pay for his fair share of the following costs:
- 5.3.1 Stormwater management facility within the Vineyards Creek Estates subdivision
- 5.3.2 Improvements to natural water course serving as the outlet for the above noted stormwater management facility
- 5.3.3 Land cost associated with the construction of the above noted stormwater management facility

- 5.3.4 The cost sharing for the above noted works will be based on an area runoff (AR) calculation as outlined by By-law 3979-05 and the actual cost of the works and land values.
- 5.4 The Developer agrees to pay his fair share of the storm sewer over sizing costs through the Vineyard Creek Estates subdivision based on the area runoff (AR) calculations.
- 5.5 The Developer will pay for the construction of a storm sewer from his proposed development to the existing Vineyard Creek Estates subdivision storm sewer system. The sewers will be designed to accommodate all stormwater flows within the subcatchment area as approved by the Town's Public Works Department. The Town will contribute toward the cost of oversizing the storm sewer pipe to accommodate the approved catchment area.
- 5.6 The Developer agrees to implement the approved stormwater management required in accordance with Section 3.15
- 5.7 The Developer shall ensure that during construction of the development 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 and sidewalks adjacent to and in the vicinity of the development are kept clean of mud and debris and that any standing water is eliminated. As such, the Developer shall pay to the Town a deposit as indicated in Schedule F attached.
- 5.8 The Developer shall be held responsible for the general tidy appearance of the Subdivision until assumption by the Town and shall carry out all weed, cutting and maintenance on all unsold lands and all unassumed road allowances to the satisfaction of the Town.
- 5.9 The Developer shall pre-grade the Subdivision such that all roads, lot corners, rear yard catch basins, swales, high points, and other features shown are in conformity with the approved 'General Grading Plan'.
- 5.10 The Developer shall construct at its expense the Primary Services for the proposed Subdivision in accordance with the terms of Schedule C attached hereto.
- 5.11 The Developer shall construct at its expense all Secondary Services necessary to service the proposed development in accordance with the terms of Schedule D of this Agreement.
- 5.12 The Developer shall construct at its own expense all Tertiary Services necessary to service the proposed development in accordance with Schedule E of this Agreement.
- 5.13 The Developer shall ensure all the road and road entrance designs are constructed to current Town standards and approved by the Town.

- 5.14 The Developer shall make satisfactory arrangements and where necessary enter into an Agreement, with the telephone company, and where applicable, the gas company and cable company for the installation of these utilities and similar arrangements with any other utility to be installed in the Subdivision.
- 5.15 All utility services provided with respect to the lands shall be underground.
- 5.16 The Developer shall, as directed by the Public Works Department, ensure that water mains have passed applicable leakage and bacterial testing; sanitary sewer shall also be tested for infiltration and exfiltration. Sanitary and storm sewers shall be flushed and T.V. inspected, to the satisfaction of the Director of Public Works.
- 5.17 Upon completion of the Primary Services to the satisfaction of the Director of Public Works, the Director shall issue a certificate of completion of the Primary Services.

6 INSPECTION

- 6.1 The Developer's Engineer shall:
 - 6.1.1 Review the construction of the works on an as-required basis, including the setting and checking of all lines and grades, quantity control, prior to, during and after construction.
 - 6.1.2 Arrange a pre-construction meeting and site meetings as required but at least once per month to which the Town shall be invited and for which the Town shall receive forthwith a copy of the minutes.
 - 6.1.3 Arrange for the review of works at all stages of construction so that "as built" drawings can be prepared.
- 6.2 All underground infrastructure and public road construction shall be constructed to Town standards and inspected by the Town at the Developer's cost.

7 DEVELOPMENT CHARGES

- 7.1 The Owner agrees that all applicable Development Charges in accordance with the current Municipal and Regional By-laws and policies shall be paid to the Corporation of the Town of Niagara-on-the-Lake and the Region of Niagara at the time of building permit application.

8 CONDITIONS PRECEDENTS TO THE ISSUANCE OF A BUILDING PERMIT

- 8.1 Building permits shall not be issued until the following conditions are met:
 - 8.1.1 Completion of Primary Services

- 8.1.2 The Developer/Builder shall submit individual lot grading plans prepared by the design Engineer in compliance with the approved 'General Grading Plan'. A cash deposit at the prevailing lot grading deposit rate is required to ensure final grading complies with the approved 'General Grading Plan'. The final grading shall be certified by the design engineer.
- 8.1.3 Payment of all development charges, including all applicable Municipal and Regional development charges, due and payable at the prevailing rate.
- 8.1.4 Compliance with the Building Code Act.
- 8.1.5 Activation of hydrants for the relevant phase of development.
- 8.1.6 Installation of all applicable street and regulatory signs (including Private Road-Use At Your Own Risk) in the Subdivision to the satisfaction of the Director of Public Works.
- 8.1.7 The Developer agrees that the development will be subject to the review and approval of the Director of Planning and Development Services Department regarding streetscape design and urban design considerations which includes building scale, massing design and garage location for each lot in accordance with the Urban Design Guidelines prepared for St. Davids.
- 8.1.8 The Developer agrees that all development must be in accordance to the "Development and Design Principles and Standards for the Fiorucci Estates subdivision, attached as Schedule H.
- 8.1.9 The Developer agrees to provide suitable fencing/landscaping/buffering along the westerly/rear lot lines of Lots 11 to 16 to provide appropriate screening from the adjacent existing commercial operation.
- 8.2 Notwithstanding 8.1 above, a Conditional Building Permit may be issued for the construction of dwellings, constituting not more than 10% of total lots, provided that the dwellings can neither be sold nor occupied as a residence until primary services are provided and all conditions of the permit and this section have been met. It is acknowledged by the Developer that the Conditional Building Permit is issued pursuant to the Building Code Act and to the satisfaction of the Chief Building Official and the Director Planning & Development Services. The Conditional Building Permit deposit required per lot or block shall be at the current applicable rate.

9 CONDITIONS PRECEDENT TO THE ASSUMPTION OF PRIMARY SERVICES AND RELEASE OF SECURITY

The primary services shall be assumed upon:

- 9.1 The expiration of one year from the issuance of the Certificate of Completion of Primary Services.
- 9.2 The Developer is responsible for, at its own expense and pending assumption by the Town, repairing and maintaining any works to the standards required by the plans and specifications to the satisfaction of the Director of Public Works.
- 9.3 When written application for the assumption is received by the Director of Public Works, the Town shall have thirty (30) days from the receipt of the request to carry out such inspections as it may consider necessary.
 - 9.3.1 The payment of all financial requirements herein are received.
- 9.4 Upon satisfaction of the foregoing conditions, the deposit or letter of credit for Primary Services shall be returned to the Developer.

10 CONDITIONS PRECEDENT TO THE ASSUMPTION OF SECONDARY SERVICES AND THE RELEASE OF SECURITIES

10.1 INSTALLATION

10.1.1 Secondary Services shall be installed within three (3) years from the date that the first non-conditional building permit was issued for the Subdivision or within thirty (30) days of the issuance of the building permit representing 50% plus one (1) of the homes in the Subdivision. Where such date falls between, the 1st of December and 30th of April, then such services shall be completed by the following 30th of June. Upon completion to the satisfaction of the Director of Public Works, a certificate of completion of Secondary Services will be issued.

10.2 REDUCTION OF LETTERS OF CREDIT

10.2.1 Forty-five (45) days after completion of the Secondary Services to the satisfaction of the Director of Public Works, the Developer may apply to the Town and provided no construction liens are registered the Director of Corporate Services will return the letters of credit for Secondary Services less any costs or expense incurred by the Town to the Developer and shall retain only 10% of the deposit.

10.3 ASSUMPTIONS AND RETURN OF DEPOSIT.

The Secondary Services shall be assumed upon:

- 10.3.1 The expiration of one (1) year from the certificate of the Director of Public Works that all Secondary Services have been completed.
- 10.3.2 The completion of such repairs as may be required by the Town to bring the works to the standards set forth in the plans and specifications.

10.3.3 When written application for the assumption is received by the Director of Public Works, The Town shall have thirty (30) days to carry out such inspections.

10.3.4 The payment of all financial requirements herein are received.

10.3.5 Upon satisfaction of the foregoing conditions, the remaining deposit for Secondary Services shall be returned to the Developer.

11 PRECONDITIONS PRECEDENT TO THE ASSUMPTION OF TERTIARY SERVICES AND THE RELEASE OF SECURITY

11.1 INSTALLATION

11.1.1 Tertiary Services shall be installed for each lot within sixty days of the completion of the house upon the said lot or the occupancy of the house, whichever first occurs. Where the commencement date for the installation of Tertiary Services falls between the 1st of December and the 30th of April, the services shall be installed by the 30th of June next following. Upon completion of 25%, 50%, 75% and 100% of the Tertiary service to the satisfaction of the Director of Public Works, he shall issue a Certificate of Completion of such percentage of the Tertiary Services.

11.2 REDUCTION OF LETTERS OF CREDIT

11.2.1 Forty-five (45) days after issuance of the certificate the completion of 25%, 50%, 75% and 100% of the Tertiary Services, the Developer may apply to the Director of Corporate Services and provided no construction liens are registered, the Town will return the letters of credit for the percentage of work that has been completed and shall retain only the 10% of the deposit for such percentage as is completed but shall retain letters of credit and deposits for the remaining Tertiary work.

11.3 ASSUMPTION AND RETURN OF DEPOSIT

The Tertiary Services shall be assumed upon:

11.3.1 The expiration of one (1) year from the certificate of the Director of Public Works that 100% of the Tertiary Services have been completed.

11.3.2 The completion of such repairs as may be required by the Town to bring the works to the standards set forth in the plans and specifications.

11.3.3 When the Director of Public Works receives written application for the assumption, the Town shall have thirty days (30 days) to carry out such inspections.

11.3.4 The payment of all financial requirements herein are received.

11.3.5 The re-staking of all key points in the Subdivision in accordance with the Surveys Act and Regulations thereunder.

- 11.3.6 The Developers engineer certifying to the Director of Public Works that the grading has been completed in accordance with the approved 'General Grading Plan'.
- 11.3.7 The Developers engineer supplying the Director of Public Works with a set of 'As Constructed Drawings' of all the works in a reproducible form satisfactory to the Director of Public Works.
- 11.3.8 When all matters, works, services and things required to be constructed, installed, or done by the Developer shall, in the opinion of the Director of Public Works, have been accomplished strictly in accordance with this Agreement and to the specifications and satisfaction of the Director of Public Works, the Director of Public Works shall issue to the parties hereto the Final Certificate of Approval.

12 RESTRICTIVE COVENANTS

- 12.1 Pursuant to the Planning Act, this Agreement shall be binding upon the Developers, their heirs, executors, administrators, assigns and successors in title and Developers from time to time of the lands described in Schedule A to this Agreement and any part or parts thereof and that the benefit of the same covenants shall enure to the Town, its successors and successors in title of all roads, streets and public lands forming part of or abutting on the said lands described in Schedule 'A'. In particular the 'General Lot Grading Plan' shall be maintained in perpetuity or at the discretion of Council.
- 12.2 It is agreed and understood that the Developer and the Town shall have the right to enter upon the lands described in Schedule 'A' from time to time to undertake any drainage works which may be deemed necessary by the Director of Public Works and or the Director of Planning and Development Services in order to ensure compliance with the 'General Grading Plan'. In the event the Town finds it necessary to undertake any drainage works the cost of any such works performed by the Town, shall be paid by the Owner upon demand. It is agreed and understood that should the Town find it necessary to enter upon the lands to undertake any drainage works that the Town shall proceed with reasonable care but shall not be responsible for the final restoration of any property including fences, gardens, landscaping, etc.
- 12.3 The Developer agrees that there shall be no open burning of waste construction materials unless specifically approved by the Town Fire Department.
- 12.4 The Developer agrees not to damage or remove any survey evidence adjacent to road allowances and easements during the development of

the property and that the owner obtain a certificate from an Ontario Land Surveyor, stating that all existing and new evidence is in place at the completion of the development.

- 12.5 The Developer agrees that clearance from the Ministry of Culture with respect to potential for archaeological resources has not been received for Lot 35 and no future site alterations, such as the construction of an addition or outbuildings on Lot 35 will be permitted without undertaking an archaeological assessment and a clearance letter from the Ministry of Culture being submitted to the Regional Development Services Department and the Town of Niagara-on-the-Lake confirming that all archaeological resource concerns have met licensing and resource conservation requirements. The Developer agrees to submit a copy of the Archaeological Assessment report to the Town Planning and Development Services Department.
- 12.6 The Developer include in all offers of purchase and sale, of those lots where the sidewalk location has been approved, a requirement that indicates that a sidewalk will be installed and constructed within the road allowance of such lot(s).
- 12.7 The Developer agrees to include a requirement in all offers to purchase and sale that the purchaser agrees to maintain the grassed boulevard directly in front of his lot.
- 12.8 The Developer agrees to include a requirement in all offers to purchase and sale that the purchaser agrees to keep the sidewalk directly in front his lot clear from snow.
- 12.9 The Developer agrees that all offers and agreements of purchase and sale shall contain a clause notifying Owners that the general tidy appearance and maintenance of individual lots shall be the responsibility of the individual property owner upon purchase of said lot.
- 12.10 The Developer will indemnify and save harmless the Town from and against all actions, causes of actions, interest, claims, demands, costs, charges, damages, expenses and loss which the Town may at any time bear, incur, be liable for, sustain or be put unto for any reason or, on account of, or by reason of, or in the consequences related to the discharge of storm water.
- 12.11 **WARNING CLAUSE:** An electrical distribution line operation at below 50,000 volts might be located within the area affected by this development or abutting this development. Section 186 - Proximity - of the Regulations for Construction Projects in the *Occupational Health and Safety Act*, requires that no object be brought closer than 3 metres (10 feet) to the energized conductor. It is the proponent's responsibility to be aware, and to make all personnel on site aware, that all equipment and

personnel must come no closer than the distance specified in the Act. They should also be aware that the electrical conductors could raise or lower without warning, depending on the electrical demand placed on the line. Warnings signs should be posted on the wood poles supporting the conductors stating "DANGER-Overhead Electrical Wires" in all locations where personnel and construction vehicles might come in close proximity to the conductors.

13 DEFAULT

13.1 Upon breach by the Developer of any covenant, term, condition or requirement of this Agreement, the Town on forty-eight (48) hours notice to the Developer, or immediately in the event of an emergency, enter upon the lands and remedy such breach and charge the cost thereof to the Developer.

14 SCHEDULES

14.1 The provisions of all Schedules attached hereto shall form part of this Agreement.

15 ARBITRATION

15.1 If a dispute arises between the parties prior to notice of final default involving a material breach of covenant liability for any payment or other amounts claimed to be owing, by one party against the other, in substitution of any other remedy available to each party at law in equity or pursuant to this Agreement either party may submit the dispute to arbitration in the manner hereinafter set forth:

15.1.1 The party seeking arbitration shall give the other party written notice of the issue to be arbitrated, and the relief of remedy desired.

15.1.2 The party receiving the notice as above shall within three (3) working days thereof agree to the relief or remedy desired or failing such agreement and within the three (3) working day period, respond in writing by naming an Arbitrator.

15.1.3 Within three (3) working days, the party seeking arbitration shall name its Arbitrator. Both Arbitrators shall choose a third Arbitrator within three (3) working days. If any one party fails to appoint an Arbitrator in time, a single Arbitrator shall conduct the arbitration.

15.1.4 The hearing to take place within three (3) working days of the appointment of the third Arbitrator, or a single Arbitrator becoming empowered by Clause (c). The Arbitrators shall bring down their report within (10) working days of the hearing. The costs of

arbitration shall be borne equally by the parties unless the Arbitrators specifically award costs to either party.

15.1.5 The award or decision of the Arbitrators shall be binding upon the parties hereto.

16 MORTGAGEES

16.1 The mortgagees hereby acknowledge the terms of this Agreement and agree that in the event it takes possession of the said lands, or the interest of the Developer is vested in it, it and anyone acquiring title under it shall be required to comply with the terms of this Agreement to the same extent as if they had been the original Developer.

THIS AGREEMENT and everything herein contained shall enure to the benefit of and be binding upon the successors and assigns of the parties hereto and upon those persons or corporations hereafter acquiring title to all or any part of the lands described in Schedule 'A' attached hereto.

ANY NOTICE GIVEN HEREUNDER SHALL BE SUFFICIENTLY GIVEN AND ADDRESSED TO THE DEVELOPER AND MORTGAGEE BEING:

DEVELOPER:

Angelo & Angela Fiorucci.
720 Warner Road, RR 4
Niagara-on-the-Lake, Ontario L0S 1J0

IN WITNESS WHEREOF the Developers have hereunder set their hand seal and Town has hereunto affixes it Corporate Seal under the hands of its Lord Mayor and Town Clerk.

SIGNED, SEALED AND DELIVERED
in the presence:

Royal Bank of Canada
Per



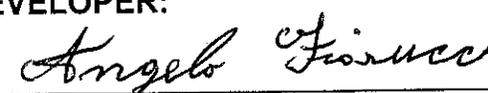
I Denise Matyk have the authority to bind the Corporation.

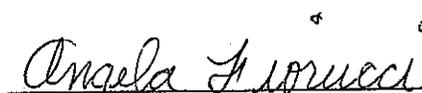
THE CORPORATION OF NIAGARA-ON-THE-LAKE:
per:


LORD MAYOR DAVE EKE


TOWN CLERK HOLLY DOWD

DEVELOPER:


ANGELO FIORUCCI


ANGELA FIORUCCI

**SCHEDULE A
LEGAL DESCRIPTION**

Part Township Lot 95, Niagara being Part 1, 30R-11671; Niagara-on-the-Lake and now described as Lots 1 to 37 both inclusive, Plan 30M-397

PIN # 46373-0389 (LT)

SCHEDULE B**FINAL PLANS, LAND DEDICATIONS, EASEMENTS, AND RELATED MATTERS****1. FINAL PLANS**

The final Plan means the plan for "Fiorucci Estates Subdivision", being Part Township Lot 95, Niagara, being Part 1 on Plan 30R-11671; Niagara-on-the-Lake prepared by William A. Mascoe Surveying Ltd. dated November 15, 2010 showing 37 single detached lots on public roads and including Block 38 on Plan 30M-397.

2. LAND DEDICATIONS & EASEMENTS

NOTE: All lands deeded to the Municipality shall be free and clear of any mortgages, liens, and encumbrances, to the satisfaction of the Municipality.

2.1 The Developer agrees to grant to the municipality any required easements for services or utilities; including but not limited to Parts 1, 2, 3, 4, 5, 6, 7, 8 and 9 on Plan 30R-13831 for storm pipe and catchbasins.

2.2 The Developer agrees to convey Block 38 (being a one-foot reserve and the hypotenuse of the daylight triangle) gratuitously to the Regional Municipality of Niagara along York Road (Regional Rd 81) to preclude access in perpetuity.

NOTE:

The Developer shall provide the deeds of conveyance along with confirmation of the partial discharge of any mortgagee or other encumbrance affecting the lands being conveyed to the Town.

1. Conveying

- a) As the land mentioned above to be conveyed to the municipal corporation may be more easily described in the conveyance by reference to a Registered Plan than by "metes and bounds", we suggest that the description be so worded, and,
- b) We further suggest that the owner give to the municipality an undertaking to deposit with the Clerk a properly executed copy of the conveyance concurrent with the registration of the Plan.

2. Land Required to be Registered Under the Land Titles Act

- a) Section 160(1) of The Land Titles Act, which requires all new plans be registered in land titles system;
- b) Section 160(2) - allows certain exceptions.

SCHEDULE C
PRIMARY SERVICES

1. **ROADS**

- 1.1. All roads dedicated as public highways shall be constructed to urban design standards with 8.0 m pavement width being 8.5 metres from curb face to curb face; a granular depth of 450 mm and 50 mm HL8 HS asphalt; and concrete curb and gutter of standard type O.P.S.D. 600.04; to the satisfaction of the Town and all in accordance with the engineering plans approved by the Department of Public Works.
- 1.2. All roads dedicated as public streets shall be transferred to the Town free and clear of all mortgages, liens and encumbrances.
- 1.3. The Developers shall maintain and repair temporary roadways until trench settlement has ceased and adequate compaction of the road sub grade has taken place to permit commencement of permanent pavement construction. In the interest of public safety, all roads shall be kept clear of obstructions and storage of construction materials.
- 1.4. All manhole tops shall be originally set level with the base course of asphalt.
- 1.5. Emergency access for fire protection purposes, turning radii and dead end roadways shall comply with the requirements of the Ontario Building Code Section 3.2.5.6.
- 1.6. That the centerline turning radius at all intersections are at least 12m.
- 1.7. The Developer is responsible to carry out and pay all costs of restoration of the existing roads from any damages resulting from the servicing and construction of the development.
- 1.8. The Developer will contribute towards the reconstruction cost of Warner Road adjacent to lots, 18, 19 and 32-37 inclusive. The contribution cost will be based on 50% of the reconstruction cost of the road.
- 1.9. That during the construction of development the site will be kept in a reasonable tidy condition as 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 and that any standing water is eliminated.

2. **ELECTRICAL**

- 2.1. The Developers shall enter into a separate agreement with Hydro whereby the Developers agree to pay all necessary capital contributions towards the supply to the electrical system.
- 2.2. The Developer shall submit a residential street lighting plan for approval by the Public Works Department. The plan will consist of the design & installation of all lighting facilities, including lamp standards, conduits, lamps and control mechanisms in accordance with current TAC, Town, and Niagara-on-the-Lake Hydro standards. The type, number of lights, and their location including a lighting pattern from the manufacturer together with the estimated cost of the total installation must be approved by Niagara-on-the-Lake Hydro and Public Works.

3. **SANITARY SEWER**

- 3.1. All sewers shall be installed in accordance with engineering plans approved by the Director of Public Works. The sanitary sewer system shall meet the design criteria of the Regional Municipality of Niagara and the Ministry of Environment and Energy for domestic waste.
- 3.2. The pipe sizes selected shall have sufficient capacity to serve the ultimate drainage area in which the Subdivision is located and as designated or approved by the Director of Public Works.
- 3.3. The Developer shall provide detailed calculations to the Director of Public Works to confirm that there is adequate sanitary sewer capacity to service this development.

4. PRIVATE DRAIN CONNECTIONS

- 4.1. The Developers shall construct individual service laterals (separate sanitary connections (laterals)) to each lot from the street sewer main to the street property line. The sanitary sewer lateral shall be a minimum 125 mm diameter PVC DR28 with proper waterproof plug fittings approved by the Director of Public Works.
- 4.2. The ends of sanitary sewer laterals shall be marked with a wooden stake painted green.

5. STORM SEWER AND STORMWATER MANAGEMENT SYSTEM

- 5.1. The development will utilize the existing road ditches as outlets. The proposed flows must not exceed pre-development levels and storm sewer quality must be addressed
- 5.2. The storm sewer shall be designed to accommodate the runoff from the total catchment area and development drainage area, and all roof water, drainage from basement weeping tile and surface runoff from all roads and abutting properties. The rational method together with the Town rainfall chart and runoff coefficients shall be used to determine discharge capacity for 5-year return storm.
- 5.3. Concrete storm sewer pipe, or other approved type shall be used; minimum pipe size for storm sewer shall be 300 mm diameter, except where otherwise specified by the Director of Public Works. Surface drainage shall be collected by means of catch basins as per the following detail. Maximum length of gutter flow shall be 100 meters.
- 5.4. Storm laterals will not be provided for individual lots within the development. The sump pumps and roof leaders will discharge to the rear of the properties and at grade directed toward the rear yard grassed swale.

NOTE

Water and Sewage Systems

Inauguration or extension of a piped water supply, a sewage system or a storm drainage system is subject to approval of the Ministry of the Environment under Section 52 and Section 53 of The Ontario Water Resources Act, R.S.O. 1990, as amended or the Town of Niagara-on-the-Lake Drinking Water Permit.

6. WATERMAINS

- 6.1. All watermains shall be installed in accordance with the Engineering Plans approved by the Director of Public Works. The watermain system shall meet the design criteria of the Regional Municipality of Niagara and Ministry of Environment. All alterations, relocations or

connections to the existing water system will be the responsibility of the Developer and shall be approved by the Director of Public Works.

- 6.2. The Developer shall construct complete watermain system or systems and all necessary appurtenances, including hydrants, cathode protection and 19mm house water service connections from the watermain to the lot line. The design shall be as approved by the Director of Public Works and constructed in accordance with his specifications. All watermains shall be a 150 mm diameter or a sufficient size to service the Subdivision and structures therein as described in Schedule A.
- 6.3. The Developer shall submit supporting documentation to the Town Public Works Department and Fire Department that the proposed water system design will deliver adequate fire flows.
- 6.4. The Developer shall provide a metered minimum 19 mm diameter copper water service to each lot.
- 6.5. Where hydrants have been installed but not yet functional or out of service they shall be clearly identified (bagged) as to be not in service.
- 6.6. The Town Fire Department will be required to approve the number and location of all proposed fire hydrants.
- 6.7. All hydrants shall be free of obstructions after being activated.
- 6.8. Hydrants 'style' shall comply with the requirements of the Department of public works
- 6.9. All hydrants and water flow must meet NFPA standards.

7. SIDEWALKS (Primary)

- 7.1. The Developer shall be responsible for all costs to construct a 1.5m concrete sidewalk along the roadway adjacent to lots 19 to 31 inclusive, along Warner Road adjacent to Lots 18, 19, 32 to 37 inclusive, along Tanbark Road adjacent to lots 1, 31 and 32 and along York Road adjacent to Lots 1 to 11.
- 7.2. That the Developer agree not to damage or remove any survey evidence adjacent to road allowances and easements during the development of the property and shall obtain a certificate from an Ontario Land Surveyor stating that all existing and new evidence is in place at the completion of the development

SCHEDULE D
SECONDARY SERVICES

- 1 40 mm HL3 top coat of asphalt.
- 2 All manhole covers shall be raised to finished elevation prior to topcoat of asphalt.

SCHEDULE E
TERTIARY SERVICES

1 **BOULEVARDS:**

- 1.1 A minimum of 50 mm of topsoil shall be applied from the curb road to the property lines and shall be sodded.
- 1.2 The driveway area between the curb and/or property line, or the sidewalk as the case may be, shall be, at a minimum, asphalt paved or such other of materials to the satisfaction of the Director of Public Works.
- 1.3 Trees shall be placed in locations according to the Tree Planting Plan approved by the Director of Parks and Recreation and the Director of Public Works.
- 1.4 Trees shall have a minimum calliper of 50 mm measured at a point 500 mm above the ground.
- 1.5 The type of tree to be planted shall be mutually agreed upon and approved by the Director of Parks and Recreation in accordance with the approved Tree Planting Plan.

2 **GENERAL**

- 2.1 Domestic waste from any building constructed on any lot shall be discharged into the sanitary sewer system through a drain connected to the sanitary lateral servicing such lot. It is noted that sanitary sewers may not be deep enough to service basement connections.
- 2.2 Roof water or discharge from a sump pump for any building constructed on any lot must be discharged to the surface at the rear of such lot.
- 2.3 Sump pump outlets for lots fronting on existing public roads will be diverted to the rear lot drainage works.
- 2.4 Swales shall be sodded to ensure compliance with the lot grading plans.
- 2.5 The Developer shall be responsible for any damage caused to such watermains and appurtenances that may occur during construction of buildings and during the lot grading.
- 2.6 Fencing and landscaping in accordance to the Noise Feasibility Study shall be installed to the satisfaction of the Director of Parks and Recreation and Director of Public Works.

SCHEDULE F
SECURITY DEPOSITS AND REQUIRED PAYMENTS

Item	Reference	Subject	Est. Cost	L of C	Cash
Prior to Signature:					
1.	3.1	Tax Arrears @			\$
2.	3.2	Local Improvement Charges			
3.	3.7	Parks Dedication 5%			\$62,500.00
4.					\$
Total					\$62,500.00
Preconditions of the Construction of Services:					
1.	4.21.1.	Primary Services - 20%	\$685,000.00	\$187,000.00	
2.	4.21.2	Secondary Services - 100%	\$18,000.00	\$18,000.00	
3.	4.21.3.	Tertiary Services -100%	\$44,000.00	\$44,000.00	
4.	4.19	Inspection			\$22,500.00
5.	4.15	50% Road Contribution / Warner Road			\$182,700.00
6.	4.31	Signs			\$5,000.00
7.	5.4	Share of storm sewer oversizing costs (32% of total AR plus 3.5% annual interest charge from date of Town payment)			\$236,871.37
Total				\$249,000.00	\$447,071.37
Prior to Issuance of Building Permit					
	8.1.2	Lot Grading Deposit			Prevailing lot grading deposit

NOTE:

- Water Metering and Curb Cuts should be incorporated in the cost estimate for Primary Services.
- Separate Agreement with Niagara-on-the-Lake Hydro and other utilities (i.e. Canada Post) may be required.
- Field Review Deposit based on 40 working days for primary services and 10 working days for secondary services.

SCHEDULE G
ENGINEER'S UNDERTAKING OF WORKS

- 1) The Developer's engineer shall:
 - a) Design all the works covered by this Agreement and file with the Town a written undertaking:
 - i) That he has been engaged by the Developers to review the work and will complete the work as required by this Agreement,
 - ii) That the work will be done in accordance with the approved contract drawings and specifications and all other provisions of this Agreement, and,
 - iii) That all phases of the work are subject to the approval of the Director of Public Works.
 - b) Ensure that such soil tests as may be required by the Director of Public Works.
 - c) Prepare a 'Storm water Management Plan' and a 'General Grading Plan' for surface drainage of all lands in the plan of subdivision, the said plan to clearly indicate the existing drainage pattern on all adjacent lands and to provide for the direction of all surface drainage, including water from adjacent lands originally flowing through, into or over the area of the proposed Subdivision, to the street storm sewer systems or any other outlet approved by the Director of Public Works
 - d) The engineer shall from time to time provide the Town upon request with verification that the lot grading is in conformity with the General Grading Plan.
 - e) Upon completion of the project, the design engineer shall certify that all grading, storm sewers, and stormwater management controls (including off site outlets) have been constructed in general conformity to the approved drawing and shall circulate copies of the certification to the Niagara Peninsula Conservation Authority.
 - f) Prepare plans, profiles and specifications for the said works using the following guidelines:
 - i) Title block 13 cm x 8 cm to be placed in lower right hand corner and shall indicate nature of work.
 - ii) A complete copy of design details and calculations of storm and sanitary sewer designs which shall be based on design formula provided by the Town.
 - iii) Plan-profiles shall be fully detailed and where reference is made to other construction drawings, specific reference to those drawing numbers shall be made and shall be 60cm x 84cm.
 - iv) Horizontal ties shall be made to the property lines.

- v) Levels shall be to datum and all field surveys shall be tied into geodetic benchmarks.
- vi) As built construction plans to be electronic format (AutoCAD).
- vii) Prepare applications to the necessary authorities and obtain approval for the works.

**THE CORPORATION
OF THE TOWN
OF NIAGARA-ON-THE-LAKE
BY-LAW NO. 4461B-12**

A BY-LAW TO AUTHORIZE AN AMENDMENT TO BY-LAW 4461-11 BEING A BY-LAW TO AUTHORIZE A SUBDIVISION AGREEMENT BETWEEN THE CORPORATION OF THE TOWN OF NIAGARA-ON-THE-LAKE AND ANGELO FIORUCCI AND ANGELA FIORUCCI (720 Warner Road)

WHEREAS a subdivision agreement was entered into with Angelo Fiorucci and Angela Fiorucci approved by By-law 4461-11 on May 2, 2011 registered in the Registry Office as NR285160 on November 28, 2011;

AND WHEREAS the subdivision agreement was amended by By-law 4461A-11 on February 13, 2012 registered in the Registry Office as NR291622 on February 24, 2012;

AND WHEREAS Schedule H and Schedule I were inadvertently not attached to the subdivision agreement approved by By-law 4461-11 on May 2, 2011 registered in the Registry Office as NR285160 on November 28, 2011.

NOW THEREFORE BE IT ENACTED AS A BY-LAW OF THE CORPORATION OF THE TOWN OF NIAGARA-ON-THE-LAKE as follows:

1. That the attached Schedule H and Schedule I which were inadvertently not attached to the original subdivision agreement, now be registered on title at the Registry Office.
2. That this by-law shall come into force and take effect immediately upon the passing thereof.

READ A FIRST, SECOND AND THIRD TIME AND PASSED THIS 5TH DAY OF MARCH, 2012


LORD MAYOR DAVE EKE


TOWN CLERK HOLLY DOWD

Development and Design Principles and Standards Agreed to for Fiorucci Estates Subdivision Tanbark/York/Warner Roads, Village of St. Davids

1. A 1.5m wide public sidewalk shall be constructed along the frontage of York Road as part of the primary services of the subdivision.
2. The grading along the York Road frontage shall be constructed so that the boulevard portion is not higher than the grade of the York Road pavement and also so that a continuous connection between the private front yard and the York Road right of way can be achieved.
3. Along the York Road frontage of each lot, not more than 50% of the trees along the existing berm shall remain after final grading.
4. The Town Public Works Department and Regional Public Works Department shall approve the grading. The overall grading of the site is to be integrated so that the height of final grade and its relationship with building height, building placement and amenity areas are understood and functional.
5. The through lots with frontage on both York Road and Street 'A' shall have a positive built form/design relationship with York Road, i.e. have the appearance that the homes front/face onto York Road. The face of the dwellings facing York Road should be varied and articulated to provide for a varying setback within the building and design interest. In order to provide for a strong relationship with York Road the minimum building setback may range from 40 feet to a maximum of 55 feet from York Road (see attached sketch - to be amended). Building envelope sketches to be provided by applicant illustrating range of setbacks from York Road.
6. A pedestrian connection/access with a gate shall be provided along the York Road frontage between the property line to the York Road sidewalk. The pedestrian connection/access is to be constructed utilizing a variety of landscape material and should be a hard surface treatment, i.e. brick pavers.
7. Fencing along the York Road frontage shall be minimal and only to screen private amenity areas and may include a combination of decorative iron fencing and landscape screening material. Board-on-board fencing shall not be permitted. Fencing along the York Road property line shall range between 48 and 52 inches in height with the majority of fencing being 48 inches.
8. Private outdoor amenity spaces on the through lots can be achieved along either frontage of York Road or Street 'A' through careful building placement and landscaping of amenity areas and may also involve side yard courtyard designs.
9. Access to garages on the through lots with frontage on both York Road and Street 'A' shall be from Street 'A'. The garage width should generally not exceed 50% (or half) of the house width. The design and architectural quality should be compatible with the house particularly with respect to use of materials, roof design and the integration of fenestration and other architectural details.
10. The exterior façade of buildings and landscape design of the through lots on York Road and Street 'A' shall be subject to a design review approval by the Town Urban Design Committee.
11. The facade and built form of all the new homes and garages shall be consistent with the St. Davids Urban Design Guidelines including specific guidelines for rooflines, entranceways, windows, garages and accessory structures, architectural elements, and building materials in addition to the following general design principles:
 - New development should be consistent in form and design with the surrounding existing built fabric. Detailed building and garage setbacks and placement guidelines should be consistent with those for new residential areas.

Appendix II

- A strong public face should be created. Public streets and open spaces should generally be faced by the primary facades of houses as the houses that line the street substantially create the collective image of the streetscape.
- Diverse housing types and designs create great streets in which to live and visit. On any given street in St. Davids there is a striking lack of repetition; lot sizes, house types, building heights, material and colours are consistently different. The rich architectural language should inspire designers of new buildings. On each street, a variety of building types and sizes should be provided to prevent monotony and encourage a diverse community fabric. However, a sub-neighbourhood area may be distinguished by a dominant housing type, provided there is some intermixing of dwelling types and a variety of visible building elements and materials within each block.
- A variety of dwelling types and front yard building setbacks should be integrated within neighbourhood blocks to contribute to a diverse and distinct neighbourhood image. A minimum setback of 4.5 metres and a mix of architectural treatments will provide for a variety in the building street wall. Where rear yard garages are provided, a minimum 3.0 metres front yard with a 1.5 metre no encroachment zone should be permitted.
- Dwellings on corner and flank lots, at gateways, and at the termini of streets should employ building elements and designs that emphasize their visibility and potential role as landmark or orienting structures within the neighbourhood.
- At an arterial or open space edge where a feature road such as an open cul-de-sac, open crescent or service road is used, the flanking lots should be subject to architectural controls to encourage positive treatment facing these public areas.
- Automobile storage should be subordinate. Garages should not be readily visible from the street; this allows the house façade to have greater expression through the emphasis on the front entrance, porch, bay windows, etc.
- A consistent high quality design approach should be pursued. The design of structures and houses, the selection of lighting standards, streetscape standards, and signage will occur over many years and will involve the participation of many design professionals. The overall design approach of the community is intended to encourage creative interpretation within a solid design process. The design process will enable a variety of design projects and styles to lead a cohesive, integrated and high quality community.

**SCHEDULE I
STORMWATER MANAGEMENT
FACILITY/STORMWATER SEWER OVERSIZING**

The Owner will be responsible for the construction of the stormwater management facility in accordance with the construction plans approved by the Director of Public Works.

The Town agrees to pay the Owner all the construction, land and engineering costs associated with the oversizing of the stormwater facility. In turn the Town will collect the portion of the oversizing costs when other lands connect to the facility. The cost sharing will be based on the following table:

Area	AR Value	% of Total AR	% Cost*
North Area "B" Lands south of Warner Rd.	0.951	22%	22%
Area "D" Florucci Property	1.376	32%	32%
Regional Road Authority (York Rd.)	0.436	10%	10%
Town Roads	1.530	36%	36%
Totals	4.293	100%	100%

* The cost to the deferred areas, noted in the above table, will be subject to a 3.5% annual interest charge from the date of the Town's payment.

The final oversizing costs will be subject to the following:

1. Actual construction costs verified by the Town.
2. Land costs to be verified by an independent real estate appraiser.
3. Confirmation that works have been completed in accordance with approved construction plans.

The Town will reimburse the Owner the following costs:

1. Stormwater Management Pond oversizing costs within 30 days of completion of works.
2. Storm Sewer oversizing costs within 30 days of completion of works.
3. Development Charges associated with storm sewerage currently set at \$1,926/lot, when received at Building Permit stage.

Appendix II

ACKNOWLEDGEMENT AND DIRECTION

TO: Callum Shedden
(Insert lawyer's name)

AND TO: DANIEL & PARTNERS LLP
(Insert firm name)

RE: The Corporation of the Town of Niagara-on-the-Lake and Fiorucci; Notice amended subdivision agreement. ('the transaction')
(Insert brief description of transaction)

This will confirm that:

- I/We have reviewed the information set out this Acknowledgement and Direction and in the documents described below (the "Documents"), and that this information is accurate;
- You, your agent or employee are authorized and directed to sign, deliver, and/or register electronically, on my/our behalf the Documents in the form attached.
- You are hereby authorized and directed to enter into an escrow closing arrangement substantially in the form attached hereto being a copy of the version of the Document Registration Agreement, which appears on the website of the Law Society of Upper Canada as of the date of the Agreement of Purchase and sale herein. I/We hereby acknowledge the said Agreement has been reviewed by me/us and that I/We shall be bound by its terms;
- The effect of the Documents has been fully explained to me/us, and I/we understand that I/we are parties to and bound by the terms and provisions of the Documents to the same extent as if I/we had signed them; and
- I/we are in fact the parties named in the Documents and I/we have not misrepresented our identities to you.
- I, _____, am the spouse of _____, the (Transferor/Chargor), and hereby consent to the transaction described in the Acknowledgment and Direction. I authorize you to indicate my consent on all the Documents for which it is required.

DESCRIPTION OF ELECTRONIC DOCUMENTS

The Document(s) described in the Acknowledgement and Direction are the document(s) selected below which are attached hereto as "Document in Preparation" and are:

- A Transfer of the land described above.
- A Charge of the land described above.
- Other documents set out in Schedule "B" attached hereto.

Dated at Niagara-on-the-Lake this 13 day of March, 2012.

WITNESS

(As to all signatures, if required)

THE CORPORATION OF THE TOWN OF NIAGARA-ON-THE LAKE

Dave Eke
Lord Mayor Dave Eke

Holly Dowd
Holly Dowd, Town Clerk