



Department of Community
& Development Services
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The Town of Niagara-On-The-Lake

1593 Four Mile Creek Road
P.O. Box 100
Virgil, Ontario
L0S 1T0

Report:	CDS-21-030	Committee Date:	December 20, 2021
		Due in Council:	December 20, 2021

Report To:	Lord Mayor & Council
Subject:	Settlers Landing Phase 2 South of Line 1 Road - Harvest Drive, Plantation Drive & Homestead Drive Draft Plan of Subdivision (26T-18-20-03) Zoning By-law Amendment (ZBA-16-2020)

1. RECOMMENDATION

It is respectfully recommended that:

- 1.1 The Draft Plan of Subdivision (File 26T-18-20-03 Revised), for lands known as Settlers Landing Phase 2, as modified and attached as **Appendix IV** to this report, and subject to the conditions contained in **Appendix V** to this report, be endorsed as Council's position on this file;
- 1.2 The Zoning By-law Amendment (File ZBA-16-2020), for lands known as Settlers Landing Phase 2, as modified and attached as **Appendix VI** to this report, be endorsed as Council's position on this file; and
- 1.4 Council direct the Town's Solicitor to proceed with any negotiations with the owner/appellant and/or preparation for the scheduled Ontario Land Tribunal hearing based on the recommendations of this report.

2. PURPOSE / PROPOSAL

This report provides recommendations to Council with respect to applications under the *Planning Act* for a Draft Plan of Subdivision and Zoning By-law Amendment on lands located in northwest Virgil. The subject land is shown in **Appendix I** to this report on **Map 1**.

The Draft Plan of Subdivision is 4.10 hectares (10.13 acres) in area. The application proposes 53 lots for single-detached dwellings, Block 54 for municipal parkland and new public roads (continuation of Harvest Drive, Plantation Drive and Homestead Drive to the east). Block 54 is proposed to enlarge the existing Homestead Park to the east. There are 9 lots that require the construction of a new road on abutting land to the west (Konik Estates - Phase 1 Draft Plan of Subdivision) to provide frontage. The proposed Lot 53 also does not have street frontage and must be

combined with a portion of land in the Konik Estates development to be a building lot. The submitted Draft Plan of Subdivision is shown in **Appendix II**. Block 54 for parkland is highlighted in green.

The Zoning By-law Amendment application proposes a site specific Residential (R2) Zone for the single-detached lots and the Open Space (OS) Zone for the parkland.

3. BACKGROUND

3.1 Site Description and Surrounding Land Use

The subject land consists of two parcels located south of Line 1 Road and west of Homestead Drive within the Urban Area Boundary of Virgil (see **Appendix I**). The land is vacant and was previously in agricultural use. A regulated watercourse traverses a section of the property.

Surrounding lands contain single-detached dwellings to the north, east and south with approved development (Konik Estates) to the west for single-detached dwellings (42 lots), townhouse dwellings (45 units) and a stormwater management area. There is land to the northwest and southwest designated for future residential development. Rural residential homes and agricultural land are located further to the north and west outside of the Urban Area Boundary (positioned along Line 1 Road and Concession 6 Road).

3.2 Timeline and Ontario Land Tribunal Appeals

The applications were deemed "complete" by Town Staff on November 26, 2020 and circulated for department and agency review. Staff conducted an Open House with the applicant, their representatives and area residents on January 19, 2021. The applications were presented to the Town's Urban Design Committee for input at their January 26, 2021 meeting. Council held the required *Planning Act* Public Meeting on February 1, 2021.

On March 31, 2021, the owner filed appeals to the Local Planning Appeal Tribunal (now Ontario Land Tribunal - OLT). The basis for the appeals was that Council had not made decisions on the applications within the time periods prescribed in the *Planning Act* (within 120 days of submission for a Draft Plan of Subdivision and within 90 days for a Zoning By-law Amendment application).

The Ontario Land Tribunal conducted a Case Management Conference on September 8, 2021 to establish an issues list and procedures for a hearing. The OLT has scheduled a 4-day hearing (March 29, 30, 31 and April 1, 2022) to consider the matter. Council's position on the applications is required for the Town Solicitor to utilize in any potential negotiations and/or preparation for the upcoming hearing.

4. DISCUSSION / ANALYSIS

4.1 Policy and Legislative Framework

The applications have been reviewed for consistency and conformity with the relevant Provincial, Regional and local planning policies and legislation, as discussed in the following sections:

4.1.1 *Planning Act, R.S.O. 1990, c. P. 13*

Section 2 of the *Planning Act* identifies matters of provincial interest that Council shall have regard to when considering *Planning Act* applications, including the adequate provision of a full range of housing, the appropriate location of growth and development as well as the resolution of planning conflicts involving public and private interests.

Subsection 3(5) requires that decisions of Council shall be consistent with provincial policy statements and shall conform with or not conflict with provincial plans. Subsection 24(1) indicates that by-laws passed by Council shall conform to official plans that are in effect. Section 34 of the *Planning Act* permits Council to pass zoning by-laws for such purposes as may be set out in the by-law and for regulating construction and land use within the municipality.

Subsection 51(24) of the *Planning Act* provides criteria to be considered by Council in the evaluation of plans of subdivision, such as the dimensions/shapes of proposed lots, the proposed roadways, adequacy of municipal services and whether the proposed subdivision is in the public interest. Subsection 51.1 allows that Council may impose conditions for parkland dedication in the amount of 5% of the subdivision land area or payment of cash-in-lieu of land.

Subject to the proposed modifications recommended by Staff and the analysis provided in this report, Staff consider the applications to comply with the *Planning Act* provisions.

4.1.2 Provincial Policy Statement (2020)

The Provincial Policy Statement (PPS) provides direction on matters of provincial interest related to land use planning and development. The subject land is designated as a Settlement Area (urban area) and a designated growth area under the PPS.

Policy 1.1.1(b) provides that healthy, liveable and safe communities are sustained by accommodating an appropriate affordable and market-based range and mix of residential types, employment, institutional, recreation, parks and open space, and other uses to meet long-term needs. Policy 1.1.3.6 of the PPS indicates that new development in designated growth areas should occur adjacent to the existing built-up area and should have a compact form, mix of uses and densities that allow for the efficient use of land, infrastructure and public service facilities.

Policy 1.5.1 of the PPS includes direction that healthy, active communities should be

promoted by planning public streets, spaces and facilities to be safe and meet the needs of pedestrians, foster social interaction and facilitate community connectivity. This policy also promotes planning and providing for a full range and equitable distribution of publicly-accessible built and natural settings for recreation, including facilities, parklands, open space areas, trails and linkages.

Subject to the revisions as discussed later in this report, Staff consider the applications to be consistent with the relevant settlement area, housing and parkland/open space policies of the Provincial Policy Statement.

4.1.3 Greenbelt Plan (2017)

The subject land is designated as Towns/Villages within the Protected Countryside in the Greenbelt Plan. Section 3.4.3 of the Greenbelt Plan states that such Towns/Villages are subject to the Provincial Growth Plan and are governed by official plans and not subject to the policies of the Greenbelt Plan.

4.1.4. A Place to Grow - Growth Plan for the Greater Golden Horseshoe (2020)

Policy 2.2.1.4 of the Growth Plan supports the achievement of complete communities that provide a diverse range and mix of housing options, including additional residential units and affordable housing, to accommodate people at all stages of life, and to accommodate the needs of all household sizes and incomes. This policy further provides for convenient access to an appropriate supply of safe, publicly-accessible open spaces and parks.

The subject land is within a designated greenfield area under the Growth Plan. Section 2.2.7 includes policies that indicate new development in designated greenfield areas will be planned, designated, zoned and designed in a manner that supports the achievement of complete communities and active transportation. This policy section indicates that the Niagara Region will plan to achieve a minimum density target that is not less than 50 residents and jobs combined per hectare, measured over the entire designated greenfield area of the Niagara Region.

Based on the analysis contained in subsequent sections of this report, Staff consider the applications (as modified) to conform to the relevant policies of the Growth Plan.

4.1.5 Niagara Region Official Plan (2014 Consolidation)

The Regional Official Plan designates the subject land within the Urban Area Boundary and within a Designated Greenfield Area. Policy 4.C.5.1 of the Regional Official Plan indicates that Designated Greenfield Areas will be planned as compact, complete communities by, in part, ensuring that Greenfield development is sequential, orderly and contiguous with existing built-up areas. Policy 4.C.6.1 requires a minimum combined gross density target of 50 people and jobs per hectare across all Designated Greenfield Areas. Policy 4.C.7.1 states that in order

to achieve the planned minimum greenfield density target, official plans shall include policies for achieving a mix of housing types and residential densities in greenfield areas. Policy 11.A.1 indicates the Region encourages the provision of a variety of housing types within urban communities and neighbourhoods to serve a variety of people as they age through the life cycle.

The Staff-recommended revisions to the Draft Plan of Subdivision represent an efficient use of land and infrastructure and will contribute to the achievement of a complete community in conformity to the Regional Official Plan.

4.1.6 Town of Niagara-on-the-Lake Official Plan (2017 Consolidation)

The subject lands are within the Urban Area Boundary (settlement area) and designated Low Density Residential on Schedule "C" Land Use Plan in the Town's existing Official Plan (see **Map 2** in **Appendix I**). Schedule I-2 (Growth Management) designates the land as Greenfield Area. The following policy extracts from the Official Plan are relevant to the applications:

4.1.6.1 Parks and Dedication

Section 6.22 of the Town Official Plan identifies requirements for parkland contribution associated with development as follows:

- 6.22 *...(for residential development lands)...require that up to five percent of such lands be conveyed...for park or other public recreational purposes...in the alternative, may require the developer to convey cash-in-lieu of parklands...*

4.1.6.2 Servicing Policies

Section 6.30 of the Official Plan provides policies for servicing development and includes the following policies:

- 6.30(1)(a) *New development will be limited by the available capacities of services...*
- 6.30(2)(c) *Within any Urban Boundary development shall be required to connect to municipal sanitary sewers upon confirmation that sewage treatment capacity is available...*
- 6.30(4)(a) *No development shall occur without appropriate regard for storm run-off, on-site collection and channeling of storm water to an adequate outlet. Drainage shall be to a storm sewer outlet satisfactory to the Town.*

4.1.6.3 Growth Management Policies

Section 6A of the Town Official Plan provides policies to manage growth and includes the following policies and objectives:

- 6A(2.6) *Though the Town of Niagara-on-the-Lake's Greenfield density target is 50 jobs and people per hectare...it is realized that not every site will be able to achieve that target. The Town will have flexibility on a site by site basis, however, the Town will closely monitor its Greenfield developments to ensure that Niagara-on-the-Lake's overall Greenfield target will be achieved.*
- 6A(3.2) *The objectives of the Town's growth strategy are to:*
- d) *Direct urban growth and development to the Town's existing Urban Areas;*
 - h) *Coordinate land use planning with infrastructure planning;*
 - l) *Develop compact, complete communities that include a diverse mix of land uses, a range of local employment opportunities and housing types, high quality public open spaces, and easy access to local stores and services via automobile and active transportation and provide active transportation-friendly structures and amenities.*
- 6A(5.1) *The objectives of the Greenfield development strategy are to:*
- b) *Promote appropriate densities with a mix of housing types...*
 - c) *Improve connections between Greenfield areas and the Built-up Area.*
- 6A(5.2) *The Town's Official Plan policies support the overall Region wide Greenfield density target of 50 people and jobs combined per gross hectare by:*
- c) *Providing for an appropriate mix of housing form within the Greenfield area including single-detached, semi-detached, townhouses and apartment style housing.*
 - f) *The Town will utilize maximum and minimum densities to ensure that intensification areas/sites are not underdeveloped by utilizing a maximum net density as provided in the residential policies in Section 9 of the Official Plan and a minimum net density of 19.76 units per hectare (8 units per acre).*
- 6A(5.4) *...the following urban design policy guidelines will apply to Greenfield proposals in Virgil...as well as other applicable policies of this plan.*
- d) *Lots should vary in size and shape.*
 - e) *Lots adjacent to neighbourhood centres and parks should be planned for medium density development.*
 - f) *Pedestrian connections from the public road right-of-way to adjacent public open spaces...should be provided.*
 - i) *Garages for single, semi and townhouse units shall not exceed 50% of the building's façade and shall be setback from the front face of these units.*

4.1.6.4 Residential Policies

Section 9 of the Official Plan provides the following goals, objectives and policies for Residential land use designations:

- 9.2(3) *To ensure that new development or redevelopment is appropriately located, is compatible with surrounding land uses...and uses land in an efficient manner.*
- 9.3.1(1) *In the low density residential designation the following uses shall be permitted...single-detached, semi-detached and duplex dwellings...minor open space...medium density residential uses...*
- 9.3.2(3) *The design and location considerations for Medium Density Residential development shall include provisions of the following:*
 - a) *The height, bulk and arrangement of buildings...will achieve a harmonious design and integrate with the surrounding area...*
 - b) *Appropriate open space, including landscaping and buffering, will be provided...*
- 9.4(4) *...Generally low density residential developments will not exceed 6 units per acre (14 units per hectare) residential net density and medium density residential developments will not exceed 12 units per acre (30 units per hectare) residential net density unless accompanied by a detailed site and area analysis demonstrating that there will be minimal impact on surrounding neighbourhoods and development and which will be subject to a public review process.*

4.1.6.5 Open Space and Community Facilities Policies

Section 15 of the Town Official Plan includes the following goals, objectives and policies:

- 15.2(1) *To provide for appropriately located neighbourhood parks ...that are accessible to the people they serve...*
- 15.2(2) *To encourage the location of community facilities at strategic locations with convenient access for all residents of the community.*
- 15.3.1(3) *Minor open space and community facility uses, such as...neighbourhood parks, recreation facilities...shall be permitted in residential land use designations without amendment to this plan subject to the following location criteria: Direct or convenient access to an arterial or collector street...*

4.1.6.6 Public Acquisition of Land Policy

Section 22 (Implementation) of the Official Plan contains the following policy:

- 22.11 *The Town of Niagara-on-the-Lake will, wherever desirable and economically feasible, purchase or obtain an easement or otherwise*

acquire an interest in land to effect the implementation of the heritage policies or other policies of this Plan.

Staff Review

There are significant issues from a Staff perspective related to the proposed parkland and residential lotting in the submitted applications.

The map contained in **Appendix III** to this report illustrates the overall neighbourhood of northwest Virgil and the existing Homestead Park. The land for Homestead Park was dedicated to the Town in 1982 and is 0.337 hectares (0.83 acres) in area. The expansion of this park has been intended through future planning applications as development proceeds in the neighbourhood. The residential lands to the northwest of Niagara Stone Road are approximately 82 hectares (203 acres) with over 490 existing homes and an estimated 360+ potential new households. Based on the *Planning Act* standard of 5% for parkland in an area, the neighbourhood would hypothetically be served by 4 hectares (10 acres) of parkland. The area has insufficient parkland.

Through the review, public consultation and Council consideration of the Konik Estates development over a three year period between 2018 and 2020, Staff indicated that the existing Homestead Park was planned to be expanded to create a large and centralized open space feature with prominent street frontage to serve the wider neighbourhood. The Konik Estates plan did not abut Homestead Park and therefore the owner was required to provide 5% cash-in-lieu of parkland dedication.

The submitted Settlers Landing Phase 2 application is the location of the lands needed to expand Homestead Park. The Draft Plan application provides the 5% parkland amount specified in Planning documents for dedication as a condition of approval. However, the proposed configuration and location behind several deep lots in the draft plan is not acceptable to Staff and also results in inefficient lotting of remaining lands for residential use.

Staff recommend the proposed Draft Plan be modified as shown in **Appendix IV** to this report. The "Park Block" (highlighted in green) achieves the goals and objectives for parkland in the neighbourhood and can be supported by Planning policies. The land area within the subdivision for park purposes is approximately 1.481 hectares (3.66 acres) consisting of 0.206 hectares (0.51 acres) from the developer as 5% parkland dedication and 1.275 hectares (3.15 acres) that the Town would purchase from the applicant. The consolidated/enlarged Homestead Park would be 1.818 hectares (4.49 acres). The Town would also require a portion of land in the abutting Konik Estates for a 6 metre wide street access at the northwest corner of the park.

The modified Draft Plan prepared by Staff contains 38 lots for single-detached dwellings that exceed the minimum lot sizes requested by the applicant in the related Zoning By-law Amendment. The revision represents a more efficient lotting pattern

that provides a range of moderate-sized lots that should be compatible with existing and new development in the area.

Staff has balanced the establishment of a larger park in this location with other planning policies in the assessment of the proposal. The development satisfies the Low Density Residential policies of the Town Official Plan. The Greenfield density for the modified draft plan (as well as the original submission) does not meet the target of 50 people and jobs per hectare. The Official Plan policies allow some flexibility in the assessment of greenfield densities for individual sites. There is a substantial amount of land for future residential development in the overall area that will contribute to achieving the greenfield density policy requirements. There are opportunities for medium density townhouses and possible small walk-up apartments in strategic locations in the neighbourhood.

The owner has submitted studies, reports and plans respecting such matters as servicing capacity, stormwater management/drainage and lot grading. These documents are acceptable to Town Staff subject to final detailed approval and implementation through the subdivision conditions. Certain updates may be required to address the Staff-recommended modification to the Draft Plan.

The proposed stormwater management facility in the Konik Estates subdivision has been designed to accommodate the subject lands. The Town will utilize the provisions under the *Drainage Act* to address flooding issues in the area and provide a system with options for piped/overland drainage. This new system will connect with the "Vineyard" (Pinot Trail and Zinfandel Court area) stormwater facility to the south.

Staff consider the modified applications to conform to the relevant policies of the Town Official Plan. The recommended conditions of approval for the Draft Plan of Subdivision (**Appendix V**) are attached to this report.

4.2 Zoning By-law 4316-09 (as amended)

The subject lands are currently zoned Virgil Community Zoning District - Residential Development (RD) Zone, in part, and site specific Residential (R2-32), in part, as shown on **Map 3** in **Appendix I**. The RD zoning permits existing uses. Section 10.6 of the Zoning By-law states that the RD Zone "is a development zone intending that the lands so zoned shall be developed for residential purposes at a subsequent date. The appropriate zone category shall be established through a Zoning By-law amendment." A portion of the site is traversed by the Niagara Peninsula Conservation Authority Regulation area overlay.

The Zoning By-law Amendment proposes a site-specific Residential (R2) Zone for the single-detached lots and the Open Space (OS) Zone for the parkland. The following chart and discussion provides information on the zone provisions and standards compared to the requested/recommended provisions (listed in red):

Residential (R2) - Single-Detached Lots

Provision	Residential (R2) Zone	Proposed Residential (R2) Site-Specific
Minimum lot frontage	15 metres	13 metres - interior lot 15 metres - corner lot
Minimum lot area	475 sq. metres	430 sq. metres
Maximum lot coverage	40%	45% 5% additional lot coverage for attached covered unenclosed porches, decks and patios
Minimum front yard setback	6 metres	4.5 metres - dwelling facade 6 metres - garage attached/detached garage 1 metre behind dwelling facade
Minimum exterior side yard setback	4.5 metres	4 metres 6 metres - garage with entrance facing exterior side yard
Minimum rear yard and interior side yard accessory building setback	1.5 metres	1.2 metres
Minimum exterior side yard accessory building setback	4.5 metres	4 metres
Maximum total width of garage doors	no provision	50% of the dwelling facade containing the garage doors

The recommended site specific R2 Zoning By-law provisions will facilitate the lotting in the Draft Plan of Subdivision and construction of the proposed single-detached dwellings. These provisions allow for a range of appropriate lot sizes and lot coverage that also permits porches/patios as amenity space. The dwelling setbacks encourage homes closer to the street with garages behind the main facade in accordance with design principles. The maximum 50% width of garage doors allows double-vehicle garages for the dwellings. The owner has requested special provisions to permit the **encroachment of unenclosed and uncovered or covered porches, decks or patios** into the front yard, exterior side yard and rear yard - these are acceptable to Staff.

The standard provisions of the R2 Zone apply to the development for minimum landscaped open space (25%), minimum interior side yard setback (1.2 metres), minimum rear yard setback (7.5 metres) and maximum building height (10 metres).

The requested Open Space (OS) Zone permits the proposed/recommended expanded municipal park within the Draft Plan of Subdivision.

The draft Zoning By-law Amendment is attached as **Appendix VI** to this report and is considered to conform to the Town Official Plan. The mapping of the Zone boundaries corresponds to the Staff modifications to the subdivision layout

4.3 Consultation

The applications were circulated to Town departments and external agencies for comment. Public notice of the applications was provided as required by the *Planning Act*. As noted previously, an Open House for the proposal was held on January 19, 2021 and the statutory Public Meeting was conducted on February 1, 2021. Comments received to date are summarized in the following sections.

4.3.1 Public Comments

Several residents spoke at the information sessions and/or provided written comments. The main issues and questions were related to stormwater management, flooding/drainage and possible traffic/speeding on the extension of Homestead Drive. Public comments received to date are attached as **Appendix VII** to this report. These issues have been addressed in this report and in the conditions of approval.

4.3.2 Agency, Town Department and Advisory Committee Comments

Building - no objections.

Fire - no objections.

Operations - request conditions for servicing, stormwater, drainage and roads.

Parks - detailed comments were discussed earlier in this report.

Niagara Region - Regional staff has indicated no objection to the proposal subject to conditions of approval related to an Environmental Site Assessment, archaeological resources, agricultural area warning clause, servicing, stormwater management and waste collection.

Niagara Peninsula Conservation Authority - no objection to the development subject to a condition for a Work Permit for the enclosure/piping of a watercourse on the property as part of the stormwater management system.

Bell Canada, Canada Post, Enbridge Gas & NOTL Hydro - standard conditions.

Agency comments are attached as **Appendix VIII** to this report.

Urban Design Committee (UDC) - The submitted applications were considered by the UDC at their January 26, 2021 meeting. The Committee passed a motion to

request more park frontage be obtained for Block 54, particularly Lots 25-28 on Street B in the applicant's plan (**Appendix II**), and that land dedication and cash-in-lieu of parkland be considered in negotiations with the owner. The UDC stated that their goal is to achieve a more useful and enhanced park configuration.

5. Strategic Plan

- Protect Distinctive Community Assets**
- Deliver Smart Balanced Growth**
 - Update and create master and secondary plans
 - Develop smart balanced growth criteria
 - Identify smart balanced growth priorities
 - Other
- Create a Culture of Customer Service Excellence**
- Excel in a Positive Workplace**
- Strengthen 2-Way Communications**
- Not Applicable**

6. OPTIONS

Council may accept or revise the Staff-recommended modifications to the Draft Plan of Subdivision and Zoning By-law Amendment applications, including the conditions of approval and site specific Zoning By-law provisions. If Council decides to endorse an alternate design or the applicant's submitted plan, Staff recommend a further report to provide the necessary conditions and zoning standards to implement Council's position.

7. FINANCIAL IMPLICATIONS

The owner will be responsible for all costs associated with the development. The Town will collect Development Charges at the time of issuance of building permits.

Council will need to determine appropriate funding sources for the recommended purchase of additional parkland above the 5% parkland dedication that the owner is responsible for under the *Planning Act*.

8. COMMUNICATIONS

Staff anticipate there will be ongoing communication through the Town Solicitor with the owner and their representatives in advance of the Ontario Land Tribunal hearing.

After a decision is rendered by the OLT, the owner is required to satisfy all conditions of Draft Approval for the subdivision within three years of the effective date, unless an extension is approved by Council. Upon fulfillment of all conditions, a further planning application is required for final approval in which the owner will enter into a subdivision agreement with the Town. Final approval of the agreement is subject to Council approval.

9. CONCLUSION

Community & Development Services Staff recommend that Council endorse the modified Draft Plan of Subdivision (26T-18-20-03 Revised) and associated conditions, as well as the Zoning By-law Amendment (ZBA-16-2020), as detailed in this report. The revised applications would meet *Planning Act* requirements, are consistent with the Provincial Policy Statement and conform with the Growth Plan, the Niagara Region Official Plan and the Town Official Plan.

Respectfully submitted,

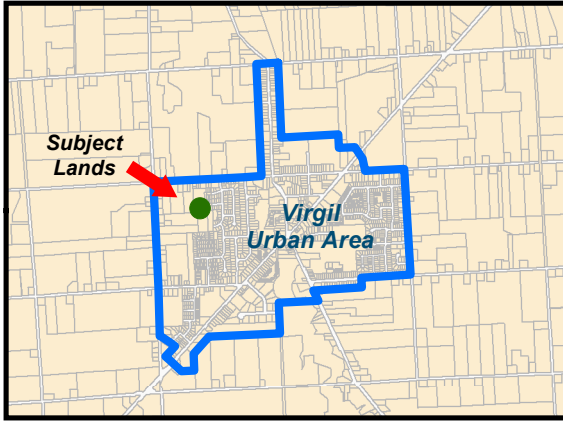


**Rick Wilson, MCIP, RPP
Manager of Planning**

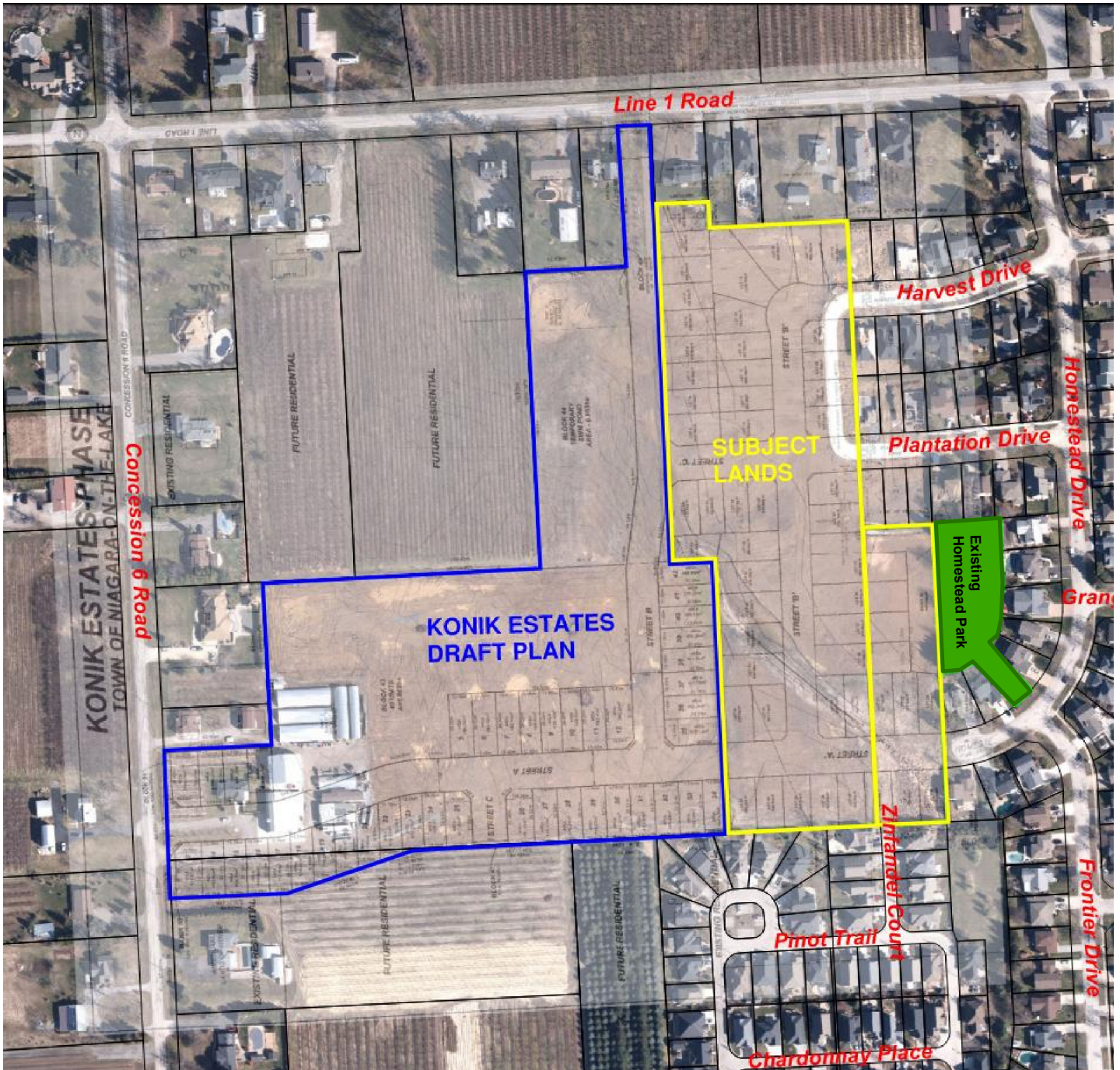


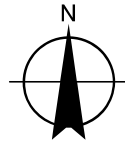
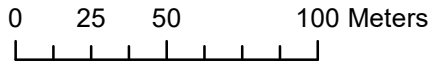
**Marnie Cluckie, MS.LOD, B.ARCH, B.ES
Chief Administrative Officer**

Key Map



LOCATION MAP
Settlers Landing - Phase 2
File No: 26T-18-20-03 &
ZBA-16-2020



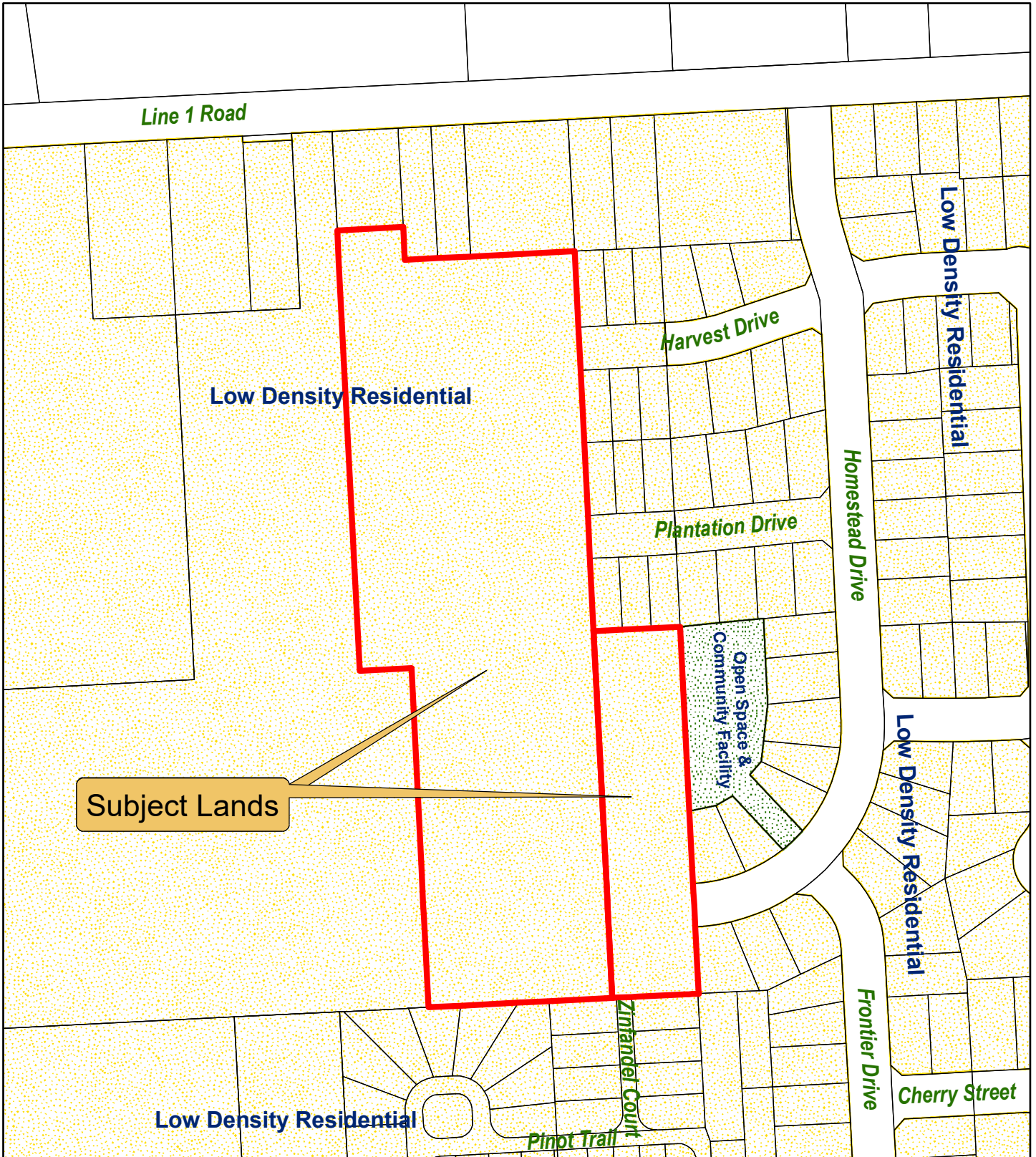


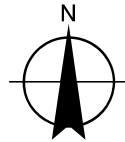
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OFFICIAL PLAN

Land Use Designations

File: Settlers Landing - Phase 2
26T-18-20-03 & ZBA-16-2020



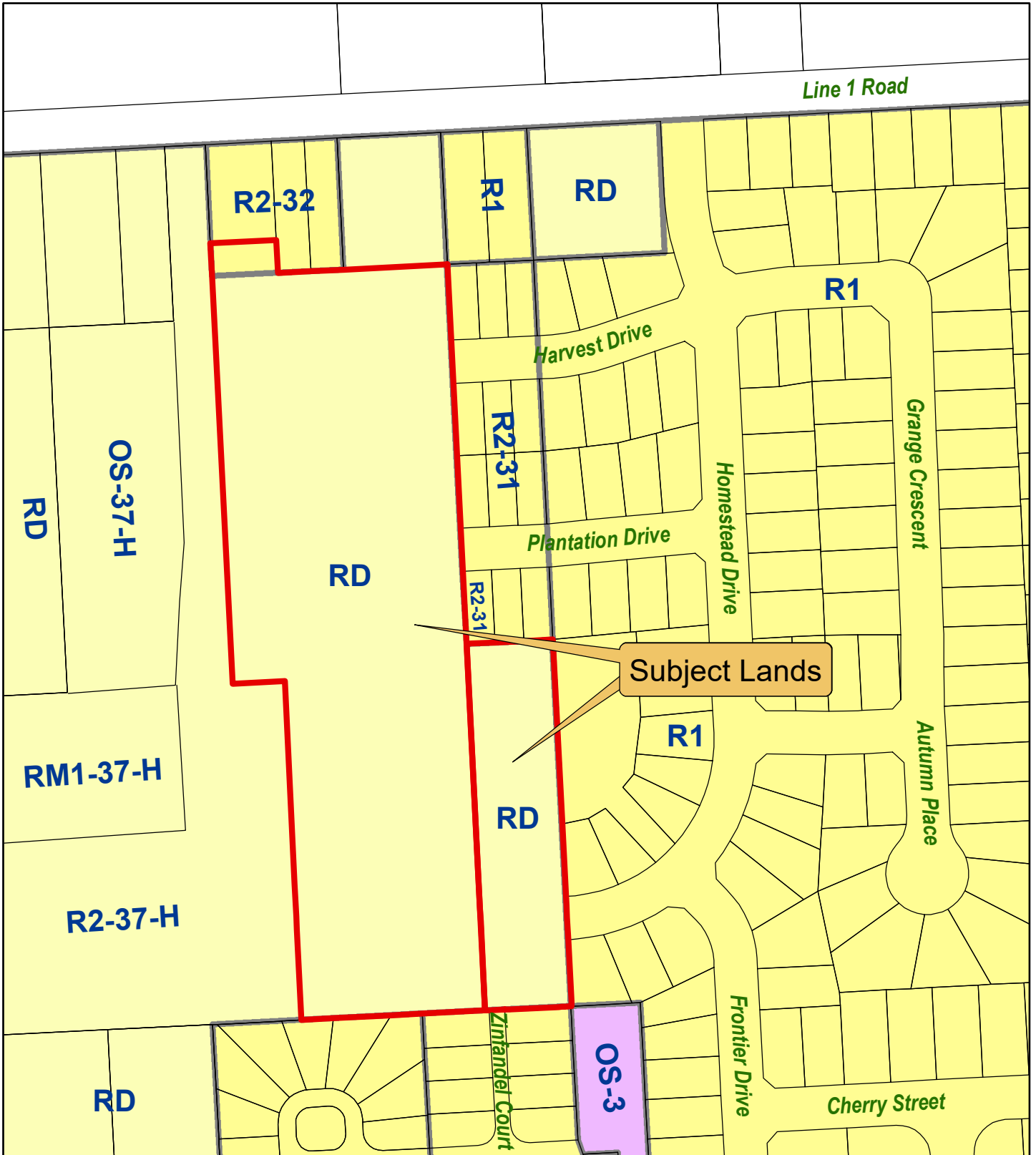


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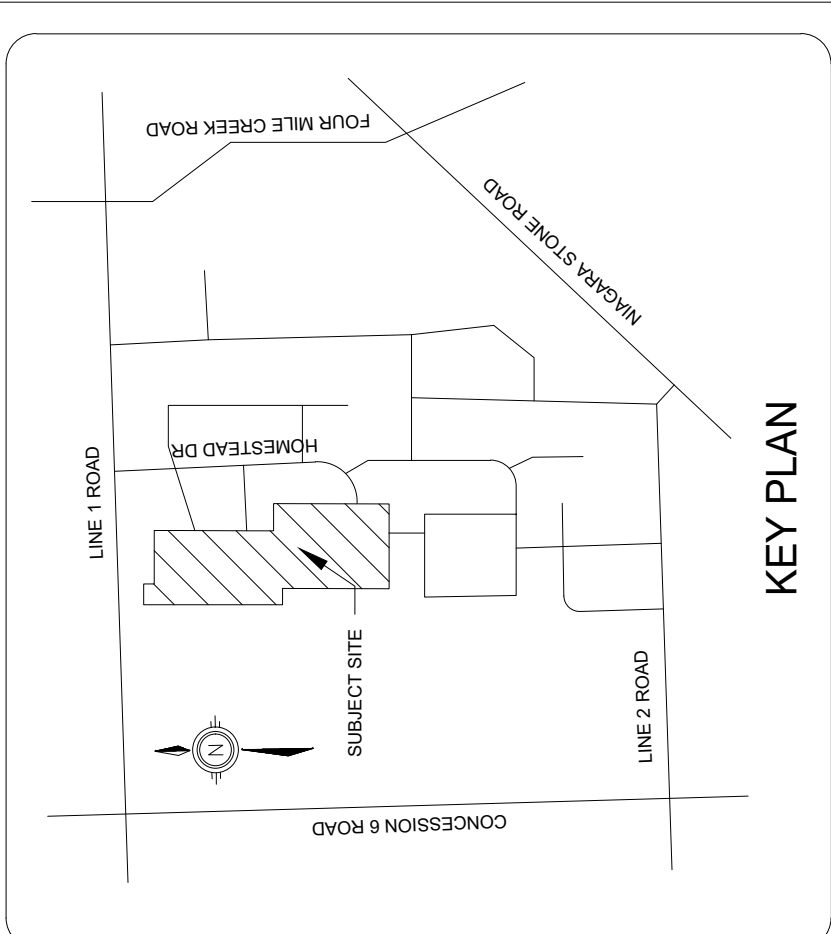
ZONING

As per Zoning By-law 4316-09, as amended

File: Settlers Landing - Phase 2
26T-18-20-03 & ZBA-16-2020



DRAFT PLAN OF SUBDIVISION
 OF
PART OF LOT 118 NIAGARA TOWNSHIP DESIGNATED AS PARTS 1, 2, AND 3 ON 30R-15476 AND PART 3 ON 30R-15270 TOWN OF NIAGARA-ON-THE-LAKE REGIONAL MUNICIPALITY OF NIAGARA



OWNER'S CERTIFICATE
 I, **Henry Johnson** of the Niagara Planning Group to submit the proposed Plan of Subdivision.
 Date: **October 29th, 2020**

Owner (please Legible Name) (s): **1834682 ON (R) INC.**

BY: **William A. Mascoe**
 William A. Mascoe
 Chartered Land Surveyor

Date: **October 27, 2020**

REQUIREMENTS UNDER SECTION 51(17) OF THE PLANNING ACT, 1990 (as amended)

1) SEE PLAN
 2) SEE PLAN
 3) SEE PLAN
 4) PROPOSED RESIDENTIAL WITH PARK BLOCK
 5) SEE PLAN
 6) SEE PLAN
 7) SEE PLAN
 8) SEE PLAN
 9) SEE PLAN
 10) SEE PLAN
 11) SEE PLAN

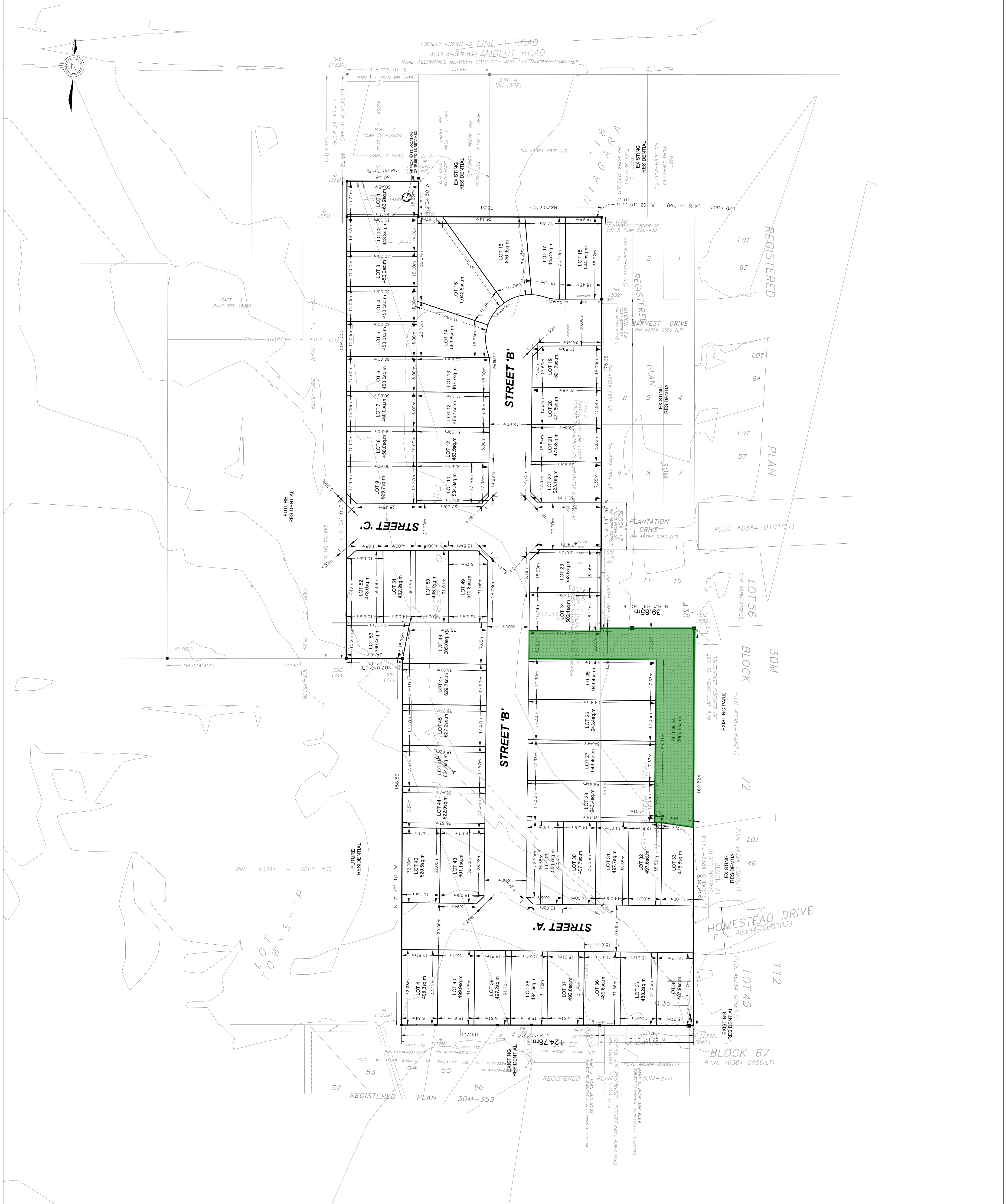
LAND USE SCHEDULE

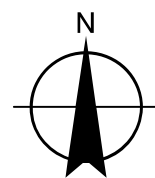
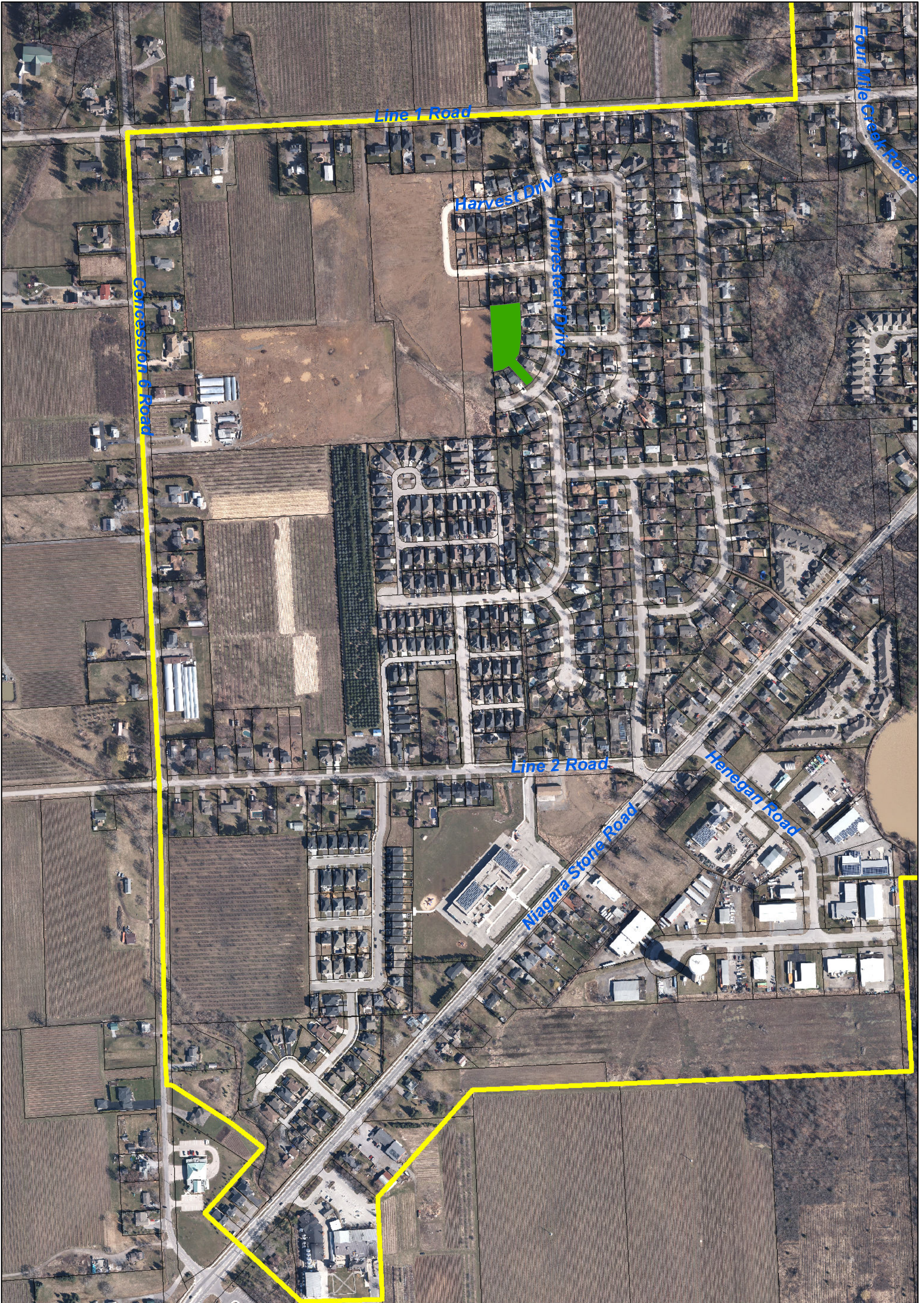
LOT/BLOCK	USE	NO. OF UNITS	AREA (HA)	AREA (AC)	AREA (%)
1-53	RESIDENTIAL	53	2.03	7.24	71.5%
54	OPEN SPACE	0.21	0.21	0.51	5.1%
R.O.W.		0.86	0.86	2.38	23.4
TOTAL		4.10	10.13	100%	

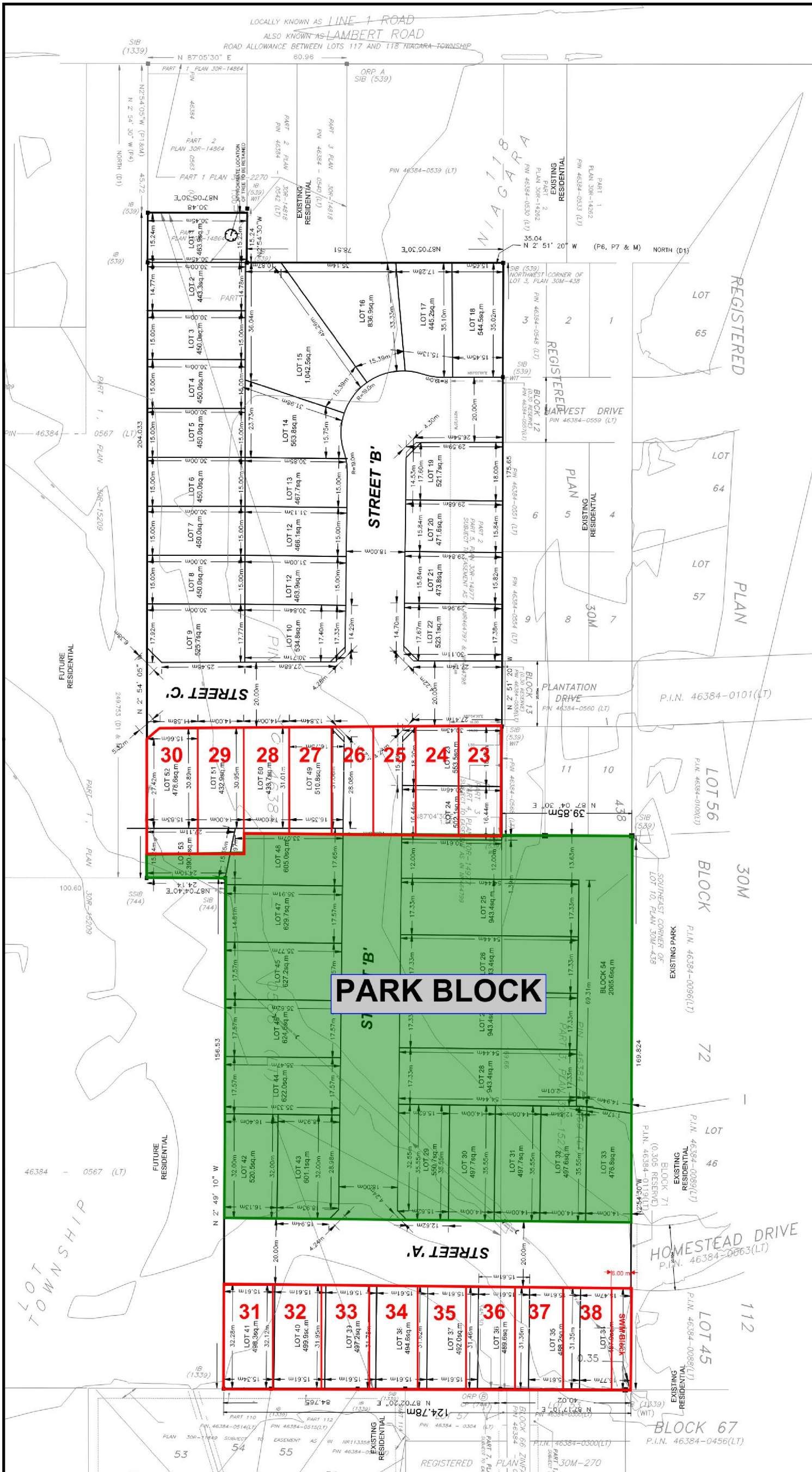
#	DATE	BY	DESCRIPTION

METRIC
 DISTANCES AND COORDINATES SHOWN ON THIS PLAN ARE IN METRES AND CAN BE CONVERTED TO FEET BY DIVIDING BY 0.3048

DATE: 2020-10-26
 DRAWN BY: GD
 CHECKED BY: DR







File: 26T-18-20-03 (Revised)
Draft Approval Date: _____
Lapse Date: _____

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

The conditions of draft plan approval and registration of “Settlers Landing Phase 2” Subdivision, File 26T-18-20-03 (Revised) are as follows:

1. That approval applies to the “Settlers Landing Phase 2” Draft Plan of Subdivision, being Part of Lot 118 Niagara Township, designated as Parts, 1, 2 and 3 on 30R-15476 and Part 3 on 30R-15270, Town of Niagara-on-the-Lake, Regional Municipality of Niagara, prepared by William A. Mascoe, O.L.S., dated October 27, 2020, and modified by the Town on December 20, 2021, showing 38 lots for single-detached dwellings, a “Park Block” for municipal parkland, a block of land for stormwater management purposes and public roads (Street “A”, “B” & “C”).
2. That the owner enters into one or more agreements with the Town of Niagara-on-the-Lake (the “Town”) agreeing to satisfy all requirements, financial and otherwise, of the Town including the provision of services, roads, signage, grading, drainage, trees, sediment and erosion control, streetlighting, and sidewalks. The agreement shall also specifically prohibit development on the lands, save and except for model homes (as permitted by Town policy), until such time as grading and services are adequately provided, to the satisfaction of the Town.
3. That if final approval is not given to this plan within three (3) years of the draft approval date and an extension has not been granted, draft approval shall lapse. If the owner wishes to extend the draft approval, a complete application form and written explanation of the request must be received by the Town prior to the lapsing date.
4. That the subdivision agreement between the owner and the Town with regard to the subject lands be registered by the Town against the lands to which it applies, pursuant to the provisions of the *Planning Act*.
5. That the owner provides an undertaking to the Town agreeing that a properly executed copy of the transfer of the lands to the municipality will be deposited to the Clerk concurrently with the registration of the final plan of subdivision.
6. That the owner agrees in the subdivision agreement that any outstanding taxes will be paid prior to the registration of the final plan of subdivision.
7. That the owner receives final approval to 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 dedicates land to the Town within the “Park Block” on the modified draft plan in the amount of 5% (approximately 0.206 hectares/0.51 acres) of the subdivision lands, pursuant to Section 51.1 of the *Planning Act*. The balance of the “Park Block” (approximately 1.275 hectares/3.15 acres) shall be purchased from the owner by the Town.
10. That the owner install black vinyl-coated chain-link fencing at a height of 1.8 metres along the northerly limit of the “Park Block”, abutting Lots 35 to 42 (inclusive) in the Konik Estates Draft Plan of Subdivision and the west limit of Lot 46 within 30M-112.
11. That the Konik Estates (Phase 1) Draft Plan of Subdivision (26T-18-18-03) be registered to ensure the construction of public street access for proposed Lots 1 to 9 (inclusive) in the Settlers Landing Phase 2 draft plan as well as certain required municipal services and the stormwater management outlet for the subject lands.
12. That the owner coordinate, to the satisfaction of the Town, the construction of Street “B” and “C” with the required removal of the temporary roadway on the subject lands (connecting the west limits of Harvest Drive and Plantation Drive, subject to an easement registered on Part 5, 30R-14977) to ensure through access for these public streets in lieu of turnaround areas.
13. That the detailed design drawings with calculations for the watermain system, the sanitary sewer system and the stormwater drainage system required to service this proposal be submitted to the Niagara Region, the Town’s Operations Department and the Fire and Emergency Services Department for review and approval.
14. That prior to final approval for registration of this plan, the owner shall obtain Ministry of the Environment, Conservation and Parks approval to the satisfaction of the Niagara Region for the necessary servicing (watermains, storm sewers, sanitary sewers and SWM pond outlet) for this development.
15. That the owner provides a comprehensive cost estimate detailing the cost of all on-site and off-site works, as well as the number of working days required to complete the proposed works, in order to establish the appropriate security deposits to be identified in the subdivision agreement.
16. That the owner agrees in the subdivision agreement that access to the site for servicing and construction shall be from the lands to the west (Konik Estates (Phase 1) Draft Plan of Subdivision), and if necessary, the owner provide the Town with a copy of a legal agreement between the owner and the abutting landowner to the west to permit such construction access.

17. That the rectifying of any sanitary capacity issue previously identified through the Virgil Sanitary Sewer Capacity Impact Study (Upper Canada Consultants - May 2019), may 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.
18. That the owner be responsible for their proportionate share of costs relating to oversizing of the stormwater management pond and/or its associated lands, the total cost of which shall be determined by the Town.
19. That the owner agrees that prior to the assumption of the subdivision by the Town, that the storm sewers, including catch basins, will be flushed and TV inspected. This requirement shall also be included as a clause in the subdivision agreement.
20. That the cleaning of any downstream stormwater management pond facilities deemed necessary by the Town, and the costs associated with such works shall be cost shared between contributing developments, to be paid by the developer/s based on their respective contributing land drainage area.
21. That upon completion of the project, the design engineer shall certify that all grading, storm sewers, and stormwater management controls have been constructed in general conformity to the approved drawings.
22. That the watermain system be designed to the satisfaction of the Town's Operations Department, and that the proposed watermains for Harvest Drive, Plantation Drive and Homestead Drive be oversized to a minimum size of 200mm, and that the owner pays their proportionate share of the costs.
23. That the sanitary sewer system be designed to the satisfaction of the Town's Operations Department, and that the proposed sanitary sewers for Harvest Drive, Plantation Drive and Homestead Drive be oversized to a minimum size of 300mm, and that the owner pays their proportionate share of the costs.
24. That the public streets be dedicated to the Town free and clear of any mortgages, liens or encumbrances and named to the Town's satisfaction as the continuation of the existing roads to the east.
25. That 0.3 metre (1 foot) access reserves be provided at the west terminus of Street "A" and Street "C", to be deeded to the Town free and clear of any mortgages, liens or encumbrances.
26. That access reserves Block 12 and Block 13 within 30M-438 (respecting Harvest Drive and Plantation Drive) and Block 71 within 30M-112 (respecting Homestead Drive) be lifted by the Town upon the completion of Primary Services.

27. That the owner provides 4.5 metre daylighting triangles at all intersections in accordance with Town standards and these shall be included in the roadway dedications of public streets to the Town.
28. That the owner dedicates to the Town a block of land 6 metres in width (shown as "SWM Block" on the modified draft plan) located on the south side of Street "A" at the east limit of the subdivision for stormwater management purposes.
29. That the owner removes the turn-around at the existing terminus of Homestead Drive (within 30M-112) and that:
- a) Homestead Drive within 30M-112 be extended/constructed to the east limit of Street "A".
 - b) All affected lots on Homestead Drive within 30M-112 be restored, repaired and reinstated, including any impacted driveways.
 - c) All impacted driveway aprons within 30M-112 be replaced with a hard surface material.
 - d) All existing curb and boulevards within 30M-112 shall be extended to the east limit of Street "A".
 - e) All existing sidewalks within 30M-112 shall be extended to the east limit of Street "A" at a minimum 1.5 metre width.
30. That the owner agrees to the following requirements in the subdivision agreement:
- a) That all infrastructure works will be constructed to current Town specifications.
 - b) That the owner agrees to grant to the Town any required easements for services or utilities.
 - c) That a sanitary and storm drainage area plan be submitted to the Town's Operations Department for approval.
 - d) That the owner submits an overall lot grading plan to be approved by the Town's Operations 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. 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.
 - e) That overall lot grading, street lighting, sediment control, servicing, and drainage plans be submitted to the Town's Operations Department for review and approval.

- f) That a streetscape plan illustrating the location of on-street parking, street trees, pavement markings, community mailbox locations, hydrants, regulatory and no parking signs and street lighting is submitted to the Town's Operations Department for review and approval.
- g) That all submitted plans and supporting reports will be subject to a peer review at the owner's cost.
- h) That the owner provides boulevard trees in the subdivision in accordance with Town policy respecting the number, location, species, and size.
- i) That the owner provides 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 Town's Fire and Emergency Services Department. Upon completion of primary services and before any financial releases, the fire hydrants must be pressure and flow tested as per Fire Code requirements.
- j) That the owner provides the appropriate securities and cash deposits prior to commencing the installation of infrastructure.
- k) That the owner provides 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 or restored, if needed, to the approved design specifications and Town Engineering Standards.
- l) 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.
- m) That the owner constructs a storm sewer system, and that all stormwater flows collected in that system be directed to the stormwater management pond, located within the future development immediately to the west, in accordance with the Town's Engineering Standards.
- n) That the owner, in coordination with the Town's Drainage Engineer, design and construct a by-pass storm sewer pipe within the proposed development to convey flows from the Town owned Vineyard Creek stormwater management facility to the proposed bypass pipe located within the future Konik Estates development.
- o) 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, of which their lands contribute to, as determined through the *Ontario Drainage Act, s17, RSO 1990*.

- p) That all road allowances within the subdivision be a minimum of 20 metres in width.
 - q) That all roads are constructed to current Town urban design standards, which includes an 8.5-metre-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.
 - r) That the owner constructs a 1.5-metre-wide sidewalk along one side of the streets in the subdivision. The owner shall ensure that alignment and location of proposed sidewalks is consistent with existing sidewalks on abutting lands. Sidewalks are to be installed as per the Town's Sidewalk Installation Policy for new developments (Policy CDS-PLG-004).
 - s) That 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.
 - t) That all offers and agreements of purchase and sale shall contain a clause that the purchaser will be responsible to maintain the grassed boulevard directly in front of and adjacent to their lot where they exist.
 - u) That during the construction the site will be kept in a reasonably tidy condition so that the raising of dirt and dust is kept to a minimum and further that all roads adjacent to and in the vicinity of the development are kept clean of mud and debris as per Town's Street Cleaning Policy for new developments (Policy CDS-PLG-005).
31. That the applicant/owner receive acceptance from the Ministry of Heritage, Sport, Tourism and Culture Industries (MHSTCI) for the archaeological assessment report titled Stage 1-2 Archaeological Assessment Settler's Landing, Virgil prepared by Detritus Consulting Ltd., dated November 5, 2020. 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, 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 MHSTCI through Niagara Region, confirming that all archaeological resource concerns have met licensing and resource conservation requirements.
32. That the following clause be included in the subdivision agreement:
- Should deeply buried archaeological remains/resources be found on the property during construction activities, all activities impacting the archaeological resources must cease immediately and the proponent must notify the Archaeology Programs Unit of the Ministry of Heritage, Sport, Tourism, and Culture Industries (416-212-8886)*

and contact a licensed archaeologist to carry out an archaeological assessment in accordance with the Ontario Heritage Act and the Standards and Guidelines for Consultant Archaeologists.

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

33. That a Phase Two 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 development lands, be submitted to the satisfaction of Niagara Region.
34. That the subdivision agreement contains provisions whereby the owner agrees to implement the recommendations of the approved Phase 2 Environmental Site Assessment (ESA) required in accordance with Condition 33.
35. That the owner provides a written acknowledgement to Niagara Region Planning and Development Services Department 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.
36. That the owner provides a written undertaking to Niagara Region Planning and Development Services Department 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 a similar clause be inserted in the subdivision agreement between the owner/developer and the Town.
37. That prior to final approval for registration of this plan of subdivision, the owner shall submit the design drawings [with calculations] for the sanitary and storm drainage systems required to service this development and obtain Ministry of the Environment Compliance Approval from the Ministry of the Environment, Conservation and Parks.
38. That prior to approval of the final plan or any on-site grading, the owner shall submit a detailed stormwater management plan for the subdivision and the following plans designed and sealed by a qualified professional engineer in accordance with the Ministry of the Environment, Conservation and Parks documents entitled Stormwater Management Planning and Design Manual, March 2003 and Stormwater Quality Guidelines for New Development, May 1991, or their successors to the Niagara Region for review and approval:

- 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) Detailed phasing of construction of the stormwater management facility to coincide with phasing of development of residential lands (internal and external to the subdivision) planned to be serviced by the stormwater management facility; and
 - d) That prior to final approval for registration of this plan of subdivision, the owner shall submit the design drawings [with calculations] for the stormwater management facility required to service this development and obtain the necessary Environment Compliance Approval from the Ministry of the Environment, Conservation and Parks.
39. That the subdivision agreement between the owner and the Town contain provisions whereby the owner agrees to implement the approved plan(s) required in accordance with the Condition 38.
40. That the Region is provided with documentation from the abutting land owner to allow the required SWM infrastructure in the SWM plan for this subdivision to be constructed and maintained on their property or a revised SWM plan for the subdivision be submitted for review and approval.
41. That the owner/developer shall comply with Niagara Region's Corporate Policy for Waste Collection and complete the Application for Commencement of Collection.
42. That the owner/developer ensure that all streets and development blocks can provide an access in accordance with Niagara Region's Corporate Policy and By-laws relating to the curbside collection of waste and recycling. Where a through street is not maintained, the owner shall provide a revised draft plan to reflect a proposed temporary turnaround/cul-de-sac with a minimum curb radius of 12.8 metres.
43. That the owner agrees to include the following warning clause in all Agreements of Purchase and Sale or Lease or Occupancy for each of the dwelling units, and that they 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.*
44. That a Work Permit is obtained from the Niagara Peninsula Conservation Authority for the proposed watercourse entombment and that the requirement for a Work Permit be incorporated into the Subdivision Agreement between the owner and the Town of Niagara-on-the-Lake, to the satisfaction of the Niagara Peninsula Conservation

Authority. The Town of Niagara-on-the-Lake shall circulate the draft Subdivision Agreement to the Niagara Peninsula Conservation Authority for its review and approval.

45. That the owner enters into a separate agreement with Niagara-on-the-Lake Hydro for the provision of hydro services for the development.

46. 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.

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

- a) *“The applicant shall contact Enbridge Gas Inc.’s Customer Connections department by emailing CustomerConnectionsContactCentre@Enbridge.com to determine gas availability, service and meter installation details and to ensure all gas piping is installed prior to the commencement of site landscaping (including,*

but not limited to: tree planting, silva cells, and/or soil trenches) and/or asphalt paving.”

- b) “If easement(s) are required to service this development and any future adjacent developments, the owner will provide all easement(s) to Enbridge Gas Distribution at no cost.”*

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

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

Clearance of Conditions

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

Department or Agency	Conditions
Town Community & Development Services	1, 2, 3, 4, 5, 6, 7, 8, 9, 11, 12, 30(d)
Town Corporate Services	5, 6, 9
Town Operations	9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30
Town Fire & Emergency Services	13, 30(i)
Niagara Region	31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43
Niagara Peninsula Conservation Authority	44
Niagara-on-the-Lake Hydro	45
Canada Post	46
Enbridge Gas	47
Bell Canada	48

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	Craig Larmour, Director of Community & Development Services	1593 Four Mile Creek Road, P.O. Box 100, Virgil, ON, L0S 1T0	(905) 468-3061 x243	craig.larmour@notl.com
Town Operations Department	Adam Allcock, Manager of Public Works	1593 Four Mile Creek Road, P.O. Box 100, Virgil, ON, L0S 1T0	(905) 468-3266 x277	adam.allcock@notl.com
Town Fire and Emergency Services	Nick Ruller, Fire Chief	1593 Four Mile Creek Road, P.O. Box 100, Virgil, ON, L0S 1T0	(905) 468-3266 x259	nick.ruller@notl.com
Town Corporate Services Department	Colleen Hutt, Acting Town Clerk	1593 Four Mile Creek Road, P.O. Box 100, Virgil, ON, L0S 1T0	(905) 468-3061 x248	clerks@notl.com
Niagara Region	Aimee Alderman, Senior Planner	1815 Sir Isaac Brock Way, P.O. Box 1042, Thorold, ON, L2V 4T7	(905) 980-6000 x3352	aimee.alderman@niagararegion.ca
Niagara Peninsula Conservation Authority	David Deluce, Manager Plan Review	250 Thorold Road West, Welland, ON L3C 3W2	(905) 788-1121 x224	ddeluce@npca.ca
Niagara-on-the-Lake Hydro	Kevin Sidey, Senior	8 Henegan Road, P.O. Box 460, Virgil, ON, L0S 1T0	(905) 468-4235 x530	ksidey@notlhydro.com

	Engineering Technologist			
Canada Post	Andrew Carrigan, Delivery Planning Officer	955 Highbury Ave. N. London, ON N5Y 1A3	(226) 268-5914	andrew.carrigan@canadapost.ca
Enbridge Gas	Alice Coleman, Municipal Planning Coordinator	500 Consumers Road, North York, ON M2J 1P8	(416) 495-5386	municipalplanning@enbridge.com
Bell Canada	Ryan Courville, Access Network Provisioning Manager		(416) 570-6726	circulations@WSP.com

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.

Explanation of the Purpose and Effect of
By-law 4316##-21

The subject lands are described as south of Line 1 Road and west of Homestead Drive, Niagara-on-the-Lake, more particularly described as Part of Lot 118 Geographical Township of Niagara, designated as Parts 1, 2 and 3 on 30R-15476 and Part 3 on 30R-15270, now in the Town of Niagara-on-the-Lake, Regional Municipality of Niagara.

Purpose

The purpose of this By-law is to rezone the property to permit the development of a Plan of Subdivision containing lots for single-detached dwellings and a block for municipal parkland.

Effect

The effect of this By-law is to rezone the property from “Virgil Community Zoning District - Residential Development (RD) Zone”, in part, and “Virgil Community Zoning District - Residential (R2-32) - Site Specific Zone“, in part, to “Virgil Community Zoning District - Residential (R2-39) - Site-Specific Zone” and “Virgil Community Zoning District - Open Space (OS) Zone.”

<p><i>Owner: Settlers Landing Estates Ltd. & 1834489 Ontario Inc.</i> <i>File Number: ZBA-16-2020</i> <i>Report Number: CDS-xx-xxx</i> <i>Assessment Roll Number:2627x0000</i></p>
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**THE CORPORATION
OF THE
TOWN OF NIAGARA-ON-THE-LAKE
BY-LAW NO. 4316##-21**

Settlers Landing Phase 2
South of Line 1 Road and West of Homestead Drive
Roll 2627 020 014 212000000
Roll 2627 020 014 213040000

A BY-LAW TO AMEND BY-LAW NO. 4316-09, AS AMENDED, ENTITLED A BY-LAW TO REGULATE THE USE OF LANDS AND THE ERECTION, USE, BULK, HEIGHT, LOCATION, AND SPACING OF BUILDINGS AND STRUCTURES WITHIN THE TOWN OF NIAGARA-ON-THE-LAKE.

WHEREAS the Town of Niagara-on-the-Lake Council is empowered to enact this By-law by virtue of the provisions of Section 34 of the *Planning Act*, R.S.O. 1990, c.P.13, as amended;

AND WHEREAS this By-law conforms to the Town of Niagara-on-the-Lake Official Plan.

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWN OF NIAGARA-ON-THE-LAKE enacts as follows:

1. Schedule "A-14" of By-law 4316-09, as amended, is further amended by changing the zoning of the subject lands identified on Map A attached to and forming part of this By-law, from "Residential (RD) Zone", in part, and "Residential (R2-32) - Site Specific Zone", in part, to "Residential (R2-39) - Site-Specific Zone" and "Open Space (OS) Zone."
2. That Subsection 10.12, Site Specific Exceptions is hereby further amended by adding the following:
10.12.39 Settlers Landing Phase 2 - See Schedule (A-14)

10.12.39.1 R2-39 Zone Requirements:

In lieu of the corresponding provisions of Subsection 10.2.2, and in addition to such provisions, the following provisions shall apply on the lands identified as R2-39 on Schedule "A-14":

(a)	Minimum lot frontage - interior lot - corner lot	13 m 15 m
(b)	Minimum lot area	430 m ²
(c)	Maximum lot coverage An additional 5% lot coverage is permitted for attached covered and unenclosed porches, decks and patios	45%
(e)	Minimum front yard setback to the main façade of the dwelling Minimum front yard setback to the front face of the garage An attached or detached garage shall be setback a minimum of 1 metre behind the main façade of the dwelling on the ground floor	4.5 m 6 m
(g)	Minimum exterior side yard setback Minimum exterior side yard setback for a garage with the entrance facing the exterior side yard	4 m 6 m
(k)	Minimum accessory building setback (rear yard and interior side yard)	1.2 m
(l)	Minimum accessory building setback (exterior side yard)	4 m
(m)	Maximum total width of garage doors	50% of the dwelling façade containing the garage doors

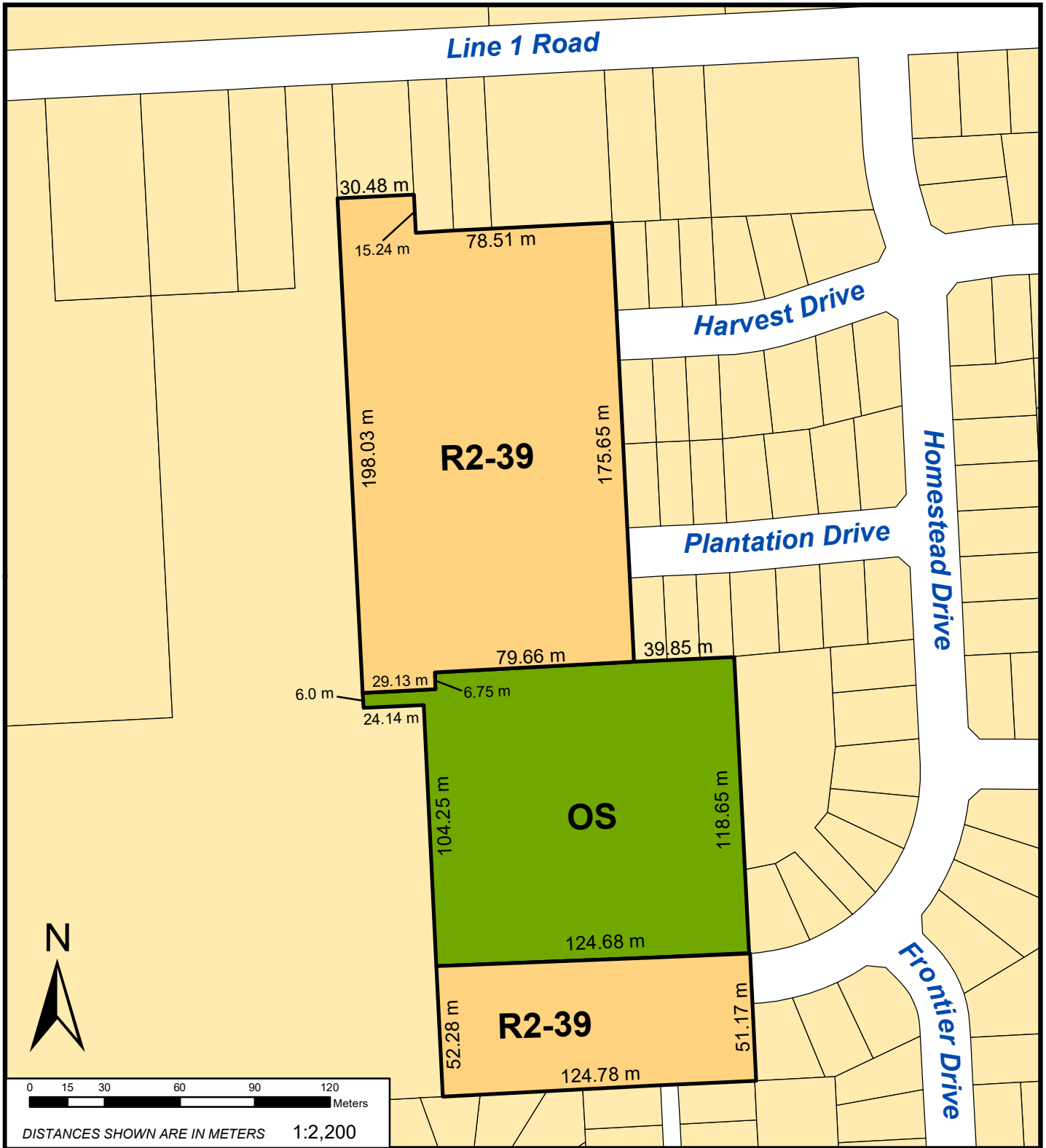
10.12.39.2 In addition to the provisions of Section 6.44 of Zoning By-law 4316-09, Permitted Yard Projections and Encroachments, on lands identified as R2-39 on Schedule "A-14", an unenclosed and uncovered or covered porch, patio, deck or steps may project 1.5 metres into a required front yard, required rear yard and required exterior side yard.

3. That the effective date of this By-law shall be the date of final passage thereof.

READ A FIRST, SECOND AND THIRD TIME THIS XXth DAY OF MONTH 2021.

LORD MAYOR BETTY DISERO

ACTING TOWN CLERK
COLLEEN HUTT



MAP 'A' ATTACHED TO BY-LAW 4316##-21, BEING AN AMENDMENT TO SCHEDULE "A-14" OF ZONING BY-LAW 4316-09, AS AMENDED, OF THE TOWN OF NIAGARA-ON-THE-LAKE AS PASSED ON THIS xxth DAY OF MONTH, 2021.

LORD MAYOR
BETTY DISERO

ACTING TOWN CLERK
COLLEEN HUTT

From: [Carl Nickel](#)
To: [Jesse Auspitz](#)
Subject: Re: Files 26T-18-20-03 and ZBA-16-2020
Date: Thursday, December 24, 2020 12:23:33 PM

CAUTION: This email originated from outside the Town of Niagara-on-the-Lake. Use caution when clicking on a link or opening an attachment unless you know that the content is safe. If unsure, forward the email to IT to validate.

Hi Jesse

I spoke to Josh Bice re: subdivision and drainage and he took me through the issues and concerns that I had. I now have a better understanding of the situation and hopefully all is well.
Thank you for addressing this promptly with the developers help.

Carl Nickel

Sent from my iPad

> On Dec 23, 2020, at 11:21 AM, Carl Nickel

>

> Jesse

>

> I am writing in regards to this new subdivision in Virgil in which we border. My main concern with this is drainage. As an homeowner with a lower elevation from this area and bordering on the Bergen drain I am wondering where the excess water will go after a rainfall. I see on the road sign, the plan calls for a pond (temporary) kitty corner to the rear of our property to the southeast. Is this pond still in the plans or has it changed. If it remains in the plans will it be built at this stage or when the other developer of the adjacent property in this development starts to build. I understand that storm sewers will be in place but I am quite concerned regarding this development as more hard surfaces ie; asphalt, concrete, roads and driveways and roofing will cause a more intense run off of water plus snow melts in the springtime. I am saying this as we have already through the years, experienced a lot of run off and our property flooded. Why has this not been prevented when the Homestead and Vineyards subdivisions were built and no holding ponds constructed to contain excess water?

> Can you please bring me up to speed on this situation ?

> Thank you

>

> I am located at 439 Line 1 NOTL

>

> Carl Nickel

>

>

> I am writing in regard

> Sent from my iPad

From: [Nancy Voogt](#)
To: [Jesse Auspitz](#); [Peter Todd](#)
Subject: Subdivision in Virgil
Date: Monday, January 18, 2021 12:45:48 PM
Attachments: [20210102_093737_002.mp4](#)

CAUTION: This email originated from outside the Town of Niagara-on-the-Lake. Use caution when clicking on a link or opening an attachment unless you know that the content is safe. If unsure, forward the email to IT to validate.

Hi there,

Attached, you will find a video of the property behind our house at 443 Line 1 that is slotted to be a holding pond and subdivision.

We would like to have the chance to ask questions at the open house and public meeting on January 19, 2021 and February 1, 2021.

Please add Mike Voogt on this,

As you can see in the attached video, the land slotted for a holding pond is already full of water, even when there was very little snow or rainfall.

In the spring, this is flooded even more. We would like confirmation as to when this area will be made into the holding pond, and that all measures will be taken so the water will not seep into our septic tiles, or on to our property at any time.

Thanks,

Nancy Voogt
Sideline Telephone Service Inc.



443 Line 1
RR#2
Niagara-on-the-lake, ON
LOS 1J0

E-Mail: [REDACTED]

From: mike [REDACTED]

From: [Amanda Gamble](#)
To: [Jesse Auspitz](#); [Peter Todd](#)
Subject: Open House - Homestead Drive Presentation
Date: Tuesday, January 19, 2021 6:33:09 PM

CAUTION: This email originated from outside the Town of Niagara-on-the-Lake. Use caution when clicking on a link or opening an attachment unless you know that the content is safe. If unsure, forward the email to IT to validate.

Hi Jesse,

Thank you for the informative open house that you presented this evening. My husband and I are at 51 Homestead Drive, and missed emailing you to get a Teams link so we could ask our questions, and I was hoping I could follow-up with you.

As with most homeowners that were present, one of our major concerns is the drainage, especially since the drain runs through the corner and to the side of our yard. We were contacted by Brett Ruck with the town about plans for drainage, and the need to acquire part of our property, but have not heard anything further from him. Would you be able to send us the drainage plan that was being discussed?

Our neighbour at 49 Homestead was told that they will have a curb put in front of their house, and we were wondering if that will impact our yard as well as we do not have a curb. We currently have two maples in our yard - one of which is close to the road, and i wanted to ask if it will be impacted by the addition of curbs, or the extension of the current sidewalk.

I also wanted to raise concern about the traffic that will be going down Homestead. As noted by our neighbour, people drive very quickly down Homestead Drive, many doing u-turns in front of our house and speeding off. We have concerns with two small children, and a park right across the road, and I have had school buses and cars pull out without stopping when I am driving/ walking with my kids which is very dangerous. With a park right across the street from Frontier, and lots of families in the area, I feel this could become even more of an issue as more houses are built, and I hope that some thought will be given to speed bumps, or changing the way the road will flow so that it is not such a straight shot through. One other thought would be the addition of an island at the end of Homestead, as the road in front of our house becomes quite wide (similar to what was done on The Promenade or in the Village to slow down traffic).

Thank you for your time,

Amanda Gamble



Virus-free. www.avast.com

From: [Nancy Voogt](#)
To: [Jesse Auspitz](#)
Subject: Konik lands and holding pond
Date: Wednesday, January 20, 2021 1:05:05 PM

CAUTION: This email originated from outside the Town of Niagara-on-the-Lake. Use caution when clicking on a link or opening an attachment unless you know that the content is safe. If unsure, forward the email to IT to validate.

Hi Jesse,

The meeting was a bit informative last night, but it sounds like the issue we have with the holding pond needs to be directed to the town.

According to someone last night, the town has already approved the holding pond behind our house.

How can we get more information on this?

We would like to know how it will be constructed.

There is such a slope to the land, we estimate about 10 feet, so are concerned how they are going to dig out the pond, and if they are putting retaining walls all around so as to not have any seepage into surrounding land.

Please advise,

Thanks,

Nancy Voogt
Sideline Telephone Service Inc.



443 Line 1
RR#2
Niagara-on-the-lake, ON
L0S 1J0

E-Mail: [REDACTED]

From: [Dennis Healey](#)
To: [Peter Todd](#); [Jesse Auspitz](#); [Natalie Thomson](#)
Cc: [Barbara Gauthier](#); [denbhea](#)
Subject: NOTL Public Meeting Monday Feb 1, 2021 - Settler's Landing Phase II
Date: Thursday, January 28, 2021 3:06:21 PM

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Files 26T-18-20-03
ZBA-16-2020

Mr Peter Todd

Please register us for Monday's online meeting regarding the above mentioned file.

We want to be able to log into the call and also have a few questions answered.

- Questions which were asked at the last meeting

- What is going to happen with the drainage of the street water on Zinfandel Court ?
Presently there is a small drainage hole and pipe that goes on the property line between our property and the backyards on what will be Street A. This overflows often as it can't handle the capacity of a moderate rainstorm.

Will this connect to the new pipe system replacing the Bergen Drain ?

- Alongside this underground pipe there is a retainer wall that is from 1 foot to 5 feet in height. This wall will be at the backyards of the houses to be built on Street A and our house at 8 Zinfandel Court plus other houses. Grading has been vaguely mentioned at the last call but we need confirmation of what will be done.

Thank you and please keep us informed

Dennis Healey
Barbara Gauthier
8 Zinfandel Court
Niagara on the Lake



1 Keefer Road, St. Catharines, Ontario L2M 6K4 Telephone: (905) 687-9416

February 1, 2021

Town of Niagara on the Lake
1593 Four Mile Creek Road
P.O. Box 100
Virgil, ON, L0S 1T0

Attention: Mr. Peter Todd, Town Clerk

Dear Lord Mayor Disero and Members of Council:

Re: File 26T-18-20-03 and ZBA-16-2020 West of Plantation Drive, Harvest Drive and Homestead Dr., NOTL

Grey Forest Homes Ltd. is the developer of the lands known as Konik Estates, located north of lands in the proposed application. Phase 1 of Konik Estates has already been draft plan approved.

The Konik Estates development has gone through an extensive amount of design and planning over several years and our designs have taken into account the proposed application.

We ask that Grey Forest Homes be included in all future correspondence and decisions as they pertain to our Subdivision, as these developments are very closely tied together.

Yours truly,

Grey Forest Homes Ltd
Ron Berard
General Manager

From: [Jesse Auspitz](#)
To: "calvin childs"
Bcc: [Mike Komljenovic](#)
Subject: RE: Settlers Landing Phase II
Date: Tuesday, February 2, 2021 1:20:35 PM

Good afternoon,

I am in no way an expert on storm water management, however, a functional servicing plan, engineering plans and profiles, general servicing plan and grading plan with respect to this development are located on the Town's website: <https://www.notl.org/content/public-notices-under-planning-act>. Planning Act applications are circulated to the Town's Engineering Department. I have contact them, and they should be able to contact you to respond to questions.

Planning Staff would also ensure that prior to development of the lands, engineering matters including storm water management are addressed prior to development.

As Planning Act applications are public information, you also have the option to contact the applicant noted on the application forms for clarification.

Best regards,

From: Peter Todd <peter.todd@notl.com>
Sent: Tuesday, February 2, 2021 10:24 AM
To: calvin childs [REDACTED]; Jesse Auspitz <Jesse.Auspitz@notl.com>
Subject: RE: Settlers Landing Phase II

Hello Calvin,

Thank you for your comments, I will include these comments in the information package for Council.

Peter Todd
Town Clerk
905-468-3061 ext 228 Fax: 905-468-2959
1593 Four Mile Creek Road, PO Box 100, Virgil, ON L0S 1T0
Website: www.notl.org Facebook: @Town.of.NOTL

From: calvin childs [REDACTED]
Sent: February 1, 2021 8:33 PM
To: Jesse Auspitz <Jesse.Auspitz@notl.com>; Peter Todd <peter.todd@notl.com>
Subject: RE: Settlers Landing Phase II

CAUTION: This email originated from outside the Town of Niagara-on-the-Lake. Use caution when clicking on a link or opening an attachment unless you know that the content is safe. If unsure, forward the email to IT to validate.

Jesse/Peter:

Thank you for the access to watch the meeting tonight. I never really participated in any municipal proceeding before and my wife and I found it very interesting.

I was left with several unsettling issues after the presentation from NPG Planning wrt the storm water pond and the handling of the storm water from proposed site and the existing pond/tank adjacent to lots 34-37. I am not a Civil Engineer or a Hydrological expert, but I see some significant challenges in handling the topography of the site, the soil, the natural drainage of the area and the proposed outlet for the water. The planner making the presentation did not give me any confidence that it would be adequately addressed. I have a couple other points regarding the actual construction project and the future of Line 1 Road.

I am very naïve to the process of NOTL or any municipal politics. Is there any process for presenting my concerns? Is there a specific councillor for my area of Virgil that I should contact to have my concerns presented to staff prior to the final report?

Thanks again, it was interesting
Calvin Childs
463 Line 1 Road

Sent from [Mail](#) for Windows 10

From: [Jesse Auspitz](#)
Sent: February 1, 2021 11:28 AM
To [REDACTED]
Subject: Settlers Landing Phase II

Good morning,

The following is the livestream for Settlers Landing Phase II:

<https://www.notl.org/content/livestream-broadcast>

The Town of Niagara-on-the-Lake remains under a state of emergency. For more information about what this means, as well as additional updates and resources, please visit [notl.com/covid-19](https://www.notl.com/covid-19).

Given the high volume of communications coming in, your patience and understanding are greatly appreciated during this time.

From: [Peter Todd](#)
To: [Dorita Pentesco](#)
Cc: [Jesse Auspitz](#)
Subject: Re: Settlers Landing Phase 2
Date: Tuesday, February 2, 2021 10:18:01 AM
Attachments: [77232D80981B4E31B7FAF8F41A90E4BA.png](#)

Thank you Dorita,

I have forwarded your comments to the planner on file and will include in Council's information package.

Sincerely,

Peter Todd
Town Clerk

905-468-3061 ext 228 Fax: 905-468-2959
1593 Four Mile Creek Road, PO Box 100, Virgil, ON L0S 1T0
Website: www.notl.org Facebook: [@Town.of.NOTL](#)

From: Dorita Pentesco [REDACTED]
Sent: February 2, 2021 8:32 AM
To: Peter Todd <peter.todd@notl.com>
Subject: RE: Settlers Landing Phase 2

CAUTION: This email originated from outside the Town of Niagara-on-the-Lake. Use caution when clicking on a link or opening an attachment unless you know that the content is safe. If unsure, forward the email to IT to validate.

Hi Peter,

Thank you for your reply yesterday. I wasn't planning to speak and so I was able to view the meeting via the link you provided. I appreciate your assistance with this.

In regards to Settlers Landing Phase 2 (Files 26T-18-20-03 and ZBA-16-2020), in the meeting I understood that residents could submit additional comments for consideration by Town staff as they prepare their final report for council. I would like to add my comments/request for consideration of the street design of "Street A" / the extension of Homestead Drive.

As my neighbor Amanda Gamble outlined, several residents on the existing Homestead Drive are concerned about the design of the street – i.e. the straight road design, the length of the straight portion and the fact that it directly connects two major roads (Concession 6 and Line 1).

Homestead Drive is already a main thoroughfare that experiences the majority of the traffic through

the subdivision, and speed is an issue. Settlers Landing Phase 2 will only bring more traffic to the neighbourhood. Designing "Street A" with such a long straight-away will create a concern with speeding and safety for residents and their children.

Installation of a 4-way stop will not alone mitigate speeding. That's been shown in many neighbourhoods and can be seen as not effective in our own existing Homestead neighbourhood.

I am asking the Town of NOTL to consider mandating traffic calming strategies for "Street A" in Settlers Landing Phase 2 and the extension of "Street A" through the Konik Estates development. A sample list of suggested traffic calming strategies for staff's consideration are:

- Re-design of the street to include curves or bends in the road
- Street narrowing at points
- Increased tree plantings at the road to narrow a driver's visual field
- Installation of a median
- Chicane or lane shifts to form an "S" shaped path of travel
- Etc.

As professional planners, I'm sure you are aware of these various strategies, but here are some links that provide further information on options that have been used in effective street design:

<https://globaldesigningcities.org/publication/global-street-design-guide/designing-streets-people/designing-for-motorists/traffic-calming-strategies/>

<https://nacto.org/publication/urban-street-design-guide/design-controls/design-speed/speed-reduction-mechanisms/>

The Town of NOTL is a beautiful and wonderful place to live, in large part due to the effective urban design and planning done by you and your team. I urge you to continue to apply this expertise and creativity to the design of this parcel and not settle for what may be the easiest solution by dropping in a straight road that residents and their children will have to deal with forever.

Many thanks for your consideration of this request,

Dorita Pentesco
49 Homestead Drive

From: [Peter Todd](#)

Sent: Monday, February 1, 2021 11:00 AM

To: [Dorita Pentesco](#); [Jesse Auspitz](#)

Subject: Re: Meeting Attendance on February 1st

Hello Dorita,

Are you interested in viewing the meeting or providing comments to Council on the application? If you are interested in viewing you can watch live

Planning and Development Services

1815 Sir Isaac Brock Way, Thorold, ON L2V 4T7
905-980-6000 Toll-free:1-800-263-7215

Via Email Only

December 23, 2020

File No.: D.11.05.SD-20-0045, ZA-20-0085

Mr. Jesse Auspitz, MCIP, RPP
Planner II
Town of Niagara-on-the-Lake
1593 Four Mile Creek Road, P.O. Box 100
Virgil, ON L0S 1T0

Dear Mr. Auspitz:

**Re: Regional and Provincial Comments
Zoning By-law Amendment and Draft Plan of Subdivision
Town File No. 26T-18-20-03
Owner: Settler's Landing Estates Ltd., Josh Bice
Agent: Niagara Planning Group Inc., Mary Lou Tanner
South of Line 1 Road, West of Harvest and Plantation Drive,
Part of TWP Lot 118 Niagara, Designated as Parts 1, 2, and 3 on 30R15478
Town of Niagara-on-the-Lake**

Regional Development Planning staff has reviewed the Zoning By-law amendment and Draft Plan of Subdivision for the property located to the west of Harvest and Plantation Drive. The proposed draft plan of subdivision proposes fifty-three (53) single detached residential lots on a 4.1 ha parcel. The zoning by-law amendment proposes to rezone the subject lands from a Residential Development (RD) Zone to a Site Specific Residential (R2-xx) Zone and Open Space (OS) Zone.

A pre-consultation meeting regarding this proposal was held on February 20, 2020. The application was circulated to the Region on November 27, 2020 and the associated fees were received on December 2, 2020. The following comments are provided from a Regional and Provincial perspective to assist the Town in considering the proposed condominium application.

Provincial and Regional Policies

The subject lands are located within a Settlement Area under the 2014 Provincial Policy Statement (PPS) and designated Greenfield under the 2019 Growth Plan for the Greater Golden Horseshoe (Growth Plan). The PPS directs growth to Settlement Areas, encourages the efficient use of land, resources, infrastructure, and public service

facilities that are planned or available. The PPS further specifies that new development should occur adjacent to the existing built-up area and have a compact form with a mix of uses and densities. The Growth Plan contains policies that call for development in Greenfield areas to be planned, designated, zoned and designed in a manner that supports the achievement of complete communities, supports active transportation and encourages the integration and sustained viability of transit services.

The Growth Plan provides direction for minimum density target for designated Greenfield Areas, which is currently a target of 50 residents and jobs per hectare for Niagara. The draft plan of subdivision will yield a density of approximately 33.61 people and jobs per hectare (based on 53 units, 4.1 hectares of land area, 2.50 persons per unit as provided for in Table 4-1 of the ROP, and assuming 10% of the residential units would generate “at home” employment). Although the development is less than the 50 residents and jobs per hectare target, Regional staff note the Town is responsible for ensuring that the difference will be met elsewhere on other Greenfield lands within the municipality. The Town may wish to encourage the applicant consider higher density forms of housing within to plan (i.e. semis or townhouses) in addition to the proposed single dwelling lots in order to increase the density of the site and make more efficient use of urban serviced land.

The subject lands are designated Urban Area (Greenfield) in the Regional Official Plan (ROP). A full range of residential, commercial and industrial uses are permitted within the Urban Area designation subject to the availability of adequate municipal services and infrastructure. The ROP promotes higher density development in Urban Areas and supports growth that contributes to the overall goal of providing a sufficient supply of housing that is affordable, accessible, and suited to the needs of a variety of households and income groups in Niagara. In principle, the proposal aligns with Regional growth management policies as it has a lot pattern consistent with adjacent residential development and will allow for the efficient use of urban serviced land and infrastructure.

Archaeological

The PPS and ROP provide direction for the conservation of significant cultural heritage and archaeological resources. Specifically, Section 2.6.2 of the PPS and Policy 10.C.2.1.13 of the ROP state that development and site alteration are not permitted on lands containing archaeological resources or areas of archaeological potential, unless significant archaeological resources have been conserved. The subject lands were identified as having high archaeological potential in accordance with Ministry criteria given the watercourse located on the property.

The previously completed Stage 1-2 Archeological Assessment prepared by Detritus Consulting Ltd., dated January 2017, was submitted with the application. The Stage 1-2 assessment encountered no archaeological resources and in accordance with Ministry Standards and Guidelines no further archaeological assessment was required. An acknowledgement letter from the Ministry of Heritage, Sport, Tourism and Culture Industries (MHSTCI), dated April 9, 2017, was submitted with the application noting that

SD-20-0045, ZA-20-0085

December 23, 2020

the Ministry is satisfied the fieldwork and reporting for the archaeological assessment are consistent with Ministry standards and acknowledged it has been entered into the Ontario Public Register.

An additional Stage 1-2 Archaeological Assessment prepared by Detritus Consulting Ltd., dated November 5, 2020 was undertaken for the area shown as Lot 1 on the proposed Draft Plan. This Stage 1-2 Archaeological Assessment did not identify any archaeological resources and the Licensed Archaeologist recommended no additional archaeological assessment. The Region has not received an acknowledgement letter from the Ministry for this assessment. A condition addressing this requirement is included in Appendix I.

Recognizing that no archaeological survey, regardless of its intensity, can entirely negate the possibility of deeply buried archaeological materials, Regional staff also recommends the inclusion of a standard warning clause in the subdivision agreement, relating to deeply buried archaeological materials that may be encountered during grading and construction activities. A condition requiring the warning clause has been included in Appendix I.

Site Condition

The PPS requires that contaminated sites be remediated as necessary to ensure there will be no adverse effects that may pose a risk to public health and safety. Based on a review of aerial photography (Brock University Niagara Air Photo Index, Brock University Maps, Data, and GIS), the subject lands appears to have been planted with fruit trees as early as 1954-55, and appear to remain planted in orchard until 2015. Although the fruit trees have been cleared, the site appears to have supported an orchard at a time when older generation pesticides containing lead and arsenic were in use, (i.e. prior to 1970's). Information previously obtained from the Ministry of the Environment, Conservation and Parks (MECP) as well as from other sources indicate that the application of lead arsenate pesticides can raise the concentration of lead and arsenic in the soil (i.e. due to low solubility/does not dissolve in water, binds to soil particles in the topsoil).

To determine if there is any contamination in the soil stemming from the previous orchard use, a Phase 1 Environmental Site Assessment (ESA) was completed by Andre Breberina, P. Geo., dated March 18, 2020. Based on the findings of the ESA, the consultant has concluded that the historical orchard, located on the subject lands and adjacent the subject lands, is an Area Potential Environmental Concern (APEC 1). Accordingly, the consultant has recommended that based on the potential use of pesticides on the Phase One property and in the Phase One Study Area, a Phase Two ESA is required to assess surface quality from the potential use of pesticides in the former orchards during the 1950's and 1960's.

As such, Regional staff will require completion of a Phase Two ESA for the subject lands additional. The owner will be required to implement the recommendations of the

SD-20-0045, ZA-20-0085
December 23, 2020

approved Phase 2 Environmental Site Assessment (ESA). Conditions addressing this requirement have been included in Appendix I.

Agricultural Compatibility Warning Clause

The lands to the north of the proposed subdivision are located outside of the Urban Area Boundary and are designated for rural/agricultural uses. There are also lands to the west of the proposed development that are currently being farmed although they are located within the Urban Area Boundary. A warning clause should be included in the subdivision agreement to advise future residents of the proximity to agricultural lands and potential impacts (such as noise, odour and dust) from agricultural activities and agricultural-related traffic. A condition is included in the Appendix I in this regard.

Core Natural Heritage System

The subject property contains portions of the Region's Core Natural Heritage System (CNHS), consisting of Type 2 Fish Habitat. However, in accordance with the Minutes of Settlement for LPAT Case No. PL180833 (LPAT Case Name: Bice Builders Ltd. V. Niagara-on-the-Lake), the watercourse will be rerouted through the municipal infrastructure system. As such, the watercourse is no longer a Regional designated CNHS feature and there are no further environmental planning requirements. Environmental Planning staff offer no objection to the proposed Zoning By-law Amendment or Draft Plan of Subdivision.

Servicing

Regional staff note that servicing will be under the jurisdiction of the Town of Niagara-on-the-Lake and will require the construction of new water, sanitary and storm services for the proposed development. As a condition of draft plan approval, the Region must review and approve any new/extended sewage works under the Ministry of Environment, Conservation and Parks Transfer of Review Program. Detailed engineering design drawings with calculations for the services must be submitted to this department for review and approval. Conditions addressing this requirement have been included in Appendix I.

Stormwater Management

Niagara Region Development Engineering staff have reviewed the 'Functional Servicing Plan Settler's Landing 2, NOTL', dated October 22, 2020, and the preliminary grading and servicing plans all by Upper Canada Consultants. The stormwater management (SWM) plan proposes all stormwater runoff from the subject development be directed to an offsite pond being a SWM pond in Konik Estates Phase 1 subdivision for water quality, erosion control and peak flow control. Regional Development Engineering staff also reviewed the 'Preliminary Stormwater Management Plan Konik Estates', dated November 2019, by UCC. This preliminary pond design report demonstrates that the tributary areas to the SWM pond include the subject development and the pond is adequately sized to meet the criteria. However, the subdivision storm drainage will rely

SD-20-0045, ZA-20-0085

December 23, 2020

on the completion of a trunk and bypass sewer on the future street 'Street B' as well as the SWM facility within Konik Estates Subdivision. The Region will need to understand how this applicant/draft plan will address the construction of infrastructure on the abutting lands owned by others.

The Region will require the pond design report be stamped and submitted to this office for our file as well as the Environmental Compliance Approval from the MECP. Prior to construction, the Region will require that detailed grading, storm servicing, stormwater management, construction sediment control, and stormwater management facility landscape drawings be circulated to this office for review and approval. Conditions have been included in Appendix I in this regard.

Waste Management

Niagara Region provides curbside waste and recycling collection for developments that meet the requirements of Niagara Region's Waste Collection Policy. The proposed residential lots are eligible to receive Regional curbside waste and recycling collection provided that the owner bring the waste and recycling to the curbside on the designated pick up day, and that the following limits are met:

- No limit blue/grey containers collected weekly;
- No limit green containers collected weekly; and,
- Two (2) garbage bags/cans collected every-other-week.

Regional staff note in order for Regional waste collection services to be provided, the developer/owner shall comply with Niagara Region's Corporate Waste Collection Policy and complete the Application for Commencement of Collection prior to Regional waste collection service beginning. The required forms and policy can be found at the following link: www.niagararegion.ca/waste

The draft plan of subdivision was reviewed for potential of Regional curbside waste collection service being provided throughout the subdivision. Region staff note the proposed development and road network will need to meet the requirements of Niagara Region's Corporate Waste Collection Policy and be able to accommodate the turning manoeuvres of Regional waste collection vehicles. Based on the submitted draft plan, it appears that Street A and Street C will be dead-end streets. In order for the site to be eligible for Regional curbside waste collection, the draft plan will need to be revised to show a temporary turn-around wherever a through street is not maintained. Conditions have been included in Appendix I.

Conclusion

Provided the Town is satisfied that the overall density target will be achieved within the Town, the proposed development is consistent with the PPS and conforms to Provincial and Regional plans from a Regional perspective. Regional staff have no objection to the Town's consideration of the application subject to the requested conditions of approval. Should you have any questions concerning the above noted comments, or if

SD-20-0045, ZA-20-0085
December 23, 2020

you would like a hard copy of the comments, please do not hesitate to contact me at 905-980-6000 extension 3518. Please send notice of Council's decision on this application.

Respectfully,

A handwritten signature in black ink that reads "Lola Emberson". The signature is written in a cursive, flowing style.

Lola Emberson, MCIP, RPP
Acting Manager, Development Planning

CC: Mr. Pat Busnello, Acting Director Development Approvals (Niagara Region)
Ms. Susan Dunsmore, P. Eng., Manager, Development Engineering (Niagara Region)
Mr. Robert Alguire, Development Technician (Niagara Region)

Appendix I

Conditions of Draft Plan of Subdivision Approval

Settler's Landing Estates Subdivison, Town of Niagara-on-the-Lake

1. That the applicant/owner receive acceptance from the Ministry of Heritage, Sport, Tourism and Culture Industries (MHSTCI) for the archaeological assessment report titled Stage 1-2 Archaeological Assessment Settler's Landing, Virgil prepared by Detritus Consulting Ltd., dated November 5, 2020. 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, 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 MHSTCI through Niagara Region, confirming that all archaeological resource concerns have met licensing and resource conservation requirements
2. That the following clause be included in the subdivision agreement:

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

In the event that human remains are encountered during construction, all activities must cease immediately and local police as well as the Cemeteries Regulation Unit of the Ministry of Government and Consumer Services (416-326-8800) must be contacted. In situations where human remains are associated with archaeological resources, Ministry of Heritage, Sport, Tourism, and Culture Industries should also be notified to ensure that the site is not subject to unlicensed alterations, which would be a contravention of the Ontario Heritage Act.
3. That a Phase Two 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 development lands, be submitted to the satisfaction of Niagara Region.
4. That the subdivision agreement contain provisions whereby the owner agrees to implement the recommendations of the approved Phase 2 Environmental Site Assessment (ESA) required in accordance with Condition 3 above.

SD-20-0045, ZA-20-0085

December 23, 2020

5. That the owner provides a written acknowledgement to Niagara Region Planning and Development Services Department 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.
6. That the owner provides a written undertaking to Niagara Region Planning and Development Services Department 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 a similar clause be inserted in the subdivision agreement between the owner/developer and the Town.
7. That prior to final approval for registration of this plan of subdivision, the owner shall submit the design drawings [with calculations] for the sanitary and storm drainage systems required to service this development and obtain Ministry of the Environment Compliance Approval from the Ministry of the Environment, Conservation and Parks.
8. That prior to approval of the final plan or any on-site grading, the owner shall submit a detailed stormwater management plan for the subdivision and the following plans designed and sealed by a qualified professional engineer in accordance with the Ministry of the Environment, Conservation and Parks documents entitled Stormwater Management Planning and Design Manual, March 2003 and Stormwater Quality Guidelines for New Development, May 1991, or their successors to the Niagara Region for review and approval:
 - 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) Detailed phasing of construction of the stormwater management facility to coincide with phasing of development of residential lands (internal and external to the subdivision) planned to be serviced by the stormwater management facility; and
 - d) That prior to final approval for registration of this plan of subdivision, the owner shall submit the design drawings [with calculations] for the stormwater management facility required to service this development and obtain the necessary Environment Compliance Approval from the Ministry of the Environment, Conservation and Parks.
9. That the subdivision agreement between the owner and the Town contain provisions whereby the owner agrees to implement the approved plan(s) required in accordance with the condition above.
10. That the Region is provided with documentation from the abutting land owner to allow the required SWM infrastructure in the SWM plan for this subdivision to be

SD-20-0045, ZA-20-0085

December 23, 2020

constructed and maintained on their property or a revised SWM plan for the subdivision be submitted for review and approval

11. That the owner/developer shall comply with Niagara Region's Corporate Policy for Waste Collection and complete the Application for Commencement of Collection
12. That the owner/developer ensure that all streets and development blocks can provide an access in accordance with Niagara Region's Corporate Policy and By-laws relating to the curbside collection of waste and recycling. Where a through street is not maintained, the owner shall provide a revised draft plan to reflect a proposed temporary turnaround/cul-de-sac with a minimum curb radius of 12.8 metres
13. That the owner agrees to include the following warning clause in all Agreements of Purchase and Sale or Lease or Occupancy for each of the dwelling units, and that they 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."

Notes

1. Prior to granting final plan approval, the Town must be in receipt of written confirmation that the requirements of each condition have been met and all fees have been paid to the satisfaction of the Niagara Region.
2. Prior to final approval for registration, a copy of the executed subdivision agreement for the proposed development be submitted to the Niagara Region for verification that the appropriate clauses pertaining to any of these conditions have been included. The Niagara Region recommends that a copy of the draft agreement also be provided in order to allow for the incorporation of any necessary revision prior to execution.
3. In order to request clearance of the above noted Regional conditions, a letter outlining how the conditions have been satisfied, together with all studies and reports (one hard copy and a PDF digital copy), the applicable review fee, and the draft subdivision agreement shall be submitted to the Niagara Region by the applicant as one complete package, or circulated to the Niagara Region by the Town of Niagara-on-the-Lake.

From: [Emberson, Lola](#)
To: [Mary Lou Tanner](#)
Cc: [Bowie, Greg](#); [Jesse Auspitz](#); dramos@npgsolutions.ca; [Dunsmore, Susan](#)
Subject: Settler's Landing
Date: Monday, March 1, 2021 6:25:57 PM

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Hi all

Further to our meeting this afternoon, I can offer the following information.

Density Calculation

Overall, Regional staff have no issue with the DGA calculation used by NPG with the exception of the work at home calculation. The use of the 16.68% of Usual Place of Work (UPOW) jobs within NOTL is correct, however, the 16.68% factor is being applied to 100% of the people estimated within the proposed subdivision and not accounting for the 54% employment rate within the Town.

For ease of explanation, a sample would be:

$((\text{Units} * \text{PPU}) + (\text{W@H} * \text{ER})) / \text{Hectares} = \text{density}$

In this instance, if you utilized the Regional DC number and the 2016 Census information,

$((53 \text{ units} * 2.91 \text{ ppu}) + (16.6 \text{ W@H} * 0.54 \text{ ER})) / 4.1 \text{ hectares} = 39.8 \text{ people and jobs per hectare}$

Storm Drainage and Storm Pond

Although there will be a cost sharing agreement for the sharing of infrastructure services, Regional staff need to ensure that the infrastructure is constructed by the first development in the ground, which could be Josh or Konik. The SWM design provided needs to be stamped and an MECP ECA for the pond received in order that the SWM conditions can be cleared.

Roads

Regional staff need to ensure the roads are built to so there are no dead ends. If the roads are not completely built, temporary cul-de-sacs can be built to address this. If cul-de-sacs are built on adjacent lands, the Region will require the owner of that land to consent to registering easement documents on title. If the cul-de-sac is constructed within a ROW then no easements are required, however the Town will need to confirm the ROW has been transferred.

I hope this helps provide further clarification with respect to your response to Regional comments provided to the Town. Should you have any further questions or wish to discuss further, please feel free to contact me at your convenience. Greg, if I have

mischaracterized your comments please feel free to provide further clarification.

Respectfully,

Lola Emberson, MCIP, RPP

Acting Manager Development Planning

Planning and Development Services

Regional Municipality of Niagara

1815 Sir Isaac Brock Way, PO Box 1042

Thorold, ON L2V 4T7

Phone: 905-980-6000 ext. 3518

Toll-free: 1-800-263-7215

Fax: 905-687-8056

www.niagararegion.ca

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From: [Emberson, Lola](#)
To: [Jesse Auspitz](#)
Cc: [Dunsmore, Susan](#)
Subject: RE: 26T-18-20-03 - Settlers Landing - Phase 2
Date: Friday, July 16, 2021 1:18:13 PM

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Hi Jesse

No changes to the draft conditions required. It is noted that the Region reviewed the information submitted by NPC and re-evaluated the density calculation. Based on this review, the proposed density for the development is approximately 40.99 people and jobs per hectare.

Respectfully,

Lola Emberson, MCIP, RPP

Senior Development Planner

Planning and Development Services

Regional Municipality of Niagara

1815 Sir Isaac Brock Way, PO Box 1042

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From: Jesse Auspitz <Jesse.Auspitz@notl.com>
Sent: Monday, July 12, 2021 4:58 PM
To: Emberson, Lola <Lola.Emberson@niagararegion.ca>
Subject: 26T-18-20-03 - Settlers Landing - Phase 2

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Hey Lola,

I know there has been some discussions regarding Regional matters, including densities, and was wondering if these conditions would still apply. Please and thank you.

Jesse Auspitz, MCIP, RPP



250 Thorold Road West, 3rd Floor, Welland, Ontario L3C 3W2
 Telephone 905.788.3135 | Facsimile 905.788.1121 | www.npca.ca

January 27, 2021

Our File No.: PLSUB202001355

BY E-MAIL ONLY

Town of Niagara-on-the-Lake
 1593 Four Mile Creek Road
 PO Box 100, Virgil ON
 L0S 1T0

Attention: Jesse Auspitz, MCIP, RPP, Planner II

Subject: Application for Plan of Subdivision, (Settlerslanding Phase 2)
ZBA-16-2020 & 26T-18-20-03
 ARN 262702001421200

The NPCA has received applications for Zoning By-law Amendment and approval of a Draft Plan of Subdivision with respect to lands located south of Line 1 Road proposing the creation of 53 lots for single-detached dwellings, one open space (park block) and public roads.

We have reviewed the subject applications and offer the following comments.

NPCA Policies

The NPCA regulates watercourses, flood plains (up to the 100 year flood level), Great Lakes shorelines, hazardous land, valleylands, and wetlands under *Ontario Regulation 155/06 of the Conservation Authorities Act*. The NPCA's *Policies, Procedures and Guidelines for the Administration of Ontario Regulation 155/06 and Land Use Planning Policy Document* (NPCA policies) provides direction for managing NPCA regulated features. The subject lands contain a regulated watercourse.

NPCA staff have no objection to the proposed ZBA-16-2020 to rezone the lands to Residential (R2) with site-specific provisions and Open Space (OS).

NPCA would note regarding 26T-18-20-03, that the proposed new drain and entombment of the regulated watercourse on site is subject to review and approval from our office under section 11.2.5 'New Municipal Drains, Extensions and Alterations' of our policy document. A work permit will be required for the proposed entombment.

Conditions of Draft Plan Approval


NPCA staff request the following conditions be incorporated into the Conditions of Draft Plan Approval:

1. That a Work Permit is obtained from the Niagara Peninsula Conservation Authority for the proposed watercourse entombment.
2. That Condition 1 be incorporated into the Development Agreement between the Developer and the Town of Niagara-on-the-Lake, to the satisfaction of the Niagara Peninsula Conservation Authority. The Town of Niagara-on-the-Lake shall circulate the draft Development Agreement to the Niagara Peninsula Conservation Authority for its review and approval.

Conclusion

At this time, NPCA staff have no objections to the applications subject to the Conditions of Draft Plan Approval. Please send a copy of any staff reports to Committee/Council once they are available. If you have any questions, please let me know.

Yours truly,



Nicholas Godfrey,
Watershed Planner
(905) 788-3135, ext. 278



CANADA POST
955 Highbury Ave N
London ON N5Y 1A3
[CANADAPOST.CA](http://CanadaPost.ca)

APPENDIX VIII
POSTES CANADA
955 Highbury Ave N
London ON N5Y 1A3
[POSTESCANADA.CA](http://PostesCanada.ca)

December 3, 2020

JESSE AUSPITZ
TOWN OF NIAGARA ON THE LAKE
1593 FOUR MILE CREEK ROAD
P.O BOX 100, VIRGIL, ON

Re: City File Number: 26T-18-20-03

Dear Jesse,

This development will receive mail service to centralized mail facilities provided through our Community Mailbox program.

I will specify the conditions which I request to be added for Canada Post Corporation's purposes.

The owner shall complete to the satisfaction of the Director of Engineering 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.
 - 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.
 - 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.
- a) 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.

Should the description of the project change, I would appreciate an update in order to assess the impact of the change on mail service.

If you have any questions or concerns regarding these conditions, please contact me.

I appreciate the opportunity to comment on this project.

Regards,

A. Carrigan

Andrew Carrigan
Delivery Planning Officer
Andrew.Carrigan@canadapost.ca