

Conditions of Draft Plan Approval
92 Napier Street
Amber Peak Developments Inc. (Owner)
City File Number: D35-006-2024

1. Approved Draft Plan:

That this approval applies to the Draft Plan of Subdivision, prepared by Hopkins Chitty Land Surveyors Inc., dated December 6, 2024, (the "Plan"), which shows the following:

- 4 residential lots (Lots 1-4)

2. Streets and Civic Addressing:

- (a) That Prior to Final Plan Approval, the Owner shall provide confirmation that civic addresses have been assigned to the proposed lots by the City's Planning Services Department, in accordance with the City's Civic Addressing and Road Naming By-Law. The Owner shall be advised that the civic addresses are tentative until such time that the final plan is registered and the final lot layout has been confirmed.
- (b) That the Owner shall agree that the location and design of any construction access shall be approved by the City and/or the appropriate authority.

3. Reserves and Easements:

- (a) That such easements as may be required for utility or drainage purposes shall be granted to the appropriate authority free of all charges and encumbrances.

4. Financial Requirements:

- (a) That the Owner agrees in writing to satisfy all the requirements, financial and otherwise, of the City concerning all provisions of municipal services but not limited to including fencing, lighting, landscaping, sidewalks, roads, installation of underground services, provisions of drainage and noise mitigation where required.
- (b) **That Prior to Final Plan Approval**, the Owner shall submit for the City's approval a detailed breakdown of the construction costs for the works associated with the development of this Plan, including any cash surcharges or special levies. The construction costs shall be prepared and stamped by a professional engineer. The cost estimate shall be submitted in the City's standard format for incorporation into both the Pre-Servicing and Subdivision Agreements.
- (c) That the Owner shall bear the expense of all off site works resulting from the approved public works design where such works are not subsidized under the Policies and By-Laws of the City.
- (d) That the Owner agrees to reimburse the City for the cost of any Peer Reviews of the Studies / Reports submitted in support of the proposed Plan of Subdivision.

5. Subdivision Agreement:

- (a) That the Owner shall enter into the City's standard Subdivision Agreement which shall list all approved plans and municipal conditions as required by the City for the development of this Plan.
- (b) The Subdivision Agreement between the Owner and the City be registered against the lands to which it applies once the Plan of Subdivision has been registered.
- (c) That the Subdivision Agreement shall contain all necessary warning clauses and notices to purchasers resulting from, but not necessarily restricted to, the design and provision of services, including the requirement to provide and maintain private site specific works as necessary.

6. Holding Provisions:

That the City shall require the use of the Holding Overlay Provisions in accordance with Section 36 of the Planning Act. The terms for the removal of the Holding Overlay shall be in accordance with section 5.9 of Zoning By-law No 2022-62 and shall require the following:

- The City has confirmed servicing allocation for the specified form of development in accordance with the Municipal Servicing Allocation Policy;
- That an application has been approved by the City for the partial removal of the Municipal Servicing Allocation Holding Overlay.

7. Engineering Drawings:

- (a) That Prior to Final Plan Approval, the Owner shall submit for approval, subdivision design drawings, including design plans for all public works and services, prepared and certified by a Professional Engineer and designed pursuant to the City's Subdivision Design Guidelines and to the satisfaction of the City. Such plans are to form part of the Subdivision Agreement.
- (b) That Prior to Final Plan Approval, the Owner shall submit a digital listing of the approved subdivision design drawings in the City's standard format for incorporation into the Pre-Servicing and Subdivision Agreement.

8. Revisions to Draft Plan:

- (a) That any further subdivision of Blocks or additional road patterns on the Plan shall be completed to the satisfaction of the City.
- (b) That Prior to Final Plan Approval of any part of the Plan, the Owner shall submit a revised Plan, if required, to reflect any significant alterations caused from this Draft Plan Approval.
- (c) That where final engineering design(s) result in minor variations to the Plan (e.g., in the configuration of road allowances and lotting, number of lots, etc.), these may be reflected in the Final Plan to the satisfaction of the City.

9. Phasing:

- (a) That Final Plan Approval for registration may be issued in phases to the satisfaction of the City, subject to all applicable fees.
- (b) That the **phasing** of the development shall be reflected in the Subdivision Agreement and on the approved subdivision design drawings to the satisfaction of the City, taking into account the temporary termination of underground services, interim grading, interim stormwater management, operations and maintenance vehicle access and access for emergency vehicles.
- (c) That the phasing of the development shall be proposed in an orderly progression, in consideration of such matters as the timing of road improvements, infrastructure, schools and other essential services.
- (d) That all agencies agree to registration by phases and provide clearances, as required, for each phase proposed for registration; furthermore, the required clearances may relate to lands not located within the phase sought to be registered.

10. Zoning By-Law Compliance:

- (a) That the lands within this Plan shall be appropriately zoned by a Zoning By-Law which has come into effect in accordance with the provisions of the *Planning Act*.
- (b) That Prior to Final Plan Approval, the Owner shall submit a Surveyor's Certificate which confirms that the lots and blocks within this Plan conform to the minimum lot frontage and lot area requirements of the applicable Zoning By-Law.

11. Required Studies:

- (a) That Prior to Final Plan Approval, the Owner shall submit a Geotechnical Study, certified by a Professional Engineer, to the satisfaction of the City. The recommendations of the Geotechnical Study shall be incorporated into the Subdivision Agreement and the Subdivision Agreement shall contain provisions whereby the Owner agrees to implement the Study recommendations to the satisfaction of the City.
- (b) That Prior to Final Plan Approval all recommendations of the Servicing Study shall be incorporated into the Subdivision Agreement and the Subdivision Agreement shall contain provisions whereby the Owner agrees to implement the Study recommendations to the satisfaction of the City.
- (c) That Prior to Final Plan Approval, a Stormwater Management Report and implementing plans for the development shall be prepared by a qualified Professional Engineer, to the satisfaction of the City. Such plans shall be included in the Subdivision Agreement. The Owner shall carry out the recommendations of the report, at his expense, to the satisfaction of the City.

12. Archaeology

- (a) That Prior to Final Plan Approval and Prior to Commencement of any Works on any site identified as being archaeologically significant, the Owner shall carry out archaeological excavations of such sites to the satisfaction of the Ministry of Culture and the City; the Owner shall agree to take protective measures required by the City for such sites.

13. Stormwater Management:

- a) **That Prior to Final Plan Approval**, the Owner shall submit lot grading and drainage plans, and erosion and sediment control plans prepared by a qualified Professional Engineer for the Owner, to the satisfaction of the City. The approved plans shall be included in the Subdivision Agreement between the Owner and City.
- (c) **Prior to Final Plan Approval and Prior to any Works Commencing on the Site**, the Owner shall submit for approval by the City, a detailed engineering report(s) that describes the storm drainage system for the proposed development, which shall include:
 - i) plans illustrating how this drainage system will be tied into the surrounding drainage systems, and indicating whether it is part of an overall drainage scheme, the design capacity of the receiving system and how external flows will be accommodated;
 - ii) the location and description of all outlets and other facilities;
 - iii) storm water management techniques which may be required to control minor and major flows;
 - iv) proposed methods of controlling or minimizing erosion and siltation on-site and in downstream areas during and after construction;
 - v) overall grading plans for the subject lands; and
 - vi) storm water management practices to be used to treat storm water, to mitigate the impacts of development on the quality and quantity of ground and surface water resources as it relates to fish and their habitat.
 - vii) The final stormwater management plan should include a section that speaks to Low Impact Development (LID) stormwater management features that may be suitable for incorporation into the final stormwater system design. This section should refer to specific site conditions including geotechnical investigation for soil depths and final site grading.
- (d) That the Owner shall agree to maintain all storm water management and erosion and sedimentation control structures operating and in good repair during the construction period.

14. Parkland Conveyance / Open Space / Environmental Protection Areas:

- (a) Prior to final plan approval, cash-in-lieu of parkland conveyance will be required. As part of a future final plan application, the applicant will be required to submit a market

appraisal by a certified appraiser which reflects any change in designation or zoning and is prepared in accordance with the City's terms of reference for the purposes of determining land valuation.

15. Tree Inventory / Street Trees:

- (a) That prior to Final Plan Approval or any grubbing/clearing or construction on parcels of land not defined as roadways or servicing easements on the Plan, the Owner shall apply for and acquire a tree removal permit as outlined in Tree By-law 2018-05 and receive final approval from the City for a Tree Preservation plan prepared for the subject lands. The final approved tree inventory and preservation plan shall be prepared by a qualified forestry professional (ISA Certified Arborist or demonstrated equivalent), and shall set out the surveyed locations of all trees on the site. The tree inventory shall list the species, caliper size, condition, crown radius and indicate whether the tree is to be retained or removed. If trees 6 inches (150 mm) or more in diameter are to be removed from the subject lands, the developer will abide by the conditions of the tree removal permit under the Tree By-Law which may, at the Director of Planning's discretion, include a tree preservation plan, a tree replacement plan or cash compensation for the value of the tree(s) to be removed. If tree(s) is/are to be removed a rationale for this action must be noted. If significant trees or groups of trees are identified to be retained in the tree inventory, a tree preservation plan will be required prior to final approval at the discretion of the City. This plan shall be reviewed and approved by the City and be included as a schedule to the Subdivision Agreement. Requirements for the tree preservation plan are noted in the subdivision design guidelines produced by the City.

Based on the review of application D35-006-2024, it is anticipated that the tree compensation value of the city-owned tree to be removed along the front property line will be \$2,250.00. The tree compensation value will be required prior to Final Plan of Subdivision approval.

- (b) **That Prior to Final Plan Approval**, the Owner shall prepare a Tree Planting Plan for front yard trees, prepared by a Landscape Architect, to the satisfaction of the City.

16. Canada Post - Community Mail Boxes:

- (a) That prior to Final Plan Approval, the Owner shall, in consultation with and to the satisfaction of Canada Post, identify the location of community mail boxes within the Plan, and shall identify such locations on drawings for approval by the City.
- (b) That prior to Final Plan Approval, the Owner shall, in consultation with and to the satisfaction of the City, provide detailed design plans for the community mail boxes including a landscape plan showing street furniture and complimentary architectural features.
- (c) That the Owner shall provide a suitable temporary community mailbox location(s) until the curbs, sidewalks and final grading have been completed at the permanent location(s).

- (d) That the Owner shall identify in all offers of purchase and sale, or lease for all lots and blocks within this Plan that mail delivery will be provided via a community mail box, provided that the Owner has paid for the activation and equipment installation of the community mail box, and the locations of all community mail boxes within this Plan. A Notice to Purchasers shall also be included in the Subdivision Agreement to this effect.

17. Bell Canada Requirements:

That the Owner shall meet the following conditions of Bell Canada:

- i. 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.
- ii. The Owner agrees that should any conflict arise with existing Bell Canada facilities where a current and valid easement exists within the subject area, the Owner shall be responsible for the relocation of any such facilities or easements at their own cost. The Owner acknowledges and agrees that it is the responsibility of the Owner to provide entrance/service duct(s) at their own cost from Bell Canada's existing network infrastructure to service this development. In the event that no such network infrastructure exists, in accordance with the Bell Canada Act, the Owner shall be required to pay for the extension of such network infrastructure. If the Owner elects not to pay for the above noted connection, Bell Canada may decide not to provide service to this development.

18. Utilities Requirements:

- (a) **Prior to Final Plan Approval**, the Owner shall satisfy all technical, financial and other requirements of Utilities Kingston regarding the design, installation, connection and/or expansion of electrical distribution services, gas distribution services, water distribution services and sanitary sewer distribution services, or any other related matters.
- (b) That prior to Final Plan Approval, it shall be ensured that all infrastructure required for the servicing of the plan meets the current City of Kingston and MECP requirements, or will be upgraded in order to meet these requirements.
- (c) That prior to Final Plan Approval, Utilities Kingston will require the detailed design information for the infrastructure, including location, diameter, material, depth, inverts, lengths, slope, environmental compliance approval etc. It shall also be confirmed that all infrastructure is contained within a municipal right of way.
- (d) The Owner acknowledges that Utilities Kingston will require a pre and post CCTV video of the sanitary sewer to determine if the pre and post conditions are satisfactory to Utilities Kingston. If it is determined that the post condition of the sewer main is in worse condition following the new sanitary connections the owner will be required to replace the entire section where the four new wyes were added to the main.

19. Warning Clauses:

That the Owner shall cause the following warning clauses to be included in a schedule to all offers of purchase and sale, or lease for all lots / blocks within this Plan

(a) within the entire subdivision plan:

- “Purchasers and/or tenants are advised that despite the inclusion of noise control features within both the development area and the individual building units, noise levels, including from construction activities, may be of concern and occasionally interfere with some activities of the dwelling occupants.”
- “Purchasers and/or tenants are advised that the proposed finished lot and/or block grading may not meet City of Kingston lot grading criteria in certain areas to facilitate preservation of existing vegetation and to maintain existing adjacent topographical conditions”.
- “Purchasers and/or tenants are advised that traffic calming measures may have been incorporated into the road allowances.”
- “Purchasers and/or tenants are advised that the planting of trees on City boulevards in front of residential units is a requirement of the City and a conceptual location Plan is included in the Subdivision Agreement. While every attempt will be made to plant trees as shown, the City reserves the right to relocate or delete any boulevard tree without further notice.”
- “Purchasers and/or tenants are advised that mail delivery will be from a designated community mailbox, the location of which will be identified by the Owner prior to any home closings.”
- “Purchasers and/or tenants are advised that driveways should not be widened beyond that provided by the home builder without the approval of the City of Kingston. Maximum driveway widths are controlled through the Zoning By-Law.”

(b) abutting any open space, woodlot or storm water facility:

- “Purchasers and/or tenants are advised that the adjacent open space, woodlot or storm water management facility may be left in a naturally vegetated condition and receive minimal maintenance.”

20. General Conditions:

- (a) That prior to Final Plan Approval, the Applicant will submit a detailed account of how each Condition of Draft Plan Approval has been satisfied.
- (b) That the Owner shall pay any and all outstanding application fees to the Planning Services department, in accordance with the City’s Tariff of Fees By-law.
- (c) That when requesting Final Approval from the City, the Owner shall accompany such request with the required number of originals and copies of the Final Plan, together with

a surveyor's certificate stating that the lots/blocks thereon conform to the frontage and area to the requirements of the Zoning By-Law.

- (d) That the Owner agrees to remove any driveways and buildings on site, which are not approved to be maintained as part of the Plan; any modifications to off-site driveways required to accommodate this Plan shall be coordinated and completed at the cost of the Owner.
- (e) That the Owner shall agree that all lots or blocks to be left vacant shall be graded, seeded, maintained and signed to prohibit dumping and trespassing prior to assumption of the works by the City.
- (f) That prior to Final Plan Approval, the Owner shall pay the proportionate share of the cost of any external municipal services, temporary and/or permanent, built or proposed, that have been designed and oversized by others to accommodate the subject plan.
- (g) That the Owner shall agree to erect fencing in the locations and of the types as shown on the approved subdivision works drawings and as required by the City.
- (h) The Owner shall agree that no building permits, with the exception of model homes, will be applied for until the City is satisfied that adequate access, municipal water, sanitary and storm services are available.
- (i) That prior to Final Plan Approval, all existing service mains are to be reviewed and repaired as required. The Owner is to obtain Environmental Compliance Approvals as required.

21. Clearance Letters:

- (a) **That Prior to Final Plan Approval**, the approval authority shall advise that all Conditions of Draft Plan Approval have been satisfied; the clearance memorandum shall include a brief statement detailing how each Condition has been met.
- (b) **That Prior to Final Plan Approval**, the City is to be advised in writing by Canada Post the method by which Conditions 16 have been satisfied.

22. Lapsing Provisions:

- (a) That pursuant to Section 51(32) of the *Planning Act*, this Draft Plan Approval shall lapse at the expiration of **three (3) years from the date of issuance of Draft Plan Approval** if final approval has not been given, unless an extension is requested by the Owner and, subject to review, granted by the approval authority.
- (b) That pursuant to Section 51(33) of the *Planning Act*, the Owner may submit a request to the approval authority for an extension to this Draft Plan Approval. The extension period shall be for a maximum of two (2) years and must be submitted prior to the lapsing of Draft Plan Approval. Further extensions may be considered at the discretion of the approval authority where there are extenuating circumstances.

Notes To Draft Plan Approval:

1. It is the Applicant's responsibility to fulfil the foregoing Conditions of Draft Plan Approval and to ensure that the required clearance letters are forwarded by the appropriate agencies to the Planning Services Department of the City of Kingston.
2. **Prior to Final Plan Approval**, the Applicant shall submit to the City for review four (4) draft copies of all Reference Plans and Surveys and three (3) draft copies of the Final M- Plan.
3. When requesting final approval, such a request must be directed to Planning Services and be accompanied with:
 - Eight (8) mylars and four (4) paper prints of the completed Final M-Plan,
 - four (4) copies of all Reference Plans and (4) copies of all Conveyance Documents for all easements and lands being conveyed to the City; and,
 - a Surveyor's Certificate to the effect that the lots and blocks on the Plan conform to the Zoning By-Law.
4. All measurements in subdivision final plans must be presented in metric units.
5. The Final Plan approved by the City must be registered within thirty (30) days or the City may, under Subsection 51(59) of the *Planning Act*, withdraw its approval.