

ISSUE DATE:

June 4, 2012



PL110520

Ontario
Ontario Municipal Board
Commission des affaires municipales de l'Ontario

IN THE MATTER OF subsection 51(39) of the Planning Act, R.S.O. 1990, c. P.13, as amended

Appellant: Jean Grandoni
Appellant: Minister of Municipal Affairs and Housing
Appellant: Preservation of Agricultural Lands Society (PALS)
Subject: Proposed Plan of Subdivision
Property Address/Description: West Side of Drummond Road, North Side of Oldfield Road
Municipality: City of Niagara Falls
Municipal File No.: 26T-11-2010-01
OMB Case No.: PL110520
OMB File No.: PL110520

IN THE MATTER OF subsection 17(24) of the Planning Act, R.S.O. 1990, c. P.13, as amended

Appellant: Jean Grandoni
Appellant: Minister of Municipal Affairs and Housing
Appellant: Preservation of Agricultural Lands Society (PALS)
Subject: Proposed Official Plan Amendment No. 100
Municipality: City of Niagara Falls
OMB Case No.: PL110520
OMB File No.: PL110657

IN THE MATTER OF subsection 34(19) of the Planning Act, R.S.O. 1990, c. P.13, as amended

Appellant: Jean Grandoni
Appellant: Minister of Municipal Affairs and Housing
Appellant: Preservation of Agricultural Lands Society (PALS)
Subject: By-law No. 2011-68
Municipality: City of Niagara Falls
OMB Case No.: PL110520
OMB File No.: PL110658

APPEARANCES:

<u>Parties</u>	<u>Counsel*/Agent</u>
City of Niagara Falls	K. L. Beaman*
Thundering Waters Development Corp. Oldfield Development Inc.	E. P. Lustig*
Ministry of Municipal Affairs and Housing	R. Boxma* C. Young*
J. Grandoni Preservation of Agricultural Lands Society (PALS)	Dr. J. Bacher

**MEMORANDUM OF ORAL DECISION DELIVERED BY J. P. ATCHESON
ON MAY 16, 2012, AND ORDER OF THE BOARD**

Background

This was a hearing in the matter of appeals from a decision of the Council of the City of Niagara Falls adopting Official Plan Amendment 100 and their enacting of Zoning By-law Amendment 2011-68. These documents facilitate a draft plan of subdivision proposal (Municipal File 26T-11-2010-01), by Thundering Waters Development Corp. and Oldfield Development Inc. (Developers) to develop a large residential subdivision in the City of Niagara Falls. The subject lands are located west of Drummond Road on the north side of Oldfield Road in the City of Niagara Falls (City). The proposed subdivision would comprise approximately 260 single detached dwellings, five townhouse blocks, a future condominium townhouse block, and lands described as Block 265, which include a 1.0 acre linear woodland feature.

The Ministry of Municipal Affairs and Housing (MMAH), the Preservation of Agricultural Lands Society (PALS), and Ms. J. Grandoni have appealed the decisions of Council. The substance of the Appellants' concerns revolves around a population of Round-

Leaved Greenbrier (Greenbrier) which is identified as a “threatened species” on the Species at Risk in Ontario List which inhabits a portion of these development lands.

The appeals were consolidated for the purpose of this hearing.

The City of Niagara Falls is the approval authority for Plans of Subdivision in this area.

The Board was advised at the commencement of the hearing that the parties had reached a settlement with respect to the issues in dispute as set out in Minutes of Settlements Exhibit 1 between the City, MMAH, and the Developers. Separate Minutes of Settlement were filed with the Board between the City, the Developers, PALS and Ms. Grandoni, as set out at Exhibit 2.

The substance of the settlement reached with the assistance of the Board’s mediation services is that the Draft Plan of Subdivision has been amended to increase the area around Greenbrier occurrence which is now shown as Block 271 on a revised Draft Plan of Subdivision prepared by Allan J. Heywood O.L.S. and revised dated May 14, 2012, Exhibit 3. Block 271 replaces Block 265 and has been increased in size to about 2.5 acres. The Minutes of Settlement contain additional conditions to be applied to the draft plan approval beyond the conditions originally proposed by the municipality. It is agreed by all parties that these additional conditions are appropriate to properly protect the Greenbrier. Due to the expansion of Block 271, the lot pattern was modified in the revised draft plan dated May 14, 2012. Amendments were also required to the Official Plan Amendment and the Zoning By-law Amendment to reflect the changes in the draft plan and the conditions of draft plan approval reached in the Minutes of Settlement. The revised Official Plan Amendment (Exhibit 5) and the revised Zoning By-law Amendment (Exhibit 6) as well as the additional conditions of draft approval are contained in the Minutes of Settlement and are agreed to by all of the parties.

The Board heard uncontradicted testimony from Mr. Richard Brady, a qualified Land Use Planner. Mr. Brady was retained by the Developers to assist them in their project and was involved in the mediation and talks that resulted in the settlement now before

the Board. Mr. Brady opined that the revised Draft Plan of Subdivision, the revised Conditions of Draft Plan of Subdivision approval, the revised Official Plan Amendment, and the revised Zoning By-law Amendment, together represent good planning for this part of the Municipality. He noted that the natural heritage features found on the site, Greenbrier, have been protected to the satisfaction of the Ministry of Natural Resources through the revised planning instruments now before the Board. He noted that full municipal services are available to the subject property and that the lands are located within an area designated for growth within the City.

He testified that the revised applications were consistent with provincial policy and in conformity with the Region of Niagara's Official Plan and that the proposed revised Official Plan Amendment would implement the policies of the City's Official Plan. All parties endorse the changes to the planning documents presented to the Board.

Findings and conclusions

The Board, after carefully reviewing the evidence and submissions made by the parties, makes the following findings:

The Board accepts and adopts the evidence of Mr. Brady that the Minutes of Settlement presented to the Board and the revised planning documents, the revised Draft Plan of Subdivision, and the revised Conditions of Draft Plan of Subdivision approval represent good planning and should be approved.

THE BOARD ORDERS that the appeals of Ministry of Municipal Affairs and Housing Preservation of Agricultural Lands Society (PALS) and J. Grandoni are dismissed and Official Plan Amendment 100 to the Official Plan City of Niagara Falls is approved as amended and set out in Attachment "1" to this Order, and as amended is approved.

THE BOARD ORDERS that the appeals against Zoning By-law Amendment 2011-68 of the City of Niagara Falls by the Ministry of Municipal Affairs and Housing, Preservation of Agricultural Lands Society (PALS), and J. Grandoni are allowed in part, and the Board directs the Municipality to amend By-law 2011-68 as set out in Attachment "2" to this Order; in all other respect the appeal is dismissed.

THE BOARD ORDERS THAT THE APPEALS of the Ministry of Municipal Affairs and Housing, Preservation of Agricultural Lands Society (PALS), and J. Grandoni are dismissed and the Draft Plan of Subdivision municipal file 26T-11-2010-01 prepared by Allan J. Heywood O.L.S. and revised dated May 14, 2012, and comprising Part of Stamford Township Lot 188 now in the City of Niagara Falls and shown as Attachment “3” is approved subject to the fulfillment of the conditions set out in Attachment “4” to this Order.

AND FURTHER THE BOARD on the consent of the parties and pursuant to subsection 51(56.1) of the *Planning Act*, will direct that the City of Niagara Falls shall have the authority to clear the conditions of draft plan approval and to administer final approval of the plans of subdivision for the purposes of subsection 51(58) of the Act. In the event that there are any difficulties implementing any of the conditions of draft plan approval, or if any changes are required to be made to the draft plan, the Board may be spoken to.

This is the Order of the Board.

“J. P. Atcheson”

J. P. ATCHESON
MEMBER

ATTACHMENT 1

CITY OF NIAGARA FALLS

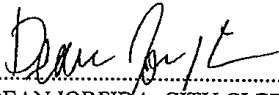
By-law No. 2011 - 67

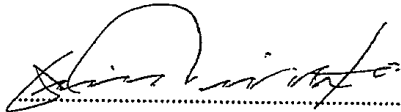
A by-law to provide for the adoption of Amendment No. 100 to the City of Niagara Falls Official Plan.

THE COUNCIL OF THE CORPORATION OF THE CITY OF NIAGARA FALLS, IN ACCORDANCE WITH THE PLANNING ACT, 1990, AND THE REGIONAL MUNICIPALITY OF NIAGARA ACT, HEREBY ENACT AS FOLLOWS:

1. The attached text and map constituting Amendment No. 100 to the City of Niagara Falls Official Plan is hereby adopted.

Passed this thirtieth day of May, 2011.


.....
DEAN IORFIDA, CITY CLERK


.....
JAMES M. DIODATI, MAYOR

First Reading: May 30, 2011
Second Reading: May 30, 2011
Third Reading: May 30, 2011

PART 2 - BODY OF THE AMENDMENT

All of this part of the document entitled PART 2 - BODY OF THE AMENDMENT, consisting of the following text and attached map, constitute Amendment No. 100 to the Official Plan of the City of Niagara Falls.

DETAILS OF THE AMENDMENT

The Official Plan of the City of Niagara Falls is hereby amended as follows:

1. MAP CHANGE

The "Area Affected by this Amendment" shown on the map attached entitled "Map 1 to Official Plan Amendment No. 100" shall be redesignated from Residential and Special Policy Area 56 to Environmental Protection Area on Schedule "A" of the Official Plan.

2. TEXT CHANGE

PART 2, SECTION 14 - SPECIAL POLICY AREAS is hereby amended by deleting Subsection 56 in its entirety and replacing it with the following:

14.56 SPECIAL POLICY AREA "56"

Special Policy Area "56" applies to approximately 252 hectares of land located south of McLeod Road and north of Chippawa Parkway, between Stanley Avenue and Dorchester Road. The lands are designated Residential and Environmental Protection Area.

14.56.1 The Residential policies of this Plan apply to the area designated Residential with a Special Policy Area designation. Development will occur in accordance with a Secondary Plan to be adopted as an amendment to this Plan. The extent of the Residential designations and Environmental Protection Area designations may be affected by the environmental and feasibility studies yet to be completed and will be refined through the Secondary Plan process.

14.56.1.1 Notwithstanding that development is to occur in accordance with a Secondary Plan, approximately 23 hectares of land located on the northwest quadrant of Oldfield Road and Drummond Road may be developed in advance of a Secondary Plan by way of a plan of subdivision in accordance with the policies contained in Part 2, Section 1.4, Residential and Sections 14.56.2, 14.56.4 and 14.56.5 below.

14.56.2 The Secondary Plan shall address the policies of Part 4, Section 3 of this Plan and the following:

14.56.2.1 Residential design in compliance with the greenfield policies and density targets of the Growth Plan for the Greater Golden Horseshoe and all applicable Growth Management Studies.

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- 14.56.2.2 The separation and buffering of sensitive land uses from existing rail lines and proximate industrial land uses, facilities and designations in accordance with relevant Provincial and Regional policies and regulations and in consultation with industrial properties owners in the area.
- 14.56.2.3 The availability of adequate municipal services including road, water, sanitary sewer and stormwater management services including the location of a pumping station to service the southern portion of the subject lands.
- 14.56.2.4 For the purposes of 14.56.2.1 above, the density targets for the Growth Plan for the Greater Golden Horseshoe and all applicable Growth Management Studies will be based on the entire Secondary Plan area and not any individual development.
- 14.56.3 The Secondary Plan may include design guidelines for public realm facilities including neighbourhood structure, block design, lot size and variety, neighbourhood edge interfaces, local street design guidelines, sidewalks and streetscaping, parks, trails and open spaces and natural heritage as well as the private realm including building variety and density, setbacks, building height, apartment buildings and parking areas.
- 14.56.4 The Secondary Plan shall require the completion of the appropriate studies or the receipt of Records of Site Conditions through implementing planning applications.
- 14.56.5 No development or site alteration shall be permitted within the areas designated Environmental Protection Area. Refinement to the extent of the Environmental Protection Area and Residential designations and the establishment of appropriate setbacks and linkages will occur at the Secondary Plan, zoning by-law, plan of subdivision, plan of condominium and site plan control stages and shall be based on detailed Environmental Impact Studies.
- 14.56.6 As part of the Secondary Plan, the proponent shall prepare a report to determine the feasibility of creating a wetland area south of the Con Rail Drainage Ditch to the satisfaction of the Niagara Peninsula Conservation Authority (NPCA).
 - (a) The report will assess the feasibility of satisfying the following criteria:
 - That an area of wetland be created south of the Con Rail Drainage Ditch that is greater than or equal to the area of wetland to be lost north of the Drainage Ditch. The boundary of all wetlands located north of the Con

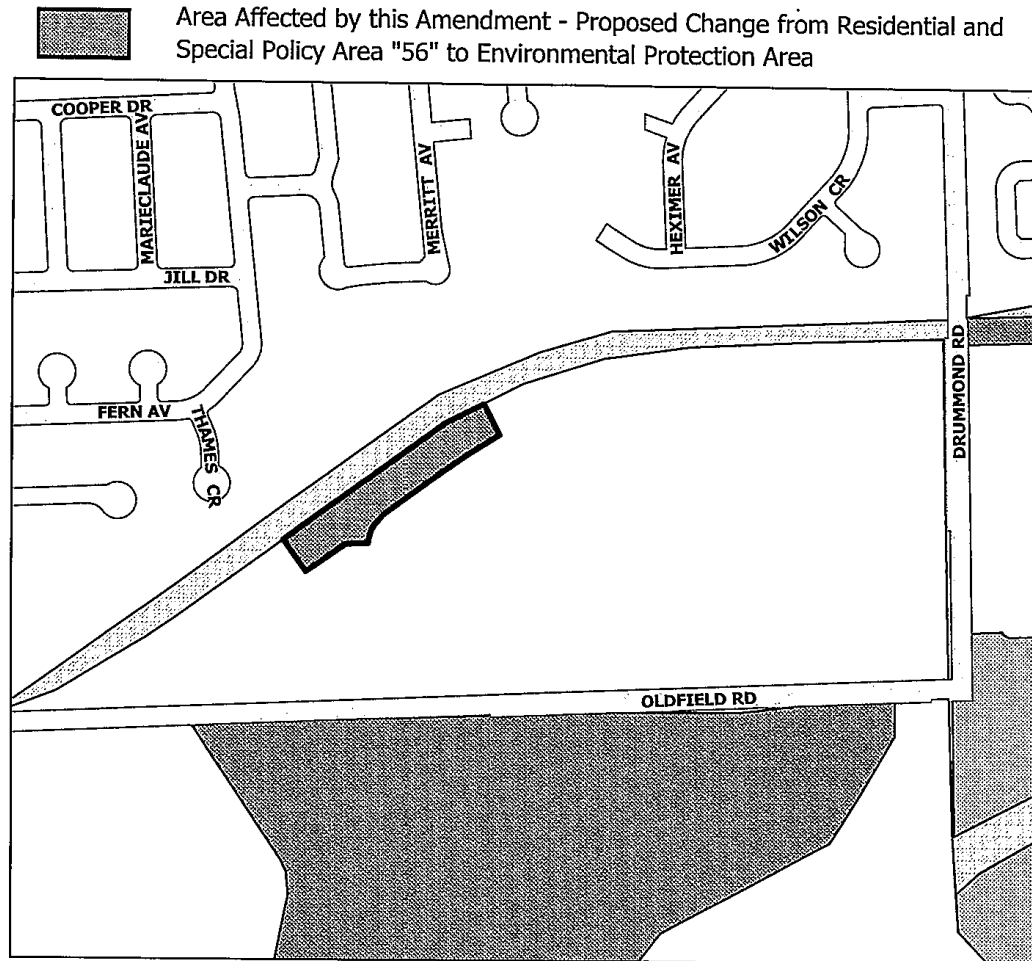
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Rail Drainage Ditch will be verified in the field by a qualified biologist to accurately assess the area of wetlands to be developed and created.

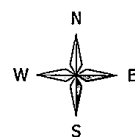
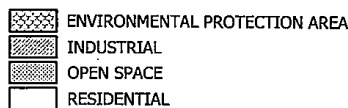
- That the wetland created south of the Con Rail Drainage Ditch be constructed to match both the hydrological and ecological functions of any wetlands to be lost north of the Drainage Ditch.
- (b) In order to determine the feasibility of creating wetlands south of the Con Rail Drainage Ditch, the feasibility report shall include the following items:
- A detailed assessment of all earthworks and site grading required to facilitate wetland creation on the site. The assessment shall also include a detailed inventory of vegetation to be removed through any required earth works and site grading.
 - A hydrological assessment which will outline and detail the existing hydrologic function of wetlands located north of the Con Rail Drainage Ditch, as well as assess the potential of creating wetlands south of the Con Rail Drainage Ditch.
 - A detailed inventory of all vegetation to be removed from wetlands north of the Con Rail Drainage Ditch, as well as an assessment of habitat conditions and wildlife species utilizing wetland areas north of the Drainage Ditch.
- (c) No land clearing, vegetation removal or site alteration be commenced within any wetland area north of the Con Rail Drainage Ditch until all wetland creation works south of the Drainage Ditch are completed to the satisfaction of the NPCA.

- 14.56.7 The subject lands will be placed in an appropriate "Holding" category in the implementing zoning by-law in order to control further development in advance of approval of the secondary plan, plans of subdivision/ condominium and site plan.

MAP 1 TO AMENDMENT NO. 100 SCHEDULE - A - TO THE OFFICIAL PLAN



CITY OF NIAGARA FALLS OFFICIAL PLAN EXCERPT FROM SCHEDULE - A - FUTURE LAND USE PLAN



1:NTS

NOTE: This schedule forms part of Amendment No. 100 to the Official Plan for the City of Niagara Falls and it must be read in conjunction with the written text.

AM-2010-004

March 2013

ATTACHMENT 2
CITY OF NIAGARA FALLS

By-law No.2011-68

A by-law to amend By-law No. 79-200, to guide the development of the Oldfield Plan of Subdivision on the Lands, subject to the removal of a holding (H) symbol on a portion of the Lands.

THE COUNCIL OF THE CORPORATION OF THE CITY OF NIAGARA FALLS ENACTS AS FOLLOWS:

1. The Lands that are the subject of and affected by the provisions of this by-law are described in Schedule 1 of this by-law and shall be referred to in this by-law as the "Lands". Schedule 1 is part of this by-law.
2. The Lands shall be identified as ten parcels, known as Parcels R1E-941, R1E(H)-941, R1E-942, R3-943, R3(H)-943, EPA, OS and NC(H).
3. The purpose of this by-law is to amend the provisions of By-law No. 79-200, to permit the use of the Lands in a manner that would otherwise be prohibited by that by-law. In the case of any conflict between a specific provision of this by-law and any existing provision of By-law No. 79-200, the provisions of this by-law are to prevail.
4. Notwithstanding any provision of By-law No. 79-200 to the contrary, the following uses and regulations shall be the permitted uses and regulations governing the permitted uses on and of the Lands.
5. The permitted uses of the Lands shall be:
 - (a) For Parcels R1E-941, R1E(H)-941 and R1E-942, the uses permitted in a R1E zone
 - (b) For Parcels R3-943 and R3(H)-943, the uses permitted in a R3 zone
 - (c) For Parcel EPA, conservation use
 - (d) For Parcel OS, the uses permitted in an OS zone
 - (e) For Parcel NC (H), the uses permitted in a NC zone
6. The regulations governing the permitted uses on Parcels R1E-941 and R1E(H)-941 shall be:
 - (a) Minimum front yard depth
 - (i) For a one family detached dwelling 4.5 metres
 - (ii) for a private garage with driveway access from the front yard 6 metres

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| (iii) | for a private garage with driveway access from a front yard that abuts Oldfield Road | 8 metres |
| (b) | Minimum exterior side yard width for a private garage with driveway access from the exterior yard. | 6 metres |
| (c) | The balance of regulations specified for a R1E use | |
7. The regulations governing the permitted uses on Parcel R1E-942 shall be:
- | | | |
|-------|---|------------|
| (a) | Minimum front yard depth | |
| (i) | for a one family detached dwelling | 4.5 metres |
| (ii) | for a private garage with driveway access from the front yard | 6 metres |
| (b) | Minimum interior side yard width | |
| (i) | for a one family detached dwelling | 1.2 metres |
| (ii) | for a garage not exceeding 1 storey in height | 0.9 metres |
| (c) | Minimum exterior side yard width | |
| (i) | for a one family detached dwelling | 3 metres |
| (ii) | for a porch | 1.5 metres |
| (iii) | for a private garage with driveway access from the exterior side yard | 6 metres |
| (d) | Maximum lot coverage | 45% |

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- (e) The balance of regulations specified for R1E use
8. The regulations governing the permitted uses on Parcels R3-943 and R3(H)-943 shall be:
- | | | |
|-----|---|-------------------|
| (a) | Minimum lot area for a one
Family detached dwelling | 315 square metres |
| (b) | Minimum lot frontage for a one
Family detached dwelling | |
| | (i) for an interior lot | 9.5 metres |
| | (ii) for a corner lot | 12.7 metres |
| (c) | Minimum front yard depth | |
| | (i) for a dwelling | 4.5 metres |
| | (ii) for a private garage
with driveway access
from the front yard | 6 metres |
| | (iii) for a private garage
with driveway access
from a front yard that
abuts Oldfield Road | 8 metres |
| (d) | Minimum interior side yard width | |
| | (i) for a one family detached
dwelling, semi-detached
dwelling or duplex dwelling | 1.2 metres |
| | (ii) for an on-street
townhouse dwelling,
triplex dwelling or
quadruplex dwelling | 2 metres |
| | (iii) for a garage not exceeding
1 storey in height | 0.9 metres |

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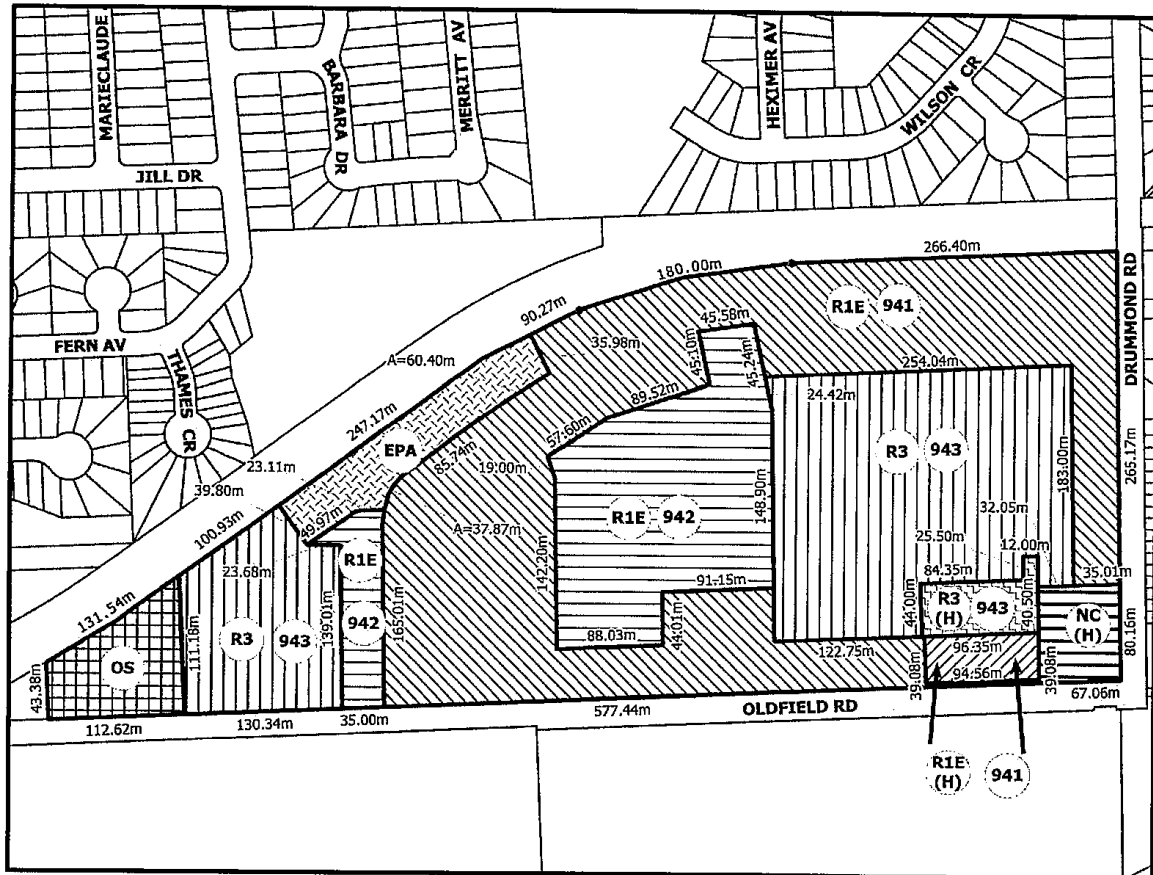
- (e) Minimum exterior side yard width
 - (i) for a dwelling 3 metres
 - (ii) for a porch 1.5 metres
 - (iii) for a private garage with driveway access from the exterior side yard 6 metres
 - (f) Maximum lot coverage 50%
 - (g) The balance of regulations specified for an R3 use
9. The regulations governing the permitted uses on Parcel OS shall be the regulations specified for an OS use.
 10. The regulations governing the permitted uses on Parcel NC shall be the regulations specified for an NC use.
 11. For the purpose of this by-law "conservation use" means the use of land and/or water for the purpose of planned management of natural resources.
 12. All other applicable regulations set out in By-law No. 79-2000 shall continue to apply to govern the permitted uses on the Lands, with all necessary changes in detail.
 13. No person shall use the Lands for a use that is not permitted use.
 14. No person shall use the Lands in a manner that is contrary to the regulations.
 15. The holding (H) symbol that appears on Schedule 1 attached hereto is provided for in the City of Niagara Falls Official Plan pursuant to section 36 of the Planning Act. No person shall use the Lands described in section 1 of this by-law and shown hatched and designated R1E(H) and numbered 941, R3 (H) and numbered 943 or NC(H) on the plan Schedule 1 attached hereto for any purpose, prior to the H symbol being removed pursuant to the Planning Act. Prior to the H symbol being removed, the landowner or developer shall complete the necessary Environmental Site Assessments and file a Record of Site Condition (RSC), signed by a qualified person, in the Environmental Site Registry, and submit to the City and the Region proof that the Ministry of the Environment has acknowledged receipt of the RSC.

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16. The provisions of this by-law shall be shown on Sheet C6 of Schedule "A" of By-law No. 79-200 redesignating the Lands from L1 to R1E and numbered 941, in part, R1E(H) and numbered 941, in part, R1E and numbered 942, in part, R3 and numbered 943, in part, R3(H) and numbered 943, in part, EPA, in part, OS, in part, and NC(H), in part.
17. Section 19 of By-law No. 79-200 is amended by adding thereto:
 - 19.1.941 Refer to By-law No 2011- 68.
 - 19.1.942 Refer to By-law No 2011- 68.
 - 19.1.943 Refer to By-law No 2011- 68.
 - 19.1.944 Refer to By-law No 2011- 68.

SCHEDULE 1 TO BY-LAW No. 2011-68

Subject Land



Amending Zoning By-law No. 79-200

Description: Pcd 188-2 Sec 59-Stamford; Pt Twp Lt 188 Stamford Pt 1 To 5, 59R7852; Niagara Falls
 Pt Twp Lt 188 Stamford As In RO222044; Niagara Falls
 Pt Twp Lt 188 Stamford As In RO466010; Niagara Falls
 Pt Twp Lt 188 Stamford Pt 1, 59R11982; Niagara Falls
 Pt Twp Lt 188 Stamford As In ST54261; Niagara Falls
 Pt Twp Lt 188 Stamford As In RO491337; Niagara Falls

Applicant: Drummond-Oldfield Developments Inc. and
 The City of Niagara Falls

Assessment #'s: 272511000115500; 272511000115501; 272511000103800; 272511000103700;
 272511000103900; 272511000104000; 272511000104100; 272511000104200;
 272511000104300



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AM-2010-004

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ATTACHMENT 4

Conditions for Draft Plan Approval

1. Approval applies to the Oldfield Draft Plan of Subdivision prepared by Upper Canada Consultants Ltd., revised May 14, 2012, showing 255 lots for single-detached dwellings, 16 blocks for on-street townhouse dwellings (74 units total), 1 block for future development, 1 block for environmental protection, 1 block for stormwater management and 1 block for road widening or as modified by condition No. 32.
2. The Developer enter into a registered Subdivision Agreement with the City to satisfy all requirements, financial and otherwise, related to the development of the land. Note: Should any other body wish to have its conditions included in the Subdivision Agreement, they may be required to become party to the Subdivision Agreement for the purpose of enforcing such conditions.
3. The Developer submit a Solicitor's Certificate of Ownership for the subdivision land to the City Solicitor prior to the preparation of the Subdivision Agreement.
4. The subdivision be designed and constructed in accordance with City standards which, in part, includes the following:
 - (a) roadway pavement widths to municipal requirements;
 - (b) dedication of daylighting triangles with 7 metre legs at the intersection of Oldfield Road and the two intersecting collector roads, Drummond Road and the intersecting collector road and at the intersection of the two collector roads (abutting lots 98 and 233), and 5 metre legs at all other intersections;
 - (c) upgrading adjacent portions of Drummond Road and Oldfield Road to a minimum rural road (semi-urban) section in accordance with City standards;
 - (d) dedication of the road allowances to the City as public highway, and the streets named to the City's satisfaction;
 - (e) dedication of a 3.05 metre road widening (Block 274) to the City along the north side of Oldfield Road;
 - (f) provision of water distribution, sanitary sewer and storm sewer systems in accordance with the Engineering Standards Manual 2010, as amended;
 - (g) sump pumps to discharge to the storm sewer;
 - (h) provision of an overland stormwater flow route; and
 - (i) application of the City's Lot Grading and Drainage Policy in accordance with the Engineering Standards Manual 2010, as amended.
5. The Developer submit a Geotechnical report prepared by a Soils Consultant to the City for review and approval.
6. The Developer construct the entrance to the walkway, Block 272, including any necessary speed control devices on the adjacent street, to the satisfaction of Transportation Services or relocate this walkway to the satisfaction of Transportation Services.

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7. The Developer construct sidewalks to City standards along Oldfield Road and Drummond Road abutting the subdivision, on both sides of collector roads and on one side of all roads with a right-of-way width of 20 metres.
8. The Developer provide speed control devices in the subdivision to the satisfaction of the Transportation Services.
9. The Developer submit servicing plans showing road widths/curb radii to Fire Services for review and approval.
10. The Developer demonstrate to Fire Services' satisfaction that adequate water supply for fire fighting purposes is available and accessible with sufficient volume and flow to facilitate fire fighting operations.
11. That the applicant provide a plan to Fire Services satisfaction illustrating the location of firebreak lots, and that a clause be put into the Subdivision Agreement prohibiting the issuance of a Building Permit on a firebreak lot until such time as the exterior finish cladding roofing and windows on buildings abutting the firebreak lots have been completed.
12. The Developer pay the Development Charges in force at the time of execution of the Subdivision Agreement.
13. The Developer pay the City cash-in-lieu of 5% parkland dedication.
14. The Developer grant the City and Public Utilities any easements required to service the subdivision.
15. The Developer contribute funds to provide boulevard trees in accordance with City policy.
16. The Developer provide three calculated plans and a letter prepared by an Ontario Land Surveyor to Planning & Development confirming that all lots comply with the Zoning By-law.
17. The Developer provide five copies of the pre-registration plan to Planning & Development and a letter stating how all the conditions imposed have been or are to be fulfilled.
18. The Developer is hereby advised that prior to commencing any work within the Plan, the Developer must confirm that sufficient wire-line communication/ telecommunication infrastructure is currently available within the proposed development to provide communication/telecommunication service to the proposed development. In the event that such infrastructure is not available, the Developer is hereby advised that the Developer may be required to pay for the connection to and/or extension of the existing

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communication/telecommunication infrastructure. If the Developer elects not to pay for such connection to and/or extension of the existing communication/telecommunication infrastructure, the Developer shall be required to demonstrate to the municipality that sufficient alternative communication/telecommunication facilities are available within the proposed development to enable, at a minimum, the effective delivery of communication/ telecommunication services for emergency management services (ie. 911 Emergency Services).

19. The Developer include in all offers of purchase and sale, a statement that advises the prospective purchaser that the home/business mail delivery will be from a designated Centralized Mail Box (CMB) and that the Developer will be responsible for officially notifying the purchasers of the exact CMB locations prior to the closing of any home sales.
20. The Developer satisfy all requirements of Canada Post regarding temporary and permanent Centralized Mail Box locations, engineering servicing drawings, installation and providing mail service information to property owners. (Note: The owner/Developer is required to provide the centralized mail facility at their own cost for buildings and complexes with a common lobby, common indoor or sheltered space).
21. The Developer provide Enbridge Gas Distribution Inc. with a composite utility plan approved by all utilities that allows for safe installation of all utilities, including required separation between utilities, and streets be constructed in accordance with the composite utility plans.
22. The Developer grade all streets to final elevation prior to installation of the gas lines and provide Enbridge Gas Distribution Inc. with the necessary field survey information required for installation of gas lines.
23. The Developer provide Enbridge Gas Distribution Inc. with the necessary easements if any gas lines need to be installed outside of the proposed road allowances.
24. The Developer submit a copy of the lot grading and drainage plan, showing existing and final grades, to Hydro One for review and approval. Drainage must be controlled and directed away from the hydro transmission corridor.
25. The Developer install temporary fencing prior to the start of construction and permanent fencing of a type specified by Hydro One after construction is completed, both at the Developer's expense, along the boundary of the Hydro One transmission corridor.

Note: City is to contact Hydro One to obtain licensing for any proposed recreational use of the corridor.

26. That the Developer acknowledge that the hydro transmission corridor is not to be used without express permission of Hydro One Networks Inc. on the behalf of ORC. During

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construction there will be no storage of materials or mounding of earth, snow or other debris on the transmission corridor. The proponent will be responsible for restoration of any damage to the transmission corridor or Hydro One facilities thereon resulting from construction of the subdivision.

Note: The transmission lines abutting this subdivision operate at 500,000, 230,000 or 115,000 volts. Section 186 - Proximity - of the Regulations for Construction Projects in the *Occupational Health and Safety Act*, require that no object be brought closer than 6 metres (20 feet) to an energized 500 kV conductor. The distance for 230 kV conductors is 4.5 metres (15 feet), and for 115 kV conductors it is 3 metres (10 feet). It is the proponent's responsibility to be aware, and to make all personnel on site aware, that all equipment and personnel must come no closer than the distance specified in the *Act*. They should also be aware that the conductors can be raised and lowered without warning, depending on the electrical demand placed on the line.

27. Prior to final approval of the plan, detailed lot grading and drainage plans, delineating both existing and proposed grades and the means whereby major system flows will be accommodated across the lands, shall be submitted to the Niagara Peninsula Conservation Authority for review and approval.
28. Prior to final approval of the plan, detailed sedimentation and erosion control plans explaining methods proposed for (a) the control of silt and erosion during the construction phase and (b) restoration proposed for the site after construction, be submitted to the Niagara Peninsula Conservation Authority for review and approval.
29. That a Stormwater Management Plan be prepared by a qualified professional engineer in compliance with the Ministry of Environment and Energy's "Stormwater Management Practices and Planning Design Manual", June, 1994, and the "Stormwater Quality Guidelines for New Development", (as amended) be submitted to the Niagara Peninsula Conservation Authority for review and approval.
30. That the Developer agree in the executed subdivision agreement to implement all plans and required works arising from meeting Conditions 27 to 29 inclusive as noted above.
31. That within 60 days of draft plan approval the owners acknowledge that draft approval of this subdivision does not include a commitment of servicing allocation by the Regional Municipality of Niagara as this servicing allocation will be assigned at the time of final approval of the subdivision for registration purposes.
32. That within 60 days of draft plan approval, the owners shall provide the Regional Development Services Division with a written undertaking that all offers and agreements of purchase and sale, which may be negotiated prior to registration of this subdivision, shall contain a clause clearly indicating that a servicing allocation for this subdivision will not be assigned until the plan is granted final approval for registration, and a similar

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clause be inserted in the subdivision agreement between the owners and the City of Niagara Falls.

33. That the design drawings for the sanitary sewer and stormwater drainage system required to service this development be submitted to the Regional Development Services Division for review and approval. Note: The stormwater management scheme proposed for this development will require the direct approval of the Ministry of the Environment (Approvals Branch, Toronto).
34. That prior to final approval of the plan of subdivision for registration, Ministry of the Environment Certificates of Approval for the necessary servicing for the development shall be obtained to the satisfaction of the Regional Development Services.
35. That prior to approval of the final plan, the owners shall submit to the Regional Development Services Division and the City of Niagara Falls a Phase 2 Environmental Site Assessment (ESA) prepared by a qualified person in accordance with Ontario Regulation 153/04 of the *Environmental Protection Act*.
36. That upon completion of the Phase 2 ESA, including remediation of the property, if necessary, a Record of Site Condition (RSC) shall be filed on the Ministry of the Environment's Environmental Site Registry in accordance with Ontario Regulation 153/04 and a copy shall be provided to the Regional Development Services Division and the City of Niagara Falls with a copy of the Ministry's written acknowledgement of the filing of the RSC.
37. That no disturbances of the site occur until the ESA required in accordance with the above conditions has been completed.
38. That a warning clause be included in the Subdivision Agreement and all Agreements of Purchase and Sale or Lease that advises the prospective purchasers of nearby industry and that operations may occasionally cause nuisance by way of noise, odour, or dust, which may interfere with some activities of the dwelling occupants.
39. That the Developer will undertake best efforts to remove any live amphibians found prior to and during construction on the subject lands to a safe area designated Environmental Protection Area ("EPA") on the subject lands, or if necessary to the lands designated EPA south of Oldfield Road.
40. That the Developer will provide (a) notice of completion of any report or plan completed pursuant to paragraphs 5 (iii), (iv), (v), (vi), and (viii) of the Minutes of Settlement between the City, the Developer and MAH, and (b) notice at least seven (7) days prior to any removal taking place pursuant to Clause 2 (i), to Jean Grandoni and PALS by email at resourcesfirst-jeangrandoni@niagara.com and pals@becon.org, as well as by mail at:

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Jean Grandoni
R.R. #1 Garner Road
Niagara Falls, ON L2E 6S4

Preservation of Agricultural Lands Society
Box 1090
St. Catharines, ON L2R 7A3

41. That Block "271" as shown on the attached revised plan is zoned "Environmental Protection Area" ("EPA").
42. That Block "271" be transferred into public ownership for a nominal sum. If MAH determines, at its sole discretion, and confirms in writing that Block "271" is no longer required to be in public ownership, then the City may re-convey Block "271" to the Developer.
43. That in the event that the Minister of Municipal Affairs and Housing ("MAH") determines Block "271" is no longer required to be in public ownership, an application shall be made to the Council of the City and approved to rezone and redesignate the land under the Official Plan prior to any transfer of Block "271" out of public ownership.
44. That the Developer submit a storm water management plan or report, that includes a detailed lot grading and drainage plan that delineates both the existing and proposed grades, and overland flow routes, for the review and approval of MAH in consultation with the Ministry of Natural Resources ("MNR").
45. That the Developer submit a hydro-geologic plan or report that outlines the existing ground water regime for the site, for the review and approval of MAH in consultation with MNR .
46. That the Developer provide a report or plan that sets out the method of maintaining the existing water regime (both quantity and quality) that supports the species at risk. This information could be contained within reports outlined in paragraphs 44 and 45.
47. That the Developer submit a report or plan that addresses potential impacts to the species at risk from the adjacent lands, and any mitigation proposed to address potential impacts.
48. That the Developer construct a chain link fence around the perimeter of Block "271" and provide for signage as required by the City.
49. That the Developer submit for review and approval by MAH, in consultation with MNR, monitoring reports following the registration of the Plan of Subdivision indicating in each of years 1, 2, 5 and 7, the condition of the Round-Leaved Greenbrier plants in Block "271", and the status of any mitigative measures completed to support its protection.
50. That the Developer agrees that the recommendations contained in the approved versions of the plans or reports identified in paragraphs 44, 45, 46 and 47 shall be included in the subdivision agreement.