



Corporate Report

Report from Planning & Development Services, Implementation

Date of Report: July 4, 2013

Date of Meeting: July 22, 2013

Report Number: PDS-206-2013

File: 60.46.394

Subject: Modifications to Approved Draft Plan of Subdivision; Westgate Business and Professional Park; 1296 Fourth Avenue and 1958 Third Street Louth

Recommendation

That Council approval be granted to modify the draft plan of subdivision approval for lands known as 1296 Fourth Avenue and 1958 Third Street Louth to include an additional Block for the purpose of a road widening (Block 5), as identified in Appendix "2" to this report; and

That Condition 1 of the draft plan approval be revised to include a reference to the new Block 5, as outlined in Appendix "3" to this report; and

That an additional condition (Condition 25) be added requiring the owner to dedicate to the City lands adjacent to Third Street Louth for the purpose of a road widening (Block 5); and

That the City Clerk be authorized to endorse the revised plan of subdivision as "draft approved"; and

That no further public hearing be required since the change is minor, pursuant to Section 51(47) of the Planning Act; and further

That the Clerk be directed to make the necessary notifications. FORTHWITH

Summary

The City requires the dedication of additional lands, beyond those contemplated when the Draft Plan of Subdivision for the subject lands was approved by Council on January 21, 2013. These lands are required to accommodate changes to the intersection of Fourth Avenue and Third Street Louth, including a new right turn lane. The modification to the draft plan of subdivision is considered minor and appropriate for the future development of the site, and no additional public meeting is required.

Background

The draft plan of subdivision includes three large development blocks and two new public streets. The lands represent the first phase of a new prestige employment cluster. This draft plan of subdivision was initially approved by Council on January 21, 2013, with a number of conditions.

Report

The current approved draft plan of subdivisions for 1296 Fourth Avenue and 1958 Third Street Louth is included as Appendix "1" to this report. The Plan includes three development blocks, which will be divided by a new public street (Street A). Lot 2 is flanked by a second new public street (Street B) which will connect to Fourth Avenue. The blocks are zoned to permit the construction of employment and commercial uses, within a prestige business park.

Staff are proposing to modify the approved draft plan of subdivision to identify lands that will be dedicated to the City for the purpose of widening Third Street Louth, near its intersection at Fourth Avenue. These lands are identified on the revised plan as Block 5 (Appendix "2") and would accommodate a new right turn lane onto Fourth Avenue. The requirement for this widening was not identified when the subdivision was original approved, as the Region was not anticipating these intersection works at that time. This modification results in a corresponding reduction to the size of Lot 1. No changes are proposed to Lots 2 and 3. An additional condition requiring the dedication of Block 5 to the City is included.

The modified plan also identifies a number of 0.3 metre wide reserves along Fourth Avenue, Third Street Louth, and the east side of Street B (Blocks 4, 6, 7 and 8). These 0.3 metre reserves are intended to restrict future driveway access in these locations. The reserve along the east side of Street B also relates to a cost sharing strategy for the larger business park. These reserves were a condition of the original subdivision approval, but were not shown on the original plan.

The proposed draft plan modifications are minor and appropriate for the orderly development of the lands. No revisions to the zoning by-law are required to implement the modifications.

A minor adjustment to Condition 1 of draft plan approval is also recommended to include Blocks 5, 6, 7, and 8. The proposed revised conditions of draft plan approval are included as Appendix "3" to this report.

Financial Implications

Not applicable.

Conclusion

Staff recommends approval of the proposed modifications to the approved Draft Plan of Subdivision to accommodate a widening of the intersection of Fourth Avenue and Third Street Louth. The revisions are considered both minor and appropriate and no further public meeting is recommended.

Notification

It is in order to advise Martin Heikoop, Upper Canada Planning & Engineering Ltd.,
261 Martindale Road, Unit #1, St.Catharines, Ontario, L2W 1A1

Submitted by:

Judy Pihach, MCIP RPP
Manager, Planning Services

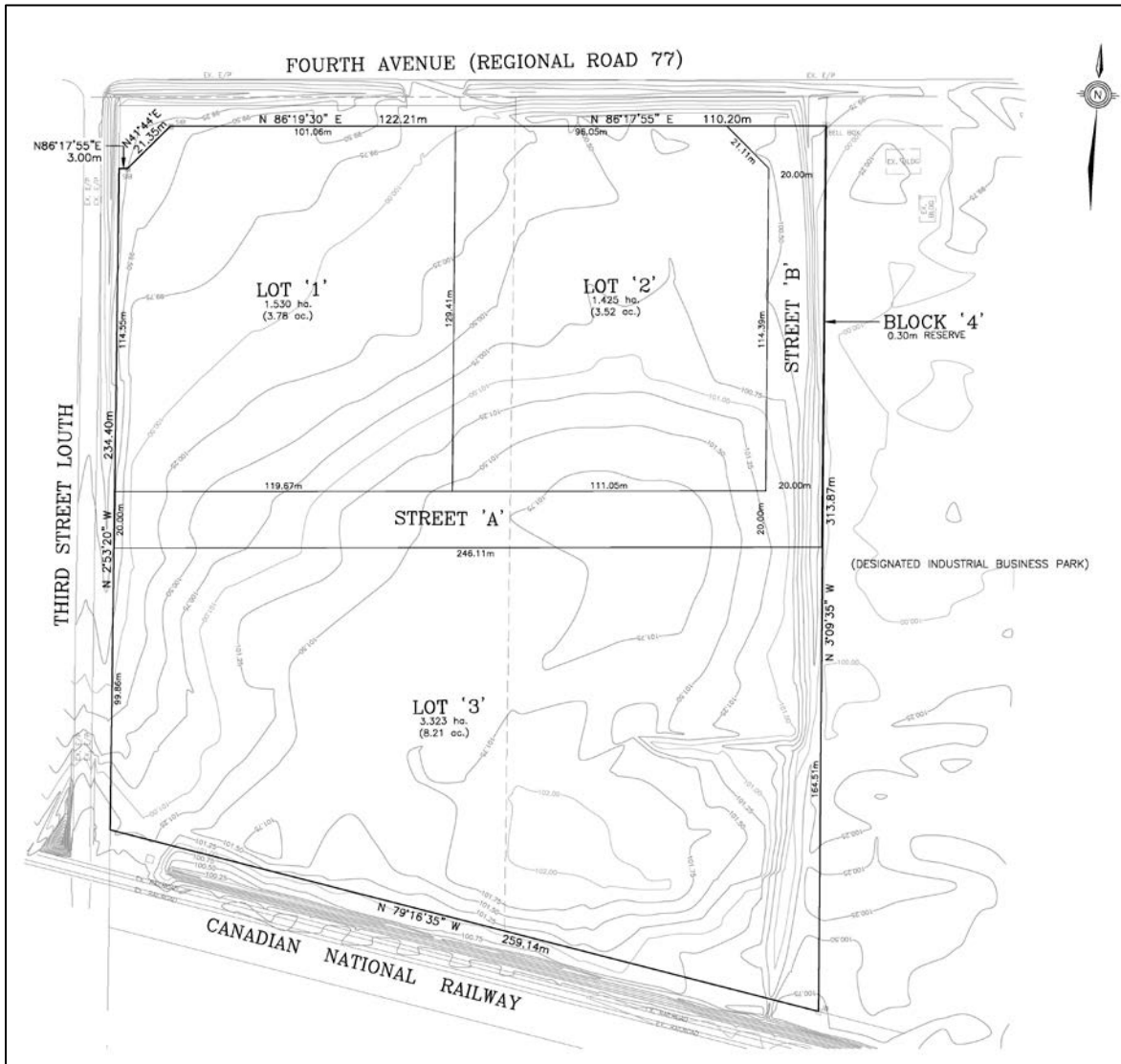
Prepared by:

Scott Ritchie
Urban Design Planner

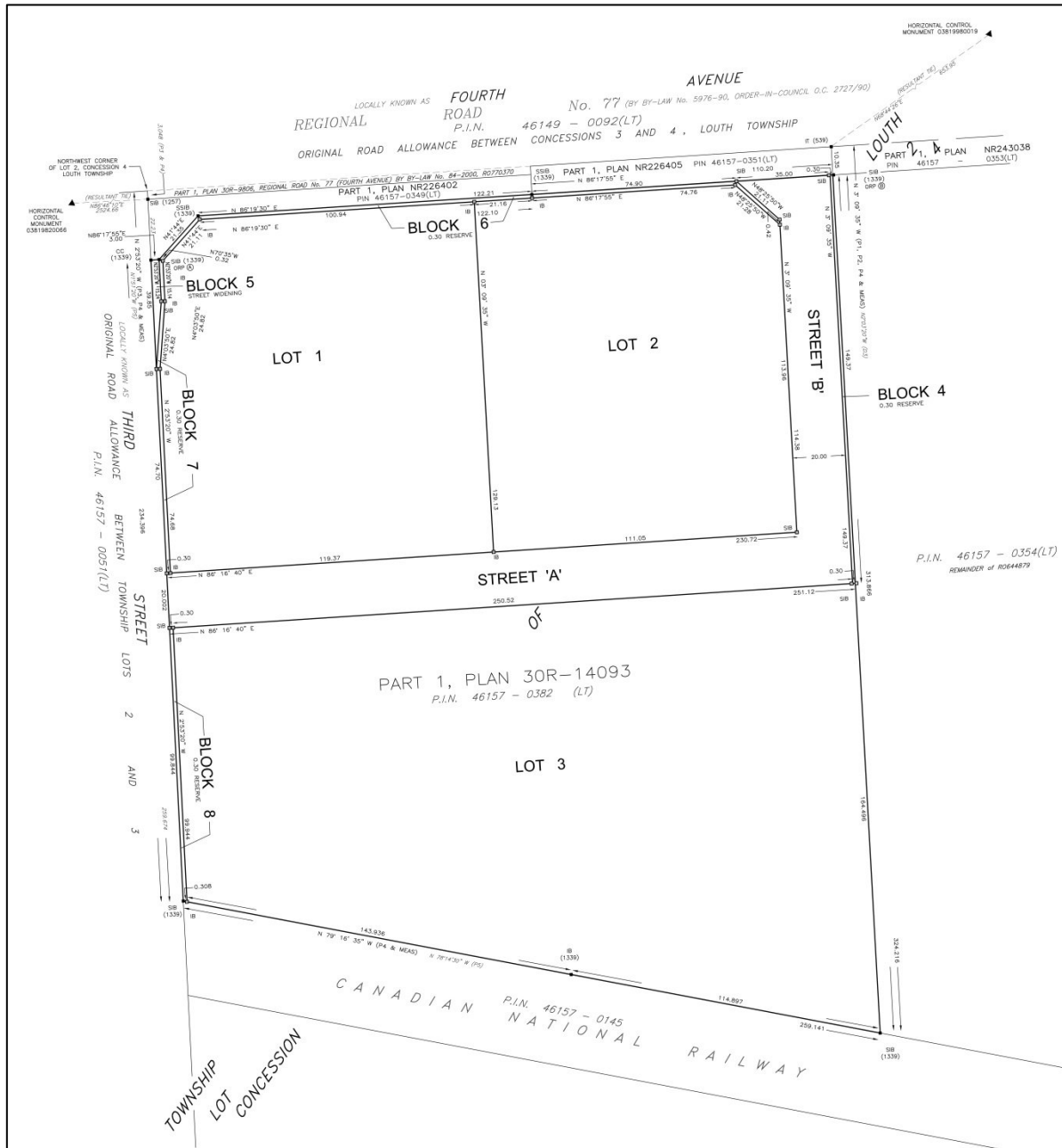
Approved by:

James N. Riddell, MCIP RPP
Director, Planning and Development Services

Current Approved Draft Plan of Subdivision



Proposed Modified Draft Plan of Subdivision



**Conditions of Draft Approval
Westgate Business and Professional Park
File No. 60.46.394
Submission No. 26T-10-12002**

1. That this approval applies to the Draft Plan of Subdivision being Part of Lot 2, Concession 4, Formerly in the Geographic Township of Louth, City of St. Catharines, known municipally as 1296 Fourth Avenue and 1958 Third Street Louth, prepared by Upper Canada Consultants, June 25, 2012, and as revised by William A Mascoe Surveying Ltd., June 25, 2013, showing three (3) lots (Lots 1, 2, 3), two new streets (Street A, Street B), a road widening for Third Street Louth (Block 5), and 0.3 metres reserves (Blocks 4, 6, 7, 8)

Subdivision Agreement

2. That the owner enter into one or more agreements with the City of St. Catharines agreeing to satisfy all requirements, financial or otherwise, as the City of St. Catharines may consider necessary, including the provision of municipal services, roads, sidewalks (both sides of Street A and Street B), landscaping, grading, drainage, fencing, and all other matters pertaining to the development of the site.

(City of St. Catharines)

Registration of Subdivision Agreement

3. That the subdivision agreement between the owner and the City of St. Catharines be registered by the municipality against the lands to which it applies as provided for under the Planning Act.

(City of St. Catharines)

Easements

4. That all easements required for water, sanitary sewers, utilities and drainage purposes be granted by the owner to the appropriate authority.

(City of St. Catharines)

Servicing Design

5. That prior to final approval for registration of this plan of subdivision, the Owner shall submit the design drawings (with calculations) for the sanitary sewer and storm sewer systems required to service this development and obtain Ministry of the Environment Compliance Approval under the Transfer of Review Program to the satisfaction of the Niagara Region Public Works Department, Development Services Division.

(Niagara Region)

6. That the Subdivision Agreement shall include clauses that bind the owner to the Master Servicing Plan as outlined in Appendix A of the Master Servicing and Implementation Strategy prepared by Upper Canada Consultants (January, 2013)

(City of St. Catharines)

Stormwater Management

7. That prior to approval of the final plan of subdivision or any on-site grading, the Owner shall submit a detailed stormwater management plan and the following plans designed and sealed by a qualified professional engineer in accordance with the Ministry of the Environment documents entitled Stormwater Management Planning and Design Manual, March 2003 and Stormwater Quality Guidelines for New Development, May 1991, or their successors to the City and the Niagara Peninsula Conservation Authority for review and approval, with a copy provided to the Niagara Region Public Works Department (Development Services Division):
- 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; and,
 - b) Detailed erosion and sedimentation control plans.

Note: The Regional Municipality of Niagara will request the Niagara Peninsula Conservation Authority to review the above information on the Region's behalf and to submit comments to the Niagara Region Public Works Department (Development Services Division) regarding the approval of these plans and the subsequent clearance of related conditions by the Development Services Division. Please also note that NPCA's fee for review of stormwater management plans is in addition to the Regional Municipality of Niagara's final clearance fee.

(Niagara Region, City of St. Catharines)

8. That the subdivision agreement between the Owner and the City of St. Catharines contain provisions whereby the Owner agrees to implement the approved plan(s) required in accordance with Condition 6.

(Niagara Region)

Transportation Impact Study

9. That the Owner submit a revised Transportation Impact Study to the satisfaction of the Niagara Region Public Works Department (Development Services Division).
- (Niagara Region)*
10. That the subdivision agreement between the Owner and the City of St. Catharines contain provisions whereby the owner agrees to implement the recommendations of the approved Transportation Impact Study required in accordance with Condition 9.
- (Niagara Region)*
11. That the Owner enter into an agreement with the Regional Municipality of Niagara to implement and pay for all required road works for this development including any upgrades to Fourth Avenue (Regional Road 77) recommended by

the approved Transportation Impact Study required in accordance with Condition 9.

(Niagara Region)

Fourth Avenue Cost Sharing with Region

12. That the Owner pay the Regional Municipality of Niagara cost sharing of the road works for the Region's Fourth Avenue (Regional Road 77) road project.

(Niagara Region)

Third Street Louth Cost Sharing with City

13. That a clause be included in the Subdivision Agreement requiring the Owner to pay 50% of the costs of upgrading Third Street Louth to an urban cross section, between Fourth Avenue and the CN rail line *(City of St. Catharines)*

(City of St. Catharines)

Cost Sharing: Master Servicing and Implementation Strategy

14. ~~That a clause be included in the Subdivision Agreement that binds the owner to the terms and conditions of the cost sharing strategy outlined in Appendix B of the Master Servicing and Implementation Strategy prepared by Upper Canada Consultants (January, 2013).~~

(City of St. Catharines)

Site Plan Control

15. ~~That a clause be included in the Subdivision Agreement which states that all uses on Lots 1-3 shall be subject to site plan control.~~

(City of St. Catharines)

Boulevard Trees

16. That a clause be included in the Subdivision Agreement requiring boulevard tree planting along all street frontages, including Street 'A', Street 'B', Third Street Louth, and Fourth Avenue, to the satisfaction of the Director of Recreation and Community Services. Securities will be required to cover the cost of the proposed plantings.

(City of St. Catharines)

Sidewalks

17. That the subdivision agreement require that sidewalks be constructed along both sides of Street 'A', both sides of Street 'B', and the east side of Third Street Louth, to the satisfaction of the Director of Transportation and Environmental Services.

(City of St. Catharines)

18. That the subdivision agreement require that sidewalks be constructed along the south side of Fourth Avenue, to the satisfaction of the Region and the Director of Transportation and Environmental Services.

(Niagara Region, City of St. Catharines)

Streetscape Plan

19. That a clause be included in the subdivision agreement requiring the owner to prepare, to the satisfaction of the City, a Streetscape Plan. This Plan shall include, but may not be limited to, the location of all roadways, sidewalks, street trees, hydrants, street lights, hydro transformers, telephone pedestals and cable television pedestals.

(City of St. Catharines)

Urban Design

20. That the Subdivision Agreement include a clause that binds future development to be substantially in accordance with the Urban Design Plan prepared by Upper Canada Consultants dated November 15, 2012.

(City of St. Catharines)

Dedication of Lands

21. That the proposed streets be dedicated as public roads and named to the satisfaction of the City of St. Catharines.

(City of St. Catharines)

22. That the Owner deed 0.3 metre reserves to the City of St. Catharines along the Third Street Louth frontage of Lots '1' and '3'.

(City of St. Catharines)

23. That the Owner deed a 0.3 metre reserve to the City of St. Catharines along the eastern flank of Street 'B' (Block 4).

(City of St. Catharines)

24. That the Subdivision Agreement include a clause that prohibits the removal of the 0.3 metre reserve along the east side of Street 'B' (Block 4) until such time as Fermo Holdings (the owner) confirms to the Corporation of the City of St. Catharines that it has been reimbursed the costs of servicing in accordance with the cost sharing strategy outlined in Appendix B of the Master Servicing and Implementation Strategy prepared by Upper Canada Consultants (January, 2013).

(City of St. Catharines)

25. That the Owner deed Block 5 to the City of St. Catharines as a widening to Third Street Louth.

(City of St. Catharines)

26. That the Owner dedicate free and clear of mortgages, liens and other encumbrances, and agree to pay for all associated cost related to a 15 metre x 15 metre daylighting triangle at the corner of Fourth Avenue (Regional Road 77) and Street 'B'.

(Niagara Region)

27. That the Owner deed 0.3 metre reserves to the Regional Municipality of Niagara along the Fourth Avenue (Regional Road 77) frontage of Lots '1' and '2' including the hypotenuse of all daylighting triangles.

Utilities

Bell Canada

28. The subdivision agreement shall include a clause requiring that the owner enter into an agreement (letter of understanding) with Bell Canada complying with any underground service conditions imposed by the municipality, and if no such conditions are imposed, that owner shall advise the municipality of the arrangements for such servicing.

(Bell Canada)

Horizon Utilities

29. The subdivision agreement shall include a clause requiring the owner / developer to retain an Electrical Consulting Engineer and Contractor to design and install the entire electrical distribution system including City Owned street lighting.

(Horizon Utilities)

Archaeological

30. That the Owner receive acceptance from the Ministry of Tourism and Culture for the archaeological assessment report titled "Original Report on Archaeological Assessment (Stage 1), Proposed Westgate Business and Professional Park", prepared by Mayer Heritage Consultants Inc., dated July 30, 2012. No demolition, grading or other soil disturbances shall take place on the subject property prior to the issuance of a letter from the Ministry of Tourism, Culture and Sport through the Niagara Region Public Works Department (Development Services Division), confirming that all archaeological resource concerns have met licensing and resource conservation requirements.

(Niagara Region)

31. That the following clauses be included in the subdivision agreement between the Owner and the City of St. Catharines:

"Should previously undocumented archaeological resources be discovered on the property during construction activities, construction and alteration of the site shall immediately cease and the owner shall notify the Ministry of Tourism, Culture and Sport (Culture Program Unit) in London (519-675-6898) and engage a licensed consulting archaeologist to carry out archaeological fieldwork in compliance with Section 48 (1) of the *Ontario Heritage Act*".

"As on virtually any property in southern Ontario, it is possible that Aboriginal or Euro-Canadian burials could be present within the development area. In the event that human remains are encountered during construction activities, construction shall immediately cease and the proponent shall notify the Niagara Regional Police, the local coroner, the Ministry of Tourism, Culture and Sport (Culture Program Unit, London office), and the Registrar, Cemeteries Regulation Unit of the Ontario Ministry of Consumer Services in Toronto (416-326-8392)".

Zoning

32. That prior to approval of the final plan the lands within the draft plan be zoned in accordance with the intended use, pursuant to the provisions of the Planning Act.

(City of St. Catharines)

Administration

33. Prior to final approval for registration, a copy of the executed subdivision agreement for the proposed development should be submitted to the Niagara Region Public Works Department (Development Services Division) for verification that the appropriate clauses pertaining to any of these conditions have been included. **Note:** The Regional Development Services Division recommends that a copy of the draft agreement also be provided in order to allow for the incorporation of any necessary revisions prior to execution.

Notes:

- Where required as part of the above conditions, the format for all studies and reports to be submitted to the Niagara Region Public Works Department (Development Services Division) shall be two hard copies and a PDF digital copy.
- Prior to any construction taking place within the Regional road allowance the owner shall obtain a Regional Construction Encroachment and/or Entrance Permit. Applications must be made through the Permits Section of the Niagara Region Public Works Department (Transportation Services Division).

(Niagara Region)

34. That if final approval is not given within three years of the approval date, and no extension has been granted, draft approval shall lapse. If the owner wishes to request an extension to the draft approval period, a written explanation with reasons why the extension is required must be received by the City prior to the lapsing date. An updated review and revisions to the conditions of approval may be necessary at that time.

(City of St. Catharines)

Prior to granting approval to the final plan, the City of St. Catharines, Planning and Development Services will require written notification from the following agencies that their respective conditions have been met satisfactorily:

The City of St. Catharines for conditions: 2-4, 6, 7, 13-25, 32, 34

Niagara Region for conditions: 5, 7-12, 18, 26, 27, 30, 31, 33

Bell Canada for condition: 28

Horizon Utilities for condition: 29