

**SITE PLAN AGREEMENT
DEHAAN HOMES INC.
CANBORO PLACE
190 CANBORO ROAD**

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THIS AGREEMENT made this ____ day of _____, 2020 A.D.

BETWEEN:

DEHAAN HOMES INC.

Hereinafter called the "Owner"

OF THE FIRST PART

- and -

THE CORPORATION OF THE TOWN OF PELHAM

Hereinafter called the "Town"

OF THE SECOND PART

WHEREAS the Owner represents and warrants that it is the owner of the lands in the Town of Pelham described in Schedule 'A' attached hereto (the "Lands");

AND WHEREAS the Owner has assumed and agreed to be bound by the terms and conditions of the Site Plan Agreement;

AND WHEREAS the Owner is desirous to develop the parcel for a block townhouse use in accordance with Schedule 'B' attached hereto, being a Site Plan filed in the Town's offices;

AND WHEREAS the Town has agreed to permit the said construction subject to certain terms and conditions;

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of the sum of One Dollar (\$1.00) now paid by the Owner to the Town (the receipt whereof is hereby acknowledged), the Parties hereto mutually covenant and agree as follows:

1. DEFINITIONS

In this Agreement:

- (a) **CHIEF BUILDING OFFICIAL** shall mean the Chief Building Official of the Corporation of the Town of Pelham.
- (b) **CLERK** shall mean the Clerk of the Corporation of the Town of Pelham.
- (c) **COUNCIL** shall mean the Council of the Corporation of the Town of Pelham.
- (d) **DIRECTOR OF COMMUNITY PLANNING AND DEVELOPMENT SERVICES** shall mean the Director of Community Planning and Development Services of the Corporation of the Town of Pelham.
- (e) **DIRECTOR OF CORPORATE SERVICES** shall mean the Director of Financial Services of the Corporation of the Town of Pelham.
- (f) **DIRECTOR OF PUBLIC WORKS** shall mean the Director of Public Works of the Corporation of the Town of Pelham.
- (g) **FACILITIES AND WORKS** shall mean and includes those facilities and works which are shown on or referred to in any one or more of the plans, drawings and schedules to this Agreement.
- (h) **LANDS** shall mean the lands described in Schedule 'A' attached hereto.

- (i) **PROFESSIONAL ENGINEER** shall mean a Professional Engineer registered in good standing with the Association of Professional Engineers.

2. GENERAL PROVISIONS

- (a) The Owner shall develop and maintain the Lands only in accordance with the terms and conditions contained herein and any other applicable by-law of the Town.
- (b) The Owner shall perform any and all construction and installation on the Lands in accordance with the terms and conditions contained herein and as shown on Schedule 'B' attached hereto and forming part of this Agreement to the reasonable satisfaction of the Town.
- (c) The Owner shall not perform any construction or installation on the Lands except in accordance with the terms and conditions contained herein and shown on said Schedule 'B' attached hereto and forming part of this Agreement and to the reasonable satisfaction of the Town.
- (d) The Owner shall maintain and keep in good repair driveways and accesses servicing the buildings located in the development.
- (e) The Owner shall keep all construction access routes free and clear of dust and debris at all times. The costs of cleaning all streets will be borne by the Owner
- (f) The Owner grants to the Town, its servants, agents, and assigns permission to enter upon the Lands for the purpose of inspection of any Facilities and Works referred to in this Agreement and for the purpose of the completion of any Facilities and Works in accordance with this Clause and this Agreement.
- (g) The Owner will, at all times, indemnify and save harmless the Town from all loss, costs, damages and injuries which the Town may suffer or be put to for or by reason of the construction, maintenance, or existence of any Facilities and Works done by the Owner, its contractors, servants or agents on the Lands or which the Town may suffer or be put to for or by reason of the completion by the Town of any of the required Facilities and Works in accordance with this clause and this Agreement.
- (h) The Owner shall not call into question directly or indirectly in any proceeding whatsoever in law or in equity or before any administrative tribunal the right of the Town to enter into this Agreement and to enforce each and every term, covenant, and condition herein contained and this Agreement may be pleaded as an estoppel against the Owner in any such proceeding.

3. GRADING

- (a) The Owner shall have prepared by an Ontario Land Surveyor or Professional Engineer, a detailed Plan for the site, said Plan to clearly indicate the existing drainage pattern on all adjacent Lands originally flowing through, into, or over the area of the site, to the street storm sewer system or other outlet approved by the Director of Public Works. This Plan, attached hereto as Schedule 'D', shall be approved by the Director of Public Works prior to the execution of this Agreement. Minor changes to the Plan may be permitted subject to the approval of the Director of Public Works.
- (b) The Owner shall submit, upon completion of Facilities and Works, a certificate signed by an Ontario Land Surveyor or Professional Engineer which indicates that the grades as stipulated on Schedule 'D' to this Agreement have been complied with.

- (c) Unless otherwise approved or required by the Town, the Owner shall not alter the grades of the said Lands until such time as a Building Permit is issued for the construction of the buildings contemplated herein on the said Lands.
- (d) The Owner shall provide his Design Engineer's verification that all grading, drainage, and servicing provisions have been installed in conformance with the approved Site Grading Plan prepared by Upper Canada Consultants, dated June 2, 2020 and Site Servicing Plan, prepared by Upper Canada Consultants, dated June 2, 2020, attached hereto as Schedule 'D'. The Owner shall provide a copy of the Design Engineer's verification to the Town.
- (e) The Applicant agrees to maintain the 7.5m setback from the stable top of bank (as confirmed by the Geotechnical Engineer) for all new development and site alterations. There shall be no development or site alterations beyond this limit;
- (f) The Applicant agrees to install appropriate Sediment and Erosion Control Measures prior to undertaking any works on site and maintain it in good working order until all areas are re-stabilized after construction to ensure muddy water and sediment do not discharge into the valley;
- (g) The Applicant agrees to install a Limit of Work Fence 3.0m from the top of bank and maintain it until all construction is complete to ensure the dumping or storage of any materials does not occur within the valley;
- (h) There shall be no overland drainage directed over the top of slope in a concentrated manner;
- (i) There shall be no disturbances to the existing grades or vegetation below the top of slope, on the valley wall: and,
- (j) All disturbed areas are restored and revegetated immediately upon completion of the construction phases.

4. SANITARY SYSTEM

- (a) The Owner shall, at its own expense, forever maintain the internal sanitary forcemain system, including pumps, necessary to service the development.
- (b) The Owner shall ensure that no storm, surface or roof water or weeping tiles shall be discharged into the sanitary sewer system.
- (c) The Owner shall complete all sanitary system works required to service the development must be completed prior to the construction of any structures within the development.
- (d) The Owner acknowledges that the Town shall bear no responsibility for sanitary waste entering the site due to forcemain system malfunction.

5. WATER SUPPLY

- (a) That the owner and Town obtain a new connection permit for the proposed new connection to the Regional watermain.
- (b) The Owner shall, at its own expense, forever maintain all necessary connections and all internal water supply services necessary to serve the development.

- (c) The operation of valves which cause the internal water supply service to be charged from existing municipal water mains shall **ONLY** be carried out by Town Staff certified in accordance with Ontario Regulation 128/04.
- (d) The Owner shall comply with the provisions of the *Ontario Water Resources Act and Safe Drinking Water Act* and amendments thereto and all regulations thereunder, on all internal water supply services, which said act and regulations shall be enforced by the Town.
- (e) The Owner shall grant, in the Condominium Agreement, the Town, its servants, agents and assigns permission to enter upon the lands for the purpose of the inspection and maintenance of all water meter chambers and ensure that the area in and around the water meter chamber if made free and clear of all encumbrances, at all times, which may interfere with such tasks.
- (f) The Owner shall complete all internal and external water works, as specified by this Agreement, and those works shall be fully commissioned prior to the construction of any structures within the development.

6. STORM SEWER SYSTEM

- (a) The Owner undertakes the installation, repair, and forever maintenance the private storm water system as identified in the Site Servicing Plan, prepared by Upper Canada Consultants, dated June 2, 2020, attached hereto as Schedule 'D', and approved by the Director of Public Works.
- (b) The Owner shall complete all storm system works, as specified in the Site Plan Agreement, prior to the construction of any structures within the development.
- (c) The Applicant shall enter into a formal easement agreement through the Municipality with the adjacent landowner to ensure the unimpeded drainage across the lands into the existing channel on the valley slope can continue in perpetuity.
- (d) The Applicant agrees to obtain all appropriate NPCA Work Permits for any works within the regulated areas prior to the commencement of the works on site (including but not limited to: works within 15m of the top of stable slope; any stormwater outfalls).

7. ROADS AND ACCESS

- (a) The Owner shall, at its own expense, prior to construction taking place within a Town Road Allowance, obtain a Town Temporary Works Permit from the Public Works Department.
- (b) The Owner shall, at its own expense, restore any curb cuts and/or reinstate with topsoil and nursery sod the boulevards within the Town Road Allowance to Town standards.
- (c) The Owner shall locate all private signs within the Owner's Lands in accordance with the Site Plan attached as Schedule 'B'. A Town Sign permits must be obtained from the By-law Enforcement Division, Department of Fire and Protection Services.

8. LANDSCAPING AND TREES

- (a) The Owner shall, at its own expense, adequately landscape, plant and maintain all of the Lands not required for buildings, parking or roads so as at all times to provide effective green areas enhancing the general appearance of the development contemplated herein, said planting and

landscaping shall be in accordance with the approved Landscape Plan prepared by James McWilliam Landscape Architect, dated February 2020, attached hereto as Schedule 'E'. Minor changes to the Plan may be permitted subject to the approval of the Director of Community Planning and Development Services.

- (b) Unless otherwise approved or required by the Town, the Owner shall not remove trees or other vegetation from the said Lands until such time as a Building Permit is issued for the construction of the buildings contemplated herein on the said Lands.
- (c) The Applicant agrees to install a 1.5-metre-high chain link (or other similar fencing) along the approved top of bank line, to the satisfaction of the Niagara Peninsula Conservation Authority.
- (d) That all perimeter fencing be installed prior to construction taking place.

9. GARBAGE DISPOSAL

- (a) The owner shall enter into an Indemnity Agreement with Niagara Region prior to commencement of Regional waste collection services to this site. If the owner has not entered into the agreement at the time clearance of conditions is requested, a similar clause shall be included in the condominium agreement.
- (b) In order to accommodate Regional waste collection service, waste collection pads are required to be provided by the developer/owner for Unit 5 and Unit 10 at the location shown on Site Plan Drawing, dated May 2, 2020 and revised to June 2, 2020 by Upper Canada Consultants. The waste collection pads shall be in accordance to details outlined in the Niagara Region's Corporate Policy for Waste Collection.
- (c) The Owner shall include the following clause in all offers and agreements of purchase and sale or lease for each dwelling unit fronting on the internal roadway:

Purchasers/Tenants are advised that waste collection for the townhouse development will be provided by the Niagara Region through curbside collection, containers must be placed at the entrance located on the shared private road or assigned waste collection pad and each container marked with the appropriate unit number.

10. MAIL DELIVERY

- (a) The Owner shall include in all offers and agreements of purchase and sale or lease for each dwelling unit 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 are 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 development.
 - (ii) install a concrete pad in accordance with the requirements of an 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.

11. UTILITIES

- (a) The Owner shall grant to Bell Canada any easements that may be required, which may include a blanket easement, for communication/telecommunication infrastructure. In the event of any conflict with existing Bell Canada facilities or easements, the Owner shall be responsible for the relocation of such facilities or easements.
- (b) The Owner will provide all necessary easement(s) required to service this development and any future adjacent developments to Enbridge Gas Distribution at no cost.

12. FLOODLIGHTING

The Owner shall ensure that any lighting facility used to illuminate any building or parking area shall be designed and installed as to deflect from adjacent buildings and streets.

13. PARKING, CURBING, DRIVEWAYS AND SIDEWALKS

The Owner shall, at its own expense, provide and at all times maintain on the said Lands, paved parking and driveway areas acceptable to the Town.

14. BUILDING AND SERVICES

The Owner shall construct and the Town shall permit the construction of the buildings and other structures on the Lands in accordance with the Schedules attached hereto to permit the development provided that all such uses shall comply with all building and zoning requirements of the Town.

15. ARCHAEOLOGY

- (a) Should deeply buried archaeological remains/resources be found on the property during construction activities, all activities impacting archaeological resources must cease immediately, notify the Archaeology Programs Unit of the Ontario Ministry of Heritage, Sport, Tourism and Culture Industries (MHSTCI) (416-212-8886) and hire a licensed archaeologist [Detritus Consulting Ltd] to carry out an archaeological assessment in accordance with the Ontario Heritage Act and the Standards and Guidelines for Consultant Archaeologists.
- (b) In the event that human remains are encountered during construction, all activities must cease immediately and the local police as well as the Cemeteries Regulation Unit of the Ministry of Government and Consumer Services in Toronto (416-326-8800) must be contacted. In situations where human remains are associated with archaeological resources, MHSTCI 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.

16. WARNING CLAUSES

- (a) 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.

- (b) The Owner shall agree in the Condominium Agreement to include a clause within all Offers of Purchase and Sale Agreements advising prospective purchasers that private roadways are subject to a Condominium Corporation and agreements for maintenance, snow removal and garbage pick-up. Owners are advised that all accesses and laneways are to be kept free and clear of vehicles to ensure that emergency service, snow removal and waste collection vehicles have continued access and that failure to comply with this clause will result in ticketing and potentially towing. In addition, all snow stockpiling must take place within the condominium property and not piled across Canboro Road.

17. ADMINISTRATIVE AND CONSULTING COSTS

The Owner shall pay the Town's reasonable costs in connection with this Agreement for preparation, processing, administration and supervision including, but not limited to, all administrative, legal, inspection and consulting expenses.

18. DEPOSIT FOR FACILITIES AND WORKS

- (a) At the time of execution of this Agreement, the Owner shall pay to the Town a deposit to guarantee its compliance with this Agreement in an amount equal to 20 % of the estimated cost of completing the Facilities and Works;

The parties have calculated that the estimated cost for completion to be Seven Hundred and Forty-One Thousand Four Hundred and Eighty-One Dollars and Thirteen Cents (**\$741 481.13**) excluding taxes as set out in Schedule 'G' attached hereto and forming part of this Agreement. Therefore, security in the amount of One Hundred and Forty-Eight Thousand Two Hundred and Ninety-Six Dollars and Twenty-Three Cents **\$148 296.23** shall be provided to the Town.

- (b) The deposit shall be paid to the Town in cash or in the form of an irrevocable letter of credit from a chartered bank or from a recognized lending institution, subject to the approval of the Director of Corporate Services and shall be held as security to ensure the completion of the Facilities and Works until such time as the Town permits its release as ordered herein. The deposit may be used to pay for the cost of any work performed by the Town in accordance with the following clause in the event of the failure of the Owners to comply with the terms of this Agreement.
- (c) Upon completion of the Facilities and Works, the Owner shall provide to the Town, at the Owner's expense, confirmation in writing by the Owner's Qualified Designer or Professional Engineer, or both, that the approved plans appended hereto have been complied with. When such confirmation has been received, the Chief Building Official shall confirm such compliance and the deposit, less any amounts expended to enforce compliance with the Agreement and any amounts refunded or reduced as the work required by this Agreement progresses, shall be returned to the Owner, without interest.
- (d) The Town may, from time to time, demand an increase in the sum of the deposit in accordance with increases in the cost of performing the Facilities and Works required herein to be completed and the Owner covenants and agrees to make such increase. At the sole discretion of the Chief Building Official the amount of the deposit may be reduced at any time after the Owner has reached the stage where the costs to complete the Facilities and Works is less than the amount of the deposit.

- (e) The release of the deposit by the Town does not release the Owner from their obligation to maintain all of the Facilities and Works pursuant to this Agreement.
- (f) The Owner agrees that all of the Facilities and Works required to be provided by the Owner shall be provided, installed or constructed by the Owner within one hundred and eighty (180) days after the date of substantial completion of the proposed development as determined by the Chief Building Official and shall be maintained at all times in good condition.

19. DEFAULT

Upon breach by the Owner of any covenant, term, condition or requirement of this Agreement, or upon the Owner becoming insolvent or making any assignment for the benefit of creditors, the Town, at its option, may declare the Owner to be in default. Notice of such default shall be given by the Town, and if the Owner shall not remedy such default within such time as provided in the notice, the Town may declare the Owner to be in final default under this Agreement. Upon notice of default having been given, the Town may require all work by the Owner, its servants, agents, independent contractors and sub-contractors to cease (other than any work necessary to remedy such default) until such default shall have been remedied, and in the event of final default, may require all work as aforesaid, to cease. Upon final default of the Owner, the Town may, at its option, adopt or pursue any or all of the following remedies, but shall not be bound to do so:

- (a) Enter upon the subject Lands by its servants, agents and contractors and complete any work, service, repair or maintenance wholly or in part required herein to be done by the Owner, and collect the cost thereof from the Owner and/or enforce any security available to it;
- (b) Make any payment which ought to have been made by the Owner to the Town, for any purpose, and apply the same in payment or part payment for any work which the Town may undertake;
- (c) Retain any sum of money heretofore paid by the Owner to the Town, for any purpose, and apply the same in payment or part payment for any work which the Town may undertake;
- (d) Bring action to compel specific performance of all or any part of this Agreement for damages; and
- (e) Exercise any other remedy granted to the Town under the terms of this Agreement or available to the Town in law.

20. COVENANTS

The Owner covenants for itself, its successors and assigns and the Owners from time to time of the said Lands and the burden of the covenants contained in this Agreement shall be deemed to be negative and shall run with and be binding upon the Lands to and for the Town, its successors and assigns.

21. REGISTRATION

The Owner agrees and consents to the registration of notice of this Agreement against the said Lands.

22. OBLIGATION

This Agreement and the provisions hereof do not give to the Owner or any person acquiring any interest in the said Lands (each hereinafter in this paragraph called "such person") or any other person any rights against the Town with respect to the failure of any such person to perform or fully

perform any obligation under this Agreement, or the failure of the Town to force any such person to perform or fully perform any obligation under this Agreement or any negligence of any such person in the performance of the said obligation.

23. BUILDING PERMIT

Notwithstanding any of the provisions of this Agreement, the Owner, its successors and assigns, shall be subject to all of the by-laws, as amended, of the Town at the time of the issuance of a Building Permit required pursuant to the terms of the Agreement or at the time of the execution of this Agreement, whichever is applicable.

The Owner shall pay parkland dedication fees at the time a building permit is issued for the Work shown on Schedule 'B'.

24. PLANS

The Owner agrees that all plans shall be drawn by a Qualified Designer or by a Professional Engineer and all surveys by an Ontario Land Surveyor, subject to the reasonable satisfaction of the Town.

25. NOTICES

Any notice, demand, acceptance or request provided for in this Agreement shall be in writing and shall be deemed to be sufficiently given if personally delivered or sent by registered mail (postage prepaid) as follows:

To the Town at: Clerk
Town of Pelham
P. O. Box 400
20 Pelham Town Square
Fonthill, ON
L0S 1E0

To the Owner at: DeHaan Homes Inc.
PO Box 142
Ridgeville, ON
L0S 1M0

or as such other address as the party to whom such notice is to be given shall have last notified the party giving the notice in the manner provided in this Section 21. Any notice delivered to the party to whom it is addressed in this Section 21 shall be deemed to have been given and received on the day it is so delivered at such address. Any notice mailed as aforesaid shall be deemed to have been given and received on the fifth day next following the date of its mailing.

26. SCHEDULES

The originals of the plans set out in Schedule 'B', 'C', 'D', 'E' and 'F' are available at the offices of the Town at the address set out in Section 21.

27. BINDING EFFECT

This Agreement shall be binding upon the parties hereto and their heirs, executors, administrators, successors, and assigns.

IN WITNESS WHEREOF the parties hereto have executed this Agreement as of the date and year first above written.

WITNESS

DEHAAN HOMES INC.

(printed name)

(printed name)

(signature)

(signature)

(date)

(date)

I have the authority to bind the Corporation

**THE CORPORATION OF THE TOWN OF
PELHAM**

Mayor Marvin Junkin

Clerk Nancy J. Bozzato

SCHEDULE 'A'

LEGAL DESCRIPTION

PIN 64034-0613 (LT)

Part of Lot 3 Concession 8 Pelham Part 1, 59R-16509; TOWN OF PELHAM

SCHEDULE 'B'

SITE PLAN

Site Plan, 1365-SP, prepared by Upper Canada Consultants, dated May 2, 2020 and revised to June 2, 2020.

SCHEDULE 'C'

ELEVATIONS

Block 1, (Units 1-2) Elevations A1-A4 dated February 5, 2019 prepared by ACK Architects.

Block 2, (Units 3-4) Elevations A1-A4 dated March 2019 prepared by ACK Architects.

Block 4, (Unit 10), Left Elevation A1 dated March 2019 prepared by ACK Architects.

Block 5 (Units 11-12) Elevations A1-A4 dated February 5, 2019 prepared by ACK Architects.

Block 6, (Units 13-14) Elevations A1-A4 dated February 5, 2019 prepared by ACK Architects.

SCHEDULE 'D'

SITE GRADING & SERVICING PLANS

Site Grading Plan, 1365-SGP, prepared by Upper Canada Consultants, dated June 2, 2020.

Site Servicing Plan, 1365-SSP, prepared by Upper Canada Consultants, dated June 2, 2020.

Storm Drainage Area Plan, 1365-STMDA, prepared by Upper Canada Consultants, dated June 1, 2020.

SCHEDULE 'E'

LANDSCAPE PLAN

Landscape Plan, L1, prepared by James McWilliam, dated February 2020.

Landscape Details, L2, prepared by James McWilliam, dated February 2020.

SCHEDULE 'F'

STREETLIGHT PLAN

Canboro Place 190 Canboro Road Private Streetlight System, SL-1, prepared by RTG Systems Inc. Electrical Consulting Engineers, dated December 19, 2018.

