

**Attachment #5**  
**Conditions of Approval**  
**SW-2008-01 (MR-01-17)**

1. The Subdivider shall enter into a subdivision agreement and provide all relevant fees for the preparation and registration of said agreement, including a review by the Town's legal services;
2. The Subdivider shall prepare the final plan for the development on the basis of the approved draft plan of subdivision, prepared by Gatzios Planning + Development Consultants Inc. identified as Project & Drawing No. 1318.0 dated April 17, 2017, revised July 3, 2019, which illustrates: one high density residential mixed use block, one parkland / waterfront walkway block, one open space block and one road widening block.
3. The Subdivider shall submit to the Region of Durham, for review and approval, a revised acoustic report prepared by an acoustic engineer based on projected traffic volumes provided by the Region of Durham Planning and Economic Development Department, and recommending noise attenuation measures for the draft plan in accordance with the Ministry of the Environment, Conservation and Parks guidelines. The Subdivider shall agree in the Subdivision Agreement to implement the recommended noise control measures. The agreement shall contain a full and complete reference to the noise report (i.e., author, title, date, and any revisions/addenda thereto) and shall include any required warning clauses identified in the acoustic report. The Subdivider shall provide the Region with a copy of the Subdivision Agreement containing such provisions prior to final approval of the plan.
4. Prior to the finalization of this plan of subdivision, the Subdivider must provide satisfactory evidence to the Regional Municipality of Durham in accordance with the Region's Site Contamination Protocol to address site contamination matters. Such evidence may include the completion of a Regional Reliance Letter and Certificate of Insurance. Depending on the nature of the proposal or the findings of any Record of Site Condition (RSC) Compliant Phase One Environmental Site Assessment (ESA), an RSC Compliant Phase Two ESA may also be required. The findings of the Phase Two ESA could also necessitate the requirement for an RSC through the Ministry of the Environment, Conservation and Parks, accompanied by any additional supporting information.
5. The Subdivider shall submit plans showing any proposed phasing to the Region for review and approval if this subdivision is to be developed by more than one registration. Block 'D' is to be conveyed to the Region for road widening purposes.

6. The Subdivider shall grant to the Region, any easements required to provide Regional services for this development and these easements shall be in locations and of such widths as determined by the Region.
7. The Subdivider shall provide for the extension of such sanitary sewer and water supply facilities which are external to, as well as within, the limits of this plan that are required to service this plan. In addition, the Subdivider shall provide for the extension of sanitary sewer and water supply facilities within the limits of the plan which are required to service other developments external to this subdivision. Such sanitary sewer and water supply facilities are to be designed and constructed according to the standards and requirements of the Regional Municipality of Durham. All arrangements, financial and otherwise for said extensions are to be made to the satisfaction of the Regional Municipality of Durham and are to be completed prior to final approval of this plan.
8. Prior to entering into a Subdivision Agreement, the Regional Municipality of Durham shall be satisfied that adequate water pollution control plant and water supply plant capacities are available to the proposed subdivision.
9. The Subdivider shall satisfy all requirements, financial and otherwise, of the Regional Municipality of Durham. This shall include, among other matters, the execution of a Subdivision Agreement between the subdivider and the Region concerning the provision and installation of sanitary sewers, water supply, roads, bridge works and other services.
10. The plan shall be subject to potential redline revision to the satisfaction of the Central Lake Ontario Conservation Authority in order to confirm an appropriate setback to development from the shoreline as part of Blocks B and C.
11. That prior to any on-site grading or construction or final approval of the plan, the Subdivider shall submit to, and obtain approval from, the Town of Whitby and Central Lake Ontario Conservation Authority for reports describing the following:
  - a) The intended means of conveying stormwater flow from the site, including use of stormwater techniques which are appropriate and in accordance with provincial guidelines; The stormwater management systems must be designed and implemented in accordance with the recommendations of the Pringle Creek Master Drainage Study.
  - b) A peer review of the Dockside Coastal Assessment (June 2017) prepared by Shoreplan Engineering Limited completed by a qualified coastal engineer to the satisfaction of Central Lake Ontario Conservation Authority.
  - c) The intended means to floodproof the developable lands to result in the provision of safe access/egress and no negative impact to any adjacent lands. This should include the results of the approved detailed design of

the Brock Street Bridge Environmental Assessment, as well as any required improvements to Water Street to provide safe access/egress.

- d) The intended means to maintain appropriate water balance to the adjacent hydrologic features (e.g., wetlands and watercourse) as part of this development.
  - e) The intended means whereby groundwater recharge shall be maintained at pre-development levels over the site, especially within Ecologically Sensitive Groundwater Recharge Areas (ESGRA's) through the use of Low Impact Development measures (LID's). LID's shall be designed to the satisfaction of the Central Lake Ontario Conservation Authority. Where infiltration trenches are proposed, the design shall be supported with insitu infiltration tests.
  - f) A long-term monitoring plan to evaluate the effectiveness of LID measures being utilized on the site for a minimum of two years, or continued monitoring until monitoring results are available from 4 rain events greater than 15mm, and 2 rain events greater than 25mm.
  - g) The intended means whereby erosion and sedimentation and their effects will be minimized on the site during and after construction, in accordance with provincial guidelines. The report must outline all actions to be taken to prevent an increase in the concentration of solids in any water body because of on-site, or other related works.
  - h) A detailed riparian restoration plan, including the design of the waterfront promenade.
  - i) A detailed shoreline protection plan, approved by the Department of Fisheries and Oceans under the Fisheries Act.
  - j) Landscape restoration and buffer planting plans.
  - k) The intended means whereby recommendations within the Environmental Impact Study (CIMA April 2018) related to Aquatic Habitat Enhancement, Bird Friendly Building Design, Landscaping/Streetscaping, Homeowner Education and Road Signage will be incorporated into the building and site design.
  - l) The intended means to develop and implement a monitoring program for bird and building interactions.
12. The Subdivider shall covenant and agree in the Subdivision Agreement or in the Pre-Servicing Agreement, whichever comes first, that:
- a) A report assessing the flood hazard, shoreline stability and erosion risk will be submitted to CLOCA which demonstrates, to CLOCA's satisfaction,

that the completion of the following activities during the Brock Street Bridge removal and replacement process, including prior to removal, will not affect the control of flooding, erosion, or in the event of a natural hazard, will not jeopardize the health or safety of persons or result in the damage or destruction of property:

- i) any proposed earthworks, grading, placing of fill or removal of fill within Blocks A and B
- ii) below ground servicing infrastructure within Blocks A and B
- iii) below ground building construction within Blocks A and B

No earthworks, grading, placing of fill, removal of fill, below ground servicing or below ground building construction shall be undertaken until CLOCA is satisfied with this report, and the Town shall not issue its approval for any such site works until CLOCA has notified it in writing of satisfaction of this condition.

- b) The flood hazard, shoreline stability and erosion report will provide guidance to the satisfaction of CLOCA on the required timing of implementation of all shoreline stabilization works in relation to the following construction activities and implementation of the required stabilization works will coincide with the recommended timeline.
  - i) any proposed earthworks, grading, placing of fill or removal of fill within Blocks A and B
  - ii) below ground servicing infrastructure within Blocks A and B
  - iii) below ground building construction within Blocks A and B

13. The Subdivider shall covenant and agree in the Subdivision Agreement and in the Site Plan Agreement, whichever comes first, that:

- a) Full building permits for above ground structures will not be issued until such time as the commissioning date for the replacement Brock Street Bridge, in accordance with the approved Environmental Assessment Report, has been confirmed in writing by the Region of Durham or Town of Whitby as the case may be, and, the Subdivider has provided written confirmation with an accompanying land survey to CLOCA that the property has been floodproofed in accordance with a CLOCA approved floodproofing plan and safe access for vehicular and pedestrian traffic is available to the satisfaction of the Central Lake Ontario Conservation Authority.
- b) Occupancy permits for any building or structure will not be issued until such time as the replacement Brock Street Bridge is operational and accessible to the public.

14. The Subdivider shall covenant and agree in the Subdivision Agreement and in the Site Plan Agreement that all shoreline protection works, aquatic habitat enhancement and riparian restoration construction and plantings shall be completed prior to the issuance of any above ground building permits, to the satisfaction of the Central Lake Ontario Conservation Authority, and the Town shall not issue its approval for building permits for any such site works until CLOCA has notified it in writing of satisfaction of this condition.
15. The Subdivider shall obtain all necessary permits from Central Lake Ontario Conservation Authority required through Ontario Regulation 42/06 of the Conservation Authorities Act.
16. The Subdivider shall satisfy all financial requirements of the Central Lake Ontario Conservation Authority. This shall include Application Processing Fees and Technical Review Fees owing as per the approved Authority Fee Schedule.
17. Blocks B and C (i.e., the Waterfront Walkway and Open Space Water Lot) shall be dedicated to an appropriate public body.
18. The subdivision agreement between the Subdivider and the Town of Whitby shall contain, among other matters, the following provisions:
  - a) The Subdivider agrees to develop Block A through site plan control in accordance with the recommendations within the Environmental Impact Study (CIMA, April 2018) to the satisfaction of CLOCA.
  - b) The Subdivider agrees to carry out the works referred to in Condition 11 a) to l) to the satisfaction of the Central Lake Ontario Conservation Authority.
  - c) The Subdivider agrees to maintain all stormwater management and erosion and sedimentation control structures operating and in good repair during the construction period, in a manner satisfactory to the Central Lake Ontario Conservation Authority.
  - d) The Subdivider agrees to advise the Central Lake Ontario Conservation Authority 48 hours prior to commencement of grading or the initiation of any on-site works.

In order to expedite clearance of Conditions 12, 13, 14 & 18 a copy of the fully executed subdivision agreement between the area municipality and the subdivider should be submitted to the Authority.

19. That parkland dedication for the proposed revised development plan shall be satisfied as a combination of land through the dedication of Block B, Parkland / Waterfront Walkway to the Town and the Subdivider being responsible to undertake the design, external agency approvals and construction of the landscape elements and amenities, including the trail and trail connections, within Block B, Parkland / Waterfront Walkway to the satisfaction of the Town.

20. Prior to the conveyance of Block B, Parkland / Waterfront Walkway the Subdivider shall provide to the Town for its approval, an engineering study dealing with the shoreline stability, soil contamination from past uses, condition of existing shore wall including the location of all tiebacks, and vegetation to ensure shoreline stability, discourage geese and minimize maintenance.
21. Block B, Parkland/Waterfront Walkway shall be provided to the Town free and clear as parkland dedication, satisfying the standards for grading, drainage, amenities, and other requirements as stipulated in the Subdivision Agreement.
22. Block C, Open Space Water Lot shall be retained by the Subdivider until future discussions with the Town of Whitby are undertaken to determine the ownership and use of the block.
23. The Subdivider shall be responsible to supply and install temporary signage which meets accessibility standards for users of the Waterfront Trail during temporary closures for construction activities.
24. The development site is located in an area known to attract migratory birds. The Parks Division requires that an Environmental Impact Study be undertaken to establish recommendations to reduce bird injury and fatalities.
25. The Parks Division requests a Shoreline Management Plan to address two important issues:
  - a) Coastal Engineering and Soil Report: To analyze shore stability, soil contamination from past uses, the condition of the existing shore wall and the cost to repair or replace it, including estimated future replacement costs, areas prone to erosion, and any other issues pertinent to the site's safety and capability to accommodate the uses proposed in the revised plan of subdivision.
  - b) Landscaping treatment at the shoreline must be designed to CMS approval to discourage geese and to require minimal maintenance. The shoreline at Windsor Bay Park may be a good model for reference where geese barriers were installed.
26. That the Subdivider ensure drawings are submitted to scale.
27. That the Subdivider revise the Draft Plan to extend further south the proposed road widening, Block 'D', to the south limit of Block 'B' (parkland/waterfront walkway).
28. Parkland/Waterfront walkway Block 'B' includes sections of existing Steel Sheet Pile (SSP) walls. Should Block 'B' be conveyed to the Town, the Subdivider shall provide an acceptable remediation design of the SSP walls to the Town's satisfaction. The design shall be peer reviewed and approved by the Town prior to the transfer of Block 'B' to the Town.

29. The Town is currently in the process of undertaking a Municipal Class Environmental Assessment (EA) for the Water Street corridor to ensure future mobility needs are safely accommodated and to address drainage issues. The limits of the EA include the frontage of the subject development along Brock Street. Subject to the final recommendation of the EA, should modifications be recommended at the entrance points to the subject development to address operational needs/issues (which may include a roundabout solution), the Subdivider will commit to working with the Town in the implementation of such improvements.
30. Confirmation of a recent Record of Site Condition (RSC) shall be provided to the Town's satisfaction.
31. The Subdivider shall prepare and implement the following reports and plans in accordance with the applicable guidelines to the satisfaction of the agencies noted:

Report	Town	Region	CLOCA
Environmental Impact Study and Addendums	Yes	Yes	Yes
Functional Servicing Report and Addendums	Yes	Yes	Yes
Geotechnical Investigation	Yes	Yes	Yes
Hydrogeological Study	Yes	Yes	Yes
Noise Feasibility Study	Yes	Yes	
Coastal Assessment	Yes		Yes
Phase One and Two Environmental Site Assessment	Yes	Yes	
Stage 1 Archaeological Assessment	Yes	Yes	
Transportation Study and Addendums	Yes	Yes	
Urban Design Guidelines	Yes		

32. The Subdivider shall provide a Firebreak Lot/Block Plan to the satisfaction of the Whitby Fire and Emergency Services Department.
33. The Subdivider shall satisfy all requirements, financial and otherwise, of the Town of Whitby, including among other matters, the execution of a subdivision agreement between the Subdivider and the Town of Whitby concerning the provision and installation of services, drainage, and other local services.

34. Prior to final approval of this plan for registration, the Town of Whitby shall be advised in writing by:
- a) The Regional Municipality of Durham, how conditions 2, 3, 4, 5, 6, 7, 8 and 9 have been satisfied.
  - b) The Central Lake Ontario Conservation Authority, how conditions 10, 11, 12, 13, 14, 15, 16, 17 and 18 have been satisfied.

**Note**

Please be advised that the approval of this draft plan will lapse three (3) years after the date the plan is draft approved. The approval may be extended pursuant to Section 51(33) of the Planning Act, but no extension can be granted once the approval has lapsed.

If final approval is not given to this plan within three (3) years of the draft approval date, and no extensions have been granted, draft approval will lapse under 51 (32) of the Planning Act, RSO, 1990, as amended. If the owner wishes to request an extension to the draft approval, a written request and explanation must be received by the Commissioner of Planning and Development 120 days prior to the lapsing date. A processing fee in effect at the time of request, shall apply.