

FOR OFFICE USE ONLY

LT 110145  
CERTIFICATE OF RECEIPT  
RECEIVED  
MUNICIPALITY OF WELLAND  
'97 09 11 15 27

New Property Identifiers

Additional:  
See  
Schedule

Executions

Additional:  
See  
Schedule

(1) Registry

Land Titles

(2) Page 1 of 36 pages

(3) Property Identifier(s)

Block

Property

Additional:  
See  
Schedule

(4) Nature of Document  
Notice of Subdivision Agreement

(5) Consideration

Dollars \$

(6) Description  
Parcel Plan-1, Section 59M- 240  
Lots 1 - 7, inclusive, and  
Blocks 8 - 14, inclusive and Stonegate Place  
Plan 59M- 240  
Town of Pelham  
Regional Municipality of Niagara

(7) This Document Contains:

(a) Redescription  
New Easement  
Plan/Sketch

(b) Schedule for:

Description

Additional Parties

Other

(8) This Document provides as follows:  
The Corporation of the Town of Pelham has an unregistered estate, right, interest or equity in the land registered in the name of 978824 Ontario Limited, and hereby applies under Section 71 of the Land Titles Act for the entry of a Subdivision Agreement.

Continued on Schedule

(9) This Document relates to instrument number(s)

(10) Party(ies) (Set out Status or Interest)

Name(s)

Signature(s)

Date of Signature  
Y M D

978824 ONTARIO LIMITED

(Owner)

(11) Address for Service

P. O. Box 4647, Brantford, Ontario, N3T 6J7

(12) Party(ies) (Set out Status or Interest)

Name(s)

Signature(s)

Date of Signature  
Y M D

THE CORPORATION OF THE TOWN OF PELHAM

(Town/Applicant)

by its solicitors

BROOKS, BIELBY & SMITH

PER: [Signature]

(R. Bruce Smith)

1997 09 10

(13) Address for Service

P. O. Box 400, Fonthill, Ontario, L0S 1E0

(14) Municipal Address of Property

not assigned

(15) Document Prepared by:

Brooks, Bielby & Smith  
247 East Main Street  
Welland, Ontario  
L3B 3X1

FOR OFFICE USE ONLY

Fees and Tax

Registration Fee

Total

**STONEGATE SUBDIVISION  
SUBDIVISION AGREEMENT  
TABLE OF CONTENTS**

<u>Title</u>	<u>Clause #</u>
Definitions	1
Registration	2
Transfer to Town for Municipal Purposes	3
Engineering Services and Inspection	4
Field Representation by Town Consulting Engineer & Engineering Fees	5
Regional Inspection	6
Construction of Services	7
Contractors	8
Materials	9
Stripping Topsoil and Tree Removal	10
Rough Grading Roads	11
Rough Grading Lots	12
Watermains	13
Sanitary Sewer	14
Storm Sewer	15
Lot Grading Plan	16
Natural Drains	17
Storm Water Management	18
Ministry of Natural Resources/Ministry of Environment & Energy/ Niagara Escarpment Commission	19
Niagara Peninsula Conservation Authority	20
Niagara Peninsula Conservation Authority/ Niagara Escarpment Commission/Ontario Hydro	21
Replacing Utilities, Etc.	22
Hydro, Telephone, Cable TV & Gas Service	23
Fencing	24
Walkway	25
Decorative Wall	26
Street and Traffic Signs	27
Liability Insurance	28
Indemnification	29
Re-staking Lots on the Plan	30
Cleaning Sewers After Road Construction Prior to Building Permit Issuance	31

Definition of Primary & Secondary Services	32
Maintenance	33
Building Permits & Occupancy	34
Covenants to Run with the Land	35
Preliminary Engineering and Planning Costs	36
Letter of Credit	37
Construction Lien Act Security Deposit	38
Local Improvement Charges	39
Payment for Reinstatement of Existing Roads	40
Development Charges	41
Taxes	42
Legal Costs	43
Cash Deposits & Letter of Credit	44
Return of Portion of Deposit	45
Landscaping	46
Elevations	47
Recommendation to the Region	48
Schedules	49

THIS INDENTURE made in triplicate this 11th day of September, 1997 A.D.

BETWEEN:

978824 ONTARIO LIMITED

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 and have applied, or propose to apply to the Regional Municipality of Niagara (hereinafter called the Region) for approval of a plan of subdivision thereof, hereinafter called "The Plan" for the purpose of registering the same in the Land Registry Office (No. 59), Land Titles Division of Niagara South;

AND WHEREAS the Town requires the Owner, before registration of the proposed plan of subdivision, to agree to pay for the construction and installation of certain municipal services hereinafter described to serve such subdivision or that part of such subdivision for which approval is sought and to agree to the other provisions herein contained;

NOW THEREFORE THIS INDENTURE WITNESSETH that in consideration of the Town approving the said proposed plan of subdivision, and in consideration of the sum of One Dollar (\$1.00) of lawful money of Canada now paid by the Owner to the Town (the receipt thereof is hereby acknowledged), the Parties hereto mutually covenant and agree as follows:

1. DEFINITIONS in this agreement:

- (a) "TOWN CLERK" shall mean the Clerk of the Corporation of the Town of Pelham.
- (b) "COUNCIL" shall mean the Council of the Corporation of the Town of Pelham.
- (c) "DIRECTOR" shall mean the Director of Operations of the Corporation of the Town of Pelham.
- (d) "TOWN CONSULTING ENGINEER" shall mean the Consulting Engineer of the Corporation of the Town of Pelham as appointed by Council.
- (e) "TREASURER" shall mean the Director of Financial Services of the Corporation of the Town of Pelham.
- (f) "CHIEF BUILDING OFFICIAL" shall mean the Director of Building and Enforcement Services of the Corporation of the Town of Pelham.

(g) "REGION" shall mean the Regional Municipality of Niagara.

(h) "PROFESSIONAL ENGINEER" shall mean a Professional Engineer registered with the Professional Engineers of Ontario.

(i) "OWNER" shall mean 978824 Ontario Limited and its successors and any person or persons hereafter acquiring title or interest in all or any part of the lands described in Schedule "A".

2. REGISTRATION:

The Owner covenants and agrees:

(a) to register this agreement against the lands described in Schedule "A".

(b) to register "The Plan" in the Land Registry Office (No. 59), Land Titles Division of Niagara South, within one (1) month after approval of "The Plan" is granted by the Region.

3. TRANSFER TO TOWN FOR MUNICIPAL PURPOSES:

The Owner shall:

(a) pay to the Town, as payment of the cash-in-lieu of the conveyance of land for park purposes to the Town pursuant to section 51(8) of the Planning Act, the sum of \$30,500.00.

(b) by certificate on the plan, dedicate to the Town the road allowances; and,

(c) by certificate on the plan, dedicate to the Town the daylighting triangles at the intersection of Stonegate Place and Hurricane Road.

(d) transfer to the Town, Blocks 8 and 12 for storm water management, walkways and related purposes.

(e) grant by way of easement to the Town those areas as described in Schedule "B".

(f) transfer to the Town, Blocks 13 and 14 for one foot (.3048 m) reserves.

The Owner covenants and agrees that all transfer of land to the Town as set out above shall be free and clear of all encumbrances.

4. ENGINEERING SERVICES & INSPECTION:

(a) The works herein shall be undertaken by a Professional Engineer. The Owner shall engage, at the Owner's expense, the services of Professional Engineers to perform the following engineering services, subject to the approval thereof by the Town:

- (i) preliminary investigation;
- (ii) preparation of construction drawings and design criteria for all municipal services;
- (iii) detailed estimates of construction costs;
- (iv) contract drawings and specifications;
- (v) application to all necessary approving agencies requiring engineering approvals;
- (vi) calling of tenders if so requested by the Owner;
- (vii) analysis of bids and recommendations to the Owner;
- (viii) setting out the work;

- (ix) supervision of construction; and
- (x) preparation of progress certificates on the works undertaken by the Owner and supply copies of each progress certificate to the Director.

(b) The Owner shall file with the Director prior to registration of this agreement, written confirmation indicating the Professional Engineer who will be providing the following services:

- (i) that they have been engaged by the Owner to supervise the work per clause 4(a);
- (ii) that they will provide the Director, prior to the acceptance of the works by the Director, on behalf of the Town, with a complete set of mylars or approved reproducible copies and CADD files of the works as recorded pursuant to this agreement, as well as detailed engineering data. The reproducible drawings or detailed engineering design shall be in the following form:
  - (1) drawings shall be metric on plan-profile mylar, A1 metric size, sheets and ink lettering;
  - (2) title blocks to be placed in lower right-hand corner or right side and shall indicate nature of work, location, limits and scales;
  - (3) a complete copy of as-recorded design details of storm and sanitary sewer drainage areas, sizes and layouts which shall be based on design formula provided by the Director;
  - (4) plan-profiles shall be fully detailed and where reference is made to other construction drawings, specific reference to those drawing numbers shall be made;
  - (5) horizontal ties shall be made to property lines;
  - (6) levels shall be to datums and all field surveys shall be tied into Geodetic Bench Marks and shall be indicated on the drawings.
- (iii) that they will provide a certificate at the completion of the construction indicating that the works have been installed according to the approved design drawings and contracts.

5. FIELD REPRESENTATION BY TOWN CONSULTING ENGINEER & ENGINEERING FEES:

(a) The Town Consulting Engineer will have a Field Representative on site from time to time and as it shall be deemed necessary to review works undertaken by the Owner pursuant to this agreement. The Owner agrees to pay to the Town the cost of the field representation, as and when billed for all wages in accordance with the Professional Engineers of Ontario guidelines for the duration of the construction.

(b) The Owner shall deposit, with the Town, cash in an amount equal to the estimated fees and disbursements billed to the Town by its Engineers for services performed by its Consulting Engineer in connection with the subdivision including the costs of administration, engineering and field representation. All such fees shall be as set out in the Schedule of Fees for Consulting Engineers Services recommended by the Professional Engineers of Ontario.

(c) The Town Consulting Engineer, as part of their duties, shall pick up all measurements of pipe and material installed as well as the location of manholes, catchbasins and laterals.

(d) The Owner shall deposit, with the Town, cash in the amount of \$17,000.00. The Owner shall be invoiced monthly, or at the Town's discretion, for the costs associated with field representation by the Town's Consulting Engineer. Payment for such invoices shall be paid within 30 days of the date of mailing. Failure to pay such invoice(s) may result in the termination of field representation by the Town. Upon acceptance of the subdivision by the Town, the Treasurer shall, from out of the monies on deposit, pay firstly any engineering fees and maintenance costs still owing and shall return the balance, if any, without interest to the Owner.

(e) Any work performed by the Town Consulting Engineer pursuant to the provisions of this agreement shall not be deemed to be an assumption by the Town Consulting Engineer of any liability of any nature or kind in connection with such work or a release of the Owner by the Town of the obligations of this agreement.

6. REGIONAL INSPECTION:

The Regional Municipality of Niagara shall have the right, at any time, to inspect any of the works in progress, at no cost to the Owner.

7. CONSTRUCTION OF SERVICES:

The Owner agrees to construct and pay the whole cost of such construction and materials required for all of the works referred to in Schedules "C", "D", "E", "F", "G", "H", "I", "J", "K", "L", "M", "N", "O", "P", "Q" and "R" attached, and in accordance with the conditions and specifications contained in such Schedules.

8. CONTRACTORS:

(a) Before commencement of any works, the Owner shall show satisfactory proof to the Director of Operations, that the proposed contractors or sub-contractors, whom the Owner has retained to construct works described in this agreement or submit any part of the works, have sufficient and valid Liability Insurance Policies, indicating that the Town of Pelham, Regional Municipality of Niagara and the Town Consulting Engineer are named insured; a Certificate from the Workers' Compensation Board showing that the contractor is in good standing; and satisfactory evidence that the contractor is qualified, experienced and has equipment to successfully complete the works. Any contractor employed by the Owner shall, as a condition of such employment, be approved by the Director of Operations.

(b) The Owner shall provide to the Director a copy of their contractor's Performance and Labour Material bonds guaranteeing all of the construction required by this agreement. The Owner shall also provide a copy of the contractor's liability insurance of not less than \$2,000,000.00 per occurrence indemnifying the Contractor, Owner, Town and its agents, Regional Municipality of Niagara and Town Consulting Engineer. The bonds and insurance shall be in force for a period of twelve months after acceptance by the Owner's Professional Engineer of all such construction. Each bond shall be in the amount of 100 percent (100%) of construction value of all of the municipal services.

9. MATERIALS:

All the works required hereunder shall be done and performed to the satisfaction of the Director, and all materials required for the said works shall be supplied to the specifications and directions of the Director.

10. STRIPPING TOPSOIL AND TREE REMOVAL:

(a) The Owner shall not remove any topsoil from the lands described in Schedule "A" attached hereto without first obtaining written approval from the Director.

(b) The Owner shall remove from all road allowances, any trees, brush, growth, or surplus, or other material as may be designated by the Director and further shall remove from all the lands any unkempt, diseased or infested trees, vines or bushes to an approved disposal site. If such removal is not carried out within fourteen (14) days of written notice delivered to the Owner by the Director, the Director may cause the unkempt, diseased or infested trees, vines or bushes to be removed and the Owner agrees to pay to the Town the cost incurred thereby.

11. ROUGH GRADING ROADS:

The Owner agrees to rough grade all roads connected with the development of the land to the Director's specifications prior to the installation or construction of water and sewer systems and other under ground systems as may be required by this agreement. The Owner further agrees to keep boulevards and easements clear and free of all material and obstructions which may interfere with the construction of all municipal services.

12. ROUGH GRADING LOTS:

The Owner agrees not to remove topsoil or vegetation from the lots prior to making applications for building permits unless approval is otherwise granted by the Director.

13. WATERMAINS:

The Owner shall be responsible for the design and construction of watermains including proper looping to service the development for domestic and fire flows in accordance with Schedule "E".

14. SANITARY SEWER:

(a) The Owner shall design and construct a sanitary sewer system to serve the development in accordance with Schedule "C" to this agreement and the approved engineering drawings.

(b) The Owner shall provide, to the Town, a Television Inspection Report prior to occupancy of the home as provided for in the Ontario Building Code and to the satisfaction of the Director.

15. STORM SEWER:

(a) The Owner shall be responsible for determining and providing a storm sewer system with appropriate drains and outlets adequate for the drainage area and for the future servicing of such area as shown on the engineering drawings. The Owner shall remain responsible for the impact on the surrounding drainage area and on the natural water occasioned by the operation of the storm sewers.

(b) The Owner shall be required to construct the storm water management facilities (detention pond facilities) and siltation devices around the site extremities and such facilities shall be completed and operational prior to any other site servicing or grading being commenced. The storm water management facilities shall be sodded in accordance with Schedule "G".

16. LOT GRADING PLAN:

(a) The Owner shall be responsible for providing, at the Owner's expense, a lot grading plan for all lands described in Schedule "A" attached to meet with the approval of the Director of Operations. The lot grading plan shall show the intended direction of flow of storm water to, within and from each lot, key elevations (lot corners, aprons, garage, centre line of road, catchbasins and swales) and swale/ditch/road grades. Building restrictions shall be imposed upon each lot and included in each deed prohibiting a subsequent owner thereof from altering such flow or from impeding the same to an extent sufficient to cause ponding in another lot. The said drainage plan shall be attached to this agreement as Schedule "H". All elevations

shown on Schedule "H" shall be maintained after construction of any building or structure upon said lands affected, and this provision shall be included in the building restrictions hereinbefore referred to. Minor changes to the lot grading plan may be permitted subject to the approval of the Director of Operations.

(b) The Owner agrees that prior to the issuance by the Town of a building permit for any lot or block, it shall have prepared, by an Ontario Land Surveyor or by a Professional Engineer, a detailed individual block grading plan which shall be in conformity with the approved subdivision lot grading plan and submitted to and approved by the Owner's Consulting Engineer and subsequently forwarded to the Town as an attachment to the building permit application.

Further, the Owner's Consulting Engineer shall prepare, prior to final acceptance a Lot Grading Conformance Certificate for each lot within the plan of subdivision certifying that the grading has been completed in accordance with the approved detailed individual lot grading plan.

17. NATURAL DRAINS:

The Owner shall not change or do any work that will prejudicially affect any natural watercourse or drainage ditch without making full and proper provisions for the continuance of such drainage facilities. The proposed drainage works shall be subject to the approval of the Director of Operations. In the event changes are made, after having been approved by the Director of Operations, the Owner nevertheless shall be solely responsible for any damage caused thereto, and shall indemnify and save harmless the Town therefrom.

18. STORM WATER MANAGEMENT:

The Owner shall provide a storm water management facility to maintain storm water quantity flows to pre-development levels for the 2, 5, 25 and the Regional return storm. Storm water quality management practices shall be provided in accordance with the policies of the Ministry of Natural Resources and Ministry of Environment and Energy.

19. MINISTRY OF NATURAL RESOURCES; MINISTRY OF ENVIRONMENT & ENERGY AND NIAGARA ESCARPMENT COMMISSION:

(a) That prior to any grading or construction, the Owner shall submit a stormwater management plan for review and approval by the Town of Pelham, the Ministry of Natural Resources, the Ministry of Environment and Energy and the Niagara Escarpment Commission.

(b) The Owner shall design and implement on-site erosion and sediment control in order to meet the requirements of the Federal Fisheries Act to the satisfaction of the Ministry of Natural Resources.

(c) The Owner shall 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 Ministry of Natural Resources.

20. NIAGARA PENINSULA CONSERVATION AUTHORITY:

The Owner agrees to provide a geotechnical study investigation to be undertaken by a qualified soils engineer to:

(a) specifically analyze the stability of the north and east slopes, both pre and post development, to determine if Block 9 is suitable for the proposed development and if so to recommend measures to minimize the potential for slope instability and erosion and;

(b) identify the slope and stabilization techniques to be implemented including details pertaining to the type and amount of fill material required through the proposed cut and fill activities.

(c) This analysis shall be submitted to the Town of Pelham and the Niagara Peninsula Conservation Authority for review and approval.

21. NIAGARA PENINSULA CONSERVATION AUTHORITY/NIAGARA ESCARPMENT COMMISSION/ONTARIO HYDRO:

The lot grading indicating existing and proposed grades shall be submitted to the Niagara Peninsula Conservation Authority, the Niagara Escarpment Commission, the Town of Pelham and Ontario Hydro for review and approval.

22. REPLACING UTILITIES, ETC.:

The Owner shall assume complete responsibility and make all necessary arrangements for the moving or disturbance of any water, sewer, hydro-electric, gas or telephone, pipes, conduits, wires or pole lines, or any other public utility works as required or approved by the Director, and shall be solely responsible for any damage caused to the said pipes, conduits, wires, pole lines, hydrants or other works.

23. HYDRO, TELEPHONE, CABLE TV & GAS SERVICE

The Owner shall be responsible for providing, at the Owner's expense, a hydro, telephone, cable TV and gas service to each building lot and block in accordance with Schedules "J", "K" and "L".

24. FENCING:

(a) The Owner shall pay for the whole cost of and construct a 1.53m high black vinyl chain link fence along the entire west and east side of Block 12 in accordance with the Town's Fencing By-law.

(b) The Owner shall pay for the whole cost of and construct a 1.53m high black vinyl chain link fence along the entire perimeter of Block 8 together with appropriate compatible gate.

(c) The Owner shall pay for the whole cost of and construct a 1.80m high chain link fence along the north property line along Ontario Hydro owned land from the west limit of Block 9 to a distance approximately 117m east.

25. WALKWAY:

The Owner shall pay for the whole cost of and construct a 3.0m wide concrete sidewalk along the entire length of Block 12.

26. DECORATIVE WALL:

(a) The Owner shall submit a detailed plan of the decorative masonry wall and associated landscaping required along the Hurricane Road frontage for the review and approval of the Town in accordance with Schedule "R".

(b) The Owner shall pay for the whole cost of and construct the decorative masonry wall and associated landscaping along the Hurricane Road frontage. The said wall shall be located within the Owner's land. The Owner shall cause to be registered against lot 1 and 10-1 within the subdivision a transfer restriction and restrictive covenant requiring maintenance of the said wall at all times by the Owner.

27. STREET AND TRAFFIC SIGNS:

The Town shall supply and erect street and traffic signs within the development at the Owner's expense. The signs shall conform to the present Town standard. The Owner's cost per installation is \$250.00 excluding applicable taxes and the Owner will be invoiced accordingly prior to acceptance of the subdivision.

28. LIABILITY INSURANCE:

Before commencing any of the work provided for herein, the Owner shall supply the Town with a Liability Insurance Policy (with no exclusions) in a form satisfactory to the Town, and in an amount not less than Two Million Dollars (\$2,000,000.00) per occurrence, indemnifying the Town, the Town's employees and consultants, until the issue of the certificate referred to in clause 29, from any loss arising from claims for damage, injury or otherwise in connection with the work done by the Owner, the Owner's employees, servants or agents, or any independent contractor to serve the lands described in Schedule "A" attached hereto. The Owner shall submit to the Town evidence from the Insurer that the premium for the said Policy has been paid for a period of one (1) year and so on from year to year until the subdivision is accepted by the Town.

29. INDEMNIFICATION:

The Owner hereby agrees and undertakes to save harmless and keep indemnified the Town, its successors and assigns from and against all manner of actions or claims for loss, costs, charges, damages, injuries, expenses or otherwise, arising before the issue of the certificate referred to in clause 28 hereof, in connection with the work required to be done herein by the Owner, his contractors, servants or agents during the period of construction and during the guarantee period provided in clause 28 of this agreement.

30. RE-STAKING LOTS ON THE PLAN:

Upon completion of all works required under this agreement and prior to the issuance of the final certificate, the Owner shall be responsible for re-staking all Standard Iron Bars (SIB) in the subdivision. It is further understood and agreed that no lot may be severed for sale or conveyance until such sale or conveyance has been approved, pursuant to the provisions of the Planning Act.

31. CLEANING SEWERS AFTER ROAD CONSTRUCTION

Prior to the acceptance of the underground services and prior to acceptance of the subdivision services [clause 32(C)], the Owner shall clean and video camera the storm and sanitary sewers serving the lands described in Schedule "A" attached hereto.

32. (A) DEFINITION OF PRIMARY & SECONDARY SERVICES:

For the purpose of this agreement, primary and secondary services shall mean as follows:

(a) Primary Services:

- (i) sanitary sewers and appurtenances;
- (ii) drainage facilities sufficient, in the opinion of the Director of Operations, to provide safety and protection from undue inconvenience to residents and their visitors, both within and beyond the area of land which is the subject of this agreement which may include storm sewers, storm water detention ponds, temporary storm water detention facilities, drainage ditches and swales, and appurtenances;

- (iii) roadways,
  - (a) of final design width,
  - (b) full granular depth,
  - (c) curb and gutter,
  - (d) base coarse asphalt,
  - (e) all manholes and catch basins including asphalt ramping;
- (iv) fully functioning and pressurized watermain, hydrants and appurtenances;
- (v) rough grading of lots to within  $\pm 300\text{mm}$  of final grade;
- (vi) fencing of detention pond.

(b) Secondary Services:

All services as required not considered "Primary Services". These include top coarse roadway asphalt, driveway aprons, sidewalks, boulevard sodding, trees, fencing, electrical distribution, street lighting, etc. where applicable.

32. (B) ACCEPTANCE OF UNDERGROUND SERVICES:

(a) The Town agrees to accept the underground services (storm and sanitary sewers and watermain) two (2) years after the completion of the primary services as described in clause 32(A) upon receiving a written request from the Owner.

(b) Upon receipt of the list of deficiencies as issued by the Director of Operations, the Owner shall forthwith proceed to rectify such deficiencies and upon the Director being satisfied that such deficiencies have been rectified, the Director shall recommend to Town Council that the underground services be accepted by the Town and the Town shall then pass the appropriate by-law assuming ownership and responsibility for the underground services.

(c) Notwithstanding the acceptance of the underground services, the Owner agrees to clean and flush the sewers and watermain before the expiration of the one (1) year maintenance period as described in clause 32(C)(c).

32. (C) ACCEPTANCE OF SUBDIVISION SERVICES:

(a) The Town of Pelham agrees to pass the necessary by-law to authorize acceptance of all the subdivision services immediately following:

- (i) Completion of the one year maintenance period following installation of primary and secondary services; and,
- (ii) Completion of construction of 80% of the dwelling units in the subdivision.

(b) Upon completion of the primary and secondary services and completion of construction of eighty (80%) percent of the dwelling units, the Owner shall have the right to request that such services be placed on the one (1) year maintenance period and upon receipt of such written request, the Director of Operations shall carry out inspections of the primary and secondary services as the Director of Operations deems appropriate. Upon completion of such inspections, the Director of Operations shall issue a certificate indicating any deficiencies discovered during such inspections and the Owner shall rectify all such deficiencies. Upon rectification of all deficiencies the Director of Operations shall recommend to Town Council that the subdivision services be placed on the one (1) year maintenance period.

(c) The Owner shall have the right following completion of the one (1) year maintenance period to request acceptance of all of the subdivision services by written request addressed to the Director of Operations. Upon receipt of such written request, the Director of Operations shall carry out an inspection of the primary and secondary services and if any deficiencies are discovered as a result of such inspection, the Director of Operations shall issue a list of deficiencies to the Owner. Upon the Owner rectifying such deficiencies to the satisfaction of the Director of Operations, the Director of Operations shall prepare a report to the Town Council recommending acceptance of the subdivision services and the Town agrees to pass the appropriate by-law accepting ownership of the subdivision.

33. MAINTENANCE:

(a) The Owner guarantees proper functioning of all of the primary and secondary services in a manner satisfactory to the Director of Operations, and undertake and agree with the Town to indemnify it from any and all costs, expenses, fees, disbursements or charges of any manner whatsoever whether directly or indirectly incurred by the Town and occasioned by the failure or partial failure of any or all of the services until final acceptance by the Town.

(b) Upon compliance with the terms of this agreement, and upon completion of all the said work in accordance with the specifications and direction of and to the satisfaction of the Director of Operations, and upon payment of all financial requirements herein, the Director of Operations, under authority of resolution of Council, shall at the expiration of the Town's maintenance period above defined, and upon written application by the Owner, issue a certificate so stating to the Owner. Upon the said certificate being issued, ownership of all the services referred to herein shall be vested in the Town.

34. BUILDING PERMITS & OCCUPANCY:

(a) The Owner agrees that, unless otherwise determined by Council, no further building permits beyond the footing and foundation stage shall be issued on any parts of the lands described in Schedule "A" attached, until the sanitary sewer, storm sewer, water service and full granular depth to base asphalt roadway are completed and operational to the satisfaction of the Director.

35. COVENANTS TO RUN WITH THE LAND:

The Owner and the Town acknowledge and agree that it is their intent that all the terms, conditions and covenants of this agreement shall run with the land and that the burden of such covenants shall be binding upon the Owner, the Owner's assigns and successors in title and owners from time to time of the lands described in Schedule "A" attached to this agreement and any part or parts thereof and that the benefit of the said covenants shall enure to the Town, and its successors in title of all roads, streets and public lands forming part of or abutting on the said lands described in Schedule "A" and the said covenants shall continue in force for a period of ten (10) years from the date of this agreement, except for clause 16 (Lot Grading Plan), and the requirements of Schedule "H", which shall be in perpetuity.

36. PRELIMINARY ENGINEERING AND PLANNING COSTS:

It is agreed that if the fees for the Town's preliminary engineering and planning are less than the amount of the monies on deposit, the balance will be returned to the Owner and if the fees for preliminary engineering and planning exceed the monies on deposit, the differences will be paid by the Owner to the Town in cash as a requirement of this agreement.

37. LETTER OF CREDIT:

(a) The Owner shall provide the Town with an irrevocable Letter of Credit from a Canadian Chartered Bank, Trust Company or Credit Union for an amount equal to 50% of the estimated costs of construction of the primary and 100% of the estimated costs of the secondary services as set out in clause 32(A) and 100% of the estimated Owner's engineering fees including all applicable taxes.

(b) The Letter of Credit shall be valid for a period of at least one year. Upon application by the Owner, the Town may reduce the amount of the Letter of Credit from time to time, provided that the security held by the Town remains at least equal to 110% of the estimated cost of the primary and secondary services still to be constructed and provided that in any event the amount of the Letter of Credit may be reduced to an amount which is not less than the greater of the following two (2) amounts:

- (i) 5% of the original value of the estimated costs of the primary and secondary services or \$50,000.00 whichever is the lesser of the two; or
- (ii) \$10,000.00.

(c) The Letter of Credit shall be automatically renewed by the Owner from year to year as necessary. Such renewal shall be confirmed at least 14 days prior to the expiry. If such a renewal is not confirmed, the Town shall draw on the Letter of Credit. At the time of final acceptance of the subdivision services by the Town, the Letter of Credit shall be returned to the Owner.

38. CONSTRUCTION LIEN ACT SECURITY DEPOSIT:

(a) In order to secure the Town with respect to its obligations under the Construction Lien Act, the Owner shall deposit with the Treasurer, upon the execution of this agreement, a Letter of Credit in the amount of 10% of the cost of the design and construction of all primary services within the subdivision as estimated by the Director. Upon the receipt of claims for liens filed pursuant to the provisions of the Construction Lien Act with respect to the construction of primary services, the Town shall be entitled to call upon, the said Letter of Credit in order to meet the Town's obligations as Owner pursuant to the provisions of the Construction Lien Act, if the Owner does not diligently discharge the Lien within thirty (30) days of its registration.

(b) The Lien Act Security Deposit may be released by the Town after completion of the primary services and upon written application to the Town, complete with all supporting documentation to the satisfaction of the Director, indicating that the developer has met all obligations under the Construction Lien Act.

39. LOCAL IMPROVEMENT CHARGES:

Not applicable.

40. PAYMENT FOR REINSTATEMENT OF EXISTING ROADS:

The land as described in Schedule "A" to this agreement abuts the existing travelled road allowance of Hurricane Road. The Owner shall deposit with the Town a Letter of Credit in the amount of \$34,000.00, being the cost of reinstating Hurricane Road as it abuts the said lands. The Owner shall be required to pay to the Town cash in the amount of \$34,000.00 upon the earlier of the first request of the Owner for a reduction of this Letter of Credit or November 30, 1997. If the Owner fails to make such payment as set out the Town shall be permitted to draw on any Letter of Credit the amount of \$34,000.00.

41. DEVELOPMENT CHARGES:

At the time of issuance of a building permit, the Owner shall pay to the Town a development charge in effect at the time of issuance of a building permit in accordance with the Development Charges by-law in effect at the time of issuance of the building permit.

42. TAXES:

The Owner agrees to pay all arrears of taxes outstanding against the property in Schedule "A" hereto annexed and pay all taxes on this property on the present basis of assessment, whether previously levied or not, until such time as the lands being subdivided have been assessed according to the Registered Plan, before final approval of the Plan is requested. The Owner further agrees that when the said lands have been re-assessed, the Owner agrees to pay all current taxes as established by the re-assessment, or any additional amounts as thereby required.

43. LEGAL COSTS:

The Owner shall pay to the Town all legal costs incurred by the Town in connection with the registration, consideration and final preparation of this document and of the plan of

subdivision. As security for the payment of these costs, the Owner shall provide a cash deposit of \$2,000.00.

44. CASH DEPOSITS & LETTER OF CREDIT:

(A) CASH DEPOSITS:

The Owner shall, prior to the execution of this agreement, deposit cash equal to the sum of:

(a) engineering fees (clause 5)	\$17,000.00
(b) preliminary engineering and planning costs (clause 36)	1,253.79
(c) the cost of power (clause 20) unless other satisfactory arrangements have been made with Ontario Hydro	
(d) cash for park purposes (clause 3)	30,500.00
(e) local improvement charges (clause 39)	N/A
(f) street and traffic sign costs (clause 27) (\$250 each installation)	
(h) legal costs (clause 42)	<u>2,000.00</u>
<b>TOTAL</b>	<b><u>\$50,753.79</u></b>

(B) LETTER OF CREDIT:

The Owner shall, prior to the execution of this agreement, deposit a letter of credit equal to the sum of:

(a) Construction of Services (clause 7)	\$230,000.00
(b) Construction Lien Act Security Deposit (clause 38)	<u>37,000.00</u>
<b>TOTAL</b>	<b><u>\$267,000.00</u></b>

(C) LETTER OF CREDIT:

(a) Payment for Reinstatement of Existing Roads (clause 40)	<u>\$34,000.00</u>
<b>TOTAL</b>	<b><u>\$34,000.00</u></b>

45. RETURN OF PORTION OF DEPOSIT:

Upon acceptance of the subdivision by the Town, the Treasurer shall, from out of monies on deposit, pay firstly any engineering fees and maintenance costs still owing; and shall return the balance, if any, to the Owner. Should the deposit provided in clauses 44(A) and 44(B) be insufficient to pay the engineering and maintenance fees or other charges payable by the Owner, the Town shall invoice the Owner for the balance and the Owner shall pay such balance within thirty (30) days of the invoice date.

46. LANDSCAPING:

(a) The Owner hereby agrees to develop the blocks and lots in accordance with Schedule "N".

(b) The Owner hereby agrees to preserve, maintain and landscape the subdivision in accordance with Schedule "N".

47. ELEVATIONS:

The Owner shall submit a typical elevation plan of the proposed dwelling units for the Town's review.



TABLE OF SCHEDULES

LEGAL DESCRIPTION	A
EASEMENTS	B
SANITARY SEWER SYSTEM	C
STORM SEWERS & SURFACE DRAINAGE	D
WATERMAINS	E
ROADWAYS	F
SODDING/SEEDING	G
LOT GRADING PLAN	H
STREET AND TRAFFIC SIGNS	I
HYDRO SERVICE	J
TELEPHONE SERVICE & CABLE TELEVISION SERVICE	K
GAS SERVICE	L
BUILDING RESTRICTIONS	M
LANDSCAPING	N
MITIGATION PLANTING PLAN	O
TREE CONSERVATION	P
STORMWATER FACILITY, DETAILS, PLANT LISTS	Q
DECORATIVE WALL	R

SCHEDULE  
" A "  
LEGAL DESCRIPTION

Parcel Plan-1, Section 59M-240  
Lots 1-7, inclusive, and  
Blocks 8-14, inclusive and Stargate Place  
Plan 59M-240  
Town of Pelham  
Regional Municipality of Niagara

SCHEDULE

" B "

EASEMENTS

The following easement required for rear yard catchbasin storm sewer lead shall be conveyed to the Town, free and clear of all encumbrances:

3m easement over Block 10 in a form and location satisfactory to the Town.

SCHEDULE  
" C "  
SANITARY SEWER SYSTEM

The Owner shall construct a sanitary sewer system or systems including all trunk sewer extensions, to proper outlets or approved sewage disposal site, which shall be sufficient to service the proposed development. The Director shall determine if the system proposed is sufficient prior to commencement of construction.

All sewers shall be installed in the locations and at the grades and elevations the Director may direct. Capacity shall be provided in the sanitary sewer system for all domestic wastes in accordance with the Town design criteria.

The pipe sizes selected shall have sufficient capacity to serve the ultimate drainage area in which the subdivision is located and as designed or approved by the Director.

Sewer pipe acceptable to the Director shall be used for all local and minor collector sewers where otherwise specified by the Director.

Minimum pipe size for local sewers is 200mm diameter. Standard manholes, of a type approved by the Director, shall be placed at a maximum spacing of 90m or as directed by the Director.

PRIVATE DRAIN CONNECTIONS -

The Owner shall construct sanitary connections (laterals) to each lot from the street sewer to the street line. The sanitary sewer lateral shall be a minimum 125mm diameter building sewer pipe or equal acceptable to the Director, and with the proper fittings designed in accordance with the Directors' construction standards.

Domestic waste from any building constructed on any lot shall be discharged into the sanitary sewer system through a drain connected to the sanitary sewer lateral servicing each lot. Roof water, foundation and weeping tile sub-surface water from any building constructed on any lot shall not be discharged into the sanitary sewer.

SPECIFICATIONS -

The sewer system shall comply with the engineering contract drawings on file in the Town Office. The approved engineering drawings must be signed, approved and accepted by the Director.

## SCHEDULE

" D "

STORM SEWERS & SURFACE DRAINAGE

The Owner shall construct a storm sewer system, storm water management facilities outlet or such extensions as necessary to provide a connection to existing trunk sewers or storm water outlet where applicable. All sewers shall be installed in such locations, grades and depths as the Director may direct and such pipe sizes as are required to serve the subdivision lands and all or any portion of the drainage area that the proposed development is located in.

Concrete pipe or an other approved material type, shall be used. The minimum pipe size for storm sewers shall be 300mm diameter, except where otherwise specified by the Director. Surface drainage shall be collected by means of catchbasins as per the current Town Standards.

PRIVATE DRAIN CONNECTIONS -

Foundation weeping tile on the lot shall be discharged onto a grassed area. Roof water will be discharged onto the ground.

SPECIFICATIONS -

The storm sewers shall be constructed in accordance with the engineering contract drawings on file in the Town Office. The engineering drawings must be signed, approved and accepted by the Director. Nothing contained herein, however, derogates or detracts from the responsibility of the Owner as provided in clauses 16, 17 and 18 of this agreement.

## SCHEDULE

" E "

WATERMAINS

The Owner shall construct a complete watermain system or systems and all necessary appurtenances, including hydrants and house water service connections from the watermain to the street line. The design shall be as approved by the Director and constructed in accordance with his specifications. Connection to the existing watermain system at the cost of the Owner, shall be made at such point in such system as is designated by the Director. All watermains shall be a minimum of 150mm in diameter, or in the opinion of the Director a sufficient size to service the subdivision and structures therein for domestic and fire flow conditions.

The Owner shall be responsible for any damage caused to such watermains and appurtenances that may occur during construction of buildings on the land or during the grading of same.

Town Standard hydrants and valves must be used in all cases. All required hydrants shall be located on the lot line within the registered plan of subdivision.

SPECIFICATIONS -

The watermains shall be constructed in accordance with engineering contract drawings to be filed in the Town Office. The approved engineering drawings must be signed, approved and accepted by the Director.

## SCHEDULE

" F "

ROADWAYSPAVEMENT -

The road shall be designated in accordance with the O.G.R.A. publication "A Guide to the Standard Design of Flexible and Rigid Pavements in Canada". Pavements shall be designed for ADT = 1000 vehicles and an anticipated life of 20 years.

CROSS SECTION -

The roadway cross-section shall be curb and gutter section, as outlined in the current Town Standards.

SUB-SURFACE DRAINAGE -

Adequate sub-surface drainage shall be provided.

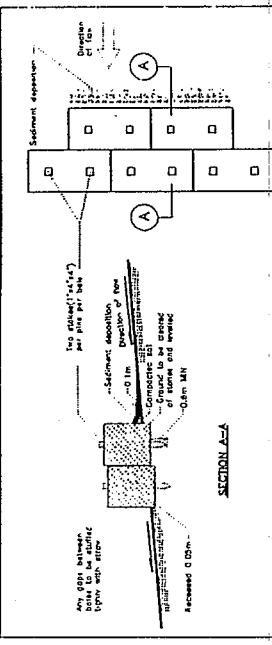
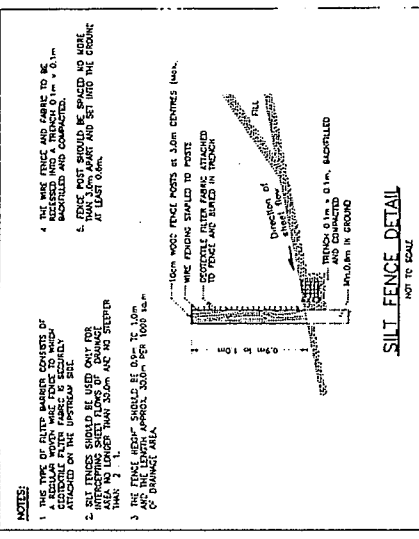
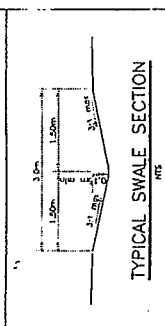
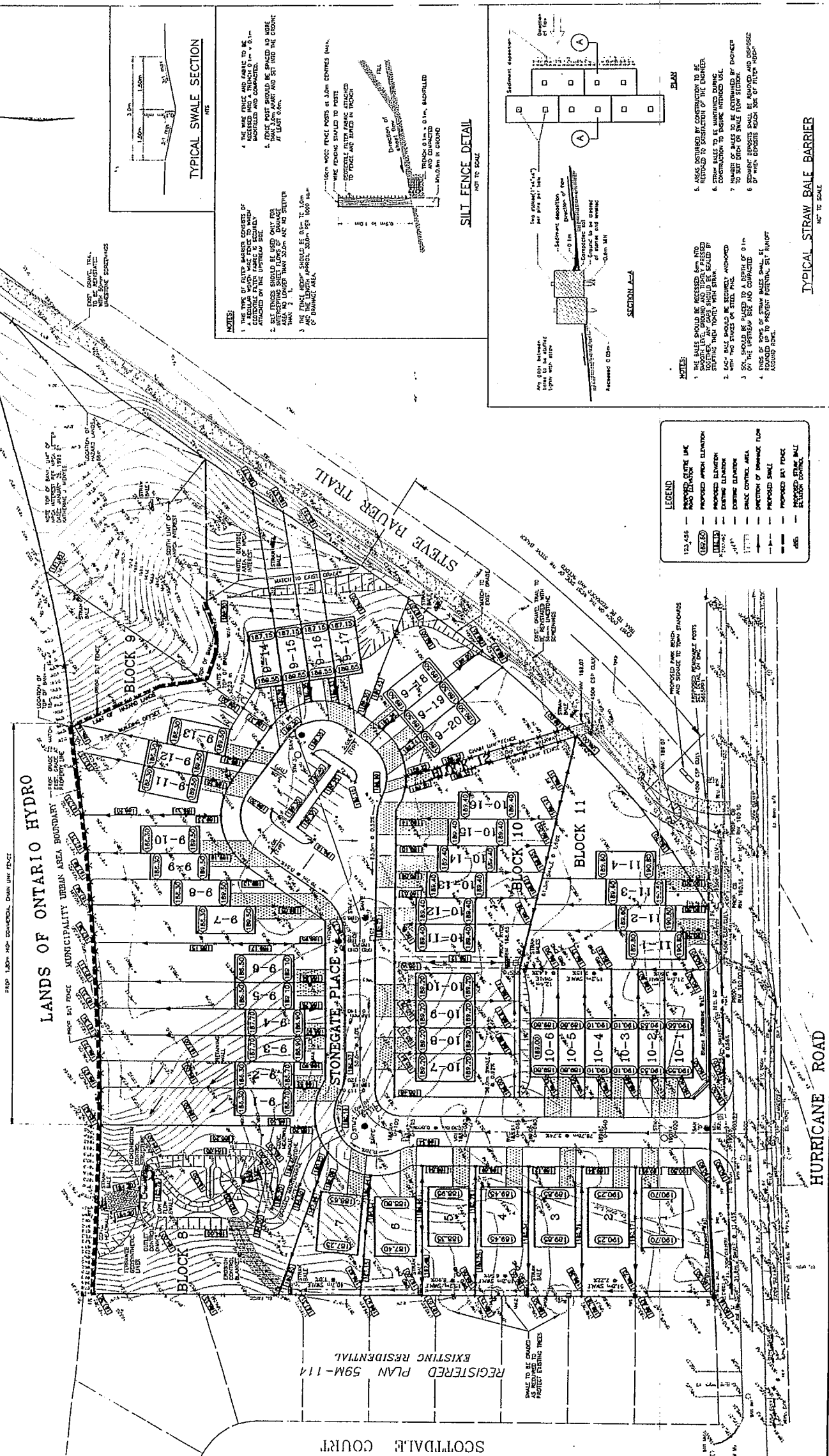
DRIVEWAY ENTRANCES -

The Owner shall ensure that the excavation, stoning and paving of each driveway, from the travelled portion of the road to the lot line and to the full width of the driveway, is completed either by himself or by the builder before acceptance of the subdivision, to the satisfaction of the Director.

DUST CONTROL -

The Owner shall provide dust control adequate in the opinion of the Director during the period of road usage prior to the placing of the asphalt surface.

SCHEDULE  
" H "  
LOT GRADING PLAN



NOTES:

1. THE TYPE OF SLOPE BARRIER CONSTRUCTION TO BE USED SHALL BE DETERMINED BY THE ENGINEER.
2. SLOPE BARRIERS SHALL BE CONSTRUCTED TO MAINTAIN THE EXISTING ELEVATION OF THE SLOPE.
3. SLOPE BARRIERS SHALL BE CONSTRUCTED TO MAINTAIN THE EXISTING ELEVATION OF THE SLOPE.
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LEGEND

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APPROVED BY:		DATE:	
DIRECTOR OF OPERATIONS		DATE	
UPPER CANADA CONSULTANTS		DATE	
KLOETSTRA CONSTRUCTION MANAGEMENT LIMITED		DATE	
STONEGATE PLACE		DATE	
GRADING PLAN AND SILTATION CONTROL		DATE	
TOWN OF PELHAM		DATE	
5665GP1		DATE	

SCHEDULE

" I "

STREET AND TRAFFIC SIGNS

The Town shall supply and erect street and traffic signs within the development at the Owner's expense. The signs shall conform to the present Town Standard.

## SCHEDULE

" J "

HYDRO SERVICE

The Owner shall provide for the construction and installation of all necessary hydro lines and facilities for lot servicing and street lighting in accordance with Town and Ontario Hydro standards.

Such easements as may be required by Ontario Hydro for underground hydro purposes shall be granted by the Owner without cost.

Underground wiring to the lots and houses shall be mandatory.

## SCHEDULE

" K "

TELEPHONE SERVICE & CABLE TELEVISION SERVICE

The Owner shall provide for the construction and installation of all necessary telephone and cable television lines and facilities for lot servicing in accordance with Town and Telephone Company and Cable Television Company standards.

The Owner shall, as requested by the Bell Telephone Company of Canada and local Cable Television Company, grant such easements as may be required without cost.

Underground wiring to the lots and houses shall be mandatory.

## SCHEDULE

" L "

GAS SERVICE

Such easement as may be required by Consumers Gas Company for underground gas lines shall be granted by the Owner without cost.

The Owner shall make all necessary arrangements with the Gas Company to provide each lot with a service in accordance with Town and Gas Company standards.

SCHEDULE

" M "

BUILDING RESTRICTIONS

(To be included in all Deeds)

The Owner shall cause to be registered against all lots in the subdivision the transfer restrictions and restrictive covenants outlined below.

According to the nature of the annexed instrument, the words "Vendor", "Purchaser" and "Land" shall have the following meaning:

(a) "VENDOR" means and includes also a grantor, transferor or seller and the heirs, successors and assigns of the Vendor.

(b) "PURCHASER" means and includes also a grantee, transferee or buyer and the heirs, successors and assigns of the Purchaser.

(c) "LAND" means and includes the land intended to be sold, conveyed or transferred by such instrument.

The Purchaser shall, in respect of the herein described land, adhere to and comply with the lot grading plan attached to the subdivider's agreement registered in the Land Titles Office for Niagara South and, in particular, shall do nothing to interfere with or impede the drainage patterns shown thereon. All grade elevation shown on the said lot grading plan shall be maintained after construction of any building or structure upon the herein described land in accordance with the Town's Lot Grading Control Policy. In the event that the Purchaser fails to maintain such elevations, or to maintain the proper grades and levels herein referred to, or in the event that the Purchaser impedes any drainage system or pattern on the herein described lands or neighbouring lands, the Purchaser shall be responsible for the immediate rectification and alteration of the land to conform with the drainage system or patterns laid out in the subdivider's agreement for any consequential damages, costs, expenses or other loss caused by the failure to maintain such grades or drainage patterns.

## SCHEDULE

" M " (cont.)

BUILDING RESTRICTIONS

(To be included in all Deeds)

The Purchaser shall, in the event of requiring a different driveway entrance from that installed by the Vendor, cut and reconstruct the concrete curb where necessary on the roadway adjacent to the land herein described. He shall install, keep and maintain his driveway entrance or entrances from the travelled portion of the roadway to the lot line in good condition until the concrete sidewalk, concrete curbs and/or asphalt roadways for the said subdivision are constructed.

The Purchaser shall, within nine (9) months of being able to occupy the home in accordance with the Ontario Building Code and to the satisfaction of the Chief Building Official, pave or cause to be paved the driveway upon the lot. Paving shall consist of a hard surface such as asphalt, concrete, paving stones, paving bricks or other similar materials. Crushed brick is not a suitable alternative.

The Purchaser shall, within seven (7) months of being able to occupy the home in accordance with the Ontario Building Code and to the satisfaction of the Chief Building Official, sod or seed the lot.

The Purchaser shall maintain the road allowance between the lot line and the curb nearest thereto in good condition and free from weeds and shall cut the grass thereon at frequent intervals.

The Purchaser will not remove any topsoil or strip the lot of vegetation prior to commencing construction of a home on the lot. Only then will the Purchaser strip and excavate to the limit approved by the Town.

## SCHEDULE

" N "

LANDSCAPING

The Owner shall develop the blocks and the lots to comply with the Mitigation Planting Plan being Drawing No. L3 dated revised July, 1996, attached hereto as Schedule "O" and the Stormwater Facility, Details, Plant Lists being drawing No. L4 dated July, 1996, attached hereto as Schedule "Q", approved and accepted by the Town. The trees shall be sound, healthy, vigorous and free from plant diseases and insect pests or their eggs and shall have normal, healthy root systems and warranted for a minimum of one (1) year. Minor changes to Schedule "O" and "Q" may be permitted subject to the approval of the Director of Operations.

The Owner shall preserve and maintain the existing trees within the subdivision and landscape the subdivision to comply with the Landscape Plan being Drawing No. L3 dated revised July, 1996, and the Tree Conservation Plan attached hereto as Schedule "P" being Drawing No. L2 dated revised July, 1996, approved and accepted by the Town. Minor changes to Schedule "P" may be permitted subject to the approval of the Director of Operations.