

The Corporation of the Town of Essex
By-Law Number 2483
Being a By-Law to Amend By-Law Number 419,
Being a By-Law to Enter into a Subdivision
Agreement Between: The Corporation of the Town of Essex and
Elmara Group

WHEREAS a Subdivision Agreement was entered into between Elmara Group and the Corporation of the Town of Essex on the 22nd day of May, 2002 for approval of a Plan of Subdivision for residential purposes on the lands legally described as PARCEL 1-1, SECTION COLCHESTER NORTH-11, BEING PART OF LOT 1, CONCESSION 11, DESIGNATED AS PART 1 ON PLAN 12R-11904, FORMERLY TOWNSHIP OF COLCHESTER NORTH, NOW TOWN OF ESSEX, COUNTY OF ESSEX, PROVINCE OF ONTARIO through adoption of By-Law number 419;

AND WHEREAS the Council of the Town of Essex and the Owner of the said lands have agreed to the terms and conditions of an Amending Subdivision Development Agreement in the form annexed hereto;

NOW THEREFORE be it resolved that By-Law Number 419 be amended as follows:

1. **That** the Corporation of the Town of Essex enter into an Amending Subdivision Development Agreement with 1508947 Ontario Ltd. in the form hereto annexed as Schedule 'A', and the Mayor and Clerk be directed to affix their signatures, on behalf of the Corporation of the Town of Essex, the amending Subdivision Agreement.
2. **That** this By-Law shall come into force and take effect on the date of final passage hereof.

Read a first, a second and a third time and finally passed on October 6, 2025.

Mayor

Clerk

Schedule 'A'

AMENDING SUBDIVISION AGREEMENT

THIS AGREEMENT made in triplicate this 6th day of October, 2025.

BETWEEN: **1508947 Ontario Ltd.**
 Hereinafter called the "**Owner**"

OF THE FIRST PART;

-and-

THE CORPORATION OF THE TOWN OF ESSEX

Hereinafter called the "**Town**"

OF THE SECOND PART;

WHEREAS a subdivision agreement was entered into between 1508947 Ontario Ltd. and the Town on the 22nd day of May, 2002 for approval of a Plan of Subdivision for residential purposes on the lands legally described as PARCEL 1-1, SECTION COLCHESTER NORTH-11, BEING PART OF LOT 1, CONCESSION 11, DESIGNATED AS PART 1 ON PLAN 12R-11904, FORMERLY TOWNSHIP OF COLCHESTER NORTH, NOW TOWN OF ESSEX, COUNTY OF ESSEX, PROVINCE OF ONTARIO through adoption of By-Law number 419 (the "**Subdivision Agreement**");

AND WHEREAS the Council of the Town and the Owner have agreed to the terms and conditions of this agreement to amend the Subdivision Agreement (this "**Amending Subdivision Development Agreement**");

NOW THEREFORE the parties hereto agree as follows:

1. That all reference to "Public Works Superintendent" in the Subdivision Agreement shall be deemed to be references to "Town Inspector".
2. That the Subdivision Agreement be deemed to include the following paragraph:

Stormwater Management Measures and Facilities

The Owner agrees to install the stormwater management measures, for any phase of the development, identified in the final engineering analysis titled Stormwater Management Functional Design Report and Drawings – Residential Subdivision – Masaccio Drive dated November 28, 2022 and prepared by Haddad Morgan & Associates Ltd. (HMA Project No. 19-139) as part of the development for the site, and undertakes to implement the recommendations contained therein, to the satisfaction of the Town, the Town of Amherstburg, and the Essex Region Conservation Authority (ERCA).

The Owner further agrees to convey to the Town, prior to the Town's final assumption of the subdivision, and at no cost to the Town, Parts 2 to 16 on Registered Plan 12R-30126, attached hereto as Appendix 'A', for the purposes of a stormwater management facility.

3. That the Subdivision Agreement be deemed to include the following paragraph:

Photometric Plan

A photometric plan which meets the Town's development standards and RP-8-18 standards is to be provided by the Owner's engineering consultant at the Owner's expense. The Plan will be required to be approved by the Town prior to construction of the services.

4. That the Subdivision Agreement be deemed to include the following paragraph:

Construction Management Plan – The Owner agrees to submit a Construction Management Plan which addresses, amongst other matters, site access, construction traffic, parking for construction trades, material delivery and storage, staging, mud, dust and noise controls to the satisfaction of the Town, prior to the issuance by the Town of the subdivision servicing.

- a) The Owner further agrees to maintain to the satisfaction of the Town access routes for fire department vehicles to new buildings, construction trailers and material storage areas at all times during construction.
- b) The Owner further agrees that all required parking for construction and trades shall be provided wholly on-site and not on public streets outside of the development limits for the duration of the construction and until the start of the maintenance period.

5. That the Subdivision Agreement be deemed to include the following paragraph:
Waste Disposal Sites – The Owner agrees that any evidence of former waste disposal activity encountered during the construction on the subject lands shall be brought to the attention of the Town’s Director of Infrastructure Services and Chief Building Official. The Owner’s Engineer shall make an assessment of any hazards the previous activity may present. The Owner further agrees to remove and or eliminate such hazards, at the Owner’s entire expense and to the satisfaction of the Town. No work shall be carried out in the affected area until approval in writing has been granted by the Town.
6. That the Subdivision Agreement be deemed to include the following paragraph:
Existing Watercourse and Natural Land Drainage – The Owner agrees that no natural watercourse shall be blocked, abandoned or otherwise altered during the course of construction of this development unless approved in writing by the Town. No natural land drainage shall be cut off without adequate provision made for its interception to the satisfaction of the Town’s Director of Infrastructure Services.
7. That the Subdivision Agreement be deemed to include the following paragraph:
Drainage and Floodproofing – The Owner agrees to implement all drainage, flood proofing requirements, and stormwater management recommendations to the satisfaction of the Essex Region Conservation Authority (ERCA) and the Town.
 - a) Downspout Disconnections -Eaves trough down spouts for each lot within the development are to be outletted to the yard of the lot and not into the storm sewage system unless the down spouts are located over a driveway in which case the down spout shall be required to discharge into the storm sewer.
8. That the Subdivision Agreement be deemed to include the following paragraph:
Excess Soils -The Owner acknowledges that it is their responsibility to ensure that any excess soil produced from the subject lands are managed in accordance with O.Reg. 406/19: On-Site and Excess Soil Management.
9. That the Subdivision Agreement be deemed to include the following paragraph:
Trees – The Owner agrees to pay the Town for one (1) tree per every 12m of Right of Way (ROW) developed for Phase 2 (Lots 15 to 42) at a set amount per tree determined by the

Town at the time of construction. This payment will be received by the Town prior to the start of construction. The Town will be responsible for planting the required trees for the development.

10. That the Subdivision Agreement be deemed to include the following paragraph:

Transformer near Driveways -The Owner agrees that driveways and driveway approaches within the development shall not be constructed closer than one (1) metre from the edge of an electricity transformer. Any owner of a lot whose driveway or driveway approach has been constructed closer than one (1) metre from the edge of a transformer, will be charged to the utility for the cost of relocating the transformer to comply with this requirement.

11. That the Subdivision Agreement be deemed to include the following paragraph:

Communication Telecommunication – The Owner agrees to arrange with communication/telecommunication providers for the installation of sufficient underground communication/telecommunication infrastructure services to the Lands in accordance with the terms, conditions, standards, and specifications of the communication/telecommunication providers, and to locate switching stations to the satisfaction of the Town’s Director of Infrastructure Services, and where such switching stations are located in a municipal park, also to the satisfaction of the Town’s Director of Community Services. If such communication/telecommunication infrastructure is not available, then the Owner shall pay all expenses for the connection to and or extension of the existing communication/telecommunication infrastructure, or for rearrangement or relocation of such communication/telecommunication infrastructure, as required.

12. That paragraph 4 e) of the Subdivision Agreement be deemed to be deleted and expunged in its entirety and replaced with the following paragraph:

Dead Ends and Open Sides

Any dead ends and open sides of road allowances created within the development shall be terminated in 0.3 metre reserves to be conveyed to, and held in trust, by the Town. A 0.3 metre reserve along the entire length of the westerly limit of the proposed subdivision

at the east limit of County Road No. 11 is to be conveyed to the Town free and clear of any encumbrances.

13. That paragraph 4 f) of the Subdivision Agreement be deleted and expunged in its entirety and deemed to be replaced with the following paragraph:

Road Signage

The Town shall provide at the Owner's expense all street and traffic signs required by the Town. All street names must be approved by the Town. The Owner shall erect at its own costs, all permanent and temporary street signs at locations designated by the Town.

14. That paragraph 4 g) of the Subdivision Agreement be deleted and expunged in its entirety and deemed to be replaced with the following paragraph:

Inspection of Work

All watermain, sewer, drainage works, road and curb work shall be constructed and installed to the satisfaction of the Town under the full-time observation of inspectors employed by the Owner. Any hydro, gas and third-party utilities work shall be constructed and installed to the satisfaction of the Town under part time observation of Inspectors employed by the Owner.

15. That paragraph 4 (vi)(a) of the Subdivision Agreement be deleted and expunged in its entirety and deemed to be replaced with the following paragraph:

Hydro Service

The Owner shall make satisfactory arrangements with Hydro One to provide for the installation of all power supply lines, pad mounted above-ground transformers and power distribution equipment. The Owner shall to the Town's satisfaction provide for the design of the system and shall engage the consulting engineer and contractor to install same. The cost of any relocation or revisions to Ontario Hydro Services Company facilities which are necessary to accommodate the development of the subdivision will be borne either by Hydro One or by the Owner. An extra duct at each crossing within the development for the Town's future use will be provided at the expense of the Owner.

16. That paragraph 4 (vii)(a) of the Subdivision Agreement be deleted and expunged in its entirety and deemed to be replaced with the following paragraph:

Streetlights

The Owner shall make satisfactory arrangements with Hydro One to provide for all streetlights to be installed at the Owner's expense on the plan of development. 150-watt equivalent LED streetlights shall be provided at the Owner's expense as required by the Town. All hydro service shall be constructed in accordance with the requirements of Hydro One.

17. That paragraph 4 (vii)(x) of the Subdivision Agreement be deleted and expunged in its entirety and deemed to be replaced with the following paragraph:

The Owner shall allow a buried or underground cable television service for this development and provide for the granting of easements, if required, therefore. The cable company will be responsible for the provision of all labour, material and other expenses to supply and maintain the cable television service to the Town's Development Standards in effect at the time of construction and in a manner that is satisfactory to the Town's Director of Infrastructure Services.

18. That paragraph 7 (b) of the Subdivision Agreement be deleted and expunged in its entirety and deemed to be replaced with the following paragraph:

All driveway approaches within the development must be constructed, at the option of the Owner, of concrete, or asphalt.

19. That paragraph 11 of the Subdivision Agreement be deleted and expunged in its entirety and deemed to be replaced with the following paragraph:

Financial Sureties

(1) Performance Securities – To ensure due and proper performance of the works set out in this Agreement, the Owner shall deposit prior to the commencement of the installation of services with the Town and for a period up to and including two (2) years after final completion of all required municipal infrastructure and services:

- a) Cash, an irrevocable Letter of Credit and/or irrevocable Surety Bond in accordance with the Town's Surety Bond Acceptance Policy, in an amount equal to fifty percent (50%) of the value of the development.
- b) The value of the securities to be provided shall be based upon the full amount of construction costs including all taxes. If there is no tender, the Consulting Engineer shall provide an estimate of the value of the work.
- c) The Town reserves the right to verify the value of the work and amend the Consulting Engineer's estimate accordingly, in which case, the amended estimate shall be used for establishing the value of the securities.
- d) Upon acceptance of the development, the amount shall be reduced to twenty-five percent (25%) of the development cost. The remaining twenty-five percent (25%) shall be returned to the Owner after assumption of the development by the Town.
- e) The Owner acknowledges that should the Town agrees to and/or requests that some of the work be delayed, securities for one hundred percent (100%) of the outstanding works will be required.
- f) If the Owner shall fail in the performance of the terms and conditions of this agreement then the Town:
 - i) may require the person or corporation issuing the Letter of Credit and/or Surety Bond to pay the proceeds of the Letter of Credit and/or Surety Bond to the Town and the Town will fulfill the terms and conditions in respect of which the Owner is in default; or,
 - ii) may fulfill the terms and conditions in respect of which the Owner is in default by utilizing the cash on deposit.

It is the intent herein that if the Owner shall fail in the performance of any of the terms and conditions of this Agreement, the Town, at its option, may refuse to grant

the Owner any permission, certificate, approvals or authorities of any kind or nature which the Owner, had the Owner otherwise complied with the Town's requirements, and this Agreement, would have been entitled to receive and may continue to so refuse until the Town is satisfied that any default in question has been rectified.

20. That paragraph 13(ii) of the Subdivision Agreement be deleted and expunged in its entirety and deemed to be replaced with the following paragraph:

After the works have been installed by the Owner and certified by the engineer of the Owner to have been installed according to the plans and specifications and after they have been inspected by the Town and deficiencies, if any, corrected to the satisfaction of the Town the above mentioned work shall be assumed by the Town and the minimum period of twelve months maintenance by the Owner shall commence. At the end of the twelve month maintenance period or 85% build out, whichever is longer, and after any repairs or deficiencies have been corrected to the satisfaction of the Town as the result of the use of the works during the maintenance period, the work as outlines shall be finally accepted by the Town.

21. That paragraph 14 of the Subdivision Agreement be deleted and expunged in its entirety and deemed to be replaced with the following paragraph:

Maintenance - The Owner shall be responsible for all materials, equipment and work on land owned by the Town or on any lands to be conveyed hereunder to the Town for a minimum of one (1) year following completion and acceptance thereof by the Town, and shall deliver to the Town, cash, a Letter of Credit, or Surety Bond in an amount equal to twenty-five percent (25%) of the total cost of the work required herein.

a) Securities will not be released or reduced until after final completion of all required municipal infrastructure and services and any and all deficiencies have been addressed to the satisfaction of the Town's Director of Infrastructure Services.

b) No sewers will be finally accepted until they have been cleaned and inspected with video cameras and the videos provided to the Town for their approval.

22. That paragraph 16 of the Subdivision Agreement be deleted and expunged in its entirety and deemed to be replaced with the following paragraph:

Construction

The Owner agrees that the Chief Building Official for the Town shall not be required to issue a construction permit for any lot or block in the development until acceptance of the municipal services.

IN WITNESS WHEREOF the Parties hereto have hereunto affixed their corporate seals duly attested by the hands of their proper signing officers in that behalf respectively.

SIGNED, SEALED AND DELIVERED
in the presence of

THE CORPORATION OF THE TOWN OF ESSEX:

Sherry Bondy (Mayor)

Joseph A. Malandrucolo (Clerk)

Name: Mike Quaggiotto

Capacity: Owner/1508947 Ontario Ltd.

I have the authority to bind the Corporation.

Schedule 'A'

Registered Plan 12R-30126

