
TOWNSHIP OF KING
SUBDIVISION AMENDING AGREEMENT

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SUBDIVISION AGREEMENT

THIS AGREEMENT made this ■ day of ■, 2022.

BETWEEN:

FANDOR HOMES (VIA MOTO) INC.

(the "Owner")

- and -

THE CORPORATION OF THE TOWNSHIP OF KING

(the "Township")

RECITALS

WHEREAS:

- I. The Owner is the registered owner of the Lands;
- II. The Owner and the Township have entered into a Subdivision Agreement, dated September 24, 2018, pursuant to section 51 of the *Planning Act* in respect of Phase 1 of the Plan of Subdivision, notice of which was registered on title to the Lands as Instrument YR3068152 on February 18, 2020 (the "Subdivision Agreement");
- III. The Council of the Township, at its Meeting on May 30, 2022, approved the Recommendations in Staff Report PW-DEV-2022-002 to endorse the Pilot Project – Changes to Pool Permit Process in respect of the Plan of Subdivision;
- IV. Amendments to the Subdivision Agreement are Required to implement the Pilot Project;

NOW THEREFORE THIS AGREEMENT WITNESSES THAT in consideration of good and valuable consideration and the sum of Two Dollars (\$2.00) of lawful money of Canada now paid by the Owner to the Township and in consideration of the Township's approval of the Plan of Subdivision, the covenants hereinafter expressed and other good and valuable consideration, the parties hereto covenant and agree one with the other as follows:

PART I DEFINITIONS AND BASIS OF AGREEMENT

1.1 Recitals and Definitions

1. The foregoing recitals are true and correct.
2. In this Amending Agreement, including in the Recitals, Definitions and Schedules, defined terms shall have the same meanings set out in the Subdivision Agreement, unless otherwise redefined or where the subject matter or context requires another meaning to be ascribed.

1.2 Schedules

1. The following Schedules are attached hereto and form an integral and operational part of this Agreement:

Schedule "A"	Legal description of the Lands
Schedule "B"	Staff Report PW-DEV-2022-002

2. If there is any conflict between any provision of a Schedule and the main body of the Agreement, the provision of the Schedule shall prevail to the extent of such conflict.

**PART II
AMENDMENTS**

2.1 Amendments to the Subdivision Agreement

Except as otherwise amended by the provisions of this Amending Agreement, the provisions of the Subdivision Agreement are hereby confirmed, and the Owner agrees to be bound by the provisions of the Subdivision Agreement as amended by this Amending Agreement.

The Subdivision Agreement is hereby amended as follows:

1. Section I of Part I of the Subdivision Agreement is amended by adding the following new clause after Section 1.1 1. (nn):

“(nn.1) **Pool Permit** means a permit issued by the Township in respect of the construction of a private swimming pool on a Lot.”

2. Part II of the Subdivision Agreement is amended by adding the following new section after Section 2.42.:

“2.43 Pool Permit Applications before Assumption

The following provisions shall apply where the purchaser of a Lot applies to the Township for a Pool Permit before Assumption:

(a) The Township will notify the Owner within ten (10) business days of receiving an application for a Pool Permit by a purchaser of a Lot.

(b) The Owner shall participate in a pre-construction meeting with the Township and the purchaser of the Lot. At or following such a meeting, the Owner shall coordinate with the Township to designate an equipment and staging area to facilitate the construction of the pool on the Lot.

(c) No Pool Permit shall be issued by the Township unless a Final Lot Grading Certificate in respect of the Lot has been submitted to the Township by the Owner.

(d) Despite Section 2.29 2., upon being advised of an application for a Pool Permit, the Owner shall promptly, and in any event no later than ten (10) business days, submit to the Township the Final Lot Grading Certificate in respect of the Lot for acceptance by the Director of Public Works, but no sooner than eight (8) weeks after sod has been placed on the Lot in accordance with Subsection 2.29 1. (f).

(e) After the date of Acceptance, following the issuance of a Pool Permit in respect of the Lot, the Director of Public Works may, if satisfied, accept the Final Lot Grading Certificate, but only during the Guaranteed Maintenance Period.

(f) After the Final Lot Grading Certificate has been accepted by the Director of Public Works and a Pool Permit has been issued in respect of the Lot, the following provisions shall apply:

- a. Despite Section 2.29 1. (e), the Developer shall no longer be responsible to correct or rectify any grading deficiencies in respect of the Lot identified on or after acceptance of the Final Lot Grading Certificate.
- b. Despite Section 2.40 1. (f), the Developer shall no longer be responsible to repair grading problems associated with the Lot.
- c. Despite Section 2.41 1. (e), it shall no longer be a Condition of Assumption that the Developer rectify the grading of the Lot.”

2.2 Interpretation and Purpose

The purpose of this Amending Agreement is to implement the Pilot Project – Changes to Pool Permit Process, as more particularly described in Staff Report PW-DEV-2022-002 attached hereto

as Schedule "B", with respect to the Plan of Subdivision. The Subdivision Agreement and this Amending Agreement are to be interpreted to give effect to this purpose.

PART III ADMINISTRATION

3.1 Registration of Agreement

This Amending Agreement shall be registered upon title to the Lands forthwith after its execution. The Owner shall pay all costs associated with the preparation and registration of this Amending Agreement, as well as all other costs incurred by the Township as a result of the registration of any other documents pertaining to this Amending Agreement, including but not limited to, any amendment thereto notwithstanding that such registration may have been solely at the instance of the Township.

3.2 Postponement and Subordination

The Owner shall obtain and register such discharges and/or postponements as may be acceptable to the Township of any and all Encumbrances prior to the registration of this Amending Agreement. The Owner acknowledges that the Township will not be required to finalize or register this Amending Agreement until it has been satisfied that no other Encumbrances are registered upon or affect the Lands.

3.3 Compliance with all other Governing Laws

Nothing in this Amending Agreement shall relieve the Owner from compliance with all applicable municipal by-laws, or applicable by-laws, laws or regulations established by any other government body.

3.4 No Challenge to Amending Agreement

Neither party to this Amending Agreement shall call into question or challenge, directly or indirectly, in any proceeding or action in court, or before any administrative tribunal, the other party's right to enter into and enforce this Amending Agreement. The law of contract applies to this Amending Agreement and the parties are entitled to all remedies arising from it, notwithstanding any provision in section 51 of the *Planning Act* interpreted to the contrary. The parties agree that adequate consideration has flowed from each party to the other. This provision may be pleaded by either party in any action or proceeding as an estoppel of any denial of such right

3.5 Governing Law

This Amending Agreement shall be interpreted under and is governed by the laws of the Province of Ontario.

3.6 Successors & Assigns

This Amending Agreement shall be enforceable by and against the parties hereto, their heirs, executors, administrators, successors and assigns and that the Amending Agreement and all the covenants by the Owner herein contained shall run with the Lands.

Via Moto – 19T-12K01

SCHEDULE “A” - DESCRIPTION OF THE LANDS

ALL AND SINGULAR that certain parcel or tract of land and premises situate, lying and being in the Geographic Township of King, in the Regional Municipality of York, being composed of Part of Lot 6, Concession 9, being all of PIN 03353-0230(LT).

Land Registry Office for the Land Titles Division of York No. 65.

SCHEDULE "B" - STAFF REPORT PW-DEV-2022-002



**THE CORPORATION OF THE TOWNSHIP OF KING
Report to Committee of the Whole**

Monday, May 9, 2022

**Public Works Department - Development Division
Report Number PW-DEV-2022-002
Pilot Project with Fandor Homes - Via Moto Phase 1
Changes to Pool Permit Process during the Two (2) Year Maintenance/Warranty Period
Amending Subdivision Agreement**

RECOMMENDATION(S):

The Director of Public Works respectfully submits the following recommendation(s):

1. Report Number PW-DEV-2022-002 be received; and
2. Council endorse the Pilot Project with Fandor Homes to change the pool permit process during the two (2) year maintenance/warranty period in the Via Moto Phase 1 subdivision; and
3. Council enact By-Law 2022-033 at this meeting of Council, being a By-Law to authorize the Mayor and Clerk to sign an Amending Subdivision Agreement between the Township and Fandor Homes (Via Moto) Inc., when prepared and finalized by the Director of Public Works and the Township Solicitor, based on the guiding principles outlined in report PW-DEV-2022-002.

REPORT HIGHLIGHTS:

- In un-assumed subdivisions, property owners applying for a Pool Permit are required to obtain Permission/Recertification from the Developer.
- In the past, some property owners have had difficulty obtaining Permission/Recertification from their Developer when the development is soon ready to be assumed, or the developer has requested fees and security deposits significantly higher than the Township does in assumed subdivisions.
- Staff are recommending Council endorse the proposed pilot project with Fandor Homes to change the pool permit process during the two (2) year maintenance/warranty period in the Via Moto Phase 1 subdivision.

PURPOSE:

The purpose of the report is to obtain Council's endorsement of the proposed pilot project with Fandor Homes to change the pool permit process during the two (2) year maintenance/warranty period in the Via Moto Phase 1 subdivision, and approval to execute a subsequent Amending Subdivision Agreement.

BACKGROUND:

At the November 30, 2015 meeting, Council approved the use of the Subdivision Agreement Template (Agreement) that is still in use today. The Agreement obligates the Developer to be responsible for all private lot grading until assumption. Current practice requires a property owner to obtain Permission/Recertification from the Developer when submitting for a Pool Permit in an un-assumed subdivision.

In the past, some property owners have had difficulty obtaining the Permission/Recertification from their Developer when the development is soon ready to be assumed. Some developers have requested fees and security deposits significantly higher than the Township does in assumed subdivisions. In these cases, the property owner usually approaches the Township to seek relief from the Permission/Recertification required with their pool permit application.

Fandor Homes is currently working towards the start of the two (2) year maintenance/warranty period on their Via Moto Phase 1 subdivision, and has volunteered to participate in the proposed Pilot Project.

ANALYSIS:

For the past several months, Fandor Homes and Township staff (public works, bylaw, building) have worked together to develop the below Pilot Project to propose changes to the Pool Permit Process during the two (2) year maintenance/warranty period.

Pilot Project - Proposed Changes to Pool Permit Process

- During the two (2) year Maintenance/Warranty Period, pool permit applications in the Via Moto Phase 1 subdivision no longer require the Permission/Recertification from the Developer.
- Property Owners can apply for a Pool Permit under the same requirements as assumed subdivisions. (Application, Fee, Security Deposit, Pre-construction Photos)
- Pool Permits for a property will not be issued until the Final Lot Grading Certificate has been submitted by the Developer.
- Property Owner will be responsible for all damages to adjacent private and public property, similar to pool permit holders in assumed subdivisions.
- Property Owner and Pool Contractor shall participate in a pre-construction meeting with the Township and the Developer.
- Property Owner and Pool Contractor agree to the designated equipment and staging area determined by the Township and the Developer.

Guiding Principles - Amending Subdivision Agreement

In order to execute the Pilot Project, the Subdivision Agreement will require the below changes:

- Council delegates the authority to the Director of Public Works to accept the Developers 'Final Lot Grading Certificate' in advance of assumption for lots where the property owner has obtained a Pool Permit from the Township.
- Acceptance of the 'Final Lot Grading Certificate' shall only occur during the two (2) year maintenance/warranty period for lots where the property owner has obtained a Pool Permit from the Township.
- The Developer shall submit the 'Final Lot Grading Certificate' to the Township no sooner than eight (8) weeks after the sod has been placed.
- Acceptance of the 'Final Lot Grading Certificate' for a property with a Pool Permit by the Director of Public Works, will release the Developer from any further liability for lot grading and from infrastructure liability

FINANCIAL CONSIDERATIONS:

There is no financial impact to the Township associated with the proposed pilot project and subsequent Amending Subdivision Agreement. All costs will be covered by the property owner for the Pool Permit application fee and security deposit as per the fees and charges bylaw.

ALIGNMENT TO STRATEGIC PLAN:

The 2019-2022 Corporate Strategic Plan was formally adopted by Council on September 21, 2020 which emphasizes all of the ICSP Pillars (Financial, Economic, Socio-Cultural and Environmental) and is also aligned with the long-term vision defined in the Official Plan. The 2019-2022 Corporate Strategic Plan aims to ensure staff initiatives focus on current Term of Council priorities in support of the Township's long-term vision to 2031.

This report is in alignment with the CSP's Priority Area(s), associated Objective(s) and/or Key Action(s):



**Service Delivery
Excellence and
Innovation**

Developing Innovative “King-Centric” Policy Frameworks

- Respond to Emerging Municipal Trends and Pressures

The Township processed thirty-six (36) pool permits in both 2018 and 2019. Since the onset of the Covid pandemic the Township has processed two hundred and eighty-seven (287) pool permit applications. To improve the pool permit process within un-assumed subdivisions, staff is recommending a pilot project with Fandor Homes in the Via Moto Phase 1 subdivision.

CONCLUSION:

Staff is recommending Council endorse the proposed pilot project with Fandor Homes to change the pool permit process during the two (2) year maintenance/warranty period in the Via Moto Phase 1 subdivision, and approval to execute a subsequent Amending Subdivision Agreement.

ATTACHMENTS:

Not Applicable

Prepared By:

Carolyn Ali
Manager of Development Services

Recommended By:

Samantha Fraser
Director of Public Works

Approved for Submission By:

Daniel Kostopoulos
Chief Administrative Officer

- END OF AGREEMENT -