SULLIVAN | MAHONEY LLP
LAWYERS

Please reply to Niagara Falls Office

March 30, 2026

Town of Fort Erie
1 Municipal Centre Drive
Fort Erie, Ontario
L2A 2S6

Attention: Mr. Ryan Lemay, Acting Manager of Engineering

Dear Mr. Lemay:

Re: Draft Plan of Subdivision – Development Engineering of Draft Plan Conditions Response Letter
O-10846 Morrison Avenue (Alliston Woods Phase 2)
City File No. SUB-02-2025

We act as legal counsel for Mountainview Homes (Niagara) Ltd. This letter is written as a supplement to the detailed response letter submitted by Upper Canada Consultants in respect of this matter.

The purpose of this letter is to inform you of the applicable test in determining conditions to be imposed under section 51(25) of the *Planning Act.*

It has been well established by the Court and by the relevant land use planning tribunal from time to time that any and all conditions to be imposed must meet a fourfold test that the conditions be "reasonable, relevant, necessary and equal." See the decision in Re: Bodnar (2014), 82 OMBR 77 (OMB).

Most recently, the LPAT in Mountainview Developments Inc. vs. Welland (Case No. PL200255, decision issued January 6, 2022) applied the four-fold test and deleted six (6) draft plan of subdivision conditions imposed by the City of Welland and by the Region of Niagara. We have attached this decision for your easy reference.

Respectfully, it is our position that the following proposed draft plan conditions do not meet the applicable test and ought to be deleted for the detailed reasons provided by Upper Canada Consultants:

Conditions: 6, 21, 22, 25, 26 and 31.

Should the Town impose these conditions then our client will unfortunately have no other option but to appeal these conditions to the Ontario Land Tribunal as it successfully did in the decision referenced above.

Yours truly,

Sullivan Mahoney LLP

Rocco Vacca
RV:sd
Encls.