

THE CORPORATION OF THE TOWN OF LINCOLN

BY-LAW NO. 2022-36

A BY-LAW TO AUTHORIZE THE EXECUTION OF AN AGREEMENT
PURSUANT TO SECTION 37 OF THE PLANNING ACT, 1990

BETWEEN

THE CORPORATION OF THE TOWN OF LINCOLN
AND NHDG (BEAMSVILLE) INC.

TOGETHER WITH ANY AND ALL MORTGAGEES
THAT MAY BE ON TITLE AT THE POINT OF
REGISTRATION OF THE AGREEMENT

WHEREAS:

1. NHDG (Beamsville) Inc. is the owner of certain lands and premises located at 5103 Greenlane Road in the Town of Lincoln, in the Province of Ontario more particularly described in Schedule "A" attached to this By-law (the "Lands");
2. NHDG (Beamsville) Inc. applied for a Zoning By-law Amendment (the "Zoning By-law Amendment") to re-develop and to increase the permitted height and density of the Lands in order to allow the development of a 10-storey mixed-use residential and commercial building with 347 dwelling units (the "Development");
3. The Council of the Town of Lincoln continues to have the power under Subsection 37(1) of the *Planning Act*, R.S.O. 1990, c. P. 13 ("*Planning Act*") as it read the day before Section 1 of Schedule 17 to the *COVID-19 Economic Recovery Act, 2020*, S.O. 2020, c. 18 ("*COVID-19 Economic Recovery Act, 2020*") came into force, whereby the Council may, in a by-law enacted under Section 34 of the *Planning Act*, authorize increases in the density and height of development not otherwise permitted by the by-law in return for the provision of such facilities, services and matters as are set out in the by-law;
4. Subsection 37(2) of the *Planning Act*, as it read the day before Section 1 of Schedule 17 to the *COVID-19 Economic Recovery Act, 2020* came into force, requires that a by-law under Subsection 37(1) of the *Planning Act*, may not be enacted unless the municipality has an official plan that contains provisions relating to the authorization of increases in height and density of development;
5. Section 9.8 of the Official Plan of the Town of Lincoln contains provisions relating to the authorization of increases in height and/or density of development otherwise permitted in exchange for the provision of certain facilities, services or matters;
6. Pursuant to Subsections 37(3) and 37(4) of the *Planning Act*, as it read the day before Section 1 of Schedule 17 to the *COVID-19 Economic Recovery Act, 2020* came into force, where an owner of land elects to provide facilities, services or matters in return for an increase in the height or density of development, the municipality may require the owner to enter into one or more agreements with the municipality dealing with the facilities, services or matters and such agreements may be registered against title to the lands and the municipality is entitled to enforce the provisions thereof against the owner and, subject to the provisions of the *Registry Act*, R.S.O. 1990, c. R. 20 and the *Land Titles Act*, R.S.O. 1990, c. L. 5 any and all subsequent owners of the land;
7. The Council of the Town of Lincoln at its meeting on May 24, 2022 approved the Zoning By-law Amendment subject to the satisfaction of certain

conditions including the entering into of an agreement under Subsection 37(1) of the *Planning Act*, as it read the day before Section 1 of Schedule 17 to the *COVID-19 Economic Recovery Act, 2020*; and

- 8. The Council of the Town of Lincoln deems it necessary and expedient to enter into a Section 37 agreement with NHDG (Beamsville) Inc. pursuant to its decision to approve an amendment to By-law No. 93-14-Z1 at its meeting on May 24, 2022.

NOW THEREFORE, THE COUNCIL OF THE CORPORATION OF THE TOWN OF LINCOLN ENACTS AS FOLLOWS:

- 1. That the Mayor and Clerk be, and are hereby authorized and directed to prepare and execute a Section 37 Agreement with NHDG (Beamsville) Inc., respecting the provision of certain facilities, services and matters by NHDG (Beamsville) Inc. in return for an amendment to By-law No. 93-14-Z1 for an increase in density to allow the Development; and
- 2. That the Town Solicitor is directed to register the Section 37 Agreement in the Registry Office for the Registry Division of Niagara North (No. 30).
- 3. This By-law shall come into force and take effect on the date of its final passing.

PASSED AND ENACTED on the 30th day of May, 2022.

MAYOR: SANDRA EASTON

CLERK: JULIE KIRKELOS

SCHEDULE 'A'

ALL AND SINGULAR that certain parcel or tract of land, and premises, situate, lying and being composed of part of Lots 17 and 18, Concession 1, in the former Township of Clinton, as in RO711300; S/T CL10281, RO90349, now in the Town of Lincoln, Regional Municipality of Niagara.