

File: 26CD-18-24-01
Draft Approval Date: _____
Lapse Date: _____

Town of Niagara-on-the-Lake
Conditions of Draft Plan Approval of Vacant Land Condominium

The conditions of draft plan approval and registration of “Konik Estates Phase 2” Condominium, File 26CD-18-24-01 are as follows:

1. That approval applies to the “Konik Estates Phase 2” Draft Plan of Condominium, being Part Township Lot 119 Niagara Part 1, 30R15177; Part Township Lot 119 as in RO334969; and, Part Township Lot 119 Niagara Parts 1 and 2, 30R15178 Except Plan 30M468, Niagara-on-the-Lake, Regional Municipality of Niagara, prepared by J.D. Barnes LTD., O.L.S., dated September 25, 2023, showing 102 vacant land units for townhouse dwellings, private laneways and common areas for landscaping and visitor parking.
2. That the owner enters into one or more agreements with the Town of Niagara-on-the-Lake (the “Town”) agreeing to satisfy all requirements, financial and otherwise, of the Town including the provision of services, roads, signage, grading, drainage, trees, sediment and erosion control, streetlighting, and sidewalks. The agreement shall also specifically prohibit development on the lands, save and except for model homes (as permitted by Town policy and subject to any necessary agreements), until such time as grading and services are adequately provided, to the satisfaction of the Town.
3. That if final approval is not given to this plan within three (3) years of the draft approval date and an extension has not been granted, draft approval shall lapse. If the owner wishes to extend the draft approval, a complete application form and written explanation of the request must be received by the Town prior to the lapsing date.
4. That the condominium agreement between the owner and the Town with regard to the subject lands be registered by the Town against the lands to which it applies, pursuant to the provisions of the *Planning Act*.
5. That the owner provides an undertaking to the Town agreeing that a properly executed copy of the transfer of the lands to the municipality will be deposited to the Clerk concurrently with the registration of the final plan of condominium.
6. That the owner agrees in the subdivision agreement that any outstanding taxes will be paid prior to the registration of the final plan of condominium.
7. That the Konik Estates Phase 2 Draft Plan of Subdivision (26T-18-24-02) be registered to provide public street access and municipal services to the draft plan of vacant land condominium property and address all other subdivision matters related to the development of the lands.

8. That the owner provides a preliminary condominium plan and a letter to the Director of Community and Development Services stating how all conditions of draft plan approval have been satisfied at the time of request for condition clearance.
9. That the owner shall pay the Town of Niagara-on-the-lake cash-in-lieu of parkland dedication pursuant to the provisions of the *Planning Act* through the associated Konik Estates Phase 2 Draft Plan of Subdivision (26T-18-24-02).
10. That the owner submits a landscape plan, to identify locations for mature plantings including landscaping and trees, streetscape plan and proposed dwelling elevations for the future site plan application for the review of the Town's Urban Design Committee, to the satisfaction of the Director of Community and Development Services.
11. The owner shall complete to the satisfaction of the Director of Operations of the Town of Niagara-on-the-Lake and Canada Post:
 - a. Include on all offers of purchase and sale, a statement that advises the prospective purchaser:
 - i. that the home/business mail delivery will be from a designated Centralized Mail Box; and,
 - ii. that the developers/owners be responsible for officially notifying the purchasers of the exact Centralized Mail Box locations prior to the closing of any home sales.
 - b. The owner further agrees to:
 - i. work with Canada Post to determine and provide temporary suitable Centralized Mail Box locations which may be utilized by Canada Post until the curbs, boulevards and sidewalks are in place in the remainder of the subdivision;
 - ii. install a concrete pad in accordance with the requirements of and in locations to be approved by Canada Post to facilitate the placement of Community Mail Boxes;
 - iii. identify the pads above on the engineering servicing drawings. Said pads are to be poured at the time of the sidewalk and/or curb installation within each phase of the plan of subdivision; and,
 - iv. determine the location of all centralized mail receiving facilities in co-operation with Canada Post and to indicate the location of the centralized mail facilities on appropriate maps, information boards and plans. Maps are also to be prominently displayed in the sales office(s) showing specific Centralized Mail Facility locations.

- c. Canada Post's multi-unit policy, which requires that the owner/developer provide the centralized mail facility (front loading lockbox assembly or rear-loading mailroom [mandatory for 100 units or more]), at their own expense, will be in effect for buildings and complexes with a common lobby, common indoor or sheltered space.
12. That the owner receive acceptance from the Ministry of Multiculturalism and Citizenship (MCM) for the archaeological assessment report titled Stage 1-2 Archaeological Assessment, prepared by Amick Consultants Ltd. (dated November 28, 2023). If the Ministry requires further archaeological work to be completed prior to acknowledging this report, these report(s) must also be submitted to and acknowledged by the Ministry, to the satisfaction of Niagara Region and Town of Niagara-on-the-Lake, prior to clearance of this condition. No demolition, grading or other soil disturbances shall take place on the subject property prior to the issuance of a letter from MCM through Niagara Region and the Town, confirming that all archaeological resource concerns have met licensing and resource conservation requirements.
13. That a Phase II Environmental Assessment (ESA) prepared by a Qualified Professional (QP) in accordance with the Environmental Protection Act and associated regulations, as amended, describing the current conditions of the lands assessed as part of the report titled Phase I Environmental Site Assessment (ESA), prepared by Soil-Mat Engineers & Consultants Ltd. (dated September 6, 2017), be submitted to the satisfaction of Niagara Region. A reliance letter from a QP shall be submitted to Niagara Region, to indicate that, despite any limitations or qualifications included in the above submitted reports/documents, the Region is authorized to rely on all information and opinions provided in the reports submitted, in order to clear this condition.
14. That a letter (and/or updated Phase I ESA with soil sampling, at minimum) prepared by a Qualified Professional (QP) be submitted to the satisfaction of Niagara Region indicating that, in the opinion of the QP, the lands assessed as part of the report titled Phase I Environmental Site Assessment (ESA), prepared by Soil-Mat Engineers & Consultants Ltd. (dated December 14, 2023) are suitable for residential use. A Letter of Reliance from a QP shall be submitted to Niagara Region, to indicate that, despite any limitations or qualifications included in the above submitted reports/documents, the Region is authorized to rely on all information and opinions provided in the reports submitted, in order to clear this condition.
15. That the condominium agreement contain provisions whereby the owner agrees to implement the recommendations of the approved ESAs required by Conditions 14 and 15, if applicable.

16. That the owner agrees to include the following warning clause in all Agreements of Purchase and Sale or Lease or Occupancy, and that it also be included in the condominium agreement:

“These lands are in proximity to lands designated for agricultural uses. The lands may be subject to noise, odour, and/or dust from nearby agricultural operations, which may interfere with some activities of the dwelling occupants.”

17. That the owner provides written acknowledgement to Niagara Region stating that draft approval of this condominium does not include a commitment of servicing allocation by Niagara Region as servicing allocation will not be assigned until the plan is registered and that any pre-servicing will be at the sole risk and responsibility of the owner.

18. That the owner provide a written undertaking to Niagara Region stating that all Offers and Agreements of Purchase and Sale or Lease, which may be negotiated prior to registration of this condominium, shall contain a clause indicating that servicing allocation for the subdivision will not be assigned until the plan is registered, and that a similar clause be inserted in the subdivision agreement between the owner and the Town of Niagara-on-the-Lake.

19. That prior to final approval for registration of this plan of condominium, the owner submit design drawings (with calculations) for the sanitary and storm drainage systems required to service this development to confirm the capacity in the Regional system prior to the Town signing off on the CLI ECA forms.

20. That the owner ensures that all streets and development blocks can provide access in accordance with the Regional Municipality of Niagara’s Corporate Policy for Waste Collection, and by-laws relating to the curbside collection of waste.

21. That the owner ensures, throughout all phases of development, that all streets and development blocks can provide an access in accordance with the Niagara Region’s Corporate Policy for Waste Collection, and by-laws relating to the curbside collection of waste. Where a through street is not maintained, the owner shall provide a revised draft plan to show an appropriate temporary turnaround to permit Regional waste collection services.

22. That the condominium agreement contain a condition that the owner/developer shall comply with the Niagara Region’s Corporate Policy for Waste Collection, and complete the Application for Commencement of Collection and Indemnity Agreement.

23. That the owner submit engineering drawings for the proposed roads within the development to Niagara Region for review and approval to ensure the design can accommodate the Regional collection vehicles.

24. That the following clauses be included in the condominium agreement, and inserted into all Agreements of Purchase and Sale or Lease or Occupancy for each of the affected dwelling units:
- *Owners/Purchasers/Tenants of units #15, 16, 17, 40 & 41 are advised that in order to accommodate Regional Waste Collection Services they will be required to bring their waste/recycling containers to the designated waste collection pads on the required collection day.*
 - *Purchasers are advised that a properly executed Indemnity Agreement must be submitted from the private property owner(s) or property management company with signing authority to Niagara Region in order to maintain waste collection services on private roadway(s) and/or property(ies).*
25. That the owner submits an Arborist Report and Tree Preservation Plan for the rear yards of vacant land townhouse units 24 to 32, inclusive, the side yard of vacant land townhouse unit 15, and the rear yards of vacant land townhouse units 8 to 14, inclusive.
26. That the owner provides a replanting and replacement plan to replace trees required to be removed to facilitate development, in accordance with Condition 26. The number of trees to be replaced, and amount of security fees will be determined by Town Staff once final tree removal requirements have been finalized.
27. That the owner implements the Tree Preservation Plan, as approved by Town Staff, in accordance with Condition 26.
28. That the private roads within the development be named to the satisfaction of the Town of Niagara-on-the-Lake, in accordance with the Town's Municipal Street Naming Policy.
29. That, if applicable, prior to final approval the owner shall identify all required easements that may be required for the onsite water, sanitary sewer, stormwater management and lot grading systems. That the owner agrees in the Condominium Agreement to grant to the municipality any required easements for services or utilities.
30. That prior to final approval for registration of this plan, the owner shall submit the design drawings (with calculation) for the sanitary and storm drainage systems required to service this development and obtain Environmental Compliance Approval from the Ministry of Environment and Climate Change under the Transfer of Review Program to the satisfaction of the Niagara Region.
31. That the owner agrees in the Condominium Agreement:
- a) To grant emergency access easements along the private roads, which meet Ontario Building Code requirements and are accessible at all times and to forever

maintain the private roads and all appurtenances thereto to the satisfaction of the municipality.

- b) To grant easements along the private roads for pedestrian access.
 - c) To grant to the Regional Municipality of Niagara any required easements for internal waste collection along the private roads.
32. That the owner receives final approval for a draft plan of condominium (common elements) for the proposed private roadway within the current draft plan of subdivision. All infrastructure within the proposed roadway of the development shall be owned by the condominium corporation.
33. That the design drawings for the water, sanitary sewer and stormwater drainage systems required to service this development be submitted to the Niagara Region, the Town's Operations Department and the Town's Fire Department for review and approval.
34. That prior to the approval of the final plan the owner submits to the Town's Operations Department and Fire Department for review and approval detailed construction plans showing the entrance, and internal road designs.
35. That the Condominium Agreement contains a clause prohibiting on-street parking and that appropriate signage be installed and that the owners will be responsible for the purchase and installation of all regulatory and street signs.
36. The owner agrees to consult with Canada Post and the Town's Operations Department to determine suitable permanent locations for the community mailboxes, which shall be included on appropriate servicing plans. It is noted that the community mailboxes serving the residents of the condominium may be located on the Konik Estates Subdivision lands.
37. The owner agrees, prior to offering any units for sale, to display a map on the wall of the sales office in a place readily accessible to potential homeowners that indicates the location of all community mail boxes within the development, as approved by Canada Post and the Town's Operations Department.
38. That the owner agrees in the Condominium Agreement:
- (a) The owner will be required to post the standard securities and cash deposits relating to primary and secondary works, plan reviews, site inspections (based on working days), signs and barricades and road clean up prior to commencing the installation of any services.
39. That the owner agrees to the following requirements in the Condominium Agreement:
- a. To construct a 1.5 m sidewalk along one side of internal streets in the development at their own expense. Sidewalks are to be installed as per the Town's Sidewalk Installation Policy for new developments (Policy CDS-PLG-004)

- b. That the centerline radius of all intersections in the development shall meet the Fire Department, Ontario Building Code requirements and Regional requirements for waste collection.
 - c. That all infrastructure works will be constructed to current Town specifications.
 - d. That all construction plans and supporting reports will be subject to a peer review at the owner's cost.
 - e. That all the proposed infrastructure will be subject to the Town's inspection at the owner's expense including qualitative and quantitative tests made of any materials used in the construction of any works.
 - f. That a street lighting design/plan is submitted to the Town's Operations Department for approval and constructed to Town standards.
 - g. That a streetscape plan of the internal streets illustrating the location of on-street parking, street trees, pavement markings, community mailbox(s) locations, hydrants, regulatory and no parking signs and street lighting is submitted to the Town's Operations Department and Department of Community and Development Services for review and approval.
 - h. That a landscape plan be submitted, separate from the streetscape plan, to the satisfaction of the Town's Operations Department and Department of Community and Development Services.
 - i. That all sanitary sewer, watermain and storm sewer construction will be in accordance with current Town Specifications and subject to the Town's Operations Department for approvals.
 - j. That the owner will be required to submit an overall lot grading plan to be approved by the Town's Operation Department and Building Department noting both existing and proposed grades including apron and top and foundation elevations and the means whereby overland flows will be accommodated across the site and that the grading plan shall provide that the maximum height of the concrete showing on the foundation shall not be more than 30.48 cm (12 inches) above the final approved grade elevation.
 - k. That a site alteration and sediment control plan is submitted to the Town's Operations Department for approval.
 - l. The owner acknowledges that the injuring of any boundary tree is subject to an application to the Town for a permit to injure a private tree. The injuring must be carried out by, or under the supervision of a Certified Arborist following approved industry standards. An Arborist Report must be received by the Town prior to the permit being issued, that clearly outlines the process, and that states that the tree can be safely retained following the injuring of the tree.
 - m. That the owner shall install a fence along the rear yards of units 8 to 41, and 84 to 89, inclusive, in accordance with the Town's Fence By-law.
 - n. The owner agrees that all offers, and agreements of purchase and sale shall contain a clause that the purchaser will be responsible for their proportionate share of future maintenance of the Stormwater Management Pond as determined through the Ontario Drainage Act, s17, RSO1990.
40. That the detailed design drawings with calculations for the watermain system, sanitary sewer system and stormwater drainage systems required to service this proposal be

submitted to the Town's Operations Department for its review and approval. That detailed design drawings and design with calculations for the watermain system be submitted to the Operations Department and Fire Department for its review and approval and shall include required fire flows and existing system flows calculations. The owner shall design the stormwater system to ensure that no adjacent properties are adversely affected.

41. That the Condominium Agreement includes a statement that the private sanitary and stormwater management systems may be subject to periodic inspections by the Operations Department and shall be maintained by the condominium corporation and if not maintained, after receiving written notice, the Town's Operations Department has the authority to enter the private lands, carry out the required repairs and charge the condominium corporation accordingly.
42. That the Condominium Agreement includes a statement that the private internal water system will be subject to annual inspections and maintenance by the Operations Department and that the costs associated with those inspections and maintenance will be borne by the condominium corporation.
43. That the Condominium Agreement includes a statement that any works on the private internal water system are subject to approval by the Town's Operations Department prior to works taking place.
44. That the internal private watermain system not be looped to the municipal system and that the system be connected to the proposed municipal system at Crossroads Drive.
45. That the internal private watermain system be metered in a chamber at the property line before entering the condominium corporation lands. The condominium corporation will be billed for the total amount of water read at the meter entering the development. The installation of individual water meters for each unit and/or a meter for irrigation purposes is optional.
46. That the Condominium Agreement includes a clause that the Town's Operations Department will not provide any snow plowing and/or sanding within the Condominium Corporation.
47. That the owner provides sufficient space to accommodate snow storage within the development and that the Condominium Agreement includes a clause that the condominium corporation will not plow snow into the municipal road allowance.
48. That all services, facilities, and any structures in the common elements shall be constructed prior to the registration of the condominium corporation unless the municipality accepts security for the completion of these works.
49. That the owner shall prepare a composite utility plan that allows for the safe installation of all utilities, including required separation between utilities.

50. That the streets shall be constructed in accordance with composite utility plans as submitted and approved by all utilities.
51. The owner agrees in the Condominium Agreement that prior to the issuance of a building permit, the owner will verify, to the satisfaction of the Fire Chief and the Chief Building Official, the fire flow requirements for the proposed buildings, having a qualified engineer confirm that the required flows are acceptable, as well as mark all proposed hydrants with the appropriate colour flow rate identification disc.
52. The owner agrees in the Condominium Agreement that access to the site for construction and servicing shall be from Concession 6 Road. Consideration for alternative accesses shall be subject to approval from the Town's Operations Department.
53. That the owner agrees in the Condominium Agreement that during the construction of the development site that the site will be kept in a reasonably tidy condition so that the raising of dirt and dust is kept to a minimum and further that all roads adjacent to and in the vicinity of the development are kept clean of mud and debris as per Town's Street Cleaning Policy for new developments (Policy CDS-PLG-005).
54. That the condominium agreement between the owner and the Town include the following clauses:
- a. *The Owner acknowledges and agrees to convey any easement(s) as deemed necessary by Bell Canada to service this new development. The Owner further agrees and acknowledges to convey such easements at no cost to Bell Canada.*
 - b. *The Owner agrees that should any conflict arise with existing Bell Canada facilities where a current and valid easement exists within the subject area, the Owner shall be responsible for the relocation of any such facilities or easements at their own cost.*
 - c. *Should deeply buried archaeological remains/resources be found during construction activities, all activities impacting archaeological resources must cease immediately, and the proponent must notify the Archaeology Programs Unit of the Ministry of Multiculturalism and Citizenship (MCM) (416-212-8886) and contact a licensed archaeologist to carry out an archaeological assessment in accordance with the Ontario Heritage Act and the Standards and Guidelines for Consultant Archaeologists.*

In the event that human remains are encountered during construction, all activities must cease immediately and the local police as well as the Cemeteries Regulation Unit of the Ministry of Government and Consumer Services (416-326-8800) must be contacted. In situations where human

remains are associated with archaeological resources, MCM should also be notified to ensure that the site is not subject to unlicensed alterations which would be a contravention of the Ontario Heritage Act.

Clearance of Conditions

Prior to granting final approval for the subdivision plan, the Town of Niagara-on-the-Lake Community and Development Services Department requires **written notification** from the following departments and agencies that their respective conditions have been met satisfactorily.

Department or Agency	Conditions
Town Community & Development Services	1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 12, 25, 26, 27, 39(l), 39(m), 54(c)
Town Corporate Services	4, 6, 9
Town Operations	9, 11, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53
Town Fire & Emergency Services	31(b), 40
Niagara Region	12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 54(c)
Canada Post	11
Bell Canada	54 (a, b)

Clearance of the conditions of final approval should be coordinated with the following contacts:

Department or Agency	Contact Name	Address	Phone	Email
Town Community and Development Services	Kirsten McCauley, Director of Community and Development Services	1593 Four Mile Creek Road, P.O. Box 100, Virgil, ON, L0S 1T0	(905) 468-3266	Kirsten.mccauley@notl.com
Town Operations Department	Darren MacKenzie, Manager of Public Works	1593 Four Mile Creek Road, P.O. Box 100, Virgil, ON, L0S 1T0	(905) 468-3266	Darren.mackenzie@notl.com
Town Fire and Emergency Services	Jay Plato, Fire Chief	1593 Four Mile Creek Road, P.O. Box 100, Virgil, ON, L0S 1T0	(905) 468-3266 x321	jay.plato@notl.com

Town Corporate Services Department	Grant Bivol, Town Clerk	1593 Four Mile Creek Road, P.O. Box 100, Virgil, ON, L0S 1T0	(905) 468-3266	clerks@notl.com
Niagara Region	Amy Shanks, Senior Planner	1815 Sir Isaac Brock Way, P.O. Box 1042, Thorold, ON, L2V 4T7	(905) 980-6000 x3532	Amy.shanks@niagararegion.ca
Canada Post	Andrew Carrigan, Delivery Planning Officer	955 Highbury Ave. N. London, ON N5Y 1A3	(226) 268-5914	andrew.carrigan@canadapost.ca
Bell Canada				planninganddevelopment@bell.ca

Review of Conditions

Should any of the conditions appear unjustified or their resolution appear onerous, requests to revise or remove conditions may be presented by the owner to the Committee of the Whole. The Committee will consider requests to revise or delete conditions, subject to ratification by Town Council.