

**File:** 26CD-18-20-02  
**Draft Approval Date:** \_\_\_\_\_ (date after last day for appeal of Council decision)  
**Extension Date:** \_\_\_\_\_ (date of Council decision on extension)  
**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 for lands legally described as Part Lot 218 Plan M11, being Parts 2 & 3 on Reference Plan 30R-13350, File 26CD-18-20-02 are as follows:

1. That this approval applies to the Draft Plan of Vacant Land Condominium prepared by Upper Canada Consultants, dated November 3, 2021, for lands located on the southeast side of Niagara Stone Road, legally described as Part Lot 218 Plan M11, being Parts 2 & 3 on Reference Plan 30R-13350, Town of Niagara-on-the-Lake, Regional Municipality of Niagara, showing 6 vacant land units for townhouse dwellings, a private road and common areas for landscaping and environmental protection.
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, streetlighting and sidewalks. The agreement shall also specifically prohibit development on the lands, save and except for model homes until such time as sanitary sewers can be adequately provided.
3. That if final approval is not given to this plan within three (3) years of the draft approval date and no extensions have been granted, draft approval shall lapse. If the owner wishes an extension to the draft approval, a written explanation with reasons why the extension is required, must be received by the Town prior to the lapsing date.
4. That the development agreement between the owner and the Town of Niagara-on-the-Lake be registered by the municipality 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 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 development agreement that any outstanding taxes will be paid prior to the registration of the final plan.
7. 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.
8. That the owner receives final approval to an Official Plan Amendment to refine the boundary of the Low Density Residential and the Conservation designations on the subject lands in accordance with the submitted Draft Plan of Vacant Land Condominium.

9. That the owner receives final approval to a Zoning By-law Amendment to provide land use regulations for the development of the subject lands in accordance with the submitted Draft Plan of Vacant Land Condominium.
10. That the owner pays the Town cash-in-lieu of parkland dedication pursuant to the provisions of the *Planning Act*, based on an appraisal prepared by a qualified person and approved by the Town.
11. That the owner receives final approval from the Town for a Site Plan to implement the requirements of the Draft Plan of Vacant Land Condominium.
12. That the owner submits a landscape plan, streetscape plan and proposed dwelling elevations for the future site plan application for the review of the Town's Urban Design Committee, with approval to the satisfaction of the Director of Community and Development Services.
13. That the design drawings for the water, sanitary sewer and stormwater drainage systems required to service this development be submitted to the Regional Development Services Division, the Town's Operations Department and the Town's Fire and Emergency Services Department for review and approval.
14. That the owner agrees to the following requirements in the development agreement:
  - (a) That all infrastructure works will be constructed to current Town specifications.
  - (b) That all sanitary sewer, watermain and storm sewer construction will be in accordance with current Town specifications and submitted to the Town's Operations Department for approvals.
  - (c) That all construction plans and supporting reports will be subject to a peer review at the owner's cost.
  - (d) 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.
  - (e) That a site alteration and sediment control plan is submitted to the Town's Operations Department for approval.
  - (f) 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.
  - (g) That the centerline radius of all intersections in the development shall meet the Fire Department, Ontario Building Code requirements and Regional requirements (if applicable) for waste collection and emergency access.

- (h) That a street lighting design/plan is submitted to the Town's Operations Department for approval and constructed to Town standards.
  - (i) That a streetscape plan of the internal streets illustrating the location of street trees, pavement markings, community mailbox locations, hydrants, regulatory and no parking signs and street lighting is submitted to the Town's Operations Department and Community and Development Services for review and approval.
  - (j) That the owner agrees to implement the approved stormwater management, erosion and sediment control measures.
  - (k) That the road and road entrance designs are constructed to current Town and Regional standards and approved by the Town and Region of Niagara.
15. That the internal private watermain system be metered in a chamber at the property line before entering the condominium corporation lands.
  16. That each unit within the condominium corporation will have its own individual water meter.
  17. That the development agreement includes a statement that the condominium corporation will be responsible for the difference between the amount of metered water entering the development and the total amount of water individually billed to each unit on an annual basis.
  18. That the development 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.
  19. That the owner agrees in the development agreement to grant to the Town any required easements for services or utilities.
  20. That the owner provides sufficient space to accommodate snow storage within the development and that the development agreement includes a clause that the condominium corporation will not plow snow into the municipal and/or Regional road allowance.
  21. That the development agreement includes a clause indicating that all infrastructure within the development is private and owned by the condominium corporation.
  22. That the private road within the development be named to the satisfaction of the Town, in accordance with the Town's Municipal Street Naming Policy.
  23. That the owner agrees in the development 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).
  24. That the following clause be included in the development agreement:

*Should deeply buried archaeological remains/resources be found on the property during construction activities, all activities impacting the archaeological resources must cease immediately and the proponent must notify the Archaeology Programs Unit of the Ministry of Heritage, Sport, Tourism, and Culture Industries (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 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, Ministry of Heritage, Sport, Tourism, and Culture Industries 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.*

25. That the development agreement contain wording wherein the owner agrees to implement the following mitigation measures as described in the Environmental Impact Study (EIS) and EIS Addendums prepared by Beacon Environmental Limited (dated December 2013, September 21, 2018, and May 3, 2021, respectively), including but not limited to:
  - (a) That vegetation removals be undertaken between October 1st and March 14th, outside of both the breeding bird nesting period and active bat season. A survey for active bird nests should be conducted prior to any vegetation removal or site alteration planned to occur during this window.
  - (b) That permanent fencing be provided adjacent to the natural heritage features, to the satisfaction of the Niagara Region. A no-gate bylaw is recommended to reduce human encroachment and limit the movement of pets into the adjacent natural areas.
  - (c) That any security lighting to be installed on buildings should be directed away from natural areas to minimize ambient light exposure to the adjacent natural areas.
  - (d) That excavation and construction work be designed and staged to ensure that no encroachment into the 15 m buffer lands is required.
26. That an Erosion and Sediment Control (ESC) Plan be prepared for review and approval by the Niagara Region. All ESC measures shall be maintained in good condition for the duration of construction until all disturbed surfaces have been stabilized. Muddy water shall not be allowed to leave the site.
27. That a Grading Plan be provided to the satisfaction of Niagara Region, that demonstrates that existing overland flow patterns are maintained and that no grading within the natural heritage features and/or their buffers will occur. The Grading Plan shall designate specific locations for stockpiling of soils and other construction materials that will be at a minimum of 30 m from the PSW and a minimum of 10 metres from the dripline of any trees to be retained.
28. That a Tree Saving Plan (TSP) be provided to the satisfaction of the Niagara Region as required under Policy 7.B.1.19 of the Regional Official Plan. The TSP shall be prepared by a qualified professional, preferably by a Certified Arborist or qualified member of the Ontario Professional Foresters Association, in accordance with the Region's Woodland Conservation By-law No. 2020-79, Appendix 5. The TSP is to be done in conjunction with the Site Plan and Grading Plan and shall specifically include the location and installation details associated with

tree hoarding fencing, which is required to be installed prior to the initiation of any development and/or site alteration on the subject lands.

29. That a Landscape Plan be provided to the satisfaction of the Niagara Region that addresses the Vegetation Protection Zone (VPZ) recommended in the Environmental Impact Study prepared by Beacon Environmental Limited, dated May 3, 2021. The VPZ should incorporate dense plantings of native trees and shrubs that complement the adjacent vegetation communities, including thorny species to discourage human intrusion into sensitive areas. The removal of invasive species should also be incorporated, as appropriate. The Landscape Plan should be completed by a full member of the Ontario Association of Landscape Architects (OALA).
30. That the owner provides a written acknowledgement to Niagara Region Planning and Development Services Department 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.
31. That the owner submits a written undertaking to Niagara Region Planning and Development Services Department that all offers and agreements of Purchase and Sale, which may be negotiated prior to registration of this condominium, shall contain a clause indicating that a servicing allocation for this development will not be assigned until the plan is registered, and a similar clause be inserted in the development agreement.
32. That prior to final approval for registration of this plan of condominium, the owner shall submit the design drawings [with calculations] for the sanitary and storm drainage systems required to service this development and obtain Ministry of the Environment Compliance Approval from the Ministry of the Environment, Conservation and Parks.
33. That the owner provides a revised Functional Servicing Study to address alternative options for servicing the site with water as no new connection will be permitted to the existing Regional trunk watermain.
34. That prior to approval of the final plan or any on-site grading, the owner shall submit a detailed stormwater management plan for the development and the following plans designed and sealed by a qualified professional engineer in accordance with the Ministry of the Environment, Conservation and Parks documents entitled Stormwater Management Planning and Design Manual March 2003 and Stormwater Quality Guidelines for New Development, May 1991, or their successors to Niagara Region Planning and Development Services for review and approval:
  - (a) Detailed lot grading, servicing and drainage plans, noting both existing and proposed grades and the means whereby overland flows will be accommodated across the site; and
  - (b) Detailed erosion and sedimentation control plans.
35. That the owner submits a stormwater management study to Niagara Region Planning and Development Services for review and approval. The study shall ensure that site stormwater run-off does not negatively impact upon the Region's road allowance and that post-development flows do not exceed pre-development flows (in quantity and quality).

36. That the development agreement between the owner and the Town contain provisions whereby the owner agrees to implement the approved plan(s) required in accordance with Condition 34 (detailed stormwater management plan) and Condition 35 (stormwater management study).
37. That the owner agrees to implement the recommendations of the Environmental Noise Feasibility Study prepared by Valcoustics Canada Ltd, dated November 21, 2018, and the addendum letter dated February 11, 2021 based on the Site Plan prepared by Upper Canada Planning and Engineering Ltd, dated November 11, 2020.
38. That the owner agrees to include the following warning clause in all Agreements of Purchase and Sale or Lease or Occupancy for each of the dwelling units, and that they also be included in the development agreement:

*Purchasers/tenants are advised that despite the inclusion of noise control features in the development and within the building units, sound levels due to increasing road traffic may occasionally interfere with some activities of the dwelling occupants as the sound level may exceed the noise criteria of the municipality and/or the Ministry of the Environment, Conservation and Parks.*

*This dwelling unit has been designed with the provision for adding central air conditioning at the occupant's discretion. Installation of central air conditioning by the occupant in low and medium density developments will allow windows and exterior doors to remain closed, thereby ensuring that the indoor sound levels are within the noise criteria of the municipality and/or the Ministry of the Environment, Conservation and Parks.*

*Purchasers/occupants are advised that due to the proximity of the existing community centre/library building, restaurant and winery, sound from these facilities may, at times, be audible.*

39. That the owner identifies an appropriate waste collection pick-up area for curbside collection along Regional Road 55 or confirm that waste collection services will be the responsibility of the owner through a private waste collection contractor.
40. That the development agreement between the owner and the municipality contain a provision whereby the owner agrees to obtain a certificate from an Ontario Land Surveyor stating that all existing and new survey evidence is in place at the completion of the development.
41. That the owner dedicates easements over the required 4.5 metre x 4.5 metre daylighting triangles on either side of the site access from Regional Road 55 (Niagara Stone Road).
42. That prior to any construction within the Regional Road 55 (Niagara Stone Road) road allowance, the owner shall obtain the required Regional Construction Encroachment and/or Entrance Permits from Niagara Region's Transportation Services Division, Public Works Department.

43. That the owner agrees to include the following warning clause in all Agreements of Purchase and Sale or Lease or Occupancy for each of the dwelling units, and that they also be included in the development 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.*

44. That a Buffer Planting Plan/Landscape Plan to the satisfaction of the Niagara Peninsula Conservation Authority (NPCA) be circulated to the NPCA office for review and approval.
45. That an Erosion and Sediment Control Plan to the satisfaction of the NPCA be circulated to the NPCA office for review and approval.
46. That a Construction Phasing/Sequencing plan to the satisfaction of the NPCA be circulated to the NPCA office for review and approval. This plan should specifically identify how the construction of Lot/Unit 1 will be conducted such that the 15 m wetland buffer is not impacted by construction.
47. That a Grading Plan to the satisfaction of the NPCA be circulated to the NPCA office for review and approval.
48. That permanent fencing (black vinyl-coated chain-link fencing at a minimum height of 1.5 metres) be installed along the 15 m buffer to the Provincially Significant Two and One Mile Creek Wetland Complex.
49. That the owner enters into a separate agreement with Niagara-on-the-Lake Hydro for the provision of hydro services for the development.
50. 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.
    - 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.
- 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.

51. That the development agreement between the owner and the Town include the following clauses:

- (a) *"The applicant shall contact Enbridge Gas Distribution's Customer Connections department for service and meter installation details and to ensure all gas piping is installed prior to the commencement of site landscaping (including, but not limited to: tree planting, silva cells, and/or soil trenches) and/or asphalt paving."*
- (b) *"If the gas main needs to be relocated as a result of changes in the alignment or grade of the future road allowances or for temporary gas pipe installations pertaining to phase construction, all costs are the responsibility of the applicant."*
- (c) *"Easement(s) are required to service this development and any future adjacent developments. The applicant will provide all easement(s) to Enbridge Gas Distribution at no cost."*
- (d) *"In the event a pressure reducing regulator station is required, the applicant is to provide a 3 metre by 3 metre exclusive use location that cannot project into the municipal road allowance. The final size and location of the regulator station will be confirmed by Enbridge Gas Distribution's Customer Connections department."*
- (e) *"The applicant will grade all road allowances to as close to final elevation as possible, provide necessary field survey information and all approved municipal road cross sections, identifying all utility locations prior to the installation of the gas piping."*

52. That the development agreement between the owner and the Town include the following clause:

*"The Owner shall indicate in the Agreement, in words satisfactory to Bell Canada, that it will grant to Bell Canada any easements that may be required, which may include a blanket easement, for communication/telecommunication infrastructure. In the event of any conflict with existing Bell Canada facilities or easements, the Owner shall be responsible for the relocation of such facilities or easements".*



## **Clearance of Conditions**

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

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

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

<b>Department or Agency</b>	<b>Contact Name</b>	<b>Address</b>	<b>Phone</b>	<b>Email</b>
Town Community and Development Services	Craig Larmour, Director of Community & Development Services	1593 Four Mile Creek Road, P.O. Box 100, Virgil, ON, L0S 1T0	(905) 468-3061 x243	craig.larmour@notl.com
Town Operations Department	Adam Allcock, Manager of Public Works	1593 Four Mile Creek Road, P.O. Box 100, Virgil, ON, L0S 1T0	(905) 468-3266 x277	adam.allcock@notl.com
Town Fire and Emergency Services	Nick Ruller, Fire Chief	1593 Four Mile Creek Road, P.O. Box 100, Virgil, ON, L0S 1T0	(905) 468-3266 x259	nick.ruller@notl.com
Town Corporate Services Department	Colleen Hutt, Acting Town Clerk	1593 Four Mile Creek Road, P.O. Box 100, Virgil, ON, L0S 1T0	(905) 468-3061 x248	clerks@notl.com
Niagara Region	Aimee Alderman, Senior Planner	1815 Sir Isaac Brock Way, P.O. Box 1042, Thorold, ON, L2V 4T7	(905) 980-6000 x3352	aimee.alderman@niagararegion.ca
Niagara Peninsula Conservation Authority	David Deluce, Manager Plan Review	250 Thorold Road West, Welland, ON L3C 3W2	(905) 788-1121 x224	ddeluce@npca.ca

Niagara-on-the-Lake Hydro	Kevin Sidey, Senior Engineering Technologist	8 Henegan Road, P.O. Box 460, Virgil, ON, L0S 1T0	(905) 468- 4235 x530	ksidey@notlhydro.com
Canada Post	Andrew Carrigan, Delivery Planning Officer	955 Highbury Ave. N. London, ON N5Y 1A3	(226) 268- 5914	andrew.carrigan@ canadapost.ca
Enbridge Gas	Alice Coleman, Municipal Planning Coordinator	500 Consumers Road, North York, ON M2J 1P8	(416) 495- 5386	municipalplanning@ enbridge.com
Bell Canada	Ryan Courville, Access Network Provisioning Manager		(416) 570- 6726	circulations@WSP.com

## 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.