

File: 26CD-18-22-01
 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 for lands municipally known as 1490 York Road and legally described as “PART OF TOWNSHIP LOT 89 NIAGARA PART 1 30R407, S/T NTP17616; AND PART OF TOWNSHIP LOT 89 NIAGARA PART 1 30R9839; TOWN OF NIAGARA-ON-THE-LAKE” are as follows:

TOWN COMMUNITY AND DEVELOPMENT SERVICES

1. That this approval applies to the Draft Plan of Vacant Land Condominium prepared by Chambers and Associates Surveying LTD, dated March 17, 2025, and identified as Drawing Number 08042-2_VLC DP, for lands municipally known as 1490 York Road, legally described as “PART OF TOWNSHIP LOT 89 NIAGARA PART 1 30R407, S/T NTP17616; AND PART OF TOWNSHIP LOT 89 NIAGARA PART 1 30R9839; TOWN OF NIAGARA-ON-THE-LAKE”, showing one (1) unit for an existing dwelling and environmental protection, two (2) vacant land units for single-detached dwellings, a 3.05 metre road widening and 0.3 metre reserve, in addition to a common elements block for a private road, visitor parking and landscaping.
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 but not limited to the provision of services, roads, signage, grading, drainage, trees, streetlighting and sidewalks. The agreement shall also specifically prohibit development on the lands, 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 no extensions have 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 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 agrees in the Condominium Agreement between the Owner and the Town of Niagara-on-the-Lake that any outstanding taxes will be paid prior to the registration of the final plan.
6. That the Owner provides a preliminary Condominium Description, in accordance with Ontario Regulation 49/01 under the *Condominium Act, 1998, S.O. 1998, c. 19*, 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.
7. That the Owner receives final approval to a Zoning By-law Amendment to remove the Holding Symbol for the development of the subject lands.
8. That the Owner pays 5% cash-in-lieu of parkland dedication to the Town pursuant to the provisions of the *Planning Act* based on the total value of the subject lands as determined by an appraisal prepared by a qualified person and approved by the Town. All costs associated with obtaining an appraisal are the responsibility of the Owner.
9. That the Owner agrees in the Condominium Agreement between the Owner and the Town of Niagara-on-the-Lake to grant to the Town any required easements for services or utilities free and clear of any mortgages, liens or encumbrances.
10. 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.

11. That the Owner agrees in the Condominium Agreement between the Owner and the Town of Niagara-on-the-Lake 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).
12. That the Owner agrees in the Condominium Agreement between the Owner and the Town of Niagara-on-the-Lake that, prior to the issuance of a building permit, each dwelling within the Plan of Condominium will be subject to the review and approval of the Director of Community and Development Services respective urban design considerations in accordance with the St. Davids Urban Design Guidelines.
13. That the Owner agrees to include the following warning clause in all Agreements of Purchase and Sale or Lease or Occupancy, and that it is also included in the Condominium Agreement between the Owner and the Town of Niagara-on-the-Lake:

"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."

TOWN URBAN FORESTRY

14. That the Condominium Agreement between the Owner and the Town of Niagara-on-the-Lake contain wording wherein the Owner agrees to implement the following:
- a) *That the owner provides an updated copy of the Tree Inventory and Preservation Plan Report, prepared by Jackson Arboriculture Inc., dated October 26, 2018, by including the following information:*
- i. Updated inventory drawing to reflect current proposal;*
 - ii. Updated DBH measurements to determine tree replacement requirements;*
 - iii. All trees over 12.5cm to be added to the inventory;*

- iv. Measurements required for all individual trees within the two polygon areas (Tree Numbers P8 and P9);*
- v. Consideration of all construction and servicing installations for the proposal; and*
- vi. Tree Protection Zone and hoarding setbacks to be based on DBH sizes (rather than dripline) and included in the inventory chart.*

b) That the Owner agrees to pay the required fees set out by the Town's Urban Forestry By-law Enforcement Officer for the replacement of any trees removed from the subject lands, in advance of any site preparation or construction occurring.

TOWN OPERATIONS

- 15. That detailed design drawings with calculations for the watermain system, including required fire flows and existing system flows, be submitted to the Town's Operations Department for its review and approval.
- 16. That detailed design drawings with calculations for the 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.
- 17. That prior to the approval of the final plan the owner submits detailed construction plans showing the entrance and internal road design to the Town's Operations Department for its review and approval.
- 18. That the owner agrees to consult with Canada Post and the Town's Operations Department to determine suitable permanent locations for the community mailboxes (if required), which shall be included on appropriate servicing plans.
- 19. That the owner agree to provide the Town with a cash-in-lieu payment representing 100% of the costs for the future installation of a 1.5m wide sidewalk across the subject property's York Road frontage. Also, the Owner shall agree to provide the Town with a cash-in-lieu payment representing 50% of the costs for the future installation of a 1.5m wide sidewalk from the subject property's East property limit extending to the York Road & Concession 3 Road intersection. The Owner shall provide the Town with a cost breakdown detailing the cost and quantities for this sidewalk as part of the submitted comprehensive cost estimate.

20. That the owner agrees in the Condominium Agreement:

- a) That on-street parking be prohibited, and that the owner be responsible for the purchase and installation of all required regulatory and street signage.
- b) That the development agreement includes a clause that the Town's Operations Department will not provide any snow plowing and/or sanding within the Condominium Corporation lands, and that the owner must provide sufficient space to accommodate snow storage within the development lands.
- c) That the development agreement includes a statement that the private sanitary and stormwater management systems may be subject to periodic inspections by the Town's 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.
- d) The owner will be required to post the standard securities and cash deposits relating to primary and secondary services for both on-site and off-site works, plan reviews, site inspections (based on working days), signs and barricades and road clean up prior to commencing the installation of any services.
- e) That all infrastructure works will be constructed to current Town specifications.
- f) That all construction plans and supporting reports will be subject to a peer review at the owner's cost.
- g) That all 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.
- h) That the owner agrees in the development agreement to grant to the Town any required easements for services or utilities.
- i) 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.
- j) That a street lighting design/plan is submitted to the Town's Operations Department for review and approval.

- k) 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 for review.
- l) 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.
- m) That a comprehensive stormwater management report be submitted to the Town's Operations Department for review and approval.
- n) That a site alteration and sediment control plan is submitted to the Town's Operations Department for approval.
- o) That the owner will be required to submit an overall lot grading plan to be approved by the Town's Operation Department noting both existing and proposed grades and the means whereby overland flows will be accommodated across the site.
- p) That a sediment control plan is submitted to the Town's Operations Department for review and approval.
- q) That the private internal water system shall 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.
- r) That any future proposed works and/or maintenance on the private internal water system proposed to be completed by the condominium corporation be subject to the review and approval of the Town's Operations Department prior to any such works taking place.
- s) 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.
- t) 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.

- u) That the owner agrees that during the construction of the development 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).

REGIONAL MUNICIPALITY OF NIAGARA

21. That the following clause be included in the Condominium Agreement:

"Should deeply buried archaeological remains/resources be found on the property during construction activities, all activities impacting archaeological resources must cease immediately, notify the Archaeology Programs Unit of the Ministry of Citizenship and Multiculturalism (MCM) (416-212-8886) and a licensed archaeologist is required 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."

22. That the condominium agreement between the owner and the Town contain provisions whereby the owner agrees to implement the approved Landscape Restoration Planting Plan, prepared by James McWilliam Landscape Architect (dated August 31, 2022).

23. That the owner submits an updated copy of the Tree Inventory and Preservation Plan Report, prepared by Jackson Arboriculture Inc., dated October 26, 2018, as required by the Town in condition 14, to the satisfaction of Niagara Region and the Town, and that the condominium agreement between the owner and the Town contain provisions whereby the owner agrees

to implement the recommendations of the updated report.

24. That the condominium agreement between the owner and the Town contain provisions whereby the owner agrees to install sediment and erosion control fencing in accordance with the Site Servicing and Grading Plan prepared by Quartek, dated July 10, 2023.
25. That the condominium agreement between the owner and the Town contain provisions whereby the owner agrees to undertake vegetation removals 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 by a qualified professional prior to any vegetation removal or site alteration planned to occur during this window.
26. That the owner dedicate the required 3.05 metre widening across the frontage of the property along Regional Road 81 (York Road).
27. That prior to any construction within the Regional Road 81 (York 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.
28. That revised engineering drawings to address Regional Transportation comments be submitted for review and approval by Niagara Region.
29. That the owner submit Regional waste collection truck turning templates for review and approval by Niagara Region.
30. That the owner comply with the requirements of Niagara Region's Corporate Waste Collection Policy and complete the required Indemnity Agreement prior to Regional waste collection services commencing on-site.
31. That the condominium 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.

NIAGARA PENINSULA CONSERVATION AUTHORITY

32. That the Developer provide detailed grading, construction sediment and erosion control drawings to the Niagara Peninsula Conservation Authority for review and approval. The Owner agrees that all Sediment and Erosion Control Measures shall be maintained in good condition for the duration of construction until all disturbed surfaces have been stabilized.
33. That the Developer provide a 1.5-metre-high chain-link fencing along the top of slope. The applicable Engineering Drawings and the Condominium Agreement are to clearly indicate that chain link fencing is not to have any gates for the lots.
34. That a clause be added to the Condominium Declaration that no buildings or structures are permitted within 7.5 metres of the Stable Top of bank without approval from the NPCA.
35. That prior to the commencement of works on site, the Owner shall obtain Work Permits from the NPCA for any works associated with at storm outfall to the watercourse. In support of the application, the following information will be required: Detailed design plans.
- a) Detailed design plans.
 - b) Buffer Enhancement Plans at the outlet.
 - c) Any other information as may be determined at the time a Work Permit Application is submitted to the NPCA.
36. That prior to the commencement of works on site, the Owner shall obtain Work Permits from the NPCA for any works associated with any development or site alterations within 15m of the adjacent valley. In support of the application, the following information will be required:
- a) Detailed design plans, with supportive Geotechnical Engineering Reports.
 - b) Any other information as may be determined at the time a Work Permit Application is submitted to the NPCA.
37. That the above Conditions set out by the Niagara Peninsula Conservation Authority be incorporated into the Condominium Agreement between the Owner and the Town of Niagara-on-the-Lake, to the satisfaction of the Niagara Peninsula Conservation Authority. The Town of Niagara-on-the-Lake shall circulate the Draft Condominium Agreement to the

Niagara Peninsula Conservation Authority for its review and approval.

BELL CANADA

38. That the Condominium Agreement between the Owner and the Town include the following clauses:

- a) *“That 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) *That 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) *That the Owner is to provide Bell Canada with servicing plans/CUP at their earliest convenience to planninganddevelopment@bell.ca to confirm the provision of communication/telecommunication infrastructure needed to service the development. It shall be noted that it is the responsibility of the Owner to provide entrance/service duct(s) from Bell Canada’s existing network infrastructure to service this development. In the event that no such network infrastructure exists, in accordance with the Bell Canada Act, the Owner may be required to pay for the extension of such network infrastructure. If the Owner elects not to pay for the above noted connection, Bell Canada may decide not to provide service to this development.”*

ENBRIDGE GAS INC.

39. That the Condominium Agreement between the Owner and the Town include the following clauses:

- a) *“That the applicant shall use the Enbridge Gas Get Connected tool to determine gas availability, service and meter installation details and to ensure all gas piping is installed prior to the commencement of site landscaping 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 phased construction, all costs are the responsibility of the applicant.*
- c) *In the event that easement(s) are required to service this development, and any future adjacent developments, the applicant will provide the easement(s) to Enbridge Gas at no cost.*
- d) *The applicant will contact Enbridge Gas Customer Service at 1-877-362-7434 prior to any site construction activities to determine if existing piping facilities need to be relocated or abandoned.”*

NIAGARA ESCARPMENT COMMISSION

40. That Conditions 22 and 23 are implemented to the satisfaction of the Niagara Escarpment Commission.

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.

Department or Agency	Conditions
Town Community & Development Services	1-13
Town Urban Forestry	14
Town Operations	15-20
Niagara Region	21-31
Niagara Peninsula Conservation Authority	32-37
Bell Canada	38
Enbridge Gas	39
Niagara Escarpment Commission	40

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 & 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	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
Town Urban Forestry	Harry Althorpe, Urban Forestry By-law Enforcement Officer	1593 Four Mile Creek Road, P.O. Box 100, Virgil, ON, L0S 1T0	(905) 468-3266	Harry.Aldhorpe@notl.com
Niagara Region	Amy Shanks, Senior Planner	1815 Sir Isaac Brock Way, P.O. Box 1042, Thorold, ON, L2V 4T7	(905) 980-6000	amy.shanks@niagararegion.ca
Niagara Peninsula Conservation Authority	Taran Lennard, Watershed Planner 2	250 Thorold Road West, 3rd Floor, Welland, ON, L3C 3W	(905)-788-3135	tlennard@npca.ca

Enbridge Gas	Willie Cornelio, Sr Analyst Municipal Planning	500 Consumers Road, North York, ON M2J 1P8	(416)-495-6411	municipalplanning@ enbridge.com
Bell Canada	Juan Corvalan, Senior Manager, Municipal Liaison		(416) 570-6726	planninganddevelopment@ bell.ca
Niagara Escarpment Commission	Janet Sperling, Acting Senior Strategic Advisor	1450 7th Ave. East I Owen Sound, ON I N4K 2Z1	(226)-668-5247	Janet.Sperling@ontario.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.