

**DRAFT APPROVAL OF CONDOMINIUM 30CDM-22208  
67 & 71 NELSON AVE. & PORTION OF UNDEVELOPED TAGGE ST. RIGHT-OF-WAY  
2415274 ONTARIO INC.  
RECOMMENDED CONDITIONS OF DRAFT APPROVAL**

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The Kitchener City Council, pursuant to Section 51(31) of the Planning Act R.S.O. 1990, c.P.13, as amended, and By-law 2005-170 as amended by By-law 2007-042, of the City of Kitchener, hereby grants draft approval of Condominium Application 30CDM-22208 for the property municipally known as 67 & 71 Nelson Avenue in the City of Kitchener, subject to the following conditions:

1. That this approval applies to Draft Condominium 30CDM-22208 owned by 2415274 Ontario Inc., dated April 12, 2023 proposing a Vacant Land Condominium Plan for 0.821 hectares of land comprised of common elements and 23 unit:

**Units 1-23:** Residential vacant land condominium units for single detached dwellings (23 units; total of 0.608 hectares).

**Common Elements:** Private road, walkway, servicing, and landscaped area, snow storage area, and noise wall on City lands and subject to an easement in favour of the Owner (total of 0.213 hectares).

2. That the final plan shall be prepared in general accordance with the above noted plan, with a copy of the final plan being approved by the City's Manager of Development Review.
3. That prior to registration, the Owner obtain approval from the City's Addressing Analyst of the following:
  - A. An addressing plan showing the proposed units with Condominium Unit Numbering; and;
  - B. A summary table containing the proposed Condominium Unit Numbering and assigned municipal addresses.
4. That the Condominium Declaration proposed to be registered (the "Declaration") or any amendment thereto to effect the registration of a condominium phase shall be submitted for approval to the City's Manager of Development Review and Regional Municipality of Waterloo's Commissioner of Planning, Development and Legislative Services. The said Declaration shall contain:
  - i) Provisions, to the satisfaction of the City's Manager of Development Review and Regional Municipality of Waterloo's Commissioner of Planning, Development and Legislative Services, regarding ownership details and rights and obligations for common elements including, but not limited to, noise wall, access lanes, sanitary, storm and water services, gas utilities and open space/amenity areas, if any.

In addition, the Declaration shall contain specific provisions 4 ii) through 4 v), as outlined below, to the satisfaction of the City's Manager of Development Review.

- ii) That the condominium corporation agrees to maintain the subject lands in compliance with approved Site Plan.

- iii) Provisions that obligate the condominium corporation to be created upon the registration of the Declaration and Description (the "Condominium Corporation") to implement and maintain any Region required salt management plan related to winter snow and ice clearing obligations of the Condominium Corporation;
  - iv) Provisions that obligate the Unit Owners of the condominium plan to implement and maintain any Region required salt management plan related to winter snow and ice clearing obligations of the said Unit Owners.
  - v) Provisions that identify if the approved condominium plan is to be phased pursuant to the Act that ensure that:
    - a. the lands in the registered condominium plan created by the registration of the Declaration and Description have either direct access or access pursuant to one or more easements satisfactory to the City's Manager of Development Review and the Region's Commissioner of Planning, Development and Legislative Services to all required municipal and other services and such adjacent street(s) for ingress and egress as required by the said Manager and Commissioner;
    - b. the lands in any phase registered after the initial registration of the Declaration and Description have, following the registration of such phase, either direct access or access pursuant to one or more easements satisfactory to the City's Manager of Development Review and the Region's Commissioner of Planning, Development and Legislative Services to all required municipal and other services and such adjacent street(s) for ingress and egress as required by the said Manager and Commissioner;
    - c. the remainder of the lands of the approved condominium plan not yet registered as part of the proposed condominium plan have, following the initial registration of the Declaration and Description or any phase thereof, either direct access or access pursuant to one or more easements satisfactory to the City's Manager of Development Review and the Region's Commissioner of Planning, Development and Legislative Services to all required municipal and other services and such adjacent street(s) for ingress and egress as required by the said Manager and Commissioner.
    - d. the City's Manager of Development Review and/or the Region's Commissioner of Planning, Development and Legislative Services may require solicitors' and/or engineers' written opinions as such Manager or Commissioner may deem necessary to establish compliance with any one or more of the conditions set out in the three subparagraphs immediately above.
5. That the Owner provide a written undertaking directed to the City's Manager of Development Review to register a Condominium Declaration which shall include the approved provisions as required in condition 4 hereof.
  6. That the Owner provide a written undertaking directed to the City's Manager of Development Review advising that the new home purchasers will be advised in Offers of Purchase and Sale of the location of Centralized Mailboxes.
  7. That the Owner shall obtain a tax certificate from the City of Kitchener to verify that there are no outstanding taxes on the subject property to the satisfaction of the City's Revenue Division.

8. That the Owner shall make arrangements for the granting of any easements for utilities and municipal services. The Owner agrees to comply with the following easement procedure:
  - a. For any of such easements that are not blanket easements covering the whole property to provide drafts of any required reference plan(s) portraying the proposed easement(s) location for written approval by the City's Manager of Development Review prior to the registration thereof showing the proposed location of such easements and to circulate such draft reference plan(s) for comment to Enova Power Corp., and any telecommunication companies and the City's Director of Engineering Services to ensure that there are no conflicts between the desired locations for utility easements and those easement locations required by the City's Director of Engineering Services for municipal services.
  - b. If utility easement locations are proposed within lands to be conveyed to, or owned by the City, the Owner shall obtain prior written approval from the City's Manager of Development Review; and
  - c. To provide to the City's Manager of Development Review a clearance letter from each of Enova Power Corp. and the telecommunications company(ies) (if any) supplying telecommunication services to the property. Such letter shall state that company in question has sufficient wire-line communication/telecommunication infrastructure available within the proposed development and have received all required grants of easement, or alternatively, no easements are required.
9. That the Owner shall submit to the City of Kitchener a Letter(s) of Credit to cover 100 percent of the remaining cost of all outstanding and/or uncertified site development works to the satisfaction of the City's Manager of Development Review. If the approved condominium plan is to be phased according to the Act, the outstanding and/or uncertified site development works in question shall be only those outstanding and/or uncertified site development works within the lands to be included in the condominium plan by the upcoming registration in question.
  - i) The Letter(s) of Credit shall be kept in force until the completion and certification of the required site development works in conformity with their approved designs. If a Letter(s) of Credit is about to expire without renewal thereof and the works have not been completed and certified in conformity with the approved designs, the City may draw all of the funds so secured and hold them as security to guarantee completion and/or certification, unless the City Solicitor is provided with a renewal of the Letter(s) of Credit forthwith.
  - ii) In the event that the Owner fails to complete the required site development works, to the satisfaction of the City's Manager of Development Review, then it is agreed by the owner that the City, its employees, agents or contractors may enter on the lands and so complete and/or certify the required site development works to the extent of the monies received under the Letter(s) of Credit. The cost of completion of such works shall be deducted from the monies obtained from the Letter(s) of Credit. In the event that there are required site development works remaining to be completed, the City may by by-law exercise its authority under Section 326 of the Municipal Act to have such works completed and to recover the expense incurred in doing so in like manner as municipal taxes.

- iii) Other forms of performance security may be substituted for a Letter(s) of Credit, at the request of the owner, provided that approval is obtained from the City Treasurer and City Solicitor.
- 10. That prior to the initial registration and subsequent amendment phases, the Owner shall provide documentation indicating that any required visitor parking, barrier free parking, rights-of-way for access and easements for servicing, including the maintenance thereof, have been provided over the lands included in preceding registrations as well as any adjacent development lands which are included in this application to the satisfaction of the City's Manager of Development Review.
- 11. That prior to the initial registration, where required, at the discretion of the Chief Building Official, that the Owner enter into a shared servicing agreement to be registered on title, to the satisfaction of the City Solicitor. In addition, where the shared servicing agreement is required:
  - i. The Owner shall provide a written undertaking to cause the condominium corporation created by the initial registration to enter the same shared servicing agreement after said registration and have the agreement registered on title to the initial registration and proposed future phases, to the satisfaction of the City Solicitor.
  - ii. A solicitor shall provide an undertaking not to register the shared servicing agreement in any form other than the form approved by the City.
- 12. That prior to the initial registration, all properties are merged on title, or the Owner provides evidence to the satisfaction of the City Solicitor (which may, without limitation, take the form of a solicitor's firm undertaking) that upon initial registration that all properties shall be merged on title, with no separate mortgages, liens or other encumbrances that would have the potential effect of separating the properties without a Planning Act decision to the satisfaction of the City Solicitor and Director of Planning.
- 13. That prior to the initial registration, that Site Plan Application SP22/103/N/AP receive final Site Plan Approval, to the satisfaction of the City's Director of Planning.
- 14. That prior to the initial registration, the land transactions related to the sale of a portion of the Tagge Street right-of-way and the establishment of an easement on City lands for a noise wall, to facilitate the proposed condominium, shall be complete, to the satisfaction of the City Solicitor and City's Manager of Realty Services.
- 15. That prior to the initial registration, the Owner shall ensure that the Condominium Declaration and/or Condominium Description outlines the construction, maintenance and ownership requirements related to the required noise wall, to the satisfaction of the City Solicitor, City's Director of Planning, and that a firm solicitor's undertaking (to the satisfaction of the City Solicitor) shall be provided as confirmation that the Condominium Declaration will be registered in the same form as provided to the City in satisfaction of this condition.
- 16. That prior to the initial registration, the Owner shall provide a letter from an Engineering/Geotechnical Engineer regarding Unit 12, verifying that the bottom of footing elevation is not within the 1:1 zone of influence, if the existing sanitary pipe to the south needs to be excavated in the future, to the satisfaction of the City's Director of Engineering Services.

17. That prior to the initial registration, the Owner shall provide a letter from an Engineering/Geotechnical Engineer verifying that infiltration galleries will not be negatively impacted during future maintenance or replacement of the existing sanitary sewer to the south.
18. That prior to the initial registration, the Owner shall ensure that the Condominium Declaration includes the following wording to advise all purchasers of residential units and / or renters of the same:

*"In order to limit risks, public school buses contracted by Student Transportation Services of Waterloo Region (STSWR), or its assigns or successors, will not travel on privately owned or maintained right-of-ways to pick up and drop off students, and so bussed students will be required to meet the bus at a congregated bus pick-up point."*

19. That prior to the initial registration, the Owner shall enter into an agreement with the City of Kitchener, to be registered on the title of the property that implements the following:

*"All agreements of purchase and sale or leases for the sale or lease of a completed home or a home to be completed on the property must contain the wording set out below to advise all purchasers of residential units and/or renters of same:*

*'In order to limit risks, public school buses contracted by Student Transportation Services of Waterloo Region (STSWR), or its assigns or successors, will not travel on privately owned or maintained right-of-ways to pick up and drop off students, and so bussed students will be required to meet the bus at a congregated bus pick-up point.'"*

20. That the Owner/Developer agrees to phase/stage development of this condominium in a manner satisfactory to the Commissioner of Planning, Development and Legislative Services and the City of Kitchener, including any easements or other requirements as a result of staging.
21. That prior to final approval, the Owner/Developer shall submit a revised Stationary Noise Study and if necessary, shall enter into a registered development agreement with the City of Kitchener to provide for implementation of the recommended noise study attenuation measures and noise warning clauses to the satisfaction of the Regional Municipality of Waterloo.
22. That prior to final approval, the Owner/Developer shall submit a detailed noise wall design report to the satisfaction of the Regional Municipality of Waterloo.
23. That prior to final approval, the Owner/Developer shall include the following noise warning clause within the Condominium Declaration and Purchase and Sale/Lease/Rental Agreement(s) to the satisfaction of the Regional Municipality of Waterloo:

*"Purchasers/tenants are advised that due to the proximity of the adjacent commercial and industrial facilities, noise from the facilities may at times be audible."*

And if the noise wall is recommended form of mitigation include the following:

*"The Developer agrees to preserve the function of and to maintain the noise wall along the southern edge of City owned lands. The purpose of the noise wall is to attenuate noise from the industrial lands to the south. The Developer agrees that the City, through its*

*employees and agents has the right to enter onto the lands to inspect the noise wall. The Developer agrees to repair or, if necessary replace the noise wall. Should the Developer fail to repair or replace the noise wall upon receipt of a written notice from the City, as the City deems necessary, the Developer agrees that the City may undertake such work upon the expiration of the time set out in the notice. If such work is undertaken by the City, the Developer hereby agrees to permit entry upon the lands for this purpose and agrees to reimburse the City fully for all costs of undertaking such work."*

24. That prior to final approval, the Owner/Developer shall include the accepted provisions of the Salt Management Plan for the Unit Owners and Condominium Corporation within the Condominium Declaration; all to the satisfaction of the Regional Municipality of Waterloo.
25. That prior to final approval, the Regional Municipality of Waterloo be provided with a copy of the registered development agreement between the Owner/Developer and the City of Kitchener.
26. That prior to final approval, that the Condominium Declaration be forwarded to the Commissioner of Planning, Development and Legislative Services at the Regional Municipality of Waterloo.

#### **CLEARANCES:**

1. That prior to the signing of the final plan by the City's Manager of Development Review, the Owner shall submit a detailed written submission outlining and documenting how conditions 3 through 19 inclusive have been met. The submission shall include a brief but complete statement detailing how and when each condition has been satisfied.
2. That prior to signing of the final plan by the City's Manager of Development Review, the Regional Municipality of Waterloo shall notify the City's Manager of Development Review that Conditions 4i), 4)iii), iv), v), and 20 through 26 have been satisfied.

#### **NOTES:**

1. The owner is advised that the provisions of the Development Charge By-laws of the City of Kitchener and the Regional Municipality will apply to any future development on the site.
2. The condominium plan for Registration must be in conformity with Ontario Regulation 43/96 as amended, under the Registry Act.
3. It is the responsibility of the owner of this draft plan to advise the Regional Municipality of Waterloo Department of Planning, Development and Legislative Services and the City of Kitchener Development Services Department of any changes in ownership, agent, address and phone number.
4. The owner is advised that the Regional Municipality of Waterloo and City of Kitchener require fees, pursuant to Section 69 of the Planning Act, R.S.O. 1990, c.P. 13, for modification to draft approval and registration release of plans of condominium.
5. This draft plan was received on January 28, 2022 and deemed complete on May 20, 2022 and shall be processed and finally disposed of under the Planning Act, R.S.O. 1990, c.P. 13, as amended as of that date.
6. To ensure that a Regional Release is issued by the Region's Commissioner of Planning, Development and Legislative Services to the City of Kitchener prior to year end, it is the responsibility of the owner to ensure that all fees have been paid, that all Regional

conditions have been satisfied and the required clearance letters, agreements, prints of plan to be registered, and any other required information or approvals have been deposited with the Regional Planner responsible for the file, no later than December 15<sup>th</sup> for consideration. Regional staff cannot ensure that a Regional Release would be issued prior to year end where the owner has failed to submit the appropriate documentation by this date.

7. When the proposed Description or any amendment thereto to effect the registration of a phase has been completed and approved by the Land Titles Office the same should be forwarded to the City of Kitchener. If the plans comply with the terms of the approval, and the City of Kitchener has received all required fees, the Regional Release and satisfactory evidence that all conditions of approval have been satisfied, the Manager of Development Review signature will be endorsed on the Description plan or amendment thereto and it will be forwarded to the Land Titles Office for registration.

The following is required for registration and under The Registry Act and for our use:

Two	(2)	original mylars
Five	(5)	white paper prints
One	(1)	digital copy