

DRAFT PLAN OF CONDOMINIUM 30CDM-24205
455-509 Mill Street
Polocorp Inc.
RECOMMENDED CONDITIONS OF DRAFT APPROVAL

That the City of Kitchener, pursuant to Section 51(31) of the Planning Act R.S.O. 1990, c.P.13, as amended, and By-law 2023-103, of the City of Kitchener, hereby grants draft approval to Condominium Application 30CDM-24205 for 455-509 Mill Street in the City of Kitchener, subject to the following conditions:

1. That this approval applies to Draft Condominium 30CDM-24205 owned by Polocorp Inc., dated March 4, 2024, proposing a Vacant Land Condominium Plan for 2.17 hectares of land comprised of 4 units and common elements.

Units 1-4: mixed use residential units.

Common Elements: Internal drive aisle, walkways, and landscape areas.

Other Lands: Parkland Dedication (341.8 square metres) not part of the condominium.

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 Director of Development and Housing Approvals.
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 Director of Development and Housing Approvals 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 Director of Development and Housing Approvals 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, 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 vii), as outlined below, to the satisfaction of the City's Director of Development and Housing Approvals.

- 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 Director of Development and Housing Approvals 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 Director of Development and Housing Approvals and the Region's Commissioner of Planning, Development and Legislative Services to*
 - c. *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 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 Director of Development and Housing Approvals 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.*
 - e. *the City's Director of Development and Housing Approvals 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.*
- vi) That Despite the best efforts of the Waterloo Region District School Board (WRDSB), accommodation in nearby facilities may not be available for all anticipated students. You are hereby notified that students may be accommodated in temporary facilities and/or bussed to a school outside the area, and further, that students may, in future, be transferred to another school. For information on which schools are currently serving this area, contact the WRDSB Planning Department at 519-570-0003 ext. 4419, or email planning@wrdsb.ca. Information provided by any other source cannot be guaranteed to reflect current school assignment information. In order to limit liability, public school buses operated by the 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 students,

and potential busing students will be required to meet the bus at a congregated bus pick-up point.

- vii) 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.
- 5. That the Owner covenant and agree in writing to the City's Director of Development and Housing Approvals to register a Condominium Declaration which shall include the approved provisions as required in condition 4 hereof.
- 6. That the Owner shall provide an undertaking that the new home purchasers will be advised in Offers of Purchase and Sale of the location of Centralized Mail Boxes.
- 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:
 - i) For any of such easements which are not blanket easements, the Owner shall provide drafts of any required reference plan(s) showing the proposed easement(s) location to the City's Director Development & Housing Approvals prior to the registration. Such easement(s) and reference plan(s) must be circulated for comment to Enova Power Corp., any telecommunication companies, and the City's Director of Engineering Services to ensure that there are no conflicts between the desired locations for utility and municipal easements.
 - ii) 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 Director Development & Housing Approvals; and
 - iii) to provide to the City's Director Development & Housing Approvals 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 sufficient wire-line communication/telecommunication infrastructure is available within the proposed development and the provider(s) have received all required easements if 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 as may be identified through the Site Plan process to the satisfaction of the City's Director of Development and Housing Approvals.
 - 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 Director of Development and Housing Approvals, 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 Director of Development and Housing Approvals.
- 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:
 - ii) 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.
 - iii) 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 registration, the Owner shall obtain final site plan approval for the subject lands.
- 13. That prior to registration, or prior to final site plan approval, the Owner shall provide Parkland Dedication as a combination of land (a minimum of 341.8 square metres as shown on the draft VLC plan) to be provided free of any encumbrances to the satisfaction of the City of Kitchener, and cash in lieu of land will be required.
- 14. 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;
- 15. That prior to final approval, the Owner/Developer shall enter into a registered development agreement with the Regional Municipality of Waterloo and implement the following warning

clause within the Condominium Declaration and all purchase and sale/lease/rental agreements to the satisfaction of the Regional Municipality of Waterloo:

“Owners are advised that all units in this plan of condominium are located within or in close proximity to one of the flight paths leading into and out of the Region of Waterloo International Airport and that directional lighting along this path and noise from aircraft using the flight path may cause concern to some individuals.”

16. That prior to final approval, the Owner/Developer shall enter into a registered development agreement (if required) with the City of Kitchener and/or Regional Municipality of Waterloo to implement the recommendations contained within the detailed stationary noise study, including the implementation of any noise warning clauses within the Condominium Declaration and purchase and sale/lease/rental agreements; all to the satisfaction of the Regional Municipality of Waterloo.
17. That prior to final approval, the Owner/Developer shall enter into a registered development agreement with the Regional Municipality of Waterloo to implement the recommendations contained in the noise study entitled Noise and Vibration Feasibility Study, Proposed Mixed-Use Development, 459-509 Mill Street, Kitchener, Ontario” dated July 13, 2022 prepared by HGC Engineering including air conditioning and special building components; all to the satisfaction of the Regional Municipality of Waterloo. Furthermore, the following noise warning clauses shall be implemented within the Registered Development Agreement with the Regional Municipality of Waterloo and the Owner/Developer agrees to implement the following noise warning clauses within the Condominium Declaration and all offers of purchase and sale/lease/rental agreements:

“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 and rail traffic may occasionally interfere with some activities of the dwelling occupants as the sound level limits of the Municipality and the Ministry of the Environment, Conservation and Parks.”

“This dwelling unit has been supplied with a central air conditioning system which will allow windows and exterior doors to remain closed, thereby ensuring that the indoor sound levels are within the sound level limits of the Municipality and the Ministry of the Environment, Conservation and Parks.”

“Canadian National Railway Company or its assigns or successors in interest has or have a rights-of-way within 300 meters from the land of subject hereof. There may be alterations to or expansions of the railway facilities on such rights-of-way in the future including the possibility that the railway or its assigns or successors as aforesaid may expand its operations, which expansion may affect the living environment or the residents in the vicinity, notwithstanding the inclusion of any noise and vibration attenuating measures in the design of the development and individual dwelling(s). CNR will not be responsible for any complaints or claims arising from use of such facilities and/or operations on, over or under the aforesaid rights-of-way.”

Further to the above, should any additional implementation measures be recommended, they shall be implemented through the Registered Development agreement with the Regional Municipality of Waterloo and/or City of Kitchener.

18. That prior to final approval, the Owner/ Developer shall include provisions within the Condominium Declaration for the Condominium Corporation and Unit Owners to comply

with the negotiated Risk Management Plan for salt application (prepared by Polocorp Inc., dated July 11, 2022).

19. 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; and,
20. That prior to final approval, the final draft of 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 Director of Development and Housing Approvals, the Owner shall submit a detailed written submission outlining and documenting how conditions 3 through 20 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 Director of Development and Housing Approvals, the Regional Municipality of Waterloo shall notify the City's Director of Development and Housing Approvals that Conditions 4i), iii), iv), v) & vii), and 14 through 20 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. Draft approval will be reviewed by the Director of Development and Housing Approvals from time to time to determine whether draft approval should be maintained.
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 has adopted By-law 96-025, pursuant to Section 69 of the Planning Act, R.S.O. 1990, c.P. 13, to prescribe a tariff of fees for application, recirculation, draft approval, modification to draft approval and registration release of plans of condominium.
5. This draft plan was received on March 1, 2024 and deemed complete on March 4, 2024 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 15th. 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 survey has been completed and the final plan prepared to satisfy the requirements of the Registry Act, they should be forwarded to the City of Kitchener. If the plans comply with the terms of the approval, and we have received assurance from the Regional Municipality of Waterloo and applicable clearance agencies that the necessary arrangements have been made, the Director of Development and Housing Approvals signature will be endorsed on the plan and it will be forwarded to the Registry Office for registration

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

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