

DRAFT PLAN OF CONDOMINIUM 30CDM-22217
3241-3247 King Street East and 108 Cameo Drive
Day Nominee Corporation
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 By-law 2005-170, as amended by By-law 2007-042, of the City of Kitchener, hereby grants draft approval to Condominium Application 30CDM-22217 for 3241-3247 King Street East and 108 Cameo Drive in the City of Kitchener, subject to the following conditions:

1. That this approval applies to Draft Plan of Condominium Plan of Condominium 30CDM-22217 owned by Day Nominee Corporation prepared by J.D Barnes Limited, dated October 14, 2022, proposing a Vacant Land Condominium Plan comprised of 4 units and common elements.

Units 1-3: Residential Towers

Unit 4: Parking Structure

Common Elements: Drive aisles, walkways, landscaped areas.

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, 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 4v), 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
 - 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 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.
 - e. 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.
- vi) Provisions that establish long term use of the site:
 - a. vehicular access
 - b. maintenance/repair paid by the condominium corporation

- c. ownership of units
 - d. allocation of parking to units.
- 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 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.
- 7. 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 Kitchener Wilmot Hydro Inc., 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 Kitchener Wilmot Hydro Inc. 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.
- 8. 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.
- 9. 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.
 - 10. That prior to the initial registration and subsequent amendment phases, 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.
 - 11. That the Owner/Developer agrees to 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.
 - 12. That prior to final approval, the Owner/Developer enter into a Registered development agreement with the Regional Municipality of Waterloo to implement the recommendations and mitigation measures contained in the noise study entitled "Noise and Vibration Feasibility Study, Proposed Residential Development, 3241-3248 King Street East and 108 Cameo Drive, Kitchener, Ontario" dated September 24, 2021, prepared by HGC Engineering Limited, including but not limited to the inclusion of solid parapet walls, glazing, acoustic barriers, installation of air conditioning within all buildings, and the implementation of the following noise warning clauses:

"Purchasers and 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 continue to be of concern, and may occasionally interfere with some activities of the dwelling occupants as the sound levels exceed 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 Pacific 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). CPR 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.”

The above warning clauses shall also be included in the Condominium Declaration and all offers of Purchase and Sale/Lease/Rental Agreements to the satisfaction of the Regional Municipality of Waterloo.

13. That prior to final approval, the Owner/Development enter into a registered development agreement with the City of Kitchener agreeing to update the “Noise and Vibration Feasibility Study, Proposed Residential Development, 3241-3248 King Street East and 108 Cameo Drive, Kitchener, Regional Municipality of Waterloo, Ontario’, dated September 24, 2021 as prepared by HGC Engineering Ltd.” to provide an assessment of noise for the proposed buildings that include details relating to floor plans, building elevations, mechanical drawings, and equipment selections and agree to implement any recommendations of the study.
14. THAT prior to final approval, the Owner/Developer enter into a registered development agreement with the City of Kitchener to implement the following stationary noise warning clause within the Condominium Declaration and all offers of Purchase/Sale and Lease/Rental Agreements:

" Purchasers and tenants are advised that due to the proximity of the nearby commercial facilities, sound levels from the facilities may at times be audible.”

15. That prior to final approval, the Owner/Developer shall enter into a registered development agreement with the Regional Municipality of Waterloo to prohibit geothermal energy on site. Furthermore, the following prohibition shall be included within the Condominium Declaration and all offers of Purchase and Sale, Lease/Rental Agreements to the satisfaction of the Regional Municipality of Waterloo:

Geothermal Wells shall be prohibited on site. A geothermal well is defined as a vertical well, borehole or pipe installation used for geothermal systems, ground-source heat pump systems, geo-exchange systems or earth energy systems for heating or cooling; including open-loop and closed-loop vertical borehole systems. A geothermal well does not include a horizontal system where construction or excavation occurs to depths less than five metres unless the protective geologic layers overlaying a vulnerable aquifer have been removed through construction or excavation.

16. 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 prior to the final approval of the condominium plan.
17. 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 prior to final approval of the condominium plan.
18. That prior to final approval, the Owner/Developer include provisions for salt management within the Condominium Declaration for both unit owners and the condominium declaration to the satisfaction of the Regional Commissioner of Planning, Development and Legislative Services.

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 10 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),iii), iv), v) and 12 through 18 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 October 14, 2022 and deemed complete October 21, 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 15th 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