

**APPENDIX “3” of PDS-26-2024**

**Conditions of Draft Plan Approval**

255 Emerick Avenue

Draft Plan of Standard Condominium

May 13, 2024

The conditions of final approval and registration of the Draft Plan of Standard Condominium at 255 Emerick Avenue, Town of Fort Erie (File No. 350303-0045) are as follows:

- 1) That this approval applies to the Draft Plan of Condominium at 255 Emerick Avenue – Lot 15 & 16 S/S Emerick Ave, Plan 363, Lot 60 S/S Emerick Ave, Plan 525, being Part 1 on 59R-15678, prepared by Chambers and Associates Surveying Ltd., and signed by Donald G. Chambers on November 13, 2023, showing 35 residential in an existing apartment with 48 parking spaces and 14 visitor parking spaces.
- 2) That if final approval is not given to this plan within three years of the draft approval date and no extensions have been granted, draft approval shall lapse. If the owner wishes to request an extension to the draft approval period, a written explanation with reasons why the extension is required, together with a resolution from the local municipality must be received by the Region prior to the lapsing date.
- 3) That the applicant/developer (hereinafter called the “Owner”) enter into a Site Plan Agreement pursuant to Section 41 of the Ontario Planning Act and deposit sufficient security to ensure the completion of all works including common element services.
- 4) That the Site Plan Agreement between the Owner and the Town be registered by the Municipality against the lands to which it applies in accordance with the Planning Act.
- 5) That the Owner submit an undertaking that the Condominium Corporation will enter into an assumption agreement with the municipality, once the condominium plan has been registered, which requires the Condominium Corporation to assume the maintenance and responsibilities contained in the Site Plan Agreement and that the Condominium Corporation will not object to the registration of the agreement.
- 6) That immediately following the registration of the Condominium Plan the Condominium Corporation enter into an assumption agreement with the Municipality which requires the Condominium Corporation to:
  - a. Assume the maintenance and responsibilities outlined under the Site Plan Agreement to be approved by the Town of Fort Erie.

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- b. Provide to the Town security deposits as necessary to ensure completion of all outstanding works.
- 7) That in accordance with By-law 69-08 Policy for Parkland Dedication, the owner shall pay to the Town of Fort Erie cash in lieu of parkland dedication an amount equal to 5% of the value of the land to the satisfaction of the Town.
- 8) The assumption agreement shall be registered on title against the lands to which it applies at the cost of the Owner.
- 9) Prior to the registration of the Condominium, the Owner shall provide a copy of the Declaration that contains the necessary wording to grant easements to provide for access to and the use of the shared facilities including but not limited to parking areas, loading and waste collection facilities and stormwater management facilities.
- 10) Prior to final approval of the registration of the Condominium, the Town of Fort Erie is to be satisfied that:
  - a. the Owner will register easements and a joint use and maintenance agreement for the benefit of the units, common elements, and servient tenements to provide for:
    - i. rights of access to and use of, joint facilities; and,
    - ii. responsibility for, and distribution of costs for maintenance of joint facilities. *Examples of such joint facilities include, but are not limited to, internal roads and services, gazebos, recreational structures and facilities, open space and play areas, visitor parking spaces, noise attenuation barriers, and entrance features.*
- 11) Prior to final approval for the registration of condominium corporation within the development, the Town of Fort Erie is to be advised in writing by the Director of Planning and Development Services that:
  - b. all buildings are to be substantially complete and ready for occupancy;
  - c. site works are substantially complete and the Owner’s consulting engineer has submitted a final lot grading certificate which has been accepted by the Town of Fort Erie Planning and Development Department;
  - d. the proposed plan of condominium showing the “as-constructed” buildings and structures has been submitted and accepted by the Town of Fort Erie Planning and Development Department as in compliance with all applicable zoning by-law regulations;
  - e. the fire route and fire route signs have been installed to the satisfaction of the Town of Fort Erie Fire Department; and

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- f. all obligations of the Owner, pursuant to the Site Plan Agreement with the Town of Fort Erie are substantially complete.
- 12) The Owner’s professional engineer is to provide certification to the Town of Fort Erie Building Department that all buildings, structures, facilities and services shown in the declaration and description to be included in the standard condominium have been completed, installed and provided in accordance with the requirements of the Condominium Act, 1998.
  - 13) That the owner agrees to deed any and all easements that may be required for access, utility and drainage purposes be granted to the appropriate authorities and utilities.
  - 14) The Owner shall submit a digital file of the plan to be registered in a format compiled to the satisfaction of the Town of Fort Erie

### Bell Canada

- 15) 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.
- 16) 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.

### Canada Post

- 17) Canada Post's multi-unit policy, which requires that the owner/developer provide the centralized mail facility (front loading lockbox assembly or rear-loading mailroom [mandatory for 100 units or more]), at their own expense, will be in effect for buildings and complexes with a common lobby, common indoor or sheltered space.

### **Clearance of Conditions**

Prior to granting approval of the final plan, the Town will require written confirmation from the following agencies that their respective conditions have been met satisfactorily:

- Bell Canada for Conditions 15 and 16
- Canada Post for Condition 17

1. THE LANDS REQUIRED TO BE REGISTERED UNDER THE LAND TITLES ACT:
  - a) Section 160(1) of the *Land Titles Act* requires all new plans to be registered in the Land Titles system.

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b) Section 160(2) allows certain exceptions.

### 2. WATER AND SEWER SYSTEMS

Inauguration or extension of a piped water supply, a sewage system or a storm drainage system is subject to the approval of the Ministry of the Environment, Conservation and Parks under Section 52 and 53 of the *Ontario Water Resources Act, R.S.O. 1990*.

### 3. CONVEYING

As the land mentioned above be conveyed to the Municipal Corporation may be more easily described in the conveyance by reference to a registered plan than by “metes and bounds” be it suggested that the description be so worded and be it further suggested the Owner give to the Municipality an undertaking to deposit with the Clerk a properly executed copy of the conveyance concurrent with the registration of the plan.

4. In order to assist the agencies listed above with clearing the conditions of final approval and registration of the plan, it may be useful to forward executed copies of the agreement between the Owner and the Town to these agencies. In this instance, this copy should be sent to:

Bell Canada  
Juan Corvalan  
Senior Manager, Municipal Liaison  
[planninganddevelopment@bell.ca](mailto:planninganddevelopment@bell.ca)

Canada Post  
Andrew Carrigan  
Officer, Delivery Planning  
[Andrew.Carrigan@Canadapost.ca](mailto:Andrew.Carrigan@Canadapost.ca)

### 5. REVIEW OF CONDITIONS

The applicants are advised that should any of the condition appear unjustified or their resolution appear to be too onerous, they are invited to bring their concerns to Council’s attention. Council will consider a request to either revise or delete conditions.

### 6. ASSUMPTION AGREEMENT

Prior to final approval for registration, a copy of the executed Assumption Agreement for the proposed development should be submitted to Niagara Region for verification that the appropriate clauses have been included. Niagara Region recommends that a copy of the draft agreement be provided in order to allow for the incorporation of any necessary revisions prior to execution.