



**The Corporation of the City of St. Catharines
CITY COUNCIL AGENDA
Regular, Monday, September 26, 2016
Council Chambers, City Hall, 6:30 PM**

His Worship Mayor Walter Sendzik takes the Chair and opens the meeting

1. Presentations

- 1.1 Josh Knoester and Jeffrey Sotiriou, Niagara River Lions, National Basketball League of Canada
Re: Presentation to City in Recognition of Inaugural Season

2. Public Meetings Pursuant to Planning Act

- 2.1 Planning and Building Services, Planning Services
Application for Draft Plan of Condominium (Vacant Land) for Mixed-use Development, 300 Fourth Avenue; Owner: 2109075 Ontario Inc., o/a Al Heywood

3. Mayor's Report

4. Adoption of the Agendas

5. Declarations of Interest

6. Adoption of the Minutes (Council and General Committee)

- 6.1 [Regular Meeting of Council, Minutes of September 12, 2016](#)
6.2 [General Committee, Minutes of September 12, 2016](#)
6.3 Budget Standing Committee Minutes, [June 20, 2016](#), and [August 29, 2016](#)

7. Delegations

- 7.1 Stephen Bedford and Tom Richardson, Representatives of 101 South Drive Property Task Force
Re: Task Force Report and Recommendations
([see General Committee, September 26, 2016, Item 3.1](#))

8. Call for Notices of Motion

9. Motions

9.1 101 South Drive Property - Progress Report and Recommendations

Councillor Kushner will present the following motion:

That the Task Force Report Progress Report be referred to staff for review and a report back to Council; and

That Council direct staff to amend the Terms of Reference of the 101 South Drive Property Task Force to extend the term of the Task Force until such time as decisions are made on the development of the property known as 101 South Drive. FORTHWITH

10. Resolve into General Committee

11. Motion Arising from In-Camera Session

12. Motion to Ratify Forthwith Recommendations

13. By-laws

13.1 Reading of By-laws

14. Agencies, Boards, Committee Reports

14.1 Minutes to Receive:

- [Downtown Development and Revitalization Advisory Committee, June 28, 2016](#)
- [101 South Drive Property Task Force, August 8, 2016](#)
- [St. Catharines Heritage Permit Advisory Committee, August 25, 2016](#)
- [Master Fire Planning Committee, September 15, 2016](#)

15. Adjournment



CITY OF
ST. CATHARINES

Corporate Report

Report from Planning and Building Services, Planning Services

Date of Report: August 31, 2016

Date of Meeting: September 26, 2016

Report Number: PBS-262-2016

File: 60.46.418

Subject: Application for Draft Plan of Condominium (Vacant Land) for Mixed-Use Development, 300 Fourth Avenue; Owner: 2109075 Ontario Inc., o/a Al Heywood

Recommendation

That the report from the Planning and Building Services, dated August 31, 2016, concerning a draft plan of condominium approval be referred to Council for consideration at the Council meeting of October 24, 2016, after the Public Meeting scheduled for September 26, 2016. FORTHWITH

Staff Recommendation

That approval be granted for a draft plan of vacant land condominium for the lands described as Pt. Lot 23 Con. 5, designated as Parts 1, 2, 3, 4 and 13 on 30R-14294, municipally known as 300 Fourth Avenue, as illustrated on Appendix 3 of this report, subject to the Conditions of Draft Plan of Condominium Approval, as outlined in Appendix 4 of this report; and

That the Notice of Decision required by the Planning Act, R.S.O. 1990, c.P. 13, as amended, be processed by staff; and

That after notice of Council's decision has been given, the Clerk be authorized to endorse the plan as "Draft Approved" on the day after the appeal period has expired, in accordance with the Planning Act, provided that no appeals have been lodged; and

That upon expiration of the appeal period, staff be directed to forward any appeals to the Ontario Municipal Board for consideration and final decision; and

Further, that the Clerk be directed to make all necessary notifications. FORTHWITH

Summary

The purpose of the application is to request approval of a draft plan of condominium (vacant land) for a mixed-use development comprised of nine parts identifying various buildings, parking areas, private roads and landscaping, as illustrated on Appendix 3. The plan of condominium will allow most of the buildings to be sold individually. Staff is recommending approval of this draft plan of condominium, subject to the conditions of

draft plan approval outlined in Appendix 4. The proposal conforms to Provincial, Regional and local Official Plan policies.

This application is for condominium unit and common element configuration and tenure/ownership only. The details of the development are regulated through the site plan approval process, a delegated authority to the Director of Planning and Building Services. A site plan agreement for this project was approved in October of 2014 and the project is partially constructed.

Background

Site Plan approval for the construction of a multi-building commercial development on the subject lands was approved in October of 2014. This site plan is included in Appendix 2 and construction is ongoing. Some of the buildings have been completed and are occupied by a mix of commercial tenants.

The approved site plan also includes one five-storey building that has not yet been constructed. The Owner is now planning to convert the three upper storeys of this building to residential apartment units and to construct underground parking beneath the building. These changes will trigger a requirement to amend the existing site plan agreement.

Report

The applicant has applied for draft plan of vacant land condominium approval for a multi-building development. All buildings will utilize a shared parking area, with the exception of a five-storey building in the centre of the site (Unit 5) which will have its own underground parking. The site entrances and perimeter landscaping will be maintained as common elements within the condominium. The applicant has requested draft plan of vacant land condominium approval so that each of the 9 proposed units can be sold individually. For the purpose of this application a “unit” is simply a parcel of land known as a “unit” within the Condominium Act.

The applicant advises that they wish to change the top floors of Building 5 (see Appendix 2) from commercial to residential use. The proposed residential apartment use is permitted by Zoning By-law 2013-283 but requires an amendment to the existing site plan agreement. This change of use within the building will not impact the proposed draft plan of condominium, however, a future additional condominium application will be required if those apartment units are to be sold individually.

Location and Site Description

The site is located in the West Planning District of the city, on the south side of Fourth Avenue, east of First Street. A location map is attached as Appendix 1.

The subject lands are 3.7 hectares in size and are partially developed with a mix of commercial uses. The property is an irregular shape, and has a frontage on Fourth Avenue, First Street, and Burbank Drive.

Surrounding land uses include:

North:	Commercial development site, currently under construction
South:	St Catharines Transit Commission and vacant commercial lands
East:	Glen-Merritt Collision (auto repair)
West:	Hospital - Niagara Health System, St. Catharines Site

Circulation of Application

The application was circulated to all relevant departments and agencies in accordance with the Planning Act. There were no concerns raised with the proposed draft plan of condominium. Most departments and agencies confirmed that their technical requirements have already been addressed through the previous site plan approval and that draft plan of condominium approval is for tender only.

Planning Analysis

Provincial Policy Context

The lands are within a settlement area under the 2014 Provincial Policy Statement (PPS) and is within the built-up area as delineated by the Provincial Growth Plan for the Greater Golden Horseshoe (Growth Plan). The PPS and Growth Plan contain policies that direct major growth and development to settlement areas, encourage the development of complete communities, support intensification, and require the provision of an appropriate range of housing types and densities to meet the social, health and well-being requirements of current and future residents. Land use patterns shall be based on densities and a mix of land uses that efficiently use land, resources, infrastructure, and public service facilities which are planned or available to settlement areas. The proposed development is in keeping with the provincial policies.

Regional Planning Context

The subject lands are within the Urban Area Boundary of the City of St Catharines according to the Regional Official Plan and within a Built-up Area. The Sustainable Community Policies establish a residential intensification target of 95% for the St. Catharines built-up area. The future introduction of apartment dwellings within the site will further assist the City in exceeding this target.

Official Plan Designation

The City's Official Plan, The Garden City Plan (GCP), designates the lands as Commercial. Schedule E6 of the GCP provides additional direction for the West Planning District and designates the lands as Major Commercial. The Major Commercial Designation permits a range of commercial uses, as well as residential apartment dwelling units, provided that they are located in freestanding buildings or in upper storeys of commercial buildings. The development complies with the land use policies of the Official Plan.

Zoning

By-law 2013-283 zones the lands as Major Commercial, Special Provision 30 (C4-30). The C4 zone permits Retail, Restaurant, Service Commercial, Office and Apartment Dwelling uses. Special Provision 30 includes a number of site-specific landscaping, setback, parking and drive-through standards. The uses within the proposed condominium development, including the conversion of the upper storey commercial space to residential apartment units, are permitted and no amendment is required.

Draft Plan of Condominium

The application proposes vacant land condominium tenure – a form of property ownership - for 8 buildings, plus common element areas, which include private roads, parking, and landscaped areas. Upon assumption, the condominium corporation will be responsible for all the terms of the site plan agreement and the ongoing maintenance of all of the common elements. The application for draft plan of condominium approval deals with the configuration of the units and common elements and the type of ownership and not the details of development, nor the details of the site design.

Units 1-7 within the proposed condominium plan contain one or more buildings. Unit 8 is an access ramp to a future underground parking garage. Unit 9 is contemplated as a future development site. Any future proposal to construct an additional building on Unit 9 would require an amendment to the site plan agreement and this area will be maintained as parking until that time.

The Planning Act (51[24]) guides staff in assessing plans of condominium and outlines certain criteria to be considered, including that the development does not have a detrimental effect on matters of provincial interest, is not premature and is in the public interest. The proposal complies with the Official Plan, and the lands are suitable for development as proposed. The proposed blocks are of appropriate size, and shape and adequate for the use. The proposed development is compatible with neighbouring lands. The existing utilities and services are adequate to support the development. The size, elevation, grading and adequacy of the private roads has been reviewed by staff and are acceptable. Appropriate draft plan conditions for development have been included in Appendix 4. There are no concerns of possible detrimental effects on the conservation of natural resources or flooding control. Subject to the conditions of draft plan approval in Appendix 4, staff are recommending approval of the application.

Site Plan Approval and Condominium Assumption

There is an existing site plan agreement registered on title for this property. The proposed draft plan of condominium shows a slight shift in the locations of some buildings that have not yet been constructed. The most significant change is the construction of an underground parking garage for the central five-storey building and associated driveway ramp. To capture these proposed modifications and to ensure that the condominium unit boundaries are properly placed, an amendment to the approved site plan agreement will be required.

To bind the future condominium corporation to the terms of the site plan agreement, the applicant and future condominium corporation will also be required to enter into a condominium assumption agreement with the City. Additional securities for incomplete secondary services (lighting, landscaping, walkways, top course asphalt etc.) within common elements will be required.

Staff recommend that the requirement to amend the site plan agreement and to enter into a condominium assumption agreement be included as conditions of draft plan of condominium approval (refer to Appendix 4).

Circulation Comments

This application for draft plan of condominium approval was circulated to all appropriate departments and agencies for their comments and requirements. There were no objections received. Most departments and agencies confirmed that their technical requirements have already been addressed through the previous site plan approval. These processes are discussed in further detail below.

Niagara Region Comments

The following comments were provided by Regional planning staff:

Regional Planning and Development Services staff offer no objection to the proposed Draft Plan of Vacant Land Condominium.

The ROP, 2014 PPS and 2006 Growth Plan for the Greater Golden Horseshoe (Growth Plan) together direct development to take place in urban areas and support intensive development patterns where appropriate servicing and infrastructure exists. Both Regional and Provincial policy place an emphasis on fostering the development of complete communities that have a mix of uses and employment opportunities, are active-transportation and transit supportive, and have high quality public open spaces.

Regional staff notes that the condominium application is for a change in tenure type. Should additional uses (i.e. residential) or buildings be proposed on this site, an amendment to the Site Plan Agreement and/or further Planning Act applications may be required. For information purposes and the benefit of the applicant and City staff, Regional staff notes that the introduction of residential uses into the site may require further planning studies or information related, but not limited to noise, site condition and waste collection. Regional staff notes that these studies are not required as part of the current vacant land condominium application.

Open House

An open house was hosted by Planning and Building Services on August 30, 2016. The purpose of the open house was to present the applicant's proposal and afford an opportunity for attendees to ask questions and provide comments before staff recommendations are presented to Council for consideration. The open house was not attended by any person other than applicant's representative. Staff have also received, at time of writing this report, no correspondence from concerned persons.

Public Notice

In accordance with established procedures and the Planning Act, notices for the public meeting have been posted and sent.

Second Planning Opinion Advisory

Should Council consider not supporting the Staff Recommendation provided in this report, Council is advised to defer its decision until such time as a second planning opinion from an outside consultant can be obtained. In the event the second planning opinion is supported by Council, and Council makes a decision based on that second planning opinion, and if and when the matter should be heard before the Ontario Municipal Board, then the planner who has provided the second opinion shall be retained for the purpose of a hearing before the Ontario Municipal Board.

Financial Implications

The proposed development presents no cost implications to the City. Any upgrades to municipal services which may be necessary to accommodate the development will be at the sole cost of the Applicant.

Relationship to Strategic Plan

Economic Sustainability

The approval of this draft plan of vacant land condominium serves to support the goals for economic sustainability by:

- Facilitating private investment through development in the City.

Conclusion

In summary, staff is supportive of the application for draft plan of vacant land condominium approval, subject to the conditions of draft plan approval outlined in this report and included as Appendix 4. A plan of condominium will allow each of the buildings to be sold individually. Staff is satisfied that the proposal submitted makes efficient use of these lands and is compatible with the surrounding neighbourhood. The proposal is consistent with Provincial, Regional and local Official Plan policies.

Notification

It is in order to advise 2109075 Ontario Inc. o/a Al Heywood, Matthews, Cameron, Heywood – Kerry T. Howe Surveying Ltd, 5233 Stanley Avenue, Unit 1, Niagara Falls, ON L2E 7C2.

Prepared by:

Scott Ritchie
Urban Design Planner

Submitted by:

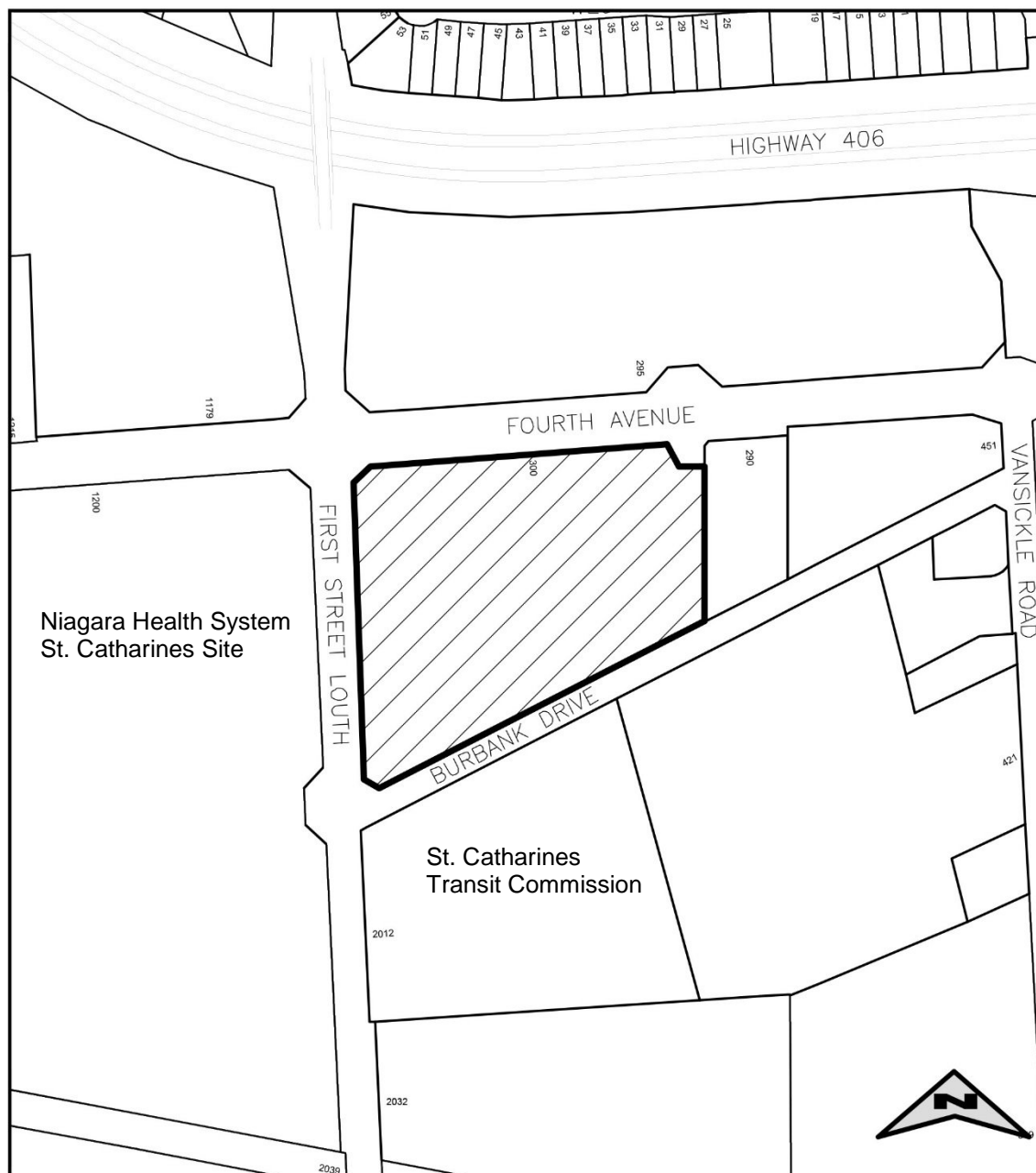
Judy Pihach, MCIP, RPP
Manager, Planning Services

Approved by:

James N. Riddell, M.P.L., MCIP, RPP
Director, Planning & Building Services

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Location Map

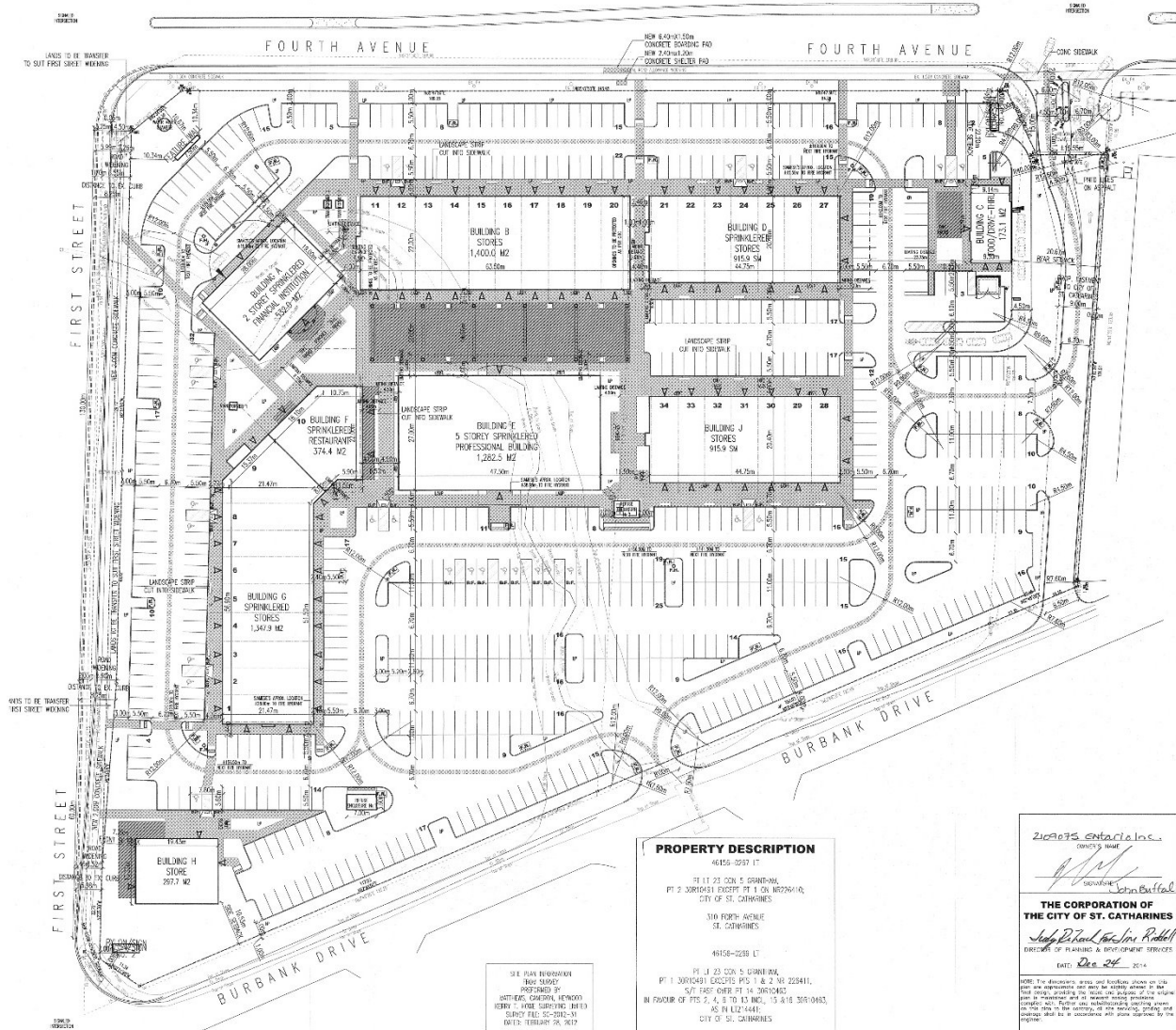


Subject Lands

300 Fourth Avenue

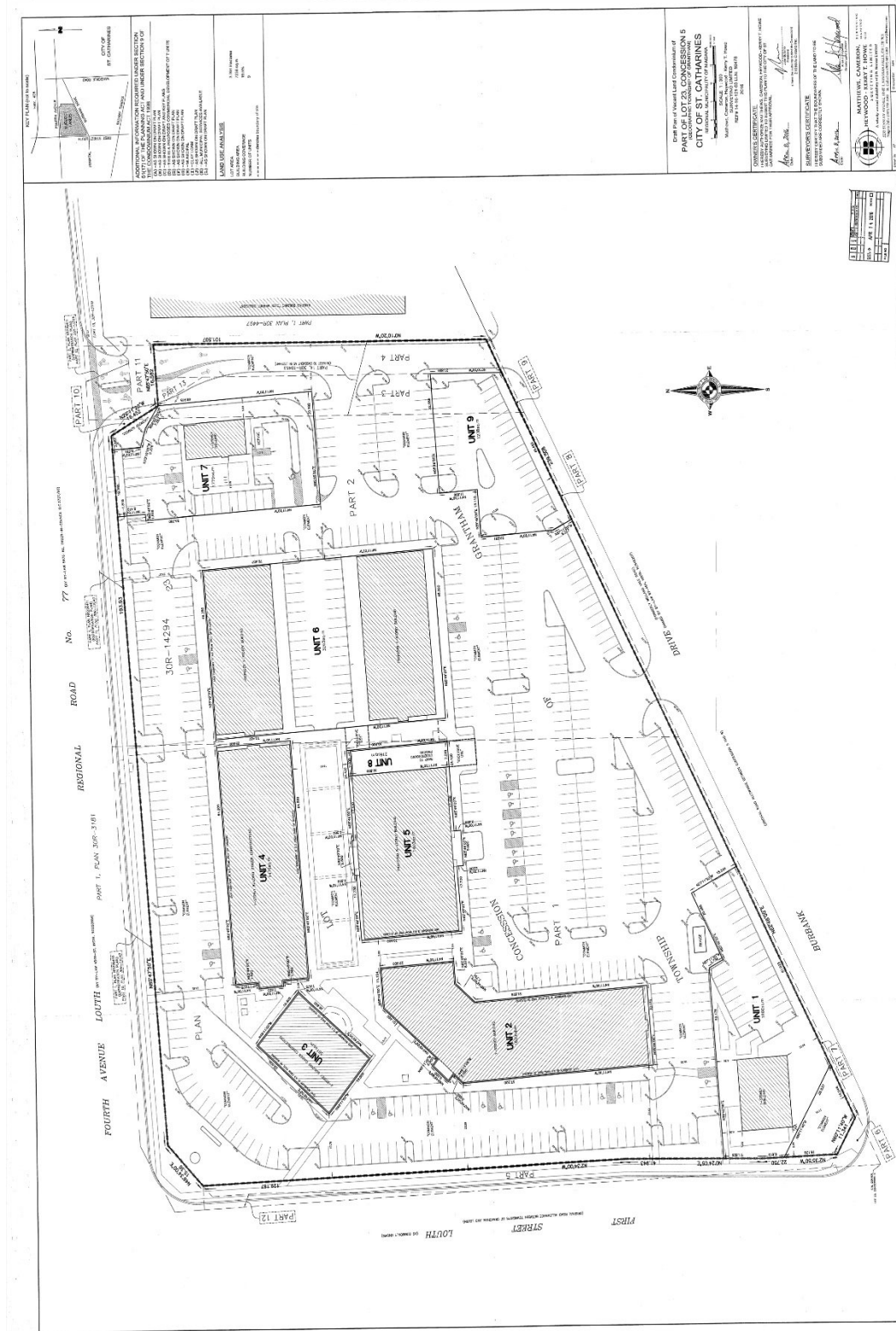
File: 60.46.418

Approved Site Plan



3

Draft Plan of Condominium



4

Conditions of Draft Approval
300 Fourth Avenue
File No. 60.46.418
Submission No. 26CD—10-16003

General Approval

1. That this approval applies to lands described as Pt. Lot 23 Conc 5 Pts 1,2,3,4 & 13 on 30R 14294, City of St. Catharines, municipally known as 300 Fourth Avenue, for 9 units, for a mix of commercial and residential buildings and common element areas for private roads, servicing, parking, landscaping, etc., as illustrated on the plan prepared by Matthews, Cameron, Heywood – Kerry T. Howe Surveying Ltd., and dated April 8, 2016.

Site Plan Agreement

2. That prior to final approval of the plan of condominium, the owner shall amend the existing Site Plan Agreement which is registered against the title of the lands. The amendment shall address certain matters including, but not limited to building design, landscaping, parking, lighting, and waste collection.

(City of St. Catharines)

Condominium Assumption Agreement

3. That the owner and condominium corporation to-be-formed shall enter into a Condominium Assumption Agreement with the City of St. Catharines, which shall be registered against the title of the lands immediately following registration of the final plan of condominium.

(City of St. Catharines)

Administration

4. That if approval is not given to this plan within three years of the approval date and no extension has been granted, draft plan 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 shall be submitted to the Director of Planning and Building Services.

Prior to granting approval to the final plan of condominium, the City of St. Catharines shall be satisfied that all conditions have been satisfactorily met.

By-laws to be considered Monday, September 26, 2016

- (a) A By-law to authorize a Release of Agreement over certain lands municipally known as 435 Pelham Road. (One reading – with respect to Release of Demolition Agreement. Delegation By-law No. 2004-277, as amended.)
- (b) A By-law to authorize an Agreement with The Bank of Nova Scotia. (One reading – with respect to banking services. Delegation By-law No. 2004-277, as amended.)
- (c) A By-law to deem part of a certain registered plan of subdivision not to be a registered plan of subdivision for the purposes of Section 50, subsection 3 of the Planning Act, R.S.O. 1990. (One reading – with respect to property municipally known as 21 Secord Drive. Delegation By-law No. 2004-277, as amended.)
- (d) A By-law to authorize an Agreement with Public Service Request Inc. (One reading – with respect to providing City Councillors with public issue reporting computing services. To be considered by General Committee, September 26, 2016.)
- (e) A By-law to amend By-law No. 2004-277 entitled “A By-law to authorize delegation of certain matters to staff.” (One reading – with respect to Fire Prevention Week Non-Profit Agreements. To be considered by General Committee, September 26, 2016.)
- (f) A By-law to confirm the proceedings of council at its meeting held on the 26th day of September, 2016. (One reading – with respect to confirming the proceedings of the meeting held on September 26, 2016.)