

Ontario Land Tribunal
Tribunal ontarien de l'aménagement
du territoire



ISSUE DATE: June 23, 2026

CASE NO(S).: OLT-25-000846

PROCEEDING COMMENCED UNDER subsection 51(39) of the *Planning Act, R.S.O. 1990, c. P. 13, as amended*.

Applicant/Appellant	Rakesh Gupta
Subject:	Proposed Plan of Subdivision - Refusal by Approval Authority
Description:	To permit the development of 9 single detached dwelling units with private road, stormwater management and amenity space
Reference Number:	P01/2025W
Property Address:	0 Side Road 20 Road L0S 1V0
Municipality/UT:	Wainfleet/
OLT Case No:	OLT-25-000846
OLT Lead Case No:	OLT-25-000846
OLT Case Name:	Gupta v. Wainfleet (Corporation of the Township)

Heard: March 24, 2026 by video hearing

APPEARANCES:

Parties

Counsel

Rakesh and Mohit Gupta ("Appellants")	Analee Baroudi
Township of Wainfleet ("Township")	Jennifer Stirton

MEMORANDUM OF ORAL DECISION DELIVERED BY A. SAUVE ON MARCH 24, 2026 AND ORDER OF THE TRIBUNAL

[Link to Order](#)

INTRODUCTION

[1] This appeal relates to Draft Plan of Subdivision and Draft Plan of Condominium applications (together the “Applications”) pursuant to s. 51(39) of the *Planning Act* (the “Act”). Planning staff at the Township created a report that recommended approval, however, following a public meeting the Township refused the applications. The Appellants then filed this appeal. The Parties have continued to communicate towards a resolution throughout this process.

[2] The matter before the Tribunal today was scheduled for a Merit Hearing, however, the Parties asked the Tribunal to convert the Merit Hearing to a Settlement Hearing. The proposed settlement contains no changes from the original application. In advance of today’s hearing the Parties filed settlement materials.

[3] The draft plan of vacant land condominium proposes to create nine (9) units for single detached dwellings, one (1) block for a private road and one (1) block for stormwater management and amenity space. Each of the proposed lots range in size from approximately 4,026 square metres (“sq m”) to 4,083 sq m. The property is approximately 141.47 metres long and forms a large flag shaped parcel that is nestled behind a row of existing residential dwelling lots that front onto Side Road 20 north of the access. The Subject Property is located in the southwestern portion of the Hamlet of Wainfleet Village in the Township of Wainfleet.

[4] Access to all of the proposed units is to be from a new private condominium roadway that connects directly to Side Road 20 at the southeast corner of the property. The Subject Property is located within the Rural Settlement Boundary of Wainfleet in the Township and has been historically farmed for field crop purposes.

[5] The Subject Property is located at an intersection within an established residential community in northwest Woodstock, and within walking distance to several parks, recreation, and commercial land uses. Lands abutting the Subject Property to the east and north are used for residential purposes and comprised of single detached dwellings fronting onto Side Road 20 to the east and Feeder Road to the north. Lands across Side Road 20 to the east are predominantly comprised of the Wainfleet Arena complex containing an arena and public outdoor recreational space including ball diamonds and soccer pitches, Marshville Public School and the Wainfleet Township Public Library.

[6] While the Township's report did recommend granting the applications concerns regarding the applications were made. The report identified potential issues regarding the pattern of development being inefficient and the use of "narrow" condominium road layout.

PROCEDURAL MATTERS

[7] The Tribunal confirmed with the Parties that there were no issues with service of Notice of the Merit Hearing and as such, no further notice is required. The Tribunal was in receipt of the Affidavit of Service of Jennifer Stirton dated January 19, 2026, which was marked as **Exhibit 1**.

[8] The settlement materials filed by the Parties are in the form of an Affidavit by Jay McGuffin which was marked as **Exhibit 2**.

[9] There were no Party Status nor Participant Status requests to consider.

PROPOSED SETTLEMENT

[10] After addressing preliminary matters, and in the absence of any opposition, the Tribunal granted the Parties' request to convert the Merit Hearing to a Hearing to consider settlement in accordance with Rule 19.6 of the Tribunal's *Rules of Practice and Procedure*.

HEARING

[11] The Tribunal received, reviewed, and considered the following central materials and submissions:

- i. The uncontested opinion evidence of Jay McGuffin, Registered Professional Planner, as tendered orally as well as contained in his Affidavit, affirmed March 13, 2026.; and
- ii. Oral submissions of the representatives of the Parties

[12] A copy of the draft plan of subdivision can be found at **Attachment 1** to this Decision, and the proposed conditions of draft proposal can be found at **Attachment 2** to this Decision.

DECISION

[13] Mr. McGuffin provided detailed and thorough evidence in support of the applications. The Tribunal accepts his uncontroverted evidence.

[14] Mr. McGuffin testified that the following materials had been created by the Appellants in support of the application:

1. Stage 1 & 2 Archaeological Assessment prepared by Earthworks Archaeological Services Inc. (dated March 20, 2022) and Ministry Acknowledgment Letter (dated March 31, 2022);
2. Hydrogeological Study prepared by Terra-Dynamics Consulting Inc. (dated April 18, 2022);
3. Flood Hazard Assessment prepared by Greck & Associates Ltd. (dated August 31, 2022);
4. Updated Hydrogeological Study (Terra-Dynamics, December 2024);
5. Planning Justification Report (LandPro Planning, January 2025);
6. Site Plan showing: fire & waste collection maneuvering, building envelopes, and septic setbacks (LandPro Planning, December 2024);
7. Stormwater Management/Lot Grading Plan (Greck & Associates, December 2024);
8. Flood Hazard Assessment (Greck & Associates Ltd., dated September 26, 2024); and
9. Plugging of Well Report (Province of Ontario, April 2024).

[15] Mr. McGuffin testified that, in considering the proposed draft plan of condominium in regard to the matters of provincial interest of Section 2, and the criteria set out in Section 51(24), the applications implement the Niagara Official Plan (“NOP”) and the Township of Wainfleet Official Plan (“WOP”) and the Township of Wainfleet Zoning By-law 034-2014 (“ZBL”), for the development of single detached residential

dwellings on private services within a designated Hamlet in alignment with the Township's stated objectives of directing growth to appropriate settlement areas.

[16] The Provincial Planning Statement 2024 ("PPS"), Mr. McGuffin testified, states that Growth and development may be directed to rural lands in accordance with policy 2.6 of the PPS. The proposed development is located within the Hamlet of Wainfleet, identified as a rural settlement area intended to accommodate limited residential growth. The Subject Property is designated and zoned for residential use and permits development on private services.

[17] Mr. McGuffin stated that the lot layout has been designed to efficiently utilize the available land through modest lot sizes that maintain appropriate serviceability and meet applicable private servicing requirements and that future single detached dwellings will be required to comply with the ZBL, ensuring that built form and siting are consistent with the existing character and scale of development within the Hamlet.

[18] Mr. McGuffin testified that the Subject Property is designated Village Residential on Schedule B-3 Land Use - Wainfleet Hamlet of the WOP. Permitted within this designation include a broad range of land uses, including single detached dwellings. Mr. McGuffin stated that section 3.3.2.4 requires that new development shall front directly on a public road and section 3.3.2.5 requires that multiple new lots are encouraged in depth on new roads rather than in strips along main roads.

[19] He then provided evidence that the Subject Property has direct frontage on Side Road 20, which is a public open road maintained by the Township and access to the individual lots will occur by way of a private internal road that maintains direct connection to the public road that will be controlled and maintained through the Condominium Corporation. Mr. McGuffin also testified that the lotting has been oriented along the internal private road resulting in a depth-oriented land use pattern that avoids strip development along the main road.

[20] Mr. McGuffin testified that the subject property is zoned Residential Hamlet - RH(H) in the ZBL and that the proposed lots conform to the minimum lot area and minimum lot frontage requirements of the RH zone.

[21] Regarding the private road being proposed, Mr. McGuffin testified that Fire, Building and Operations departments of the Township reviewed the private road design and confirmed compliance of the road with all applicable regulations and standards.

[22] The Tribunal having accepted the uncontroverted opinion evidence of Mr. McGuffin, finds that the proposed Draft Plan of Vacant Land Condominium and the associated conditions of draft approval has regard for matters of provincial interest as set out Section (2) of the Act and the requirements of Section 51(24) of the Act, is consistent with the PPS, conforms with the general intent and purpose of the NOP, WOP and ZBL, appropriately considers the input from the public and commenting agencies and represents sound land use planning.

ORDER

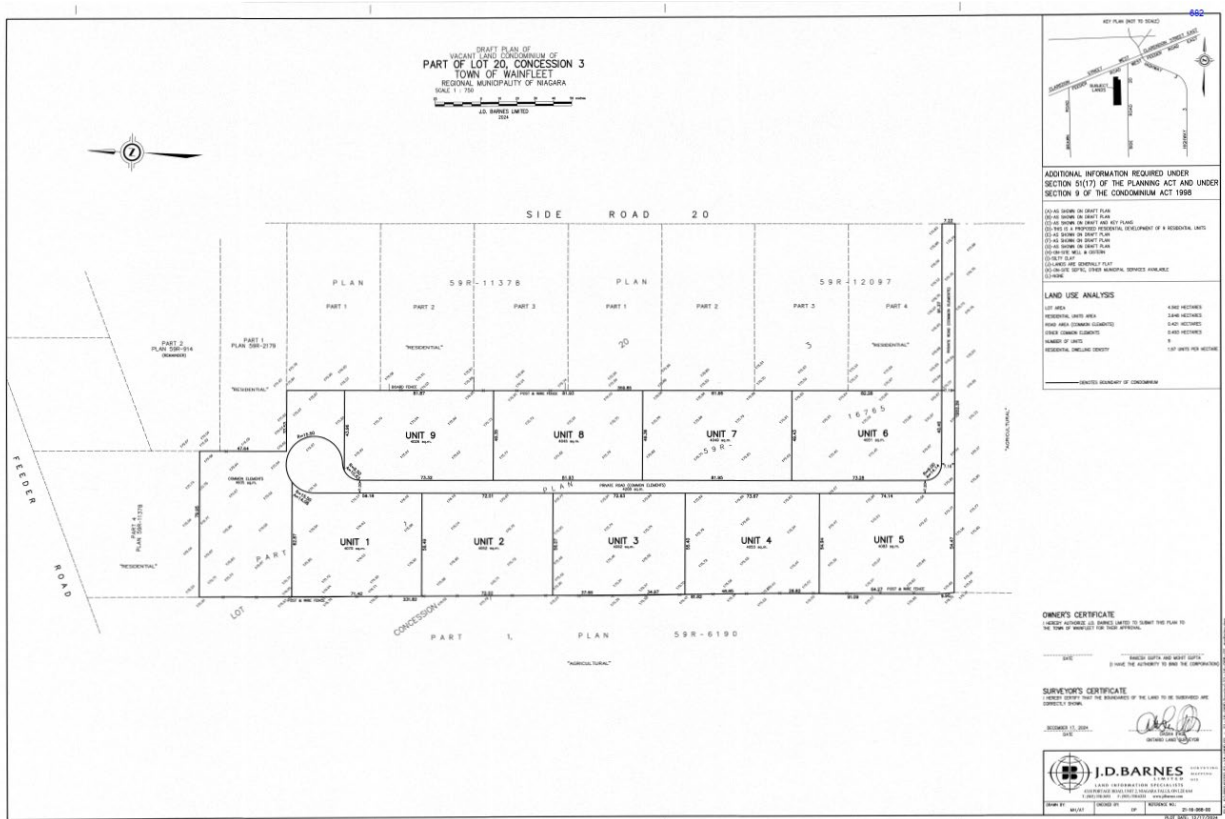
[23] **THE TRIBUNAL ORDERS THAT** the appeal is allowed, and the Draft Plan of Vacant Land Condominium shown on the plan prepared by J.D. Barnes Ltd. dated December 17, 2024, located at Attachment 1 to this Decision, is approved subject to the fulfillment if the Conditions of Draft Plan of Condominium, located at Attachment 2 to this Decision.

Ontario Land Tribunal

Website: www.olt.gov.on.ca Telephone: 416-212-6349 Toll Free: 1-866-448-2248

The Conservation Review Board, the Environmental Review Tribunal, the Local Planning Appeal Tribunal and the Mining and Lands Tribunal are amalgamated and continued as the Ontario Land Tribunal ("Tribunal"). Any reference to the preceding tribunals or the former Ontario Municipal Board is deemed to be a reference to the Tribunal.

ATTACHMENT 1



ATTACHMENT 2

684

Recommended Conditions of Draft Approval P01/2025W Willow Creek Estates

DRAFT PLAN

1. That this draft approval applies to the Willow Creek Estates Draft Plan of Vacant Land Condominium prepared by J.D. Barnes Limited, dated December 17, 2024.
2. That the headings inserted in these conditions of draft approval are inserted for convenience only and shall not be used as a means of interpreting these draft plan conditions.
3. That this draft approval is for a period of three (3) years. Draft approval may be extended pursuant to Section 51(33) of the *Planning Act R.S.O. 1990, c. P.13*, but no extension can be granted once the draft approval has lapsed. If the Owner wishes to request an extension to the draft approval, a written request with an explanation of why the extension is required must be submitted for the Township Council's consideration, prior to the lapsing date.
4. That if final approval is not given to this draft plan within three (3) years of the approval date, and no extensions have been granted, approval will lapse under Section 51(32) of the *Planning Act R.S.O. 1990, c. P.13*.
5. That it is the Owner's responsibility to fulfil the conditions of draft plan approval and to provide a comprehensive submission to the Township demonstrating how each of the conditions has been fulfilled, including required clearance letters from applicable agencies, quoting File No. P01/2025W.

AGREEMENTS & FINANCIAL REQUIREMENTS

6. That prior to final approval, the Owner shall enter into a suitable condominium agreement with the Township. The condominium agreement shall contain all matters set out as conditions of approval as deemed necessary in this decision and any other matters as deemed appropriate by the Township to satisfy all requirements, financial or otherwise. The condominium agreement shall be registered against the lands to which it applies prior to the registration of the plan of vacant land condominium and shall be completed at the Owner's expense.

LAND TRANSFERS & EASEMENTS

7. That prior to final approval, the Owner agrees to deed any and all easements that may be required for access, utility and drainage purposes to the appropriate authorities and utilities.

TOWNSHIP OF WAINFLEET – BUILDING

8. That the condominium agreement between the Owner and the Township contain provisions requiring that, at the time of building permit submission for each individual unit, clearances for the required cisterns and septic systems be identified on a detailed site plan. Clearances to adjacent cisterns, wells and septic systems shall also be identified on the site plan.

9. That the condominium agreement between the Owner and the Township contains provisions to implement the recommendations of the Hydrogeological Assessment, prepared by Terra-Dynamics Consulting Inc. (dated December 20, 2024) for the future septic designs and private servicing.
10. That the Owner provide confirmation from a qualified person that the existing site tile drainage has been appropriately removed and/or capped to the satisfaction of the Chief Building Official.

TOWNSHIP OF WAINFLEET – DRAINAGE

11. That the condominium agreement between the Owner and the Township of Wainfleet contains provisions requiring the completion of Section 65 Apportionment Agreements under the Drainage Act for the Consolidated South Wainfleet Drain. The Section 65 Apportionment Agreements shall be completed by an engineer selected by the Township, and costs for such work shall be the responsibility of the Owner.
12. That a legal stormwater drainage outlet be obtained via a new municipal drain (under Section 4 of the Drainage Act) or via any other mechanism to the satisfaction of the Drainage Superintendent.

TOWNSHIP OF WAINFLEET – FIRE & EMERGENCY SERVICES

13. That the Owner provide detailed drawings regarding the provision of water for firefighting purposes, completed by a qualified engineer, to the satisfaction of the Fire Chief and Chief Building Official.
14. That the condominium agreement between the Owner and the Township contains provisions whereby the Owner agrees to complete annual inspections and maintenance of the water volume in the pond's permanent pool to ensure ongoing adequacy for firefighting purposes.
15. That the Owner confirm that the centreline radius of all intersections and cul-de-sacs meet the Township Fire Department and Ontario Building Code requirements for emergency access.

TOWNSHIP OF WAINFLEET – OPERATIONS

16. That the Owner submit detailed construction plans showing the entrance and private road design, to the satisfaction of the Manager of Operations.
17. That a Temporary Works Permit be obtained from the Operations Department prior to any construction or site alteration activities taking place within the Township road allowance (Side Road 20).
18. That the condominium agreement between the Owner and the Township contains provisions requiring the submission of a haulage route and the completion of a pre-condition survey of all Township roads within the route, in high resolution, prior to the commencement of site alteration and to the satisfaction of the Operations Department. The required haulage route shall be

south on Side Road 20 to Abbey Road, as access via Feeder Road West or Park Street will not be permitted.

19. That the condominium agreement between the Owner and the Township contain provisions whereby the Owner agrees that during the construction of the development that the site will be kept in a reasonably tidy condition so that the raising of dirt and dust is kept to a minimum and further that all roads adjacent to and in the vicinity of the development are kept clean of mud and debris.
20. That prior to final approval, the Owner demonstrate that there is sufficient space to accommodate snow storage within the subject lands.
21. That the condominium agreement between the Owner and the Township of Wainfleet contains provisions indicating that the Township will not provide any snow plowing and/or sanding within the subject property.
22. That a street lighting design/plan be submitted to the Township's Operations Department for review and approval.
23. That a Streetscape Plan of the internal street illustrating the location of street trees, pavement markings, community mailbox locations, hydrants and regulatory, no parking and no stopping signs be submitted to the Township's Operations Department for review and approval.
24. That the Owner shall submit a detailed stormwater management plan and the following plans designed and sealed by a qualified professional engineer in accordance with the Ministry of Environment documents entitled Stormwater Management Planning and Design Manual, March 2003 and Stormwater Quality Guidelines for New Development, May 1991, or their successors, to the Operations Department for review and approval:
 - a) Detailed lot grading, servicing and drainage plans, noting both existing and proposed grades and the means whereby overland flows will be accommodated across the site;
 - b) Detailed erosion and sedimentation control plans;
 - c) Detailed phasing of construction of the stormwater management facility to coincide with phasing of development of residential lands (internal and external to the condominium) planned to be serviced by the stormwater management facility;
 - d) Detailed costs to construct the stormwater management facility, with breakdown of benefitting area costs.
25. That the final stormwater design for the proposed development shall capture runoff via roadside drainage at the entrance to the development, as the proposed reverse-crown road cross section from Sta. 0+000 to ~0+140 is not acceptable.
26. That the condominium agreement between the Owner and the Township contains provisions whereby the Owner agrees to implement the approved plan(s) required in accordance with the approved Stormwater Management Plan.

TOWNSHIP OF WAINFLEET – PLANNING

27. That the Owner provide a copy of the draft condominium declaration and description to ensure all relevant approval authority provisions have been included to the satisfaction of the Township.
28. That the private road be named in accordance with the road naming policies of the Township of Wainfleet Municipal Addressing Policy, and to the satisfaction of the Planner and Manager of Operations.
29. That on-street parking be prohibited and that the condominium agreement between the Owner and the Township contain provisions requiring the installation of all required regulatory and street signage, at the cost of the Owner.
30. That the Owner submit a Landscape Plan prepared by a qualified person to identify locations for mature plantings, including within common areas and, at a minimum, one tree per unit.
31. That prior to final approval, the Owner shall provide an electronic copy of the pre-registration plan and a letter prepared by an Ontario Land Surveyor to confirm zoning compliance.
32. That the Owner pay 5% cash-in-lieu of parkland dedication in accordance with Section 51 of the *Planning Act R.S.O. 1990, c. P.13*. Cash-in-lieu shall be based on the total value of the subject lands as determined by an appraisal prepared by a qualified person and approved by the Township. All costs associated with obtaining the appraisal are the responsibility of the Owner.
33. That the condominium agreement between the Owner and the Township include the following agricultural warning clause:

"The lands in the plan of subdivision may be exposed to noise, odour, dust, light, vibration, smoke and flies from nearby agricultural operations that may interfere with some activities of the Owners/Tenants who occupy these lands."

NIAGARA REGION

34. That the condominium agreement between the Owner and the Township contains provisions to implement the recommendations of the Hydrogeological Assessment, prepared by Terra-Dynamics Consulting Inc. (dated December 20, 2024), for the future septic designs:
 - a) The design of the site layout ensures a minimum 15m setbacks from the constructed ponds east of the site are observed as well as 15m setbacks from on-site cisterns. Region recommends that an overall plan be provided showing the house footprint, septic area, spare area, location of cistern, grading and amenity area illustrated with the required setbacks;
 - b) That the condominium agreement indicates water supply will be by cistern(s); and

- c) That site tile-drainage be removed in the area of the future sewage disposal systems and capped otherwise to prevent movement of lateral sewage effluent.
35. That the condominium agreement between the Owner and the Township contains wording wherein the applicant/owner is advised that decommissioned gas wells may still pose a risk due to leakage or other concerns. Technical studies to assess potential risks and mitigation measures are recommended to be undertaken prior to any demolition, construction, grading or other soil disturbances occurring on the subject property.
36. That the Owner or property management company ensure that all streets and development blocks can provide access in accordance with the Regional Municipality of Niagara Corporate Policy for Waste Collection, and by-laws relating to the curbside collection of waste.
37. That the Owner or property management company with signing authority for the Owner, submit an Application for Commencement of Collection at the time collection services are required to begin.
38. The Owner is advised that in order to receive Regional waste collection services on private roadways and/or properties, an Indemnity Agreement must be submitted to Niagara Region by the Owner or by a property management company with signing authority for the Owner.
39. That the Owner agrees to include the following advisory clauses in all Agreements of Purchase and Sale or Lease or Occupancy for all residential units in the proposed development, and that they also be included in the condominium agreement:
- "Purchasers/tenants are advised that decommissioned gas wells may still pose a risk due to leakage or other concerns. Technical studies are recommended to assess potential risks and mitigation measures be undertaken prior to any demolition, construction, grading, or other soil disturbances occurring on the subject property."*
- "If deeply buried or previously undiscovered archaeological remains/resources are found during development activities on the subject lands, all activities must stop immediately. If the discovery is human remains, contact the Niagara Regional Police Service and coroner to secure the site. If the discovery is not human remains, the area must be secured to prevent site disturbance. The project proponent must then follow the steps outlined in the Niagara Region Archaeological Management Plan: Appendix C."*
- "Purchasers/tenants are advised that the Owner of property management company must submit a properly executed Indemnity Agreement to Niagara Region in order for Regional waste collection services to be available."*

NIAGARA PENINSULA CONSERVATION AUTHORITY (NPCA)

40. That the Owner submits to the Niagara Peninsula Conservation Authority for review and approval, grading, storm servicing, stormwater management, staging and sequencing, and construction sediment control drawings. The Owner agrees that all Sediment and Erosion Control Measures shall be maintained in good condition for the duration of construction until all disturbed surfaces have been stabilized.
41. That prior to the commencement of any works or site alterations, the Owner shall obtain Works Permits from the Niagara Peninsula Conservation Authority for any works associated with the construction of the proposed stormwater outlet to Big Forks Creek. In support of the application, the following information will be required:
- a) Detailed design plans respecting the outlet/swale, and backflow preventer on any outlet.
 - b) Any other information as may be determined necessary by the Niagara Peninsula Conservation Authority.
42. That conditions 40 to 41 above be incorporated into the condominium agreement between the Owner and the Township, to the satisfaction of the Niagara Peninsula Conservation Authority. The Township of Wainfleet shall circulate the draft condominium agreement to the Niagara Peninsula Conservation Authority for its review and approval.

DISTRICT SCHOOL BOARD OF NIAGARA (DSBN)

43. That sidewalks be provided within the development to facilitate student travel to school/bus stop locations.

CANADA POST

44. That the Owner shall complete to the satisfaction of the Township of Wainfleet and Canada Post:
- a) Include on all offers of purchase and sale, a statement that advises the prospective purchaser:
 - i. That mail delivery will be from a designated Centralized Mail Box;
 - ii. That the Owner be responsible for officially notifying the purchasers of the exact Centralized Mail Box locations prior to the closing of any home sales.
 - b) The owner further agrees to:
 - i. Work with Canada Post to determine and provide temporary suitable Centralized Mail Box locations which may be utilized by Canada Post until the curbs, boulevards and sidewalks are in place in the remainder of the subdivision;
 - ii. Install a concrete pad in accordance with the requirements of and in locations to be approved by Canada Post to facilitate the placement of Community Mail Boxes;
 - iii. Identify the pads above on the engineering servicing drawings. Said pads are to be poured at the time of the sidewalk and/or curb installation within each phase of the plan of subdivision.

- iv. Determine the location of all centralized mail facilities on appropriate maps, information boards and plans. Maps are also to be prominently displayed in the sales office(s) showing specific Centralized Mail Facility locations.
- c) 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 place.

UTILITIES

- 45. That prior to final approval, the Owner shall submit a composite utility plan that allows for the safe installation of all utilities, including required separation between utilities, to the satisfaction of all affected agencies. The Owner shall enter into any agreements required by affected agencies.
- 46. That the condominium agreement between the Owner and the Township contain provisions whereby the Owner agrees to install and construct hydro-electric, telephone, gas, television cable services and any other form of telecommunication services as underground facilities, as approved on the composite utility plan, to the satisfaction of the Township and all affected agencies.