

# CITY OF HAMILTON

# PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT Planning Division

TO: Chair and Members Planning Committee	WARD(S) AFFECTED: WARD 11		
COMMITTEE DATE: March 20, 2012			
<b>SUBJECT/REPORT NO:</b> Application for Approval of a Draft Plan of Condominium (Common Elements), by Losani Homes (1998) Limited, for Lands Known as 310 Fall Fair Way (Glanbrook) (PED12026) (Ward 11)			
<b>SUBMITTED BY:</b> Tim McCabe General Manager Planning and Economic Development Department	<b>PREPARED BY:</b> Alvin Chan (905) 546-2424, Ext. 1334		
SIGNATURE:			

#### RECOMMENDATION

That approval be given to <u>Draft Plan of Condominium Application 25CDM-201001</u>, <u>by Losani Homes (1998) Limited, Owner</u>, to establish a draft plan of condominium (Common Elements Condominium) to create a condominium road, parking areas, amenity and landscaped areas, for 76 freehold block townhouse and maisonette dwellings, on lands located at 310 Fall Fair Way (Glanbrook), known legally as Part of Block 74, Registered Plan 62M-1078 (Woodview Estates), as shown on the attached location map marked as Appendix "A" to Report PED12026, subject to the following conditions:

- (a) That this approval shall apply to the plan, prepared by A. T. McLaren Limited and certified by S. D. McLaren, dated January 10, 2012, showing a common element road, visitor parking areas, amenity and landscaped areas, attached as Appendix "B" to Report PED12026.
- (b) That the Final Plan of Condominium shall comply with all of the applicable provisions of Zoning By-law No. 464.

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- (c) That the final plan of condominium shall comply, in all respects, with the approved Site Plan (DA-10-024), to the satisfaction of the Director of Planning.
- (d) That the owner shall receive final approval of Part Lot Control Application No. PLC-11-030, including the enactment and registration on title of the Part Lot Control Exemption By-law(s), to the satisfaction of the Manager of Development Planning.
- (e) That prior to registration, the owner shall establish an easement for drainage purposes over Block 74 of Registered Plan of Subdivision, 62M-1078, in favour of the future Condominium Corporation, to the satisfaction of the Senior Director of Growth Management.
- (f) That the owner shall enter into a Development Agreement to ensure that the tenure of each of the proposed 76 freehold units has legal interest, in common, to the Common Elements Condominium, to the satisfaction of the City Solicitor.
- (g) That the owner shall include the following warning clause in the Development Agreement and all Purchase and Sale Agreements, and any rental or lease agreements required for occupancy:

"Purchasers are advised that the City of Hamilton will not be providing maintenance or snow removal service for the private condominium road."

- (h) That the owner shall agree to include on all offers of purchase and sale, a statement that advises the purchaser:
  - (i) That the home/business mail delivery will be from a designated Centralized Mail Box.
  - (ii) That the developers/owners will be responsible for officially notifying the purchasers of the exact Centralized Mail Box locations prior to the closing of any home sales.
- (i) That the owner shall agree 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.

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- (ii) Install a concrete pad in accordance with the requirements of, and in locations to be approved by, the Senior Director of Growth Management and 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.
- (iv) Determine the location of all centralized mail receiving facilities in co-operation with the Senior Director of Growth Management and Canada Post, and to indicate the location of 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.
- (j) That the owner shall provide the Manager of Design and Construction with evidence that satisfactory arrangements, financial and otherwise, have been made with a telecommunication service provider, approved by the Canadian Radio and Telecommunication Commission (CRTC), that adequate telecommunication service will be provided to the condominium, including 9-1-1 emergency calling service that identifies, at a minimum, the caller's name and location information.
- (k) That the owner/developer shall provide to Union Gas Limited the necessary easements and/or agreements required by Union Gas Limited for the provision of gas services for this project, in a form satisfactory to Union Gas Limited.
- (I) That the owner shall satisfy all conditions, financial or otherwise, of the City of Hamilton.

# EXECUTIVE SUMMARY

The purpose of the application is to establish a draft plan of condominium (Common Elements Condominium) for a 76 unit freehold, block townhouse and maisonette development. The proposal has merit and can be supported as it is consistent with the Provincial Policy Statement, conforms to the Hamilton-Wentworth Official Plan and the Township of Glanbrook Official Plan, complies with Zoning By-law No. 464, and implements Registered Plan of Subdivision 62M-1078 and Site Plan Control Application DA-10-124.

Alternatives for Consideration - See Page 13.

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#### FINANCIAL / STAFFING / LEGAL IMPLICATIONS (for Recommendation(s) only)

- Financial: N/A.
- Staffing: N/A.
- **Legal:** As required under the <u>Planning Act</u>, Council shall hold at least one (1) Public Meeting to consider an application for a Draft Plan of Condominium (Common Elements Condominium).

#### HISTORICAL BACKGROUND (Chronology of events)

#### <u>Chronology</u>

<u>February 16, 2010</u> :	Submission of Applications OPA-10-002 (Official Plan Amendment), ZAC-10-008 (Zoning Amendment), 25CDM-201001 (Condominium), and DA-10-024 (Site Plan) by Losani Homes. Application DA-10-024 held in abeyance until review of the other applications is complete. Application 25CDM-201001 is for the creation of a common element condominium for the proposed condominium road, including visitor parking areas, amenity areas, and landscaped areas.
<u>March 11, 2010</u> :	Applications OPA-10-002, ZAC-10-008, and 25CDM-201001 are deemed complete.
<u>March 24, 2010</u> :	Circulation of Notice of Complete Application and Preliminary Circulation for Applications OPA-10-002, ZAC-10-008, and 25CDM-201001 to all residents within 120 metres of the subject lands.
<u>May 7, 2010</u> :	Public Notice Sign placed on the subject lands.
<u>August 20, 2010</u> :	Revision to Application ZAC-10-008 received from Losani Homes.
<u>June 7, 2011</u> :	Approval of Development Applications OPA-10-002 and ZAC-10-008 by City of Hamilton Planning Committee.
<u>June 16, 2011</u> :	Revision to Site Plan Control Application DA-10-024 received from Losani Homes.

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<u>June 29, 2011</u> :	Approval of Development Applications OPA-10-002 and ZAC-10-008 by City of Hamilton Council.
<u>September 19, 2011</u> :	Second Revision to Site Plan Control Application DA-10-024 received from Losani Homes.
<u>October 14, 2011</u> :	Conditional Approval of Site Plan Control Application DA-10-024.
<u>November 25, 2011</u> :	Revised Draft plan of Condominium Application 25CDM-201001 received.
<u>November 28, 2011</u> :	Circulation of Revised Draft Plan of Condominium Application 25CDM-201001.
December 21, 2011:	Final Approval of Site Plan Control Application DA-10-024.
<u>March 2, 2012</u> :	Circulation of Notice of Public Meeting to all residents within 120 metres of the subject lands and all residents who provided written comments.

# <u>Proposal</u>

The purpose of the application is to establish a draft plan of condominium (Common Elements Condominium) to create the following condominium elements: a condominium road; parking areas; and, amenity and landscaped areas for 76 dwellings comprised of 28 maisonette units and 48 block townhouse units, as shown on the attached plan marked as Appendix "B". The condominium road will provide access to both Fall Fair Way and Binbrook Road. The 76 lots, with associated easements, and the elements in common would be created through Part Lot Control Application No. PLC-11-030.

# Site Plan Control Application DA-10-024

Site Plan Control Application DA-10-024, for the construction of a 76 unit block townhouse and maisonette development, was approved, with conditions, on October 14, 2011. The application was final approved on December 21, 2011 (see Appendix "C").

# Draft Plan of Subdivision Application 25T-200016 "Woodview Estates"

The plan of subdivision known as "Woodview Estates" was draft approved on August 6, 2002. The subdivision was registered on January 5, 2007, as Registered Plan 62M-1078. The subject lands, Block 74, were approved for apartments/stacked townhouses and medium density block townhouse development.

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#### Official Plan Amendment Application OPA-10-002

On June 29, 2011, Council approved OPA No. 83 to the Township of Glanbrook Official Plan (By-law No. 11-170) to establish a site-specific policy (B.2.2.7) to the Binbrook Village Secondary Plan for the subject lands to permit street townhouses and block townhouses, in conjunction with maisonettes.

A corresponding amendment to the new Urban Hamilton Official Plan, in order to establish the same special policy for the "High Density Residential" designation within the Binbrook Village Secondary Plan, is currently being held in abeyance until their incorporation into the Plan can be requested of the Ontario Municipal Board, or through a future housekeeping amendment.

#### Zoning By-law Amendment Application ZAC-10-008

On June 29, 2011, Council approved By-law No. 11-171 to rezone the subject lands and additional lands fronting Valiant Circle. The lands fronting Valiant Circle are not subject to this Draft Plan of Condominium application.

With regard to the limits of the Draft Plan of Condominium, the lands were subject to a change in zoning from the Residential Multiple "RM4-161" Zone to the Residential Multiple "RM3-268" Zone, Modified; and from the Residential Multiple "RM3-161" Zone to the Residential Multiple "RM3-268" Zone, Modified, with a text change to the existing "RM4-161" Zone in order to permit 76 maisonette and townhouse units, subject to the regulations, as established through By-law No. 11-171.

#### **Details of Submitted Application**

Location:	310 Fall Fair Way ( (See Appendix "A")	
Owner/Applicant:	Losani Homes	
Agent:	Armstrong Hunter and Associates	
Property Description:	Lot Frontage:	Binbrook Road - 107.78 metres Fall Fair Way - 108.114 metres
	Lot Depth:	178.90 metres
	Lot Area:	1.89 Hectares
	Servicing:	Full Municipal Services

#### EXISTING LAND USE AND ZONING:

	Existing Land Use	Existing Zoning		
<u>Subject Lands</u> :	Vacant	Residential Multiple "RM3-268" Zone and Residential Multiple "RM4-161" Zone		
Surrounding Lands:				
North	Street Townhouse Dwellings and Single Detached Dwellings	Residential Multiple "RM2-260" Zone and Residential "R4-161" Zone		
West	Parkland (Fairgrounds Community Park)	Public Open Space "OS2" Zone		
South	Single Detached Dwelling and Stormwater Management Pond	Existing Residential "ER" Zone and Open Space - Conservation "OS3" Zone		
East	Single Detached Dwellings	Existing Residential "ER" Zone		

# POLICY IMPLICATIONS

# **Provincial Policy Statement**

The Provincial Policy Statement (PPS) provides policy direction of provincial interest related to land use planning and development. The <u>Planning Act</u> requires that, in exercising any authority that affects planning matters, planning authorities shall be consistent with policy statements issued under the Act. The application is consistent with Provincial Policy Statement Policy 1.1.3.1, as the proposed development is within the Settlement Area and shall be the focus of growth promoting their vitality and regeneration.

# Growth Plan for the Greater Golden Horseshoe (Places to Grow)

The application implements the growth management policies of the Growth Plan for the Greater Golden Horseshoe (Places to Grow). In particular, Section 2.2.2 indicates that population growth will be accommodated by building compact, transit-supportive communities in designated Greenfield areas.

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This application is consistent with the Growth Plan for the Greater Golden Horseshoe, as it proposes to create a complete community comprised of a compact development, providing for a variety of housing types and tenures within the Urban Area, in close proximity to local stores and services, with full municipal services.

#### Hamilton-Wentworth Official Plan

The subject property is designated "Urban Area" in the Hamilton-Wentworth Official Plan. Policy C-3.1 outlines that a wide range of uses, defined through Area Municipal Official Plans and based on full municipal services, will be concentrated in the Urban Areas. Urban Areas are intended to accommodate approximately 96% of new residential housing units in the Region to the year 2020.

The proposal conforms to the policies of the Hamilton-Wentworth Official Plan, as it proposes residential development located within the Urban Area and will be on full municipal services.

#### Township of Glanbrook Official Plan

The subject lands are designated "Residential" on Schedule "A" - Land Use Plan. As prescribed by Policy B.2.1.1:

"The predominant use of lands designated Residential on Schedule "A" Land use Plan shall be residential dwellings. It is intended that the Township provide for a variety and mix of housing types to address all housing needs throughout the Township, including but not limited to, single detached dwellings, semi-detached dwellings, townhouses..."

The subject Draft Plan of Condominium complies with the Residential policies, as it seeks to establish the tenure for the proposed mix of housing types, being maisonette and townhouse dwelling units.

The subject lands are designated "High Density Residential" and "Medium Density Residential" on Schedule "B" - Binbrook Village Secondary Plan.

The proposed freehold townhouse and maisonette units conform to the "High Density Residential" and "Medium Density Residential" policies of the Township of Glanbrook Official Plan, as amended by Official Plan Amendment No. 83 (By-law No. 11-170), which permits the above noted housing forms. Therefore, the proposed Draft Plan of Condominium, to establish a common element roadway and associated parking areas, amenity areas, and landscaping, conforms to the Township of Glanbrook Official Plan.

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#### Urban Hamilton Official Plan

The Urban Hamilton Official Plan received Ministerial Approval from the Ministry of Municipal Affairs and Housing on March 16, 2011, and, therefore, can no longer be modified.

The final decision on the Urban Hamilton Official Plan has been appealed. As such, Council-approved Official Plan Amendments made prior to the final decision will be held in abeyance until their incorporation into the Plan can be requested of the Ontario Municipal Board, or through a future housekeeping amendment.

The subject lands are designated "Neighbourhoods" on Schedule "E" - Urban Structure and Schedule "E-1" - Urban Land Use Designations. Policy Section E.3.1 provides the policy goals of the "Neighbourhoods" designation; in particular, the development of a compact, mixed-use, transit-supportive, and active transportation-friendly neighbourhood providing for a complete community, where people can live, work, shop, learn, and play.

The proposed development will provide for a range of housing types and densities, taking into account affordable housing needs, while promoting and supporting a design which enhances and respects the character of existing neighbourhoods while, at the same time, allowing their ongoing evolution. The development supports residential intensification of an appropriate scale and in an appropriate location.

Therefore, as the subject application is to establish tenure over the subject lands, thereby implementing the envisioned land uses as previously approved by Council, the proposal conforms to the "Neighbourhoods" policies of the new Urban Hamilton Official Plan.

It is noted that the subject lands are also designated as "Low Density Residential 3e" and "Low Density Residential 2h" on Map B.5.1-1 "Binbrook Village Secondary Plan". However, as noted above, upon adoption of City of Hamilton By-law No. 11-170, which amended the Township of Glanbrook Official Plan, a corresponding modification to the new Urban Hamilton Official Plan is currently being held in abeyance until their incorporation into the Plan can be requested of the Ontario Municipal Board, or through a future housekeeping amendment.

The proposed Draft Plan of Condominium conforms to the intent and purpose of the proposed modification and, therefore, conforms to the Binbrook Village Secondary Plan and the new Urban Hamilton Official Plan.

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#### **RELEVANT CONSULTATION**

#### The following Departments and Agencies had no comments or objections:

- Taxation Division, Corporate Services Department.
- Niagara Peninsula Conservation Authority
- Hydro One Networks Inc.

#### The following Departments and Agencies submitted comments:

<u>Environment and Sustainable Infrastructure Division (Public Works Department)</u> has requested that the development be designed with respect to the Transit Oriented Design Guidelines. It is noted that staff has reviewed the design and implemented the Transit Oriented Design Principles, where possible, under Site Plan Control Application DA-10-024.

They have also requested that the required Parkland Dedication amount be paid via cash-in-lieu. It is noted that Parkland Dedication was taken under the Registered Plan of Subdivision, 62M-1078.

As the above concerns have been addressed through previous development applications, staff has no further comments and/or concerns.

**Traffic Engineering Section (Public Works Department)** has advised that an access permit will be required, and any reconstruction of the curb and sidewalk be undertaken by a bonded contractor. It is noted that the conditions of approval associated with Site Plan Control Application DA-10-024 already include a condition for an access permit. Therefore, staff has no further comments and/or concerns.

<u>**Canada Post</u>** has advised that this development will receive mail service to centralized mail facilities provided through their Community Mailbox Program. Canada Post requires that, for the condominium application, the owner shall:</u>

- a) Include on all offers of purchase and sale, a statement that advises the prospective purchaser:
  - (i) That the home mail delivery will be from a designated Centralized Mail Box.
  - (ii) That the developers/owners be responsible for officially notifying the purchasers of the exact Centralized Mail Box locations prior to the closing of any home sales.

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- 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.
  - (iv) Determine the location of all centralized mail receiving facilities in co-operation with Canada Post, and to indicate the location of the 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.

The conditions requested by Canada Post are included in Recommendations (h) and (i).

<u>Union Gas Limited</u> has advised that the Draft Plan of Condominium be subject to the following condition of approval:

1) That the owner/developer provide to Union Gas Limited the necessary easements and/or agreements required by Union Gas Limited for the provision of gas services for this project, in a form satisfactory to Union Gas Limited.

Accordingly, staff has included the above condition as Recommendation (k).

#### Public Consultation

In accordance with the new provisions of the <u>Planning Act</u> and Council's Public Participation Policy, 74 Notices of Complete Application and Preliminary Circulation were sent to property owners within 120 metres of the subject property on March 24, 2010, along with the notice and circulation of the associated Official Plan and Zoning By-law Amendment Applications requesting comments on the application. Furthermore, a Public Notice Sign was posted on the property on May 7, 2010.

Finally, Notice of the Public Meeting was given on March 2, 2012, in accordance with the requirements of the <u>Planning Act.</u> To date, no public comments have been received pertaining to the proposed Draft Plan of Condominium.

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### ANALYSIS / RATIONALE FOR RECOMMENDATION

(include Performance Measurement/Benchmarking Data, if applicable)

- 1. The proposal has merit and can be supported for the following reasons:
  - (i) It is consistent with the Provincial Policy Statement and conforms to the Growth Plan for the Greater Golden Horseshoe (Places to Grow).
  - (ii) It conforms with and implements the "Urban" designation of the Hamilton-Wentworth Official Plan.
  - (iii) It conforms to the "Residential", "High Density Residential", and "Medium Density Residential" policies of the Township of Glanbrook Official Plan, as amended by Official Plan Amendment No. 83.
  - (iv) The proposal is consistent with the intent and purpose of the new Urban Hamilton Official Plan, subject to the Official Plan Modification currently being held in abeyance until its incorporation into the Plan can be requested of the Ontario Municipal Board, or through a future housekeeping amendment.
  - (v) The proposal facilitates and implements Council's previous approvals of Official Plan Amendment Application OPA-10-002 and Zoning By-law Amendment Application ZAC-10-008, passed as By-law Nos. 11-170 and 11-171. The subject application will establish tenure for the dwelling units, as approved under Site Plan Control Application DA-10-024, with the future lots to be created through Part Lot Control Application PLC-11-030.
- 2. The proposed draft plan of condominium (Common Elements Condominium) would be comprised of the following common elements: an internal road accessing Fall Fair Way and Binbrook Road; 51 visitor parking spaces; and, amenity and landscaped areas. The condominium driveways are 7.5 metres wide and would provide legal vehicular access to the 76 dwelling units comprised of 28 maisonette units and 48 block townhouse units. The amenity and landscaped areas will be maintained by the future Condominium Corporation.
- 3. The land proposed for the common elements condominium and the 76 townhouses and maisonettes will be created through an exemption from Part Lot Control. In this regard, final approval and registration of the Common Elements Condominium cannot occur until such time as Part Lot Control Application PLC-11-030 is final approved, and the By-law removing the lands from Part Lot Control has been passed, to the satisfaction of the Manager of Development Planning (Recommendation (d)).

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4. The applicant must also enter into a Development Agreement with the City of Hamilton as a condition of draft plan approval. This Agreement would ensure that the tenure of all the subject residential parcels become "tied" to the proposed draft plan of condominium (Common Elements Condominium).

This will have the effect of ensuring that individual townhouse lots are not sold until the condominium has been registered as a Common Elements Condominium under the <u>Condominium Act</u> (Recommendation (f)).

5. The proposed condominium road will be privately owned and maintained. As a condition of approval, the applicant should include a warning clause in the Development Agreement and the Purchase and Sale Agreements to advise perspective purchasers of the following (Recommendation (g)):

"Purchasers are advised that the City of Hamilton will not be providing any maintenance or snow removal service for the private condominium road."

6. The Development Engineering Section has requested that the original condition of Site Plan Control approval with respect to a drainage easement also be included as a special condition of the Draft Plan of Condominium (Recommendation (e)), as follows:

"That prior to registration, the owner shall establish an easement for drainage purposes over Block 74 of the Registered Plan of Subdivision, 62M-1078, in favour of the future Condominium Corporation, to the satisfaction of the Senior Director of Growth Management."

# ALTERNATIVES FOR CONSIDERATION

(include Financial, Staffing, Legal and Policy Implications and pros and cons for each alternative)

Should the Plan of Condominium (Common Elements Condominium) not be approved, the applicant/owner could develop the subject lands as a standard block condominium development or as a rental project.

It is noted that an application for standard condominium would be required to facilitate the alternative for a standard block condominium development.

#### CORPORATE STRATEGIC PLAN (Linkage to Desired End Results)

Focus Areas: 1. Skilled, Innovative and Respectful Organization, 2. Financial Sustainability,
3. Intergovernmental Relationships, 4. Growing Our Economy, 5. Social Development,
6. Environmental Stewardship, 7. Healthy Community

#### Financial Sustainability

• Effective and sustainable Growth Management.

#### Social Development

• Everyone has a home they can afford that is well maintained and safe.

#### Environmental Stewardship

• Natural resources are protected and enhanced.

#### Healthy Community

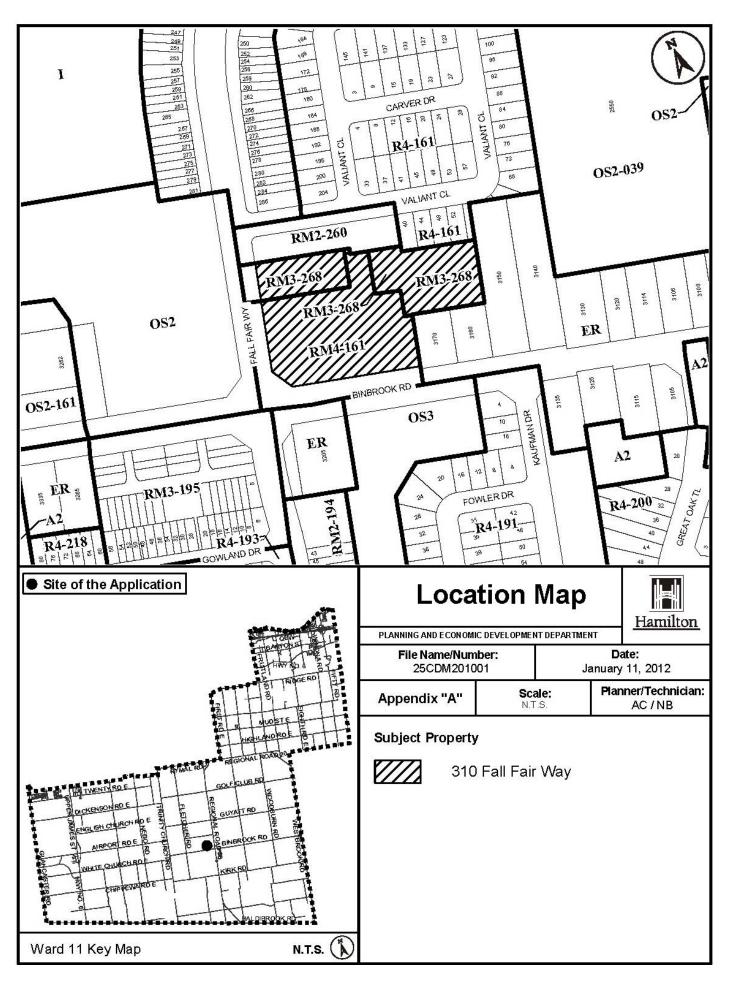
- Plan and manage the built environment.
- Adequate access to food, water, shelter and income, safety, work, recreation and support for all (Human Services).

#### **APPENDICES / SCHEDULES**

- Appendix "A": Location Map
- Appendix "B": Proposed Draft Plan of Condominium
- Appendix "C": Final Approved Site Plan Control Application DA-10-024

:AC Attachs. (3)

# Appendix "A" to Report PED12026 (Page 1 of 1)



# Appendix "B" to Report PED12026 (Page 1 of 1)

