

CITY OF HAMILTON

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Planning Division

TO: Chair and Members Planning Committee	WARD(S) AFFECTED: WARD 11
COMMITTEE DATE: July 9, 2013	
SUBJECT/REPORT NO: Application for Approval of a Draft Plan of Condominium (Common Elements), by 1536708 Ontario Inc., for Lands Known as 9 Hampton Brook Way (Glanbrook) (PED13116) (Ward 11)	
SUBMITTED BY: Tim McCabe General Manager Planning and Economic Development Department	PREPARED BY: Greg Macdonald (905) 546-2424 Ext. 4283
SIGNATURE:	

RECOMMENDATION

That approval be given to **Draft Plan of Condominium Application 25CDM-201214, by 1536708 Ontario Inc., Owner**, to establish a Draft Plan of Condominium (Common Elements Condominium) to create a condominium road, visitor parking areas, landscaped areas, and open space, for 65 freehold townhouse dwellings, on lands located at 9 Hampton Brook Way (Glanbrook), as shown on Appendix "A" to Report PED13116, subject to the following conditions:

- (a) That this approval shall apply to the plan, prepared by Barich Grenkie Surveying Limited, and certified by Edward J. Grenkie, dated December 20, 2012, showing a common element road, visitor parking areas, landscaped areas, and open space, attached as Appendix "B" to Report PED13116;
- (b) That the Final Plan of Condominium shall comply with all of the applicable provisions of Zoning By-law No. 464, as amended by By-law No. 06-303 and Minor Variance GL/A-12:257;

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- (c) That the final plan of condominium shall comply, in all respects, with the approved Site Plan (DA-12-182), to the satisfaction of the Director of Planning;
- (d) That Site Plan Application DA-12-182 shall be final approved, including clearance of all conditions of approval, to the satisfaction of the Director of Planning;
- (e) That the owner shall receive final approval of Part Lot Control Application PLC-12-043, including the enactment and registration on title of the Part Lot Control Exemption By-law, to the satisfaction of the Director of Planning;
- (f) That the owner shall enter into a Development Agreement to ensure that the tenure of each of the proposed freehold townhouse dwellings having frontage on the condominium road 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 clauses in the Development Agreement and all Purchase and Sale Agreements, and any rental or lease agreements required for occupancy:
 - (i) “Purchasers/tenants are advised that the City of Hamilton will not be providing maintenance or snow removal service for the private condominium road.”
 - (ii) “Purchasers/tenants are advised that garages are provided for the purpose of parking a vehicle. It is the responsibility of the owner/tenant to ensure that their parking needs (including those of visitors) can be accommodated on site. On-street, over flow parking may not be available and cannot be guaranteed in perpetuity.”
- (h) That the owner shall include the following warning clauses in the Development Agreement, Condominium Agreement, and all Purchase and Sale Agreements, and any rental or lease agreements required for occupancy for Units 46-65:
 - (i) “Purchasers/tenants are advised that sound levels due to increasing road and air traffic may occasionally interfere with some activities of the dwelling unit occupants, as the sound levels exceed the Town’s and the Ministry of the Environment’s noise criteria.”
 - (ii) “This dwelling unit has been fitted with a forced air heating system and the ducting, etc. was sized to accommodate central air conditioning. Installation of central air conditioning will allow windows and exterior doors to remain closed, thereby ensuring that the indoor sound levels are within the Municipality’s and the Ministry of the Environment’s noise criteria.

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(Note: The location and installation of the outdoor air conditioning device should be done so as to comply with the noise criteria of MOE Publication NPC-216, Residential Air Conditioning Devices, and thus minimize the noise impacts both on and in the immediate vicinity of the subject property.)”

- (i) That the owner shall agree to include in 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.

- (j) 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;
 - (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.

- (k) 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

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emergency calling service that identifies, at a minimum, the caller's name and location information;

- (l) 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;
- (m) That, prior to the registration of the final plan, the owner shall provide the Senior Director of Growth Management with a copy of the Condominium Declaration Document to ensure that the owner is committed to establish a drainage easement, in favour of the Condominium Corporation, over the front and rear yards of the units within the plan of condominium;
- (n) 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) for 65 freehold townhouse dwellings. The common element would consist of a driveway, visitor parking areas, landscaped areas, and miscellaneous open space. The proposed Draft Plan of Condominium has merit and can be supported since it is consistent with the Provincial Policy Statement, conforms to the Hamilton-Wentworth Official Plan and the Glanbrook Official Plan, complies with Zoning By-law No. 464, and implements the Registered Plan of Subdivision 62M-1051, "Southampton Estates - Phase 2" (see Appendix "C"), and Site Plan Control Application DA-12-182 (see Appendix "D").

Alternatives for Consideration - See Page 12.

FINANCIAL / STAFFING / LEGAL IMPLICATIONS

Financial: N/A.

Staffing: N/A.

Legal: As required under the Planning Act, Council shall hold at least one (1) Public Meeting to consider an application for a Draft Plan of Condominium (Common Elements).

HISTORICAL BACKGROUND (Chronology of events)

Chronology:

March 1, 2006: Registration of Draft Plan of Subdivision 62M-1051 "Southampton Estates - Phase 2" (see Appendix "C"). Block 146 is the subject lands (9 Hampton Brook Way).

October 11, 2006: By-law No. 06-303 passed by Hamilton City Council. The By-law changed the zoning from the Deferred Development "DD" Zone to the Residential Multiple - Holding "H-RM3-215" Zone (Zoning Application File Number ZAC-06-053). This Zone permits townhouses.

August 8, 2012: Development Review Committee Meeting held for Formal Consultation Application FC-12-081 to construct 65 townhouses.

November 30, 2012: Conditional approval of Site Plan Control Application DA-12-182 granted by the Manager of Development Planning, Heritage and Design, to construct 65 townhouses on a condominium road.

December 20, 2012: Final approval of Minor Variance Application GL/A-12:257 to permit the development of 65 freehold street townhouses on a condominium road (such that zoning provisions would be taken from the external boundaries of Block 146) and to address other minor deficiencies in the "H-RM3-215" Zone.

December 24, 2012: Zoning Application ZAH-12-052 (to remove the 'H' Holding Provision) is deemed complete.

January 24, 2013: Condominium Application 25CDM-201214, "9 Hampton Brook Way", is deemed complete.

February 1, 2013: Circulation of Notice of Complete Application and Preliminary Circulation for Condominium Application 25CDM-201214 to all residents within 120m of the subject lands.

February 21, 2013: Public Notice Sign placed on the Subject Lands.

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February 27, 2013: Hamilton City Council pass By-law No. 13-059, which removes the 'H' Holding Provision from 9 Hampton Brook Way (Zoning Application File Number ZAH-12-052), as an Acoustical Report had been submitted and approved.

May 6, 2012: Part Lot Control Application PLC-12-043, to create the individual lots for street townhouses and the part for the common element, is deemed complete and circulated.

June 21, 2013: Circulation of Notice of Public Meeting to all residents within 120m of the subject lands.

Proposal:

The purpose of the application is to establish a Draft Plan of Condominium (Common Elements) to create the following condominium elements: a condominium road, visitor parking areas, landscaped areas, and open space for 65 street townhouse dwellings, as shown on the attached plan marked as Appendix "B". The condominium road will provide access to Hampton Brook Way at two locations. The 65 lots, with associated easements, and the elements in common will be created once Part Lot Control Application PLC-12-043 is final approved and the By-law is passed and registered on title.

Details of Submitted Application:

Location: 9 Hampton Brook Way (Glanbrook) (See Appendix "A")

Owner/Applicant: 1536708 Ontario Inc.

Agent: DiCenzo & Associates, c/o Allan Buist

**Property Description
(of Common Element
Condominium):**

Lot Frontage: 18.38m (frontage of the two access driveways combined onto Hampton Brook Way). A portion of the common elements also fronts onto White Church Road.

Lot Depth: N/A (condominium is irregular shaped)

Lot Area: 1.597 hectares (entire property)

Servicing: Full Municipal Services

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EXISTING LAND USE AND ZONING:

	<u>Existing Land Use</u>	<u>Existing Zoning</u>
<u>Subject Lands:</u>	Vacant	Residential Multiple "RM3-215" Zone
<u>Surrounding Lands:</u>		
North	Storm Drainage Channel (Single-Detached Dwellings on North Side of Channel)	Public "P" Zone
South	Single-Detached Dwellings (South Side of White Church Road)	General Agricultural "A1" Zone
East	Vacant Land and Cemetery (East Side of Hampton Brook Way)	Institutional "I" Zone, Deferred Development "DD" Zone and Residential "R4-185" Zone
West	Storm Drainage Channel (City Park on West Side of Channel)	Public "P" Zone

POLICY IMPLICATIONS/LEGISLATED REQUIREMENTS

Provincial Policy Statement:

The application has been reviewed with respect to the Provincial Policy Statement (PPS). The application is consistent with the policies that focus growth in Settlement Areas, Policy 1.1.3.1. It also implements Policies 1.1.3.2, 1.1.3.4, and 1.4.3 with respect to promotion of densities which efficiently use land and resources, and appropriate intensification and redevelopment.

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

The subject lands are located within a designated Greenfield area, as defined by Places to Grow. Policy 2.2.7.1 states that development will be designed to contribute to complete communities; to create densities and an urban form that support walking; and, that provides a diverse mix of land uses. Policy 2.2.7.2 also requires a minimum

density target not less than 50 residents per hectare (but measured over the entire designated Greenfield area of Hamilton). The proposed density meets the growth target. Proposed sidewalks in the development link to existing municipal sidewalks.

Based on the foregoing, the proposal conforms to the policies of the Growth Plan for the Greater Golden Horseshoe (Places to Grow).

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 urban uses, defined through Area Municipal Official Plans and based on full municipal services, will be concentrated in the Urban Areas. These areas are intended to accommodate approximately 96% of new residential housing units in the Region to the year 2020.

Therefore, based on the above, the proposal conforms with the Hamilton-Wentworth Official Plan.

Glanbrook Official Plan:

The subject lands are designated “Residential” on Schedule ‘A’ - Land Use Plan and “High Density Residential” on Schedule ‘C’ - Mount Hope Urban Settlement Area Land Use Plan in the Glanbrook Official Plan. Townhouses are permitted in the “Residential” designation and, while the “High Density Residential” policies note that the predominant land use shall be low rise apartments, the proposed townhouses are at a density conforming with the minimum density provision of 40 units/ha. Therefore, the application conforms with the Glanbrook Official Plan.

Urban Hamilton Official Plan:

The proposal has been evaluated against the policies of the new Urban Hamilton Official Plan, which was adopted by Council on July 9, 2009. The Minister of Municipal Affairs and Housing issued its decision on March 10, 2011, but the decision has been appealed by a number of parties and, at this time, the new Urban Hamilton Official Plan is not in effect.

The new Urban Hamilton Official Plan designates the subject lands as “Neighbourhoods” on Schedule “E” - Urban Structure and Schedule “E-1” - Urban Land Use designations. The “Neighbourhoods” designation permits a range of residential uses that maintain the existing character of established neighbourhoods. Compatible residential intensification and redevelopment is promoted. The proposed development is at a scale and density conforming to these policies. The subject lands are also designated “Low Density Residential 3f” on Map B.5.4-1 - Mount Hope Secondary Plan.

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This designation permits predominantly low rise apartments. The proposed townhouses are at a density conforming with the minimum density provision of 40 units/ha. Therefore, the application would conform with the Urban Hamilton Official Plan.

RELEVANT CONSULTATION

The following Departments and Agencies had no comments or objections:

- Taxation Division, Corporate Services Department.
- Geomatics and Corridor Management Section, Public Works Department.
- Niagara Peninsula Conservation Authority.
- Enbridge Pipeline.

The following Departments and Agencies submitted comments:

Environmental Services Section (Public Works Department) has advised that through related Site Plan Control Application DA-12-182, tree preservation for the existing street trees in the Hampton Brook Way road allowance must be addressed. This matter has been satisfactorily addressed through this site plan, and a Tree Preservation Plan has been approved.

Strategic Planning Section (Public Works Department) has advised that the property is eligible for municipal waste collection, but minor changes may need to be provided to ensure trucks do not reverse more than one truck length. A change in the location of the garbage pad for the westerly most townhouse units has been made on the related Site Plan Control Application to comply with this requirement.

Hamilton Municipal Parking System has advised that the location of the mailboxes shown on the draft plan may conflict with the future residential driveway location on the abutting townhouse to the east. In this regard, while the mailbox location is shown on the draft plan (see Appendix "B"), Recommendation (j) of this Report notes the requirement for Canada Post and the Growth Management Division to determine an appropriate, final location for the centralized mailbox facility. Therefore, the location shown may not be indicative of the final, approved mailbox location.

Canada Post has advised that this development will receive mail service to centralized mail facilities provided through their Community Mailbox Program. Canada Post requires standard conditions pertaining to offers of purchase and sale to advise purchasers of the community mailboxes, and for requirements to provide the community mailboxes within the development. The conditions requested by Canada Post are included as Recommendations (i) and (j).

Union Gas Limited has requested that the Draft Plan of Condominium be subject to a standard condition of approval to provide Union Gas Limited any necessary easements or agreements for the provision of gas services for this project. This condition is included as Recommendation (I).

The **Ministry of Transportation** has advised that land use permit applications have been submitted, but without the required fee. Receipt of the permits from the Ministry of Transportation is already a condition of approval of Site Plan Control Application DA-12-182.

PUBLIC CONSULTATION

In accordance with the provisions of the Planning Act and Council's Public Participation Policy, 114 Notices of Complete Application and Preliminary Circulation were sent to property owners within 120m of the subject property on February 1, 2013, requesting comments on the application. Furthermore, a Public Notice Sign was posted on the property on February 21, 2013. Finally, Notice of the Public Meeting was given on June 21, 2013, in accordance with the requirements of the Planning Act. To date, one comment was received from a property owner on the south side of White Church Road concerned about flooding. The concerns from this letter are addressed in the Analysis/Rationale for Recommendation section of this Report, and the comments are attached as Appendix "E".

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" and "High Density Residential" designations of the Glanbrook Official Plan.
 - (iv) The proposal implements condominium tenure for a form of development, as previously approved by the Committee of Adjustment, through Minor Variance Application GL/A-12:257, by Council through Zoning Application ZAC-06-053, and by staff through Site Plan Control Application

DA-12-182, and provides for a townhouse development that is compatible with surrounding land uses.

2. The proposed Draft Plan of Condominium (Common Elements) would be comprised of the following common elements: a looped internal road accessing Hampton Brook Way with sidewalk; 2 visitor parking areas for 35 parking spaces; and landscaped areas consisting of a small common amenity area and other open space areas. Each of the proposed 65 townhouse dwelling units would have frontage onto the condominium road. All of the common elements, including the open space areas, would be maintained by the future Condominium Corporation.
3. The land proposed for the common elements condominium and the lots for townhouses will be created through an exemption from Part Lot Control. Part Lot Control Application PLC-12-043 has been submitted, and is under review. In this regard, final approval and registration of the Common Elements Condominium cannot occur until such time as the Part Lot Control Application is final approved, and the By-law removing the lands from Part Lot Control has been passed, to the satisfaction of the Director of Planning (see Recommendation (e)).
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). 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 Condominium Act (see Recommendation (f)).
5. The proposed condominium road will be privately owned and maintained. As a condition of approval, the applicant must include a warning clause in the Development Agreement and all Purchase and Sale Agreements to advise prospective purchasers that the City of Hamilton will not provide maintenance or snow removal, and that the provided garages are for parking (and that on-street, over-flow parking may not be available and cannot be guaranteed in perpetuity). Acknowledgement clauses are also included to advise purchasers of the centralized mailboxes, as well as noise warning clauses due to the proximity of White Church Road to certain units (see Recommendations (g), (h), and (i)).
6. The Public Consultation section of this Report noted that 1 letter was received from a local resident who was concerned with potential flooding (see Appendix “E”). In this regard, this application only establishes condominium tenure for the private road and other common elements. Through the related Site Plan Control Application, the Development Engineering (Approvals) Section and the Niagara

Peninsula Conservation Authority reviewed detailed stormwater management plans and lot grading plans. The approved plans ensure that there will be no increase to any flooding, and no adjacent or nearby properties would be impacted by the proposed development. It should also be noted that the principle for high density residential development on the property was established in 1996 when the Mount Hope Secondary Plan was established, and again in 2006 when zoning to implement this designation was approved, which included additional public consultation.

ALTERNATIVES FOR CONSIDERATION

Should the Plan of Condominium (Common Elements Condominium) not be approved, the applicant/owner could develop the lands as a standard block condominium development or as a rental development. A change in tenure from the proposed common element condominium to a standard form condominium would require a new or revised condominium application.

ALIGNMENT TO THE 2012 – 2015 STRATEGIC PLAN:

Strategic Priority #1

A Prosperous & Healthy Community

WE enhance our image, economy and well-being by demonstrating that Hamilton is a great place to live, work, play and learn.

Strategic Objective

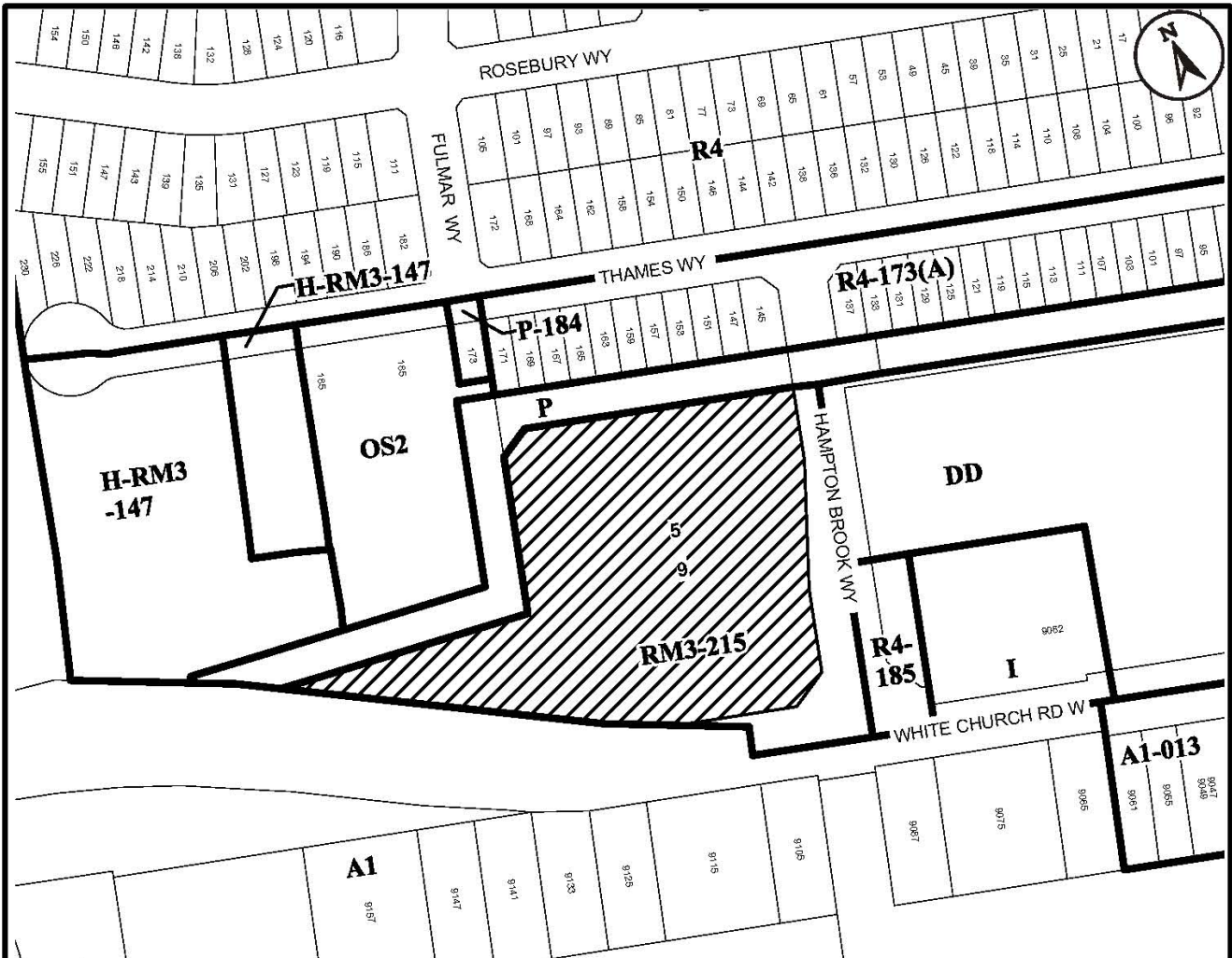
1.6 Enhance Overall Sustainability (financial, economic, social and environmental).

APPENDICES / SCHEDULES

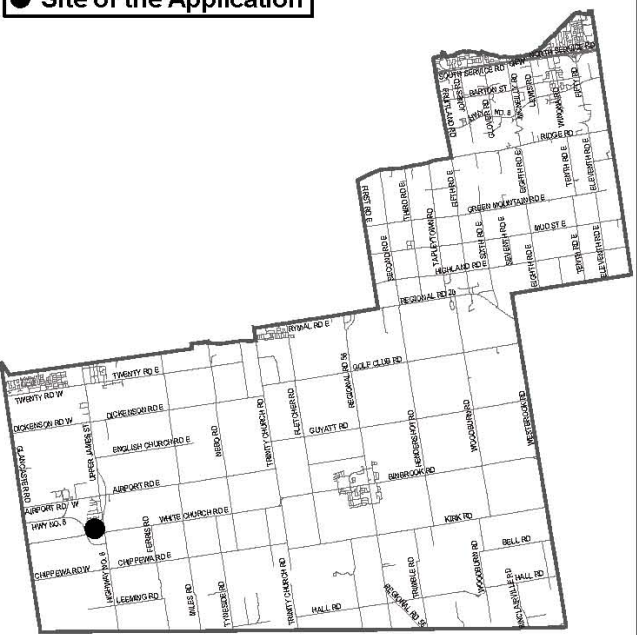
- Appendix "A": Location Map
- Appendix "B": Proposed Draft Plan of Condominium
- Appendix "C": Registered Plan of Subdivision
- Appendix "D": Conditionally Approved Site Plan
- Appendix "E": Public Comments

:GM


Attachs. (5)



● Site of the Application



Ward 11 Key Map

N.T.S. 

Location Map



PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

File Name/Number:
25CDM-201214

Date:
May 30, 2013

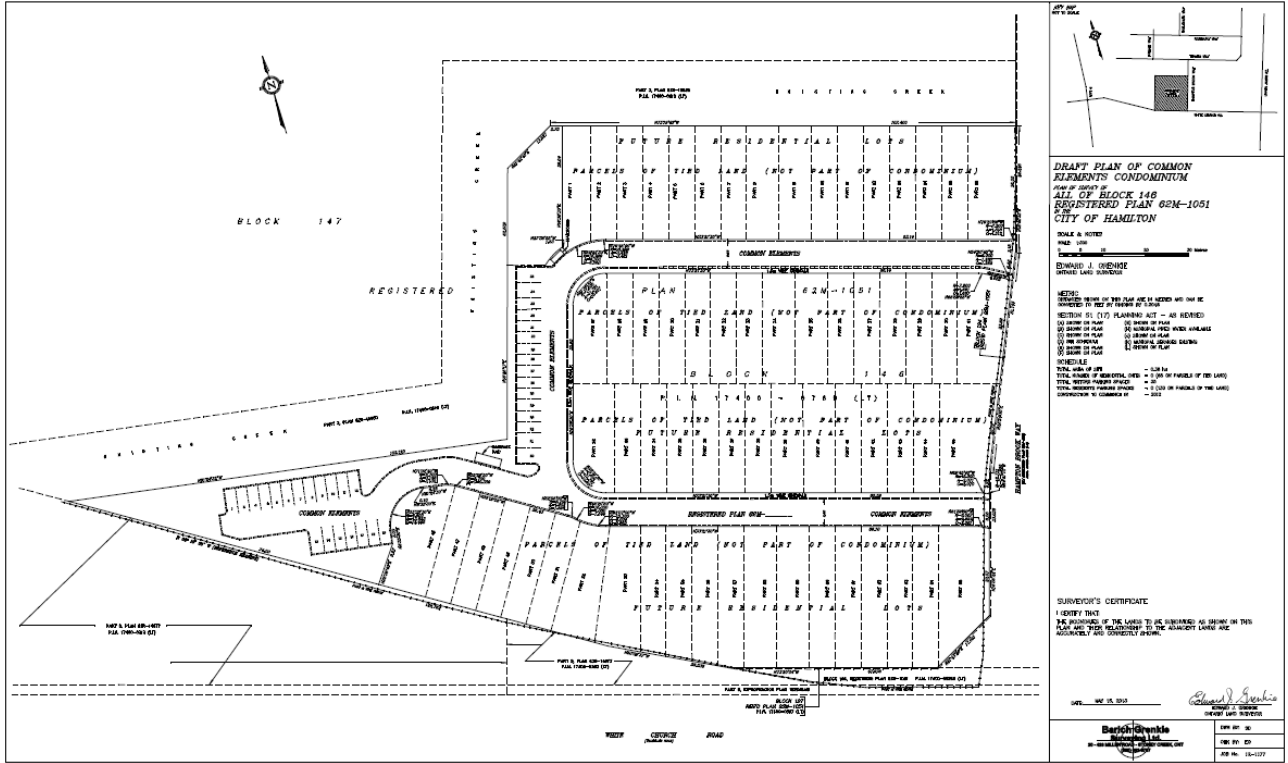
Appendix "A"

Scale:
N.T.S.

Planner/Technician:
GM/KA

Subject Property

 9 Hampton Brook Way



Greg McDonald, City of Hamilton, Planning and Economic Development Department

Re: File # 25CDM-201214

In reply to your notice for a Draft Plan of a Condominium at 5 and 9 Hampton Brook Way, Glanbrook, I would like to go on record with the following concern.

I have resided at 9157 WhiteChurch Rd., Mount Hope, immediately south of the proposed project, for 35 years. On the west side of my home, about 30m from the lot line, is a stream which is about 3 feet wide, which drains all of the ground water from the entire Mount Hope survey from the storage ponds and from the stream which surrounds the proposed project. During the first 25 years of my residence, this stream overflowed once, around 1980. Since the survey was put in across the street, this stream now overflows with every severe rainstorm (at least 5 times per year). When I say "overflows", I mean that it becomes a raging torrent which floods the ground adjacent to my lot, coming to within 15 feet of my lot, and moves at a speed which would sweep away anyone who ventured into it. The obvious reason is the fact that water which was once absorbed into the ground on the farm-land that preceded the survey now falls on pavement which directs it into sewers which eventually feed into the stream. The flooded land beside my home normally subsides in a day or two and so is not a concern. However, given the proximity of this new development and the lack of uncovered earth to absorb rainfall, I am concerned that the increased flow of water will exacerbate the flooding to the point where my property will be adversely affected. I certainly do not want groundwater flooding into my swimming pool, not to mention what effects it might have on my well. Given the flooding that seems to take place regularly in the newly constructed Binbrook developments, I am concerned that the building approvals given for such development have not accurately assessed storm water removal needs. I hope that due diligence in this regard precedes final approval of this development. Thank you for considering this concern.

John Valvasori

9157 White Church Rd W

Mount Hope