



CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Planning Division

TO:	Chair and Members Planning Committee
COMMITTEE DATE:	March 3, 2015
SUBJECT / REPORT NO:	Application for Approval of a Draft Plan of Condominium (Common Elements) by 2268329 Ontario Inc. (c / o Albion Developments) for Lands Known as 11 Stockbridge Gardens, Stoney Creek (PED15009) (Ward 9)
WARD(S) AFFECTED:	Ward 9
PREPARED BY:	Tami Kitay Senior Project Planner (905) 546-2424 Ext. 5134 Stephen Robichaud Director of Planning and Chief Planner Planning Division
SUBMITTED BY:	Jason Thorne General Manager Planning and Economic Development Department
SIGNATURE:	

RECOMMENDATION

- (a) That approval be given to **Draft Plan of Condominium Application 25CDM-201405 by 2268329 Ontario Inc. (c / o Albion Developments)**, to establish a Draft Plan of Condominium (common elements condominium) to create a condominium road, sidewalks, visitor parking area with 25 parking spaces, open space, and amenity area for six townhouse units and 13 maisonette units, on lands located at 11 Stockbridge Gardens (Stoney Creek), as shown on Appendix “A” to Report PED15009, subject to the following conditions:
- i) That this approval shall apply to the plan prepared by A.J. Clark and Associates Ltd, and certified by B.J. Clarke, dated July 31, 2014, showing a common element road, sidewalks, visitor parking areas, open space, and amenity area, attached as Appendix “B” to Report PED15009;
 - ii) That the final plan of condominium shall comply with all of the applicable provisions of Zoning By-law No. 3692-92, as amended by By-law No. 12-161 and by By-law No. 05-200, or in the event the City of Hamilton has repealed and replaced By-law 3692-92 with By-law No. 05-200, the final

SUBJECT: Application for Approval of a Draft Plan of Condominium (Common Elements) by 2268329 Ontario Inc. (c / o Albion Developments) for Lands Known as 11 Stockbridge Gardens, Stoney Creek (PED15009) (Ward 9) – Page 2 of 18

plan of condominium shall apply with all of the applicable provisions of the Zoning By-law in force and effect at the time of registration of the Draft Plan of Condominium;

- iii) That the final plan of condominium shall comply, in all respects, with Site Plan DA-12-232 approved on July 2, 2014, to the satisfaction of the Director of Planning and Chief Planner;
- iv) That the owner shall receive final approval of Part Lot Control Application PLC-14-027, including the enactment and registration on title of the Part Lot Control Exemption By-law, to the satisfaction of the Director of Planning and Chief Planner;
- v) That the owner shall enter into a Development Agreement to ensure that the tenure of each of the proposed freehold maisonette dwellings and 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;
- vi) That the owner shall agree to include the following in all offers of purchase and sale and rental leases and in the development agreement, to the satisfaction of the Senior Director of Growth Management:
 - (1) Purchasers / tenants are advised that the City of Hamilton will not be providing maintenance or snow removal service for the private condominium road;
 - (2) 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 onsite. On-street, overflow parking may not be available and cannot be guaranteed in perpetuity;
 - (3) Purchasers / tenants are advised that this property is eligible for weekly collection of garbage, recycling, organics, and leaf and yard waste through the City of Hamilton subject to compliance with specifications indicated by the Public Works Department and subject to compliance with the City's Solid Waste Management By-law 09-067;
 - (4) Purchasers / tenants are advised that for units on Parts 26, 30 to 35 inclusive, and 110-116 inclusive (as shown on the Draft Plan of Condominium attached as Appendix "B" to Report PED15009) a

SUBJECT: Application for Approval of a Draft Plan of Condominium (Common Elements) by 2268329 Ontario Inc. (c / o Albion Developments) for Lands Known as 11 Stockbridge Gardens, Stoney Creek (PED15009) (Ward 9) – Page 3 of 18

5 m development setback (no touch area) must be maintained from the toe of slope whereby no buildings, structures, or amenity areas would be permitted;

- (5) Purchasers / tenants of units on Parts 26, 30 to 35 inclusive, and 110 to 116 inclusive (as shown on the Draft Plan of Condominium attached as Appendix “B” to Report PED15009) are advised that the installation of gates in any fencing adjacent to Part 94 (as shown on the Draft Plan of Condominium attached as Appendix “B” to Report PED15009), also known as the Conservation / Hazard Lands, required by Section 4.9(a) of Subdivision Agreement 25T-201108 registered on February 26, 2013, is prohibited;
 - (6) Purchasers / tenants are advised that any access and / or encroachment, including but not limited to, sodding, dumping of grass clippings, lawn cutting, play structures, gardens, etc. onto Parts 94 to 96 inclusive (as shown on the Draft Plan of Condominium attached as Appendix “B” to Report PED15009), also known as the Conservation / Hazard Lands, is prohibited;
 - (7) Purchasers / tenants are advised that they will be solely responsible, through the condominium corporation, for any maintenance, liability, and / or the protection of Parts 94 to 96 inclusive (as shown on the Draft Plan of Condominium attached as Appendix “B” to Report PED15009), also known as the Conservation / Hazard lands. Furthermore, purchasers / tenants are advised that said Conservation / Hazard lands are owned solely by the condominium corporation and as such, the City of Hamilton has no interest or responsibility for the maintenance, liability, and / or protection of these lands; and,
 - (8) Purchasers / tenants are advised that the home / business mail delivery will be from a designated centralized mailbox.
- (vii) That the owner will be responsible for officially notifying the purchasers of the exact centralized mailbox locations, prior to the closing of any home sales;
- (viii) That the owner work with Canada Post to determine and provide temporary suitable centralized mailbox locations, which may be utilized by Canada Post, until the curbs, boulevards, and sidewalks are in place in the remainder of the subdivision, to the satisfaction of the Senior Director of Growth Management;

SUBJECT: Application for Approval of a Draft Plan of Condominium (Common Elements) by 2268329 Ontario Inc. (c / o Albion Developments) for Lands Known as 11 Stockbridge Gardens, Stoney Creek (PED15009) (Ward 9) – Page 4 of 18

- (ix) That the owner 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 mailboxes;
 - (x) That the owner 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, to the satisfaction of the Senior Director of Growth Management;
 - (xi) That the owner 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;
 - (xii) That the owner shall provide, to the satisfaction of the Senior Director of Growth Management, 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; and,
 - (xiii) That, the owner shall satisfy all conditions, financial or otherwise, of the City of Hamilton.
- (b) That the owner agree to make arrangements with Canada Post for units on Parts 1 to 7 inclusive, 8 to 13 inclusive, 27 to 29 inclusive, 36 to 47 inclusive, 55 to 66 inclusive, and 74 to 82 inclusive (as shown on the Draft Plan of Condominium attached as Appendix "B" to Report PED15009) (municipally known as 71, 73, 75, 77, 79, 81, and 83 Echovalley Drive and 38, 40 42, 44, 46, 48, 50, 54 56, 58, 60, 62, 76, 78, 80, 84, 86, 88, 90 92, and 94 Westbank Trail) for a separate community mailbox facility to be located on lands not contained within the common element condominium, to the satisfaction of the Senior Director of Growth Management;

SUBJECT: Application for Approval of a Draft Plan of Condominium (Common Elements) by 2268329 Ontario Inc. (c / o Albion Developments) for Lands Known as 11 Stockbridge Gardens, Stoney Creek (PED15009) (Ward 9) – Page 5 of 18

- (c) That the owner agree to register the following warning clauses on title of the applicable lands:
- (1) Purchasers / tenants are advised that units on Parts 1, 36 to 47 inclusive, and 55 to 66 inclusive (as shown on the Draft Plan of Condominium attached as Appendix “B” to Report PED15009) (municipally known as 71 Echovalley Drive and 38 to 62 Westbank Trail), a 5 m development setback (no touch area) must be maintained from the toe of slope whereby no buildings or structures or amenity areas would be allowed;
 - (2) Purchasers / tenants of units on Parts 1, 27 to 29 inclusive, 36 to 47 inclusive, and 55 to 76 inclusive (as shown on the Draft Plan of Condominium attached as Appendix “B” to Report PED15009) (municipally known as 71 Echovalley Drive and 38, 40, 42, 44, 46, 48, 50, 54, 56, 58, 60, 62 76, 78, 80 Westbank Trail), are advised that the installation of gates in any fencing adjacent to Parts 71, 92, and 94 (as shown on the Draft Plan of Condominium attached as Appendix “B” to Report PED15009), also known as the Conservation / Hazard Lands, required by Section 4.9(a) of Subdivision Agreement 25T-201108 registered on February 26, 2013, is prohibited;
 - (3) Purchasers / tenants of units on Parts 1, 27 to 29 inclusive, 36 to 47 inclusive, and 55 to 76 inclusive (as shown on the Draft Plan of Condominium attached as Appendix “B” to Report PED15009) (municipally known as 71, 73, 75, 77, 79, 81, 83 Echovalley Drive and 38, 40, 42, 44, 46, 48, 50, 54, 56, 58, 60 62, 76, 78, 80, 84, 86, 88, 90, 92, and 94 Westbank Trail), are advised that any access and / or encroachment, including but not limited to, sodding, dumping of grass clippings, lawn cutting, play structures, gardens, etc. onto Part 94 (as shown on the Draft Plan of Condominium attached as Appendix “B” to Report PED15009), also known as the Conservation / Hazard Lands, is prohibited; and,
 - (4) Purchasers / tenants are advised that for all units fronting onto Westbank Trail, including Parts 8 to 13 inclusive, 27 to 29 inclusive, 36 to 47 inclusive, ~~47 to 66 inclusive~~ Parts 48, 54 to 66 inclusive, and 74 to 82 inclusive (as shown on the Draft Plan of Condominium attached as Appendix “B” to Report PED15009), indicated on Site Plan DA-12-232 approved on July 2, 2014 (Appendix “D”), that the parking, manoeuvring, walkways, and driveway areas around the units are constructed of partial asphalt, interspersed with 1.5 m bands of permeable pavers as a stormwater quality control measure and purchasers / tenants agree to maintain these features indefinitely.

SUBJECT: Application for Approval of a Draft Plan of Condominium (Common Elements) by 2268329 Ontario Inc. (c / o Albion Developments) for Lands Known as 11 Stockbridge Gardens, Stoney Creek (PED15009) (Ward 9) – Page 6 of 18

(d) That the owner be advised of the following:

NOTES TO DRAFT PLAN APPROVAL

Pursuant to Section 51(32) of the *Planning Act*, draft approval shall lapse if the plan is not given final approval within three years. However, extensions will be considered if a written request is received before the draft approval lapses.

EXECUTIVE SUMMARY

The purpose of this application is to establish a Draft Plan of Condominium (common element condominium). The common elements would consist of two driveway access points (one from Westbank Trail and the second from Stockbridge Gardens), a condominium road, visitor parking areas (a total of 25 parking spaces), open space, and landscaped amenity areas (including sidewalks and the community mailboxes).

The proposed Draft Plan of Condominium has merit and can be supported since it is consistent with the Provincial Policy Statement (PPS), conforms with Places to Grow, upon the City's future housekeeping amendment being finalized will bring the development more into conformity with the Urban Hamilton Official Plan (UHOP), will conform with Zoning By-law No. 3692-92 upon finalization of Minor Variance Application SC / A-15:17, is consistent with Registered Plan of Subdivision 62M-1204 "Paramount" (see Appendix "C") and implements Site Plan Control Application DA-12-232 (see Appendix "D").

Alternatives for Consideration – See Page 17

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: N / A

Staffing: N / A

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

HISTORICAL BACKGROUND

Chronology

- April 8, 2013: Conditional approval of Site Plan Control Application DA-12-232 granted by the Manager of Development Planning, Heritage, and Design.
- March 17, 2014: One year extension of conditional Site Plan approval granted.
- July 2, 2014: Final clearances issued for Site Plan Control Application DA-12-232.
- August 11, 2014: Condominium Application 25CDM-201405, “Stockbridge Gardens” is received.
- September 9, 2014: Condominium Application 25CDM-201405, “Stockbridge Gardens” is deemed complete.
- September 11, 2014: Circulation of Notice of Complete Application and Preliminary Circulation for Condominium Application 25CDM-201405 sent to 60 residents within 120 m of the subject lands.
- October 9, 2014: Public Notice Sign placed on the subject lands.
- January 7, 2015: Public Notice Sign updated to indicate Public Meeting date.
- January 16, 2015: Notice of Public Meeting circulated to all property owners within 120 m of the subject lands.
- January 27, 2015: Notice of February 17, 2015, Public Meeting cancellation circulated to all property owners within 120 m of the subject lands. Notice of rescheduled March 3, 2015, Public Meeting circulated to all property owners within 120 m of the subject lands.

Proposal:

The purpose of the application is to establish a Draft Plan of Condominium (common element condominium) to create the following condominium elements: two

SUBJECT: Application for Approval of a Draft Plan of Condominium (Common Elements) by 2268329 Ontario Inc. (c / o Albion Developments) for Lands Known as 11 Stockbridge Gardens, Stoney Creek (PED15009) (Ward 9) – Page 8 of 18

condominium driveways and a condominium road, sidewalks, visitor parking area containing 25 parking spaces, and open space and landscape amenity areas for six townhouse dwelling units and 13 maisonette dwelling units, as shown on the Draft Plan of Condominium attached as Appendix “B” to Report PED15009. The remaining 15 townhouse dwelling units and 13 maisonette dwelling units, fronting onto Westbank Trail and Echovalley Drive, will not have an interest in the common element condominium amenities.

The proposed lots and the elements in common will be created once Part Lot Control Application PLC-14-027 is approved and the By-law is passed by Council and registered on title. This is anticipated in March 2015.

Details of Submitted Application:

Location: 11 Stockbridge Gardens, Stoney Creek (see Appendix “A”)

Owner / Applicant: 2268329 Ontario Inc. (c / o Albion Developments)

Agent: A.J. Clarke and Associates Ltd. (Steve Fraser)

Property Description: Lot Frontage: 33.14 m (Stockbridge Gardens)

Lot Depth: 350 m (Westbank Trail)

Lot Flankage: 150 m (Echovalley Drive)

Lot Area: 0.49 ha

Servicing: Full municipal services

EXISTING LAND USE AND ZONING:

	<u>Existing Land Use</u>	<u>Existing Zoning</u>
<u>Subject Lands:</u>	Townhouse and Maisonette Dwellings (under construction)	Multiple Residential “RM3-45” Zone, Modified

<u>Surrounding Lands:</u>		
North	Vacant	Multiple Residential “RM2-29” Zone, Modified and Single Residential “R6-6” Zone, Modified

SUBJECT: Application for Approval of a Draft Plan of Condominium (Common Elements) by 2268329 Ontario Inc. (c / o Albion Developments) for Lands Known as 11 Stockbridge Gardens, Stoney Creek (PED15009) (Ward 9) – Page 9 of 18

South	Open Space	Conservation / Hazard (P5) Zone
East	Open Space / Vacant	Conservation / Hazard (P5) Zone / Multiple Residential “RM3-2(H)” Zone, Modified
West	Vacant / City Wide Park	Open Space (OS) Zone and Open Space (P5) Zone

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

Provincial Policy Statement (2014)

The application has been reviewed with respect to the Provincial Policy Statement, 2014 (PPS). The application is consistent with the policies that direct growth to Settlement Areas (Policy No. 1.1.3.1). It also implements Policy Nos. 1.1.3.2, 1.1.3.4, and 1.4.3 with respect to the promotion of densities which efficiently use land and resources, and encourages a compact form of development that provides for a mix of housing types to meet the projected requirements of current and future residents. The proposed development provides for a mix of maisonettes and townhouse dwelling units and is therefore consistent with the PPS.

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

The subject lands are located within a Designated Greenfield Area, as defined by the Growth Plan for the Greater Golden Horseshoe (Places to Grow). Policy No. 2.2.7.1 states that development will be designed to contribute to the creation of complete communities, create densities and an urban form that support active transportation, and provide a diverse mix of land uses. The proposed development provides for a mix of maisonettes and townhouse dwelling units. Policy No. 2.2.7.2 also requires a minimum density target not less than 50 residents per hectare (measured over the entire Designated Greenfield Area of Hamilton). The proposed density of 65 units per hectare meets the growth target. Furthermore, the proposed sidewalks within the development link to existing municipal sidewalks, strengthening the active transportation network in the neighbourhood.

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

Urban Hamilton Official Plan

The subject lands are designated “Neighbourhoods” on Schedule “E” - Urban Structure and Schedule “E-1” - Urban Land Use designations.

On July 12, 2012, Council approved the staff recommendations (as amended) for a change in zoning, Official Plan Amendment and Draft Plan of Subdivision in support of the proposed development. At the time, the former Stoney Creek Official Plan was in force and effect and the UHOP was under appeal. The application to amend the Stoney Creek Official Plan was for an amendment to the corresponding land use designations in the Nash Neighbourhood Secondary Plan. The corresponding UHOP amendment was to be held in abeyance until a final decision on the UHOP was made. The purpose of the UHOP amendment was to redesignate a portion of the lands to the south of the proposed condominium (zoned P5 on Appendix “A”) from “Medium Density Residential 3” to “Natural Open Space” in the Nash Neighbourhood Secondary Plan. On August 16, 2013 the UHOP was approved, in part, by the Ontario Municipal Board. Staff are now preparing a City-wide housekeeping amendment in order to comprehensively incorporate all of the necessary amendments pertaining to the previous development applications in the City when the UHOP was not in force and effect and therefore could not be amended at the time of Council approval of site-specific development applications.

The subject lands are designated as “Medium Density Residential 3” on Map B.7.5-1 – Nash Neighbourhood Secondary Plan. The designation is as follows:

“7.5.4.2 In addition to Section E.3.5 – Medium Density Residential of Volume 1, the following policies shall apply to lands designated Medium Density Residential 2 and Medium Density Residential 3 as shown on Map B.7.5-1 – Nash Neighbourhood – Land Use Plan:

b) Medium Density Residential 3 Designation:

- i) Notwithstanding Policy E.3.5.8 of Volume 1, apartment buildings and street and block townhouses shall be permitted providing that heights do not exceed eight storeys.
- ii) Notwithstanding Policy 3.5.7 of Volume 1, the density of development shall be in the range of 50 to 99 units per net residential hectare.

SUBJECT: Application for Approval of a Draft Plan of Condominium (Common Elements) by 2268329 Ontario Inc. (c / o Albion Developments) for Lands Known as 11 Stockbridge Gardens, Stoney Creek (PED15009) (Ward 9) – Page 11 of 18

- iii) The location of Medium Density Residential 3 is intended to be adjacent to or in close proximity to collector roads, community park facilities and open space areas.”

Based on the above, the development conforms to the UHOP.

Stoney Creek Zoning By-law No 3692-92:

On July 12, 2012 Council approved By-law No. 12-161, which reflected the proposed form of development for the subject lands. This By-law rezoned the subject lands to the Multiple Residential “RM3-46” and permits the following uses: maisonettes, street townhouses, townhouses, apartment dwellings, dwelling groups, a home occupation and uses, and buildings or structures accessory to a permitted use. This zone modified some of the parent zone provisions related to lot area, frontage, yard setbacks, maximum density, building height, lot coverage, privacy area, landscape open space, parking stall dimension, permitted encroachments, maximum number of units within a townhouse block, and minimum distance between buildings on the same lot / block. The zone regulations were implemented through the approved Site Plan (DA-12-232). The approved Site Plan conforms to the “RM3-46” Zone and other applicable provisions of Zoning By-law No. 3692-92, as amended by Zoning By-law No. 12-161.

Once the application for Draft Plan of Condominium was made and the proposed tenure established, certain aspects of the approved Site Plan no longer conform to the Zoning By-law. As such, the applicant has applied to the Committee of Adjustment for relief for certain technical variances. This application is discussed in Section 2 of the Analysis and Rationale portion of the Report below. The requested variances are technical in nature and can be supported. Therefore, once the variances are approved, the proposed Draft Plan of Condominium will conform to the Zoning By-law. Recommendation (a)(ii) to Report PED15009 requires the Draft Plan of Condominium to conform to the Zoning By-law.

RELEVANT CONSULTATION

The following departments and agencies had no comments or objections:

- Geomatics and Corridor Management Section, Public Works Department;
- Hydro One;
- Hamilton Municipal Parking System, Planning and Economic Development Department;
- Forestry and Horticulture Section, Public Works Department;
- Recreation, Community Services; and,
- Horizon Utilities.

The following departments and agencies submitted comments:

SUBJECT: Application for Approval of a Draft Plan of Condominium (Common Elements) by 2268329 Ontario Inc. (c / o Albion Developments) for Lands Known as 11 Stockbridge Gardens, Stoney Creek (PED15009) (Ward 9) – Page 12 of 18

The **Hamilton Conservation Authority (HCA)** has previously provided comments with respect to the draft plan of subdivision known as “Paramount”. Their concerns have been addressed through their previous review of the associated planning applications, including implementation of the Draft Plan of Subdivision and Site Plan. However, they have recommended that warning clauses be included as a condition of the Draft Plan of Condominium approval. Specifically, the HCA identified that certain lots must maintain a 5 m development (no touch) setback from the toe of slope whereby no buildings or structures or amenity areas would be permitted. Furthermore, the driveways for all units fronting onto Westbank Trail are to be constructed of partial asphalt, interspersed with 1.5 m bands of permeable pavers, as a Stormwater quality control measure shown on the approved grading plan. The conditions requested by the Hamilton Conservation Authority are included as Recommendations (a)(vi)(4), (c)(1) and (4).

Strategic Planning Section (Public Works Department) has advised that the property is eligible for municipal waste collection provided that a notation be placed on the Draft Plan of Condominium (see Recommendation (a)(vi)(3)). Furthermore, they advise that the following specifications are required:

1. Road layout must be designed to permit the continuous forward movement of collection vehicles, including the radius of a cul-de-sac turning circle. Continuous forward movement must be provided exclusive of any parking spaces and stored snow.
2. Waste collection service will commence when the development is substantially completed and there is free and clear access. The developer or owner is required to contact the Public Works Department to request the start of waste collection service.
3. Prior to the commencement of City waste collection service, the developer is responsible for the collection of all waste (garbage, recycling, organics, etc.) from any and all occupied units.
4. Construction material will not be collected; collection arrangements must be made with a private contractor.
5. A site visit by Public Works staff is required prior to the start of waste collection service.
6. For collection of waste on private roads, an Agreement for On-Site Collection of Municipal Solid Waste must be executed and submitted to the City prior to the start of service.

SUBJECT: Application for Approval of a Draft Plan of Condominium (Common Elements) by 2268329 Ontario Inc. (c / o Albion Developments) for Lands Known as 11 Stockbridge Gardens, Stoney Creek (PED15009) (Ward 9) – Page 13 of 18

7. On collection day, the collection area shall be in an accessible location, free and clear of any construction debris and vehicles.
8. Individual waste containers, blue boxes, and green carts will be collected curbside in front of each property.

These specifications have been addressed through both the Subdivision Agreement and through the Undertaking Agreement in the final approved Site Plan.

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 to be included in all 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 (a)(vi)(8),(vii),(viii),(ix),(x), and (xi). As the central mailbox facilities located on Part 92 will be for the sole use of the units on Parts 14 to 26 inclusive, 30 to 35 inclusive, and 98 to 116 inclusive (as shown on the Draft Plan of Condominium attached as Appendix “B” to Report PED15009), being the units which will hold an interest in the common element space, an additional central mailbox facility will be required for the units located on Parts 1 to 7 inclusive, 8 to 13 inclusive, 27 to 29 inclusive, 36 to 47 inclusive, 55 to 66 inclusive, and 74 to 82 inclusive (as shown on the Draft Plan of Condominium attached as Appendix “B” to Report PED15009) at a location not situated within the common element condominium amenity space, to be determined by Canada Post to the satisfaction of the Senior Director of Growth Management (see Recommendation (b)).

Bell Canada has requested that the Draft Plan of Condominium be subject to a standard condition of approval to provide Bell Canada any necessary easements or agreements for the provision of wire-line communication / telecommunication infrastructure services for this project. This condition is included as Recommendation (a)(xii).

PUBLIC CONSULTATION

In accordance with the provisions of the *Planning Act* and Council’s Public Participation Policy, 60 Notices of Complete Application and Preliminary Circulation were sent to all property owners within 120 m of the subject property on September 11, 2014 requesting comments on the application. To date, no comments have been received by the public. Furthermore, a Public Notice Sign was posted on the property on October 9, 2014. Finally, Notice of the Public Meeting was given on January 7, 2015, in accordance with the requirements of the *Planning Act* and notice for the new Public Meeting date was given on January 27, 2015.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

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) Once the applicable housekeeping amendments are finalized, it will bring the development more into conformity with the Urban Hamilton Official Plan; and,
 - (iii) The proposal implements condominium tenure for a form of development previously approved by Council through Zoning By-law No. 12-161 and Draft Plan of Subdivision Approval known as “Paramount” 25T-201108, and by staff through Site Plan Control Application DA-12-232, and provides for a form of development that is compatible with surrounding land uses.

2. At the time that Site Plan Application DA-12-232 was reviewed for zoning compliance, the proposal included 47 dwelling units (26 maisonette and 21 block townhouse units) as one comprehensive development, all with a common interest in the future common element condominium. Site Plan Application DA-12-232 was approved on that basis on July 2, 2014, building permits have been issued, and the units are currently under construction. Purchaser closings are anticipated to begin in mid-March 2015.

During review of the Draft Plan of Condominium application, the applicant indicated that the proposed tenure had changed from what had been previously reviewed at the Site Plan stage. The proposed tenure had changed to six block townhouse dwelling units and 13 maisonette dwelling units having an interest in the common element condominium and the remaining 28 dwelling units (13 maisonettes and 15 townhouse units) would be entirely freehold in nature with no access to the common element condominium amenities.

It was determined through zoning review that due to the proposed tenure arrangement, certain aspects of the approved Site Plan no longer conform to the Zoning By-law. The applicant applied for relief on January 30, 2015 (Minor Variance Application SC / A-15:17) and the application is scheduled to be considered by the Committee of Adjustment on February 19, 2015. The following variances are being sought:

SUBJECT: Application for Approval of a Draft Plan of Condominium (Common Elements) by 2268329 Ontario Inc. (c / o Albion Developments) for Lands Known as 11 Stockbridge Gardens, Stoney Creek (PED15009) (Ward 9) – Page 15 of 18

- a) The Zoning By-law requires 2.5 parking spaces per maisonette dwelling unit with 0.5 parking spaces of that requirement designated for visitor parking. Each maisonette dwelling unit fronting onto Westbank Trail and Echovalley Drive function as freehold, street-fronting townhouses with a parking space located within the private garage and a parking space located in the driveway for each unit. This is the same arrangement as the approved townhouse units facing Westbank Trail which do comply with the Zoning By-law. As such, the requested variance seeking no visitor parking for the maisonette dwellings fronting onto Westbank Trail and Echovalley Drive can be supported.
- b) The Zoning By-law requires 2.5 parking spaces per maisonette dwelling unit with 0.5 parking spaces of that requirement designated for visitor parking on the lot on which the use is located. For the thirteen (13) maisonette dwelling units holding an interest in the common element condominium, there are twenty-five (25) surface parking spaces designated for visitor use. This variance seeks to recognize that the visitors parking will be on the common element condominium lands as opposed to be located on the individual lots. As the visitor parking requirements have been exceeded and the request is only necessary due to the proposed tenure, the variance can be supported.
- c) The Zoning By-law requires parking spaces, landscaping, and amenity areas to be located on the lot of the principal use that they are accessory to. With the change in tenure, the variance seeks permission to allow parking spaces, landscaping, and amenity areas on the common element condominium lands notwithstanding that there is no principal use on the common element lands. As the parking, landscaping, and amenity areas were approved through the Site Plan process and are central to the functionality of the development, the variance can be supported.
- d) The Zoning By-law requires parking spaces to be located a minimum of 3.0 m from any lot line and 5.0 m from any dwelling unit on common element lands. The application seeks a variance to permit parking spaces to locate a minimum of 1.0 m from a lot line and a minimum of 2.75 m from a dwelling unit located on a lot. This request applies only to one corner of one townhouse dwelling (Parts 29 and 74 on the Draft Plan of Condominium attached as Appendix “B” to Report PED15009). If approved, the remainder of the development would comply with this request. The variance can be supported as it is only required due to the change in tenure and it only applies to the corner of one unit.

SUBJECT: Application for Approval of a Draft Plan of Condominium (Common Elements) by 2268329 Ontario Inc. (c / o Albion Developments) for Lands Known as 11 Stockbridge Gardens, Stoney Creek (PED15009) (Ward 9) – Page 16 of 18

3. The common element condominium contains 25 surface parking spaces for visitor's parking to be shared amongst 19 dwelling units. The remaining dwelling units not holding an interest in the common element condominium will not be permitted to utilize these spaces, unless they make private arrangements with the condominium corporation.
4. The proposed Draft Plan of Condominium (common elements) would be comprised of the following common elements: an internal road with sidewalks accessing Westbank Trail and Stockbridge Gardens; visitor parking areas for a total of 25 parking spaces; and open space including centralized landscaped amenity area and Canada Post community mailbox. All of the common elements, including the condominium road, centralized mailbox, amenity area, open space, and the visitor parking areas would be maintained by the future Condominium Corporation. Thirteen maisonette dwelling units and six townhouse dwellings would have frontage onto the private condominium road and would all hold an interest in the common element condominium corporation.
5. Fifteen townhouse dwelling units and six maisonette dwelling units would have frontage onto Westbank Trail. Seven of the maisonette dwellings would front onto Echovalley Drive. These units are entirely freehold in nature and do not have an interest in the common element condominium corporation.
6. The land proposed for the common elements condominium and the lots for all of the townhouses and maisonettes will be created through an exemption from Part Lot Control. Part Lot Control Application PLC-14-027 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 approved and the By-law removing the lands from Part Lot Control has been passed by Council (see Recommendation (a)(iv)).
7. 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 Parts 14 to 19 inclusive, 20 to 26 inclusive, 30 to 35 inclusive, 98 to 116 inclusive (as shown on the Draft Plan of Condominium included in Appendix "B" to Report PED15009) 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 (a)(v)).
8. The proposed condominium road will be privately owned and maintained. As a condition of approval, the applicant must include warning clauses in the Development Agreement and all Purchase and Sale Agreements to advise

SUBJECT: Application for Approval of a Draft Plan of Condominium (Common Elements) by 2268329 Ontario Inc. (c / o Albion Developments) for Lands Known as 11 Stockbridge Gardens, Stoney Creek (PED15009) (Ward 9) – Page 17 of 18

perspective purchasers that the City of Hamilton will not provide maintenance or snow removal and that the provided garages are for parking (including that on-street, overflow parking may not be available and cannot be guaranteed in perpetuity). An acknowledgement clause is also included to advise purchasers of the centralized mailboxes (see Recommendations (a)(vi)(1),(2),(3),(5),(6),(7) and (8)).

9. Through the review process for the Zoning By-law Amendment, Official Plan Amendment, and the Draft Plan of Subdivision, the Hamilton Conservation Authority (HCA) provided comments and conditions related to the Conservation / Hazard (P5) Zone which abuts the subject lands on the easterly lot boundary. With respect to maintaining an appropriate buffer to these open space lands, the HCA requested that a 5 m development setback be imposed. This provision was included in the implementing zoning and through the draft plan approval. In keeping with this, the HCA has requested warning clauses related to this (see Recommendations (a)(vi)(4),(c)(1) and (4)).
10. Parts 94 to 96 inclusive (as shown on the Draft Plan of Condominium included in Appendix “B” to Report PED15009), referred to as the Conservation / Hazard Lands, and zoned “P5” for environmental protection, consist of natural open space lands that slope from east to west. The lands are to be maintained in a natural state and any access or encroachment, including but not limited to trails, sodding, lawn cutting, play structures, gardens, dumping of grass clippings, etc. will be prohibited by the future Condominium Corporation. Furthermore, recommendations have been made to prohibit gates from being installed in fencing from the adjacent future private parcels as well as the future parcels sharing a common interest in the Draft Plan of Condominium to further instil this prohibition. As the ownership of these lands and their long term environmental protection are to be the sole responsibility of the future condominium corporation, a further warning clause is recommended to bring this responsibility to the attention of prospective purchasers and / or tenants (see Recommendations (a)(vi)(5)(6)(7) and (c)(2)(3)).

ALTERNATIVES FOR CONSIDERATION

Should the Plan of Condominium (common elements) 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

- 1.5 Support the development and implementation of neighbourhood and City wide strategies that will improve the health and well-being of residents.
- 1.6 Enhance Overall Sustainability (financial, economic, social and environmental).

APPENDICES AND SCHEDULES ATTACHED

Appendix “A”: Location Map

Appendix “B”: Proposed Draft Plan of Condominium

Appendix “C”: Registered Plan of Subdivision

Appendix “D”: Final Approved Site Plan

:JM/tlk/th