

CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Planning Division

TO:	Chair and Members Planning Committee
COMMITTEE DATE:	June 16, 2015
SUBJECT / REPORT NO:	Application for Approval of a Draft Plan of Condominium (Common Elements) by Spallacci and Sons Limited (c / o Frank Spallacci) for Lands Known as 280 to 344 Rymal Road West, Hamilton (PED15068) (Ward 8)
WARD(S) AFFECTED:	Ward 8
PREPARED BY:	Lindsay King Planner (905) 546-2424 Ext. 2222 Stephen Robichaud Director of Planning and Chief Planner
SUBMITTED BY: SIGNATURE:	Jason Thorne General Manager Planning and Economic Development Department

RECOMMENDATION

- (a) That approval be given to **Draft Plan of Condominium Application 25CDM-201503 by Spallacci and Sons Limited (c / o Frank Spallacci)**, to establish a Draft Plan of Condominium (common elements condominium) to create a condominium road for 31 townhouse units with 16 visitor parking spaces, three driveway accesses off of Rymal Road West and landscaped amenity areas on lands located at 280 to 344 Rymal Road West (Hamilton), as shown on Appendix "A" to Report PED15068, subject to the following conditions:
- i) That this approval shall apply to the plan prepared by Ashenhurst Nouwens and Associated Inc., certified by Harry Kalantzakos, and dated November 25, 2014, attached as Appendix "B" to Report PED15068; and,
 - ii) That the conditions of Draft Plan of Condominium Approval 25CDM-201503 provided as Appendix "C" be received and endorsed by City Council.

SUBJECT: Application for Approval of a Draft Plan of Condominium (Common Elements) by Spallacci and Sons Limited (c / o Frank Spallacci) for Lands Known as 280 to 344 Rymal Road West, Hamilton (PED15068) (Ward 8) – Page 2 of 14

EXECUTIVE SUMMARY

The purpose of this application is to establish a Draft Plan of Condominium (common element condominium). The common elements would consist of three driveway access points (two from Rymal Road West on the west side of Hazelton Avenue and the third from Rymal Road West on the east side of Hazelton Avenue), a condominium road, visitor parking areas (a total of 16 parking spaces), and landscaped open space amenity areas (including the community mailboxes) for 31 freehold townhouses.

The proposed Draft Plan of Condominium has merit and can be supported since it is consistent with the Provincial Policy Statement (PPS), conforms with the Growth Plan, upon the City's future housekeeping amendment being finalized will bring the development into compliance with the Urban Hamilton Official Plan (UHOP), upon finalization of a Minor Variance application (HM/A-15:102), will conform with Hamilton Zoning By-law No. 6593 as amended by By-law No. 09-023, is consistent with Registered Plan of Subdivision 62M-1166 (see Appendix "D") and implements Site Plan Control Application DA-13-129 (see Appendix "E").

Alternatives for Consideration – See Page 14

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:

August 16, 2014: Conditional approval of Site Plan Control Application DA-13-129 granted by the Manager of Development Planning, Heritage and Design.

November 4, 2014: Final approval issued for Site Plan Control Application DA-13-129.

December 2, 2014: Condominium Application 25CDM-201503, "Simona Place" is received.

SUBJECT: Application for Approval of a Draft Plan of Condominium (Common Elements) by Spallacci and Sons Limited (c / o Frank Spallacci) for Lands Known as 280 to 344 Rymal Road West, Hamilton (PED15068) (Ward 8) – Page 3 of 14

- December 23, 2014: Application deemed incomplete as submission materials and Formal Consultation waiver still outstanding.
- January 8, 2015: Request for Formal Consultation to be waived as file previously reviewed through Eden Park Subdivision (62M-1166), Zoning By-law Amendment (ZAC-07-099) and Site Plan Control (DA-13-129).
- January 19, 2015: Formal Consultation waived. Condominium Application 25CDM-201503 “Simona Place” is deemed complete.
- January 29, 2015: Public Notice Sign placed on the subject lands.
- February 9, 2015: Circulation of Notice of Complete Application and Preliminary Circulation for Condominium Application 25CDM-201503 sent to 665 residents within 120 m of the subject lands.
- May 14, 2015: Public Hearing date for Minor Variance Application HM/A-15:102 for 280 – 344 Rymal Road West
- May 22, 2015: Public Notice Sign updated to indicate Public Meeting date.
- May 29, 2015: Notice of 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: three condominium driveways and a condominium road, visitor parking area containing 16 parking spaces and landscape amenity areas for 31 townhouse dwelling units, as shown on the Draft Plan of Condominium attached as Appendix “B” to Report PED15068.

The proposed lots and the elements in common will be created once Part Lot Control Application PLC-15-009 is approved and the By-law is passed by Council and registered on title. This is anticipated in April 2015.

SUBJECT: Application for Approval of a Draft Plan of Condominium (Common Elements) by Spallacci and Sons Limited (c / o Frank Spallacci) for Lands Known as 280 to 344 Rymal Road West, Hamilton (PED15068) (Ward 8) – Page 4 of 14

Details of Submitted Application:

Location: 280 to 344 Rymal Road West, Hamilton (formerly known as 350 Rymal Road West and 6 and 7 Hazelton Road) (see Appendix “A” attached to this Report).

Owner / Applicant: Spallacci and Sons Limited (c / o Frank Spallacci)

Agent: IBI Group (c / o Jared Marcus)

Property Description:

	<u>280-286 Rymal Road West</u>	<u>292-344 Rymal Road West</u>
<u>Lot Frontage:</u>	19 m (Rymal Road W.)	176.8 m (Rymal Road W.)
<u>Lot Depth:</u>	46.2 m (Hazelton Ave.)	46.2 m (Hazelton Ave.)
<u>Lot Flankage:</u>	33.5 m (Hazelton Ave.)	33.5 m (Hazelton Ave.)
<u>Lot Area:</u>	0.88 ha	0.14 ha
<u>Servicing:</u>	Full municipal services	

EXISTING LAND USE AND ZONING:

	<u>Existing Land Use</u>	<u>Existing Zoning</u>
<u>Subject Lands:</u>	Vacant	“RT-20/S-1301a” (Townhouse – Maisonette) District, Modified
<u>Surrounding Lands:</u>		
North	Residential - Single Detached Dwellings	“R-4/S-1301a” (Small Lot Single Family Detached) District, Modified
South	Residential – Multiple Dwellings (St. Elizabeth Retirement Village)	“DE/S-1023”, “DE/S-664”, “DE/S-664a”, “DE/S-664b” “DE/S-664c” (Low Density Multiple Dwellings) District, Modified

SUBJECT: Application for Approval of a Draft Plan of Condominium (Common Elements) by Spallacci and Sons Limited (c / o Frank Spallacci) for Lands Known as 280 to 344 Rymal Road West, Hamilton (PED15068) (Ward 8) – Page 5 of 14

East	Residential – Single Detached Dwelling	“AA” (Agricultural) District
West	Residential – Single Detached Dwelling	“B” (Suburban Agriculture and Residential, etc.) District

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. As the existing community to the north is comprised of single detached dwellings and the private retirement community to the south is comprised of various forms of multi-unit housing, the proposed townhouse development further diversifies the housing options and tenure available to this community 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 supports active transportation, and provides a diverse mix of land uses. The proposed development links to the existing community through the extension of municipal sidewalks and further complements the existing community by providing an alternative to single detached dwellings. Furthermore, the proposed townhouse units are located on HSR transit route 44 providing an increased opportunity to walk and take transit. Based on the foregoing, the proposal conforms to the policies of the Growth Plan for the Greater Golden Horseshoe.

Urban Hamilton Official Plan

The subject lands are identified as “Neighbourhoods” on Schedule “E” - Urban Structure Plan and designated “Neighbourhoods” on Schedule “E-1” - Urban Land Use Designations in the Urban Hamilton Official Plan (UHOP).

Areas designated “Neighbourhoods” shall function as complete communities that are compact, mixed-use, transit-supportive, and include a full range of residential dwelling

SUBJECT: Application for Approval of a Draft Plan of Condominium (Common Elements) by Spallacci and Sons Limited (c / o Frank Spallacci) for Lands Known as 280 to 344 Rymal Road West, Hamilton (PED15068) (Ward 8) – Page 6 of 14

types and densities as well as supporting uses intended to serve the local residents. Section B.3 of the UHOP provides the following policies, amongst others, that apply to the proposed new development within the “Neighbourhoods” designation:

- “B.3.3.3.1 New development shall be located and organized to fit within the existing or planned context of an area as described in Chapter E – Urban Systems and Designations.
- B.3.3.3.2 New development shall be designed to minimize impact on neighbouring buildings and public spaces by:
 - a) creating transitions in scale to neighbouring buildings;
- B.3.3.3.3 New development shall be massed to respect existing and planned street proportions.”

The proposal to create a condominium road for 31 townhouse units with 16 visitor parking spaces, three driveway accesses off of Rymal Road West and landscape amenity areas provides a transition from the major arterial road to the single detached dwellings on the interior of the neighbourhood.

Section E.3 of the UHOP provides, among others, the following relevant policies:

- “E.3.2.1 Areas designated Neighbourhoods shall function as complete communities, including the full range of residential dwelling types and densities as well as supporting uses intended to serve the local residents.
- E.3.3.1 Lower density residential uses and building forms shall generally be located in the interiors of neighbourhood areas with higher density dwelling forms and supporting uses located on the periphery of neighbourhoods or in close proximity to major or minor arterial roads.
- E.3.5.1 Medium density residential areas are characterized by multiple dwelling forms on the periphery of neighbourhoods in proximity to major or minor arterial roads, or within the interior of neighbourhoods fronting on collector roads.
- E.3.5.2 Uses permitted in medium density residential areas include multiple dwellings except street townhouses.
- E.3.5.5 Medium density residential uses shall be located within safe and convenient walking distance of existing or planned community facilities, public transit, schools, active or passive recreational facilities, and local or District Commercial uses.

SUBJECT: Application for Approval of a Draft Plan of Condominium (Common Elements) by Spallacci and Sons Limited (c / o Frank Spallacci) for Lands Known as 280 to 344 Rymal Road West, Hamilton (PED15068) (Ward 8) – Page 7 of 14

- E.3.5.6 Medium density residential built forms may function as transitions between high and low profile residential uses.
- E.3.5.7 For medium density residential uses, the net residential density shall be greater than 60 units per hectare and not greater than 100 units per hectare.
- E.3.5.8 For medium density residential uses, the maximum height shall be six storeys.
- E.3.5.9 Development within the medium density residential category shall be evaluated on the basis of the following criteria:
- a) Developments should have direct access to a collector or major or minor arterial road. If direct access to such a road is not possible, the development may gain access to the collector or major or minor arterial roads from a local road only if a small number of low density residential dwellings are located on that portion of the local road.
 - b) Development shall be integrated with other lands in the Neighbourhoods designation with respect to density, design, and physical and functional considerations.
 - c) Development shall be comprised of sites of suitable size and provide adequate landscaping, amenity features, on-site parking, and buffering if required. The height, massing, and arrangement of buildings and structures shall be compatible with existing and future uses in the surrounding area.
 - d) Access to the property shall be designed to minimize conflicts between traffic and pedestrians both on-site and on surrounding streets."

The proposal to construct 31 townhouse units conforms to the intent of the medium density policies in terms of built form, preferred location, and building height as the proposed townhouse dwelling units are located at the periphery of the neighbourhood, have access to a major arterial road and do not exceed six storeys. Furthermore, as an extension of the Eden Park subdivision, the proposal provides an alternative to the single and semi-detached homes of the adjacent community while being compatible in terms of height and design.

While the proposed townhouse development meets the intent of the UHOP, with a proposed speed limit of approximately 30 u/h, the development does not meet the required density

SUBJECT: Application for Approval of a Draft Plan of Condominium (Common Elements) by Spallacci and Sons Limited (c / o Frank Spallacci) for Lands Known as 280 to 344 Rymal Road West, Hamilton (PED15068) (Ward 8) – Page 8 of 14

of 60-100 uph as set out in policy E.3.5.7 of Volume 1. However, on January 28, 2009, Council approved the staff recommendations (as amended) for a Zoning By-Law Amendment (ZAC-07-099) and Draft Plan of Subdivision (25T200721) in support of the proposed block townhouse development. At the time of the rezoning, the former City of Hamilton Official Plan was in force and effect and the development proposal did not require an Official Plan Amendment. On August 16, 2013, the UHOP was approved, in part, by the Ontario Municipal Board thereby giving this development legal non-complying status.

The Urban Official Plan recognized that there situations may exist as outline in the Polices of Section F.1.12 in Volume 1 of the UHOP which states:

- “F.1.12 It is recognized there are some previously existing land uses that do not presently comply with the goals and objectives set out in this Plan. This Plan, while endeavouring to achieve a high degree of land use compatibility for new development, recognizes there is a degree of diversity in land use for existing areas where time and custom have achieved an acceptable level of tolerance. Many of these uses have been established for a considerable number of years. In some cases, it is recognized such situations exist and they can be continued in the interim. In other cases, there are some existing uses that not only do not comply with the Official Plan or conform to the Zoning By-law, and are incompatible with surrounding land uses.
- F.1.12.7 Legally existing land uses which do not comply with the land use designations shown on Schedule E-1 - Urban land Use Designations or their related policies should cease to exist over time. Accordingly, such uses shall be deemed as legal non complying.
- F.1.12.8 Where appropriate, the City may amend the Zoning By-law to recognize the legal non-complying use as an existing use provided that all the following criteria shall be met:
- a) the Zoning By-law shall permit only the existing use and the associated performance standards;
 - b) the use does not constitute a danger to surrounding uses and persons by virtue of their hazardous nature or by the traffic generated; and,
 - c) the use is in compliance with appropriate provincial and municipal regulations.

SUBJECT: Application for Approval of a Draft Plan of Condominium (Common Elements) by Spallacci and Sons Limited (c / o Frank Spallacci) for Lands Known as 280 to 344 Rymal Road West, Hamilton (PED15068) (Ward 8) – Page 9 of 14

- 1.12.9 The expansion or enlargement or change in legal non-complying uses shall be permitted provided they maintain the intent and purpose of this Plan and the Zoning By-law.”

As such, staff will prepare a City-wide housekeeping amendment in order to comprehensively incorporate all of the necessary amendments pertaining to previous development applications in the City when the UHOP was not in force and effect.

Staff view the proposed development as appropriate and based on the above, the development conforms to the UHOP.

Hamilton Zoning By-law No. 6593:

On January 28, 2009 Council approved By-law No. 09-023 to Hamilton Zoning By-law No. 6593, which reflected the proposed form of development for the subject lands. This By-law rezoned the subject land to the “RT-20/S-1301a” (Townhouse-Maisonette) District, Modified which permits the following uses: townhouse dwellings, street townhouse dwellings, maisonette dwellings, and a foster home and buildings or structures accessory to a permitted use. This site specific zone modified some of the parent zone provisions related to building height, front, side and rear yard provisions, dwelling unit width, landscape open space and planting strips and provides that Street Townhouse units shall be permitted to front onto a private road. The zone regulations were implemented through the approved Site Plan (DA-13-129) attached as Appendix “E” to report PED15068. The Site Plan conforms to the “RT-20/S-1301a” (Townhouse-Maisonette) District, Modified and other applicable provisions of Zoning By-law No. 6593, as amended by Zoning By-law No. 09-023.

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 from certain technical variances relating to the proposed common element condominium. This application is discussed in Section 2 of the Analysis and Rationale portion of the Report below.

The variances requested are technical in nature and can be supported therefore, once the variances (Minor Variance Application HM/A-15:102) are approved, the proposed Draft Plan of Condominium will conform to the Zoning By-law. Furthermore, Condition 1 (refer to Appendix “C”) to Report PED15068 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:

- Corridor Management Section, Public Works Department;
- Development Engineering, Planning Department;
- Forestry and Horticulture Section, Public Works Department;
- Source Water Protection, Public Works Department;
- Strategic Planning Section, Public Works Department;
- Hamilton Municipal Parking System, Planning and Economic Development Department;
- Horizon Utilities; and,
- The Niagara Peninsula Conservation Authority.

The following departments and agencies submitted comments:

Operations Support, Business Programs, Operations Division (Public Works Department) has advised that the property is eligible for municipal waste collection (garbage, recycling, organics, as well as leaf and yard waste, etc.) provided that a notation be placed on the Draft Plan of Condominium (Condition 5 (iii)).

Furthermore, they advise that the following specifications are required for municipal collection of waste:

- “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. A drive through access route, a 13 metre radius turning circle or a turnaround area allowing for a maximum three-point turn of not more than one truck length are all acceptable options for accommodating this requirement.
2. The City of Hamilton is committed to provided safe and effective waste collection service and will fully comply with *Ontario Occupational Health and Safety Act* (OHSA) regulations at all times. Section 104(1) of the 2012 OHSA, Ontario Regulation 213/91 states: “Every project shall be planned and organized so that vehicles, machines and equipment are not operated in reverse or are operated in reverse as little as possible.”
3. Waste collection service will commence when the development is substantially completed and there is a free and clear access. The developer or owner is required to contact the Public Works Department to request the start of waste collection service. A site visit by Public Works staff is required prior to the start of waste collection service.

SUBJECT: Application for Approval of a Draft Plan of Condominium (Common Elements) by Spallacci and Sons Limited (c / o Frank Spallacci) for Lands Known as 280 to 344 Rymal Road West, Hamilton (PED15068) (Ward 8) – Page 11 of 14

4. 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 properties/units.
5. Construction material will not be collected: collection arrangements must be made with a private contractor.
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.
7. On collection day, the collection area shall be in an accessible location, free and clear of any construction debris, vehicles and stored snow.
8. Individual waste containers, blue boxes and green carts will be collected curbside in front of each property where possible.”

These specifications have been addressed through both the Subdivision Agreement and through the Undertaking Agreement in the final approved Site Plan (DA-13-129).

Canada Post has advised that mail delivery service to the condominium will occur through centralized Community Mail Boxes (CMB). Given the number and the layout of the lots in the development, Canada Post has determined that a CMB will be installed on the private lane, across from 294 Rymal Road West, facing north (as shown on the Draft Plan of Condominium attached as Appendix “B” to Report PED15068) as determined by Canada Post to the satisfaction of the Senior Director of Growth Management (Condition 10).

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 Conditions 6, 7, 8, 9 and 10.

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 commination / telecommunication infrastructure services for this project. This condition is included as Condition 11.

PUBLIC CONSULTATION

In accordance with the provisions of the *Planning Act* and Council’s Public Participation Policy, Notices of Complete Application and Preliminary Circulation were sent to 665 property owners within 120 m of the subject property on February 9, 2015 requesting

SUBJECT: Application for Approval of a Draft Plan of Condominium (Common Elements) by Spallacci and Sons Limited (c / o Frank Spallacci) for Lands Known as 280 to 344 Rymal Road West, Hamilton (PED15068) (Ward 8) – Page 12 of 14

comments on the application. To date, no correspondence has been received. Furthermore, a Public Notice Sign was posted on the property on January 29, 2015. Finally, Notice of the Public Meeting was given on May 29, 2015, in accordance with the requirements of the *Planning Act*.

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 proposal 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. 09-023 and Draft Plan of Subdivision Approval 25T-200721, and by staff through Site Plan Control Application DA-13-129, and provides for a form of development that is compatible with surrounding land uses.
2. At the time that Site Plan Application DA-13-129 was reviewed for zoning compliance, the proposal included 31 townhouse dwelling units as one comprehensive development, all with a common interest in the future common element condominium. Site Plan Application DA-13-129 was final approved on that basis on November 4, 2014.

The application for Draft Plan of Condominium and Part Lot Control indicates a proposed tenure of 31 freehold townhouse dwelling units fronting onto an internal private common element condominium road with landscaped open space amenity areas.

It was determined through zoning review that due to the proposed tenure arrangement, certain aspects of the development no longer conform to the Zoning By-law. The applicant applied for relief on April 1, 2015 (Minor Variance Application HM/A-15:102) which is scheduled to be considered by the Committee of Adjustment on May 14, 2015. The following variances are being sought:

- a) 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

SUBJECT: Application for Approval of a Draft Plan of Condominium (Common Elements) by Spallacci and Sons Limited (c / o Frank Spallacci) for Lands Known as 280 to 344 Rymal Road West, Hamilton (PED15068) (Ward 8) – Page 13 of 14

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 variances can be supported.

3. The proposed Draft Plan of Condominium (common elements) would be comprised of the following common elements: an internal road accessing Rymal Road West; visitor parking area for a total of 16 parking spaces; and landscaped amenity areas including the Canada Post community mailbox. All of the common elements, including the condominium road, centralized mailbox, landscaped amenity areas, and the visitor parking areas would be maintained by the future Condominium Corporation. Thirty-one townhouse dwellings would have frontage onto the private condominium road and would all hold an interest in the common element condominium corporation.
4. The land proposed for the common elements condominium and the lots for all of the townhouses will be created through an exemption from Part Lot Control. Part Lot Control Application PLC-15-009 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 (Condition 3).
5. The applicant must also enter into a Development Agreement with the City of Hamilton as a condition of Draft Plan of Condominium approval. This Agreement would ensure that the tenure of the proposed common elements (as shown on the Draft Plan of Condominium included in Appendix “B” to Report PED15068) becomes “tied” to the proposed Draft Plan of 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 *Condominium Act* (Condition 4).
6. 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 and Rental Leases to advise 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 (Conditions 5(i)(ii)(iv)).

SUBJECT: Application for Approval of a Draft Plan of Condominium (Common Elements) by Spallacci and Sons Limited (c / o Frank Spallacci) for Lands Known as 280 to 344 Rymal Road West, Hamilton (PED15068) (Ward 8) – Page 14 of 14

7. Stormwater management controls have been previously reviewed as approved as part of Draft Plan of Subdivision (25T200721) and Site Plan Application (DA-13-129). As a condition of draft plan approval for the condominium, the Niagara Peninsula Conservation Authority requires the applicant to provide a letter from a qualified engineer confirming how stormwater management controls are being achieved for the proposed development (Condition 12).

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": Recommended Conditions of Approval
Appendix "D": Registered Plan of Subdivision
Appendix "E": Final Approved Site Plan

LK/tlk/th