



**CITY OF HAMILTON**  
**PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT**  
**Planning Division**

<b>TO:</b>	Chair and Members Planning Committee
<b>COMMITTEE DATE:</b>	December 1, 2015
<b>SUBJECT / REPORT NO:</b>	Application for Approval of Draft Plan of Condominium (Common Element), by A. J. Clarke and Associates, on behalf of A. DeSantis Developments Ltd., for Lands Located at 15 Kingsborough Drive and 24-40 Kingsborough Drive (Glanbrook) (PED15203) (Ward 11)
<b>WARD(S) AFFECTED:</b>	Ward 11
<b>PREPARED BY:</b>	Melanie Schneider Planner (905) 546-2424 Ext. 1224  Stephen Robichaud Director of Planning and Chief Planner
<b>SUBMITTED BY:</b>	Jason Thorne General Manager Planning and Economic Development Department
<b>SIGNATURE:</b>	

**RECOMMENDATION**

That approval be given to **Draft Plan of Condominium Application 25CDM-201513, by A.J. Clarke and Associates (c/o Stephen Fraser), Agent, on behalf of A. DeSantis Developments Ltd. (c/o Anthony DeSantis), Owner**, to establish a Draft Plan of Condominium (Common Element) to create a condominium road network, sidewalks, and 44 visitor parking spaces within seven parking areas, on lands located at 15 Kingsborough Drive and 24-40 Kingsborough Drive (Glanbrook), as shown on Appendix "A" to Report PED15203, subject to the following conditions:

- a) That the approval for Draft Plan of Condominium (Common Element) Application 25CDM-201513 applies to the plan prepared by A. J. Clarke and Associates, certified by B. J. Clarke, dated September 23, 2015, and consisting of a condominium road network, sidewalks, and 44 visitor parking spaces within seven parking areas, attached as Appendix "B" to Report PED15203;

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- b) That the conditions of Draft Plan of Condominium Approval provided as Appendix “C” to Report PED15203 be received and endorsed by City Council.

**EXECUTIVE SUMMARY**

The purpose of the application is to establish a Draft Plan of Condominium (Common Element) to create the following common elements, as shown on Appendix “B”:

- An internal condominium roadway with two driveway access points from the east of Kingsborough Drive;
- An internal condominium roadway with one driveway access point from the west of Kingsborough Drive;
- A 1.5 m sidewalk on the north side of the southerly east-west condominium road;
- A 1.5 m sidewalk on the west side of the easterly north-south condominium road;
- A 1.5 m sidewalk on the south side of the northerly east-west condominium road; and,
- Forty-four visitor parking spaces within seven parking areas.

The proposed Draft Plan of Condominium has merit and can be supported as it is consistent with the Provincial Policy Statement (PPS), conforms to the Growth Plan for the Greater Golden Horseshoe, and complies with the Urban Hamilton Official Plan (UHOP).

Prior to registration, the proposed Draft Plan of Condominium will conform to Zoning By-law No. 464, as amended by By-law 03-312, is consistent with the Registered Plan of Subdivision 62M-1217 “The Crossings” (attached as Appendix “D”), and will implement final approved Site Plan Control Application DA-14-086, as per Condition (ii) of Appendix “C”.

***Alternatives for Consideration – See Page 19***

**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).

## **HISTORICAL BACKGROUND**

### **Chronology:**

- October 31, 2014: Site Plan Control Application DA-14-086 granted Conditional Approval.
- February 19, 2015: Minor Variance Application GL/A-14:330 approved by the Committee of Adjustment.
- March 10, 2015: Minor Variance Decision for GL/A-14:330 appealed to the Ontario Municipal Board (OMB).
- May 11, 2015: Appeal to OMB regarding Minor Variance Application GL/A-14:330 withdrawn.
- May 13, 2015: Minor Variance Decision for approval for application GL/A-14:330 deemed Final and Binding by the Committee of Adjustment.
- July 16, 2015: Site Plan Control Application DA-14-086 granted Final Approval.
- August 27, 2015: Condominium Application 25CDM-201513, “The Crossings, Blocks 1 and 4”, deemed complete.
- September 2, 2015: Circulation of Notice of Complete Application and Preliminary Circulation for Condominium Application 25CDM-201513 sent to 32 residents within 120 m of the subject lands.
- September 29, 2015: Public Notice Sign placed on the subject lands.
- November 9, 2015: Public Notice Sign updated to indicate Public Meeting date.
- November 13, 2015: Notice of Public Meeting circulated to all property owners within 120 m of the subject lands.

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**Proposal:**

The purpose of the application is to establish a Draft Plan of Condominium (Common Element) to create the following common elements, as shown on Appendix “B”:

- An internal condominium roadway with two driveway access points from the east of Kingsborough Drive;
- An internal condominium roadway with one driveway access point from the west of Kingsborough Drive;
- A 1.5 m sidewalk on the north side of the southerly east-west condominium road;
- A 1.5 m sidewalk on the west side of the easterly north-south condominium road;
- A 1.5 m sidewalk on the south side of the northerly east-west condominium road; and,
- Forty-four visitor parking spaces within seven parking areas.

The applicant has also submitted Part Lot Control Application PLC-15-028, in order to create 107 lots associated with the Draft Plan of Condominium (Common Element). These lots shall be developed in accordance with final approved Site Plan Control Application DA-14-086, as per Conditions (ii) and (iii) of Appendix “C”. The Part Lot Control application is currently under review.

**Details of Submitted Application:**

**Location:** 15 Kingsborough Drive and 24-40 Kingsborough Drive (Glanbrook) (See Location Map attached as Appendix “A”)

**Owner / Applicant:** A. DeSantis Developments Inc., c/o Anthony DeSantis

**Agent:** A. J. Clarke and Associates, c/o Stephen Fraser

**Property Description:** Lot Frontage: 137.48 m (Kingsborough Drive) for Block 1 (Appendix “D”)  
Lot Frontage: 56.75 m (Kingsborough Drive) for Block 4 (Appendix “D”)  
Lot Depth: 159.99 m (Rymal Road East) for Block 1 (Appendix “D”)  
Lot Depth: 37.43 m (east - west) for Block 4 (Appendix “D”)

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Lot Area: 0.683 ha (approximately) for all Blocks

**Servicing:** Full Municipal Services

**EXISTING LAND USE AND ZONING**

	<b><u>Existing Land Use</u></b>	<b><u>Existing Zoning</u></b>
<b><u>Subject Lands:</u></b>	Townhouse Dwelling Units (currently under construction)	Residential Multiple "RM2-173" Zone, Modified; Residential Multiple "RM3-175" Zone, Modified; and Residential Multiple "RM2-182" Zone, Modified
 <b><u>Surrounding Lands:</u></b>		
North	Single Detached Dwellings; Vacant Lands to be developed as per Registered Plan of Subdivision 62M-1217	Single Residential "R1" Zone in Stoney Creek Zoning By-law No. 3692-92; Neighbourhood Commercial "H-C1-182" Zone, Modified with a Holding Provision
South	Vacant Lands to be developed as per Registered Plan of Subdivision 62M-1217	Residential Multiple "RM2-173" Zone, Modified; Residential Multiple "RM2-182" Zone, Modified
East	Vacant Lands to be developed as per Registered Plan of Subdivision 62M-1269	Residential Multiple "H-RM4-257" Zone, Modified with a Holding Provision
West	Vacant Lands to be developed as per Registered Plan of Subdivision 62M-1210	Residential Multiple "RM3-173 (B)" Zone, Modified

## **POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS**

Staff note that the principal land use and corresponding zoning regulations were previously implemented by City of Hamilton By-law 03-312 and the registered “The Crossings” Plan of Subdivision (62M-1217).

### **Provincial Policy Statement (PPS):**

The Provincial Policy Statement, 2014 (PPS) provides overall policy direction on matters of provincial interest related to land use and development in Ontario, and applies to the subject property.

The application has been reviewed with respect to the PPS. The application is consistent with Policy 1.1.3.1 that directs growth to Settlement Areas and implements Policies 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. Staff note that the Draft Plan of Condominium and the corresponding residential units form part of a larger development, known as “The Crossings” Plan of Subdivision (62M-1217), which is consistent and complementary to the existing neighbourhood, while also providing for additional tenures for the area through the subject application.

The application has also been reviewed against Policy 1.2.6.1, which outlines that “long term economic prosperity will be supported by planning so that major facilities (such as airports, transportation corridors, sewage treatment facilities, waste management systems, industries and aggregate activities) and sensitive land uses are appropriately designed, buffered and separated from each other to prevent adverse effects from odour, noise and other contaminants, and minimize risk to public health and safety.”

The subject lands are located adjacent to Rymal Road East and as part of the previous Site Plan Control application for the subject lands (DA-14-086), a noise study was required. As such, a noise study was prepared by dBA Environmental Services Inc., and was reviewed and approved by staff. Condition (vii) has been included in Appendix “C” to address recommendations made in the approved Noise Study.

Based on the foregoing, the proposal is consistent with the policies of the PPS.

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

The subject lands are located within the Greater Golden Horseshoe Growth Plan Area.

Section 1.2.2 of the Growth Plan sets out the guiding principles for growth. Specifically, the principles require new development to be compact, vibrant, and to create complete communities. Further, they require a planned and managed form of growth that supports a strong and competitive economy while protecting, conserving, enhancing, and wisely using the valuable natural resources of land for current and future generations. They also require optimizing the use of existing and new infrastructure to support growth in a compact, efficient form, thereby establishing a compact, vibrant, and complete community.

The subject Draft Plan of Condominium application is to establish common elements of a development that was approved through Site Plan Control application DA-14-086. As such, the proposal seeks to implement a compact, vibrant, and complete community. It further proposes to extend existing services into the site in an effort to capitalize on current infrastructure investment and introduces a different type of tenure, utilizing land in an efficient manner.

Further, the application conforms to Sections 2.2.2 and 2.2.3 of the Growth Plan, which direct new growth to the built-up areas. Based on the foregoing, the proposed development of the Draft Plan of Condominium conforms to the Growth Plan for the Greater Golden Horseshoe.

**Urban Hamilton Official Plan (UHOP):**

**Volume 1 – Parent Policies**

The subject lands are identified as “Neighbourhoods” and “Secondary Corridor” on Schedule “E” – Urban Structure, and are designated “Neighbourhoods” on Schedule “E-1” – Urban Land Use Designations of the UHOP. The following policies, amongst others, apply to this application:

- “B.3.2.4.1 The development of a full range of housing forms, types, and densities shall be provided for and promoted throughout the City of Hamilton through residential intensification and new development. A full range of housing forms, types and densities means the full spectrum of physical housing types including single detached dwellings, semi-detached dwellings, duplexes, townhouses of various types (street, block, stacked), apartments and other forms of multiple dwellings, and lodging houses, built at a range of densities.

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B.3.3.1.5 Ensure that new development is compatible with and enhances the character of the existing environment and locale.

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.”

Further, the following policies apply as they relate to the “Neighbourhoods” designation:

“E.2.6.4 The Neighbourhoods element of the urban structure shall permit and provide the opportunity for a full range of housing forms, types and tenure, including affordable housing and housing with supports.

E.3.1.3 Plan and designate lands for a range of housing types and densities, taking into account affordable housing needs.

E.3.1.4 Promote and support design which enhances and respects the character of existing neighbourhoods while at the same time allowing their ongoing evolution.

E.3.1.5 Promote and support residential intensification of appropriate scale and in appropriate locations throughout the neighbourhoods.

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.3.2.3 The following uses shall be permitted on lands designated Neighbourhoods on Schedule E-1 – Urban Land Use Designations:

- a) Residential dwellings, including second dwelling units and housing with supports.”

The “The Crossings” Registered Plan of Subdivision (62M-1217) proposes a community comprised of street townhouse dwellings comprised of lot widths and sizes compatible with streetscape character, and a mix of dwelling unit types compatible in exterior design (including character, scale, appearance and design features). Therefore, the Plan of Condominium complies with the above noted policies.

As per Appendix “F-4” of Volume 1, the subject lands have been identified for archaeological potential. Staff note that a Stage 1-2 archaeological report (PIF P384-0081-2013) has been submitted to the City of Hamilton and Ministry of Tourism, Culture



and Sport and the Province accepted the report for compliance with licensing requirement in a letter dated August 12, 2014. Municipal staff concur with the recommendations made in the report, and no longer have an interest in the subject property with respect to archaeology.

Based on the foregoing, staff are of the opinion that the subject application complies with the policies of Volume 1 of the UHOP.

### Volume 2 – Secondary Plans

The subject property is designated “Medium Density Residential 2b” on Map B.5.2-1 of the Rymal Road Secondary Plan (Volume 2). Accordingly, the following policies, amongst others, apply:

“B.5.2.2 The residential policies shall define the location and scale of each type of residential use, and shall help ensure that a variety of residential types are provided to meet the needs of all area residents.

B. 5.2.2.4.a) i) The permitted uses shall be comprised predominantly of a variety of low rise (up to four storeys) multiple attached dwelling unit types including street and block townhouse dwellings, and other forms of multiple dwellings such as semi-detached, duplexes, triplexes, stacked townhouses and low rise apartment buildings.

B. 5.2.2.4.a) iii) The density range shall be from 35 to 70 units per net residential hectare. The net residential density may be averaged over each plan of subdivision within the designation.”

The Draft Plan of Condominium application seeks to implement the development approved under Site Plan Control application DA-14-086, which is comprised of a townhouse development with an overall density of approximately 50 units per hectare. Accordingly, the proposal is consistent with the above mentioned policies of Volume 2 of the UHOP.

"B.5.2.2.4.a)iv) In locating new Medium Density Residential 2b areas, consideration shall be given to the following criteria:

1. Location adjacent to arterial roads and other public transit routes.

2. Where Medium Density Residential 2b uses are proposed to be located adjacent to Low Density Residential uses, consideration shall be given to the appropriate integration of built form, landscaping, and buffering to enhance compatibility.
3. Where townhouses are proposed, a mix of long and short townhouse blocks on public and private streets is encouraged to provide variety to the streetscape. The massing of long townhouse blocks can be broken down so that a single monotonous elevation is not created. The Zoning By-law may contain standards controlling this circumstance."

The approved Draft Plan of Subdivision 62M-1217 "The Crossings" proposes that Blocks 1 and 4 be comprised of townhouse units to be located adjacent to Rymal Road East, being an arterial road and adjacent to Low Density Residential uses to the west of the subject lands. The proposed development includes separation from the Low Density designation by providing landscaping and an enclosed road network oriented away from the single detached dwellings to the west. The townhouses are comprised of blocks that range from three to a maximum of eight units per block in order to avoid a series of monotonous elevations. The proposal also received Minor Variance approval from the Committee of Adjustment under application GL/A-14:330 in order to facilitate the development.

Based on the foregoing, the proposal complies with the policies of the Rymal Road Secondary Plan of the UHOP.

#### **Township of Glanbrook Zoning By-law 464:**

The subject lands are zoned Residential Multiple "RM2-173" Zone, Modified; Residential Multiple "RM2-182" Zone, Modified; and, Residential Multiple "RM3-175" Zone, Modified in the Township of Glanbrook Zoning By-law 464, amended by City of Hamilton By-law 03-312. The parent Residential Multiple 2 "RM2" Zone permits one street townhouse dwelling per lot. The Residential Multiple "RM3" Zone allows for block townhouse dwellings, and accessory uses and structures. The site-specific zoning added block townhouse dwellings, semi-detached dwellings, duplex dwellings, triplex dwellings, apartment building, a Home for the Aged, a Retirement Home, as permitted uses.

The proposal has been developed in accordance with approved Site Plan Control application DA-14-086, granted final approval on July 16, 2015, and conforms to the applicable provisions and requirements of By-law No. 464, as amended by By-law No. 03-312. The applicant also received Minor Variance approval under application number

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GL/A-14:330 to facilitate the Site Plan Control approval. The Minor Variance approval addressed various aspects of the Site Plan in order to develop the site in a comprehensive manner, such as recognizing the private condominium road as frontage for the proposed townhouses, defining yard setbacks for the entire development instead of each individual lot, lot widths, parking stall sizes and reduction in landscaping and privacy area.

## **RELEVANT CONSULTATION**

The following departments and / or agencies had no comments or objections:

- 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, and leaf and yard waste, etc.) provided that a notation be placed on the Draft Plan of Condominium (Condition (v)(c)).

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

- “1. Construction material is prohibited from collection and arrangements must be made with a private contractor for its collection and disposal.
2. Road layout must be designed to permit the continuous forward movement of collection vehicles, including the radius of a cul-de-sac turning circle.
3. A drive through access route, a 13 m 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 continuous forward movement.
4. Internal roads must have a pavement width of not less than 6.0 m.
5. Adequate manoeuvring space for the collection vehicle must be provided exclusive of any on-site parking spaces and stored snow.
6. The City of Hamilton is committed to providing safe and effective waste collection service and will fully comply with the Ontario Occupational Health and Safety Act's (OHSA) regulations at all times. Regulation 213/91 section 104(1) of the 2012 OHSA Consolidated Edition states: "Every project shall be planned and

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organized so that vehicles, machines and equipment are not operated in reverse or are operated in reverse as little as possible.

7. A site visit by Public Works staff is required prior to the start of waste collection service. Although this development is eligible for municipal waste collection it may not be serviceable if it does not meet design criteria for municipal waste collection.
8. The City of Hamilton will provide waste collection service in a development only when consistent service can be offered.
9. Waste collection service will commence when the site is substantially completed and there is free and clear access. The developer or owner is required to contact the City (905-546-2489) to request the start of waste collection service.
10. Prior to the commencement of municipal waste collection service, the developer is responsible for the collection of all waste (garbage, recycling, organics, etc.) from any and all occupied units.
11. Participation in the City's waste diversion programs - recycling and organics is mandatory. Recycling is unlimited.
12. 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 waste collection service.”

Hydro One Networks Inc. (HONI) has identified a transmission corridor to the south of the subject lands and has provided the following to be included as Conditions of Draft Approval:

- “1. ORC / HONI transmission corridor is not to be used without the express written permission of Hydro One Networks Inc. on behalf of the OILC. During construction there will be no storage of materials or mounding of earth, snow or other debris on the transmission corridor. The proponent will be responsible for restoration of any damage to the transmission corridor or HONI facilities thereon resulting from construction of the condominium.
2. The conditions contained therein should no way be construed as permission for or an endorsement of proposed location(s) for any road crossing(s) contemplated for the proposed development. This permission may be specifically granted by OILC under separate agreement(s). Proposals for any secondary land use including road crossings on the transmission corridor are processed

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through the Provincial Secondary Land Use Program (PSLUP). HONI, as OILC's Service Provider, will review detailed engineering plans for such proposals separately, in order to obtain final approval.

Should approval for a road crossing be granted, the subdivider shall then make arrangements satisfactory to OILC / HONI for the dedication and transfer of the proposed road allowance directly to the City of Hamilton.

Access to, and road construction on the OILC / HONI transmission corridor is not to occur until the legal transfer(s) of lands or interests are completed.

3. The costs of any relocations or revisions to HONI facilities that are necessary to accommodate this condominium will be borne by the developer.
4. If the proposed development is within close proximity to a Transmission or Distribution station the following applies:
  - a. The Developer hereby confirms and agrees that every agreement of purchase and sale heretofore and hereafter entered into the Developer with any purchaser(s) of any unit or proposed unit in the Development contains the following notice / warning provisions (or clauses substantially similar thereto in all respects), namely: "Each unit purchaser and / or lessee specifically acknowledges and agrees that the development of the Lands upon which this Development is being (or has been) constructed, will be (or has been) undertaken and completed in accordance with any requirements that may be imposed from time to time by and Governmental Authorities, and that the proximity of this Development to facilities, installations and / or equipment owned and / or operated by HONI may result in noise, vibration, electro-magnetic interference and stray current transmissions (hereinafter collectively referred to as the "Interferences") to this Development, and despite the inclusion of control features within this Development, Interferences from the aforementioned sources may occasionally interfere with some activities of the occupants in this Development. Notwithstanding the above, each unit purchaser and / or lessee agrees to indemnify and save HONI and harmless, from and against all claims, losses, judgement or actions arising or resulting from any and all of the Interferences. In addition, it is expressly acknowledged and agreed that HONI does not, and will not, accept any responsibility or liability for any of the Interferences in respect of this Development and / or its occupants. Furthermore, there may be alterations and / or expansions by HONI to its facilities notwithstanding the inclusion of any noise and vibration attenuating measures in the design of the Development. HONI

will not be responsible for any complaints or claims of any kind howsoever arising from use, expansion, and / or alterations of such facilities and / or operations on, over or under its electro-magnetic, stray current and noise-warning / vibration clause similar to the foregoing shall be inserted into any succeeding or subsequent sales agreement, lease or sublease, and that this requirement shall be binding not only on the Purchaser hereunder but also upon the Purchaser's respective heirs, estate trustees, successors and permitted assigns, and shall not cease or terminate on the closing of this purchase and sale transaction with the Vendor / Declarant.

5. The transmission lines abutting this condominium operate at 500,000, 230,000 or 115,000 volts. Section 188 - Proximity - of the Regulations for Construction Projects in the *Occupational Health and Safety Act*, require that no object be brought closer than 6 metres (20 feet) to an energized 500 kV conductor. The distance for 230 kV conductors is 4.5 metres (15 feet), and for 115 kV conductors it is 3 metres (10 feet). It is the proponent's responsibility to be aware, and to make all personnel on site aware, that all equipment and personnel must come no closer than the distance specified in the *Act*. They should also be aware that the conductors can raise and lower without warning, depending on the electrical demand placed on the line.”

Staff note that the Plan of Subdivision, “The Crossings”, is located directly to the north of a hydro corridor, owned by HONI. The Draft Plan of Condominium under application 25CDM-201513, is the most northerly portion of the Subdivision and is located approximately 458 m away from the hydro corridor. The notations provided by HONI have been accordingly included in the Draft Plan of Condominium Conditions of Approval as per their request (Condition vi of Appendix “C”).

Corridor Management Section (Public Works Department) were unable to locate an Access Permit issued for this site. As a condition of approval, the applicant / owner will need to apply for and receive an Access Permit from the Public Works Department. An Access Permit has since been granted to the applicant on October 2, 2015. Accordingly, this concern has been addressed.

City of Hamilton Public Health Services (HPHS) requests that a dust mitigation plan be formulated. The plan should identify all potential sources of dust generation from site clearance to final construction including lot development. Details should be provided regarding effective practices to be used (i.e., wetting, sodding, etc.) through all stages of development for the purpose of dust abatement. The plan should also include dust control measures for adjacent lands including, but not limited to, roadways, sidewalks, etc. The plan should also clearly state contact information (name, address, phone

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number, etc.) for the personnel responsible for performing dust mitigation actions as necessary. Staff note that dust control measures have been included as Condition 3.06a) i) (a) of the Subdivision Agreement for “The Crossings” (see Appendix “B”).

Forestry and Horticulture Section (Public Works Department) requires that a detailed Landscape Planting Plan prepared by a Certified Landscape Architect, showing the placement of trees on internal / external City property, be provided.

The Landscape Plan should specifically outline full planting details including the size and species of trees to be planted as well as hard surface and soft surface area percentages on the site. Trees can define and humanize a thoroughfare and one of the Conditions of Approval will be the submission of a Landscape Planting Plan.

Tree species selection should take into account cultural requirements, cultivars (fruitless etc.) salt and heat tolerance, mature tree size, public visibility and daylight triangles, potential pest concerns as well as the exposure (south west prevailing winds). Spacing guidelines for trees are 10 m on centre.

Staff note that the foregoing was addressed through the approved Site Plan Control application DA-14-086.

Hamilton Municipal Parking Services (HMPS) (Planning and Economic Development Department) has advised that it appears the applicant may be short in meeting the minimum number of visitor parking spaces to meet the Zoning By-law. A parking plan with a reduced number of parking spaces will require a justification for the parking reduction to demonstrate that the site can effectively function with the reduced amount of parking spaces, and that the reduced parking numbers will be sufficient to accommodate future parking demands.

HMPS staff advise that the applicant should ensure that on-site parking spaces and garages are suitably dimensioned without encumbrances, to ensure the continued use of these facilities for parking purposes. Driveway locations should be spaced such that on-street parking can be maximized by allowing a minimum of 6.5 m between two residential driveways. The applicant should ensure that all parking requirements are met on-site.

Planning staff note that the proposed Plan of Condominium includes the required visitor parking as a common element as per Appendix “B” of this Report, and the individual units will be reviewed at the building permit stage to ensure adequate parking as part of the required applicable law review. The proposal was also subject to final approved Site Plan Control application DA-14-086, where it was confirmed that all Zoning By-law provisions were met. The applicant requires a minimum 144 parking spaces for the

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dwelling units and 18 visitor parking spaces. The applicant proposes 144 parking spaces for the dwelling units and 44 visitor parking spaces.

Union Gas has advised that the following condition be included:

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

This has been included as Condition (x) in Appendix “C”.

## **PUBLIC CONSULTATION**

In accordance with the provisions of the *Planning Act* and Council’s Public Participation Policy, 32 Notices of Complete Application and Preliminary Circulation were sent to all property owners within 120 metres of the subject property on September 3, 2015, requesting comments on the application.

Furthermore, a Public Notice Sign was posted on the property on September 28, 2015 and updated on November 5, 2015 with the Public Meeting date. Finally, Notice of the Public Meeting was given on November 13, 2015, in accordance with the requirements of the *Planning Act*.

To date, no public submissions have been received.

## **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. It complies with the policies of the Urban Hamilton Official Plan; and,
  - iii. The proposal establishes condominium tenure for a form of development permitted under the Township of Glanbrook Zoning By-law No. 464, amended by City of Hamilton By-law No. 03-312, and “The Crossings” Plan of Subdivision (62M-1217). It will implement the final approved Site Plan Control application DA-14-086, which provides for a form of development that is compatible with surrounding land uses.



2. The proposed Draft Plan of Condominium (Common Element) would be comprised of the following common elements: a condominium road network, a sidewalk on portions of the condominium roads, and 44 visitor parking spaces within seven parking areas, as shown on the attached plan marked as Appendix “B.” The condominium roads will provide access to Kingsborough Drive. All of the common elements, including the condominium roads, sidewalk, and the visitor parking areas would be maintained by the future Condominium Corporation. One hundred and seven street townhouse dwellings would have frontage on the private condominium road and would hold an interest in the common element condominium corporation.
3. The land proposed for the common element condominium and the lots for all of the townhouses will be created through an exemption from Part Lot Control. Part Lot Control application PLC-15-028 has been submitted and is under review. In this regard, final approval and registration of the common element condominium cannot occur until such time as the Part Lot Control application is approved and the By-law removing lands from Part Lot Control has been passed by Council (Condition (iii)).
4. 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”) 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 (iv)).
5. 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 prospective 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 (v) and (x)).

6. Since municipal services are located within the Common Element of the condo, the following shall be included as Condition (xii) of Appendix “C” to be incorporated in the Condominium Declaration:

“The Corporation shall maintain and repair the Common Elements at its own expense. The Corporation shall also maintain and repair all utilities (including without limitation, water mains, storm and sanitary sewers, fire hydrants) which services more than one Parcel of Tied Land (Potl), whether located within the Common Elements or wholly or partly within the Potl and the Corporation and its designated agents shall have full access to a Potl to carry out its obligation pursuant to this paragraph. If the Corporation is required to maintain or repair any utility or service on a Potl, the Corporation shall only be responsible to return the Potl to its original stage and shall not be responsible to repair or replace, or to correct any upgrade or improvement performed or added to the Potl by the Potl owner.”

7. Growth Management Staff have indicated that as required by Section 51 (17) of the *Planning Act*, existing contours and exact municipal services intended to be available should be shown on the 62M-1217 plan. In addition, they also required that the following notation be added to the Draft Approval Conditions:

“Pursuant to Section 51(32) of the *Planning Act*, draft approval shall lapse if the plan is not given final approval within three (3) years. Extensions will be considered if a written request is received before the draft approval lapses.”

This note has been added to the Draft Approval Conditions under Appendix “C” of this Report.

8. A noise study, prepared by HGC Engineering, was reviewed and approved by staff under Site Plan Control application DA-14-086. Accordingly, in order to implement the findings of the noise study, staff will require the fulfilment of the conditions stated below:

Warning Clauses:

The following warning clauses shall be included within all offers and agreements of purchase and sale or lease, for the indicated parts / units of the Draft plan of Condominium (see Appendix “B”):

**SUBJECT: Application for Approval of Draft Plan of Condominium (Common Element), by A. J. Clarke and Associates, on behalf of A. DeSantis Developments Inc., for Lands Known as 15 Kingsborough Drive and 24-40 Kingsborough Drive (Glanbrook) (PED15203) (Ward 11) – Page 19 of 20**

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Units located on Parts 1 to 26 and 110 to 135 of 62R-1217:

“Purchasers / tenants are advised that sound levels due to increasing road traffic may occasionally interfere with some activities of the dwelling occupants as the sound levels exceed the Municipality’s and the Ministry of Environment and Climate Change’s noise criteria.” (Condition vii) a) of Appendix “C”)

“Purchasers / tenants are advised that this dwelling unit has been supplied with a central air conditioning system which 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 Environment and Climate Change’s noise criteria.” (Condition vii) b) of Appendix “C”)

Units located on Parts 67,176 and 68, 177 of 62R-1217:

“Purchasers / tenants are advised that sound levels due to increasing road traffic may occasionally interfere with some activities of the dwelling occupants as the sound levels exceed the Municipality’s and the Ministry of Environment and Climate Change’s noise criteria.” (Condition vii) c) of Appendix “C”)

“Purchasers / tenants are advised that 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 Environment and Climate Change’s noise criteria. (Note: The location and installation of the outdoor air conditioning device should be done so as to minimize the noise impacts and comply with the criteria of MOECC Publication NPC-216, Residential Air Conditioning Devices).” (Condition vii) d) of Appendix “C”)

## **ALTERNATIVES FOR CONSIDERATION**

Should the proposed Plan of Condominium (Common Element) 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 Draft Plan of 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

:MS/th