



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

<b>TO:</b>	Chair and Members Planning Committee
<b>COMMITTEE DATE:</b>	March 1, 2016
<b>SUBJECT / REPORT NO:</b>	Application for Approval of Draft Plan of Condominium (Common Elements), for Lands Known as 311 and 321 Frances Avenue (Stoney Creek) (PED16056) (Ward 10)
<b>WARD(S) AFFECTED:</b>	Ward 10
<b>PREPARED BY:</b>	Alvin Chan Senior Planner (905) 546-2424 Ext.1334  Stephen Robichaud Director of Planning and Chief Planner
<b>SUBMITTED BY:</b>	Jason Thorne General Manager Planning and Economic Development Department
<b>SIGNATURE:</b>	

**RECOMMENDATIONS**

- (a) That approval be given to **Draft Plan of Condominium Application 25CDM-201520, by New Horizons Development Group (Waterfront Trails) Inc., Owner**, to establish a Draft Plan of Condominium (common elements condominium) to create condominium roads, internal sidewalks, landscaped areas and visitors parking areas, in favour of 207 residential units, comprised of 40 townhouse dwellings; 38 back to back freehold townhouse units; and, 129 residential units within the Standard Condominium Apartment Building, on lands located at 311 and 321 Frances Avenue (Stoney Creek), as shown on Appendix "A" to Report PED16056, subject to the following conditions:
- (i) That this approval for Draft Plan of Condominium (common elements) application 25CDM-201520 applies to the plan prepared by A.T. McLaren Limited, certified by S. D. McLaren, and dated August 27, 2015, consisting of a common element road, internal sidewalks, landscaped areas, and parking areas, attached as Appendix "B" to Report PED16056; and,

- (ii) That the conditions of Draft Plan of Condominium Approval 25CDM-201520 attached as Appendix “D” to Report PED16056 be received and endorsed by City Council.

## **EXECUTIVE SUMMARY**

The purpose of the application is to establish a Draft Plan of Condominium (common elements) to create the following common elements: internal condominium roadways, internal sidewalks, landscaped areas and visitors parking areas, as shown on Appendix “B” to Report PED16056. The condominium road will provide access to Frances Avenue.

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

The proposed Draft Plan of Condominium will conform to Zoning By-law No. 3692-92, and is consistent with the Registered Plan of Subdivision 62M-1211 “Lots 6 to 13 (Inclusive), and Blocks B, C, D, E and F, Registered Plan M-101” (attached as Appendix “C” to Report PED16056).

### ***Alternatives for Consideration – See Page 15***

## **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 elements).

## **HISTORICAL BACKGROUND**

### **Chronology:**

September 30, 2015: Condominium Application 25CDM-201520, “Part of Block 1, Plan 62M-1211”, received.

October 29, 2015: Condominium Application 25CDM-201520, “Part of Block 1, Plan 62M-1211”, deemed complete.

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November 5, 2015: Circulation of Notice of Complete Application and Preliminary Circulation for Condominium Application 25CDM-201520 sent to 451 property owners within 120 m of the subject lands.

November 12, 2015: Public Notice Sign placed on the subject lands.

February 3, 2016: Public Notice Sign updated to indicate Public Meeting date.

February 12, 2016: 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 elements) to create the following common elements: an internal condominium roadway, internal sidewalks, landscaped areas and visitors parking areas in favour of 207 residential units, comprised of 40 townhouse dwellings; 38 back to back freehold townhouse units; and, 129 residential units within the Standard Condominium Apartment Building, as shown on Appendix “B” to Report PED16056. The condominium road will provide access to Frances Avenue.

Staff note that the principal land use and corresponding zoning regulations were previously established through approvals by Council as implemented under City of Hamilton By-law 10-026; 10-027; and, 10-028 and the Registered Plan of Subdivision “Lots 6 to 13 (Inclusive), and Blocks B, C, D, E and F, Registered Plan M-101” (62M-1211), being Appendix “C” to Report PED16056.

Finally, the proposed Lots, with associated easements in favour of the Condominium Corporation, and the elements in common will be created through Part Lot Control Application PLC-16-002 and shall be developed in accordance with Site Plan Control Application DA-14-027.

**Details of Submitted Application:**

**Location:** 311 and 321 Frances Avenue (Stoney Creek)  
(See Location Map - Appendix “A” to Report PED16056)

**Owner / Applicant:** New Horizon Development Group (Waterfront Trails) Inc.  
c/o: Jeff Paikin

**Agent:** UrbanSolutions Planning and Land Development Consultants Inc., c/o Matt Johnston

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**Property Description:**      Lot Frontage:      125.2 m (Frances Avenue)  
Lot Depth:      206.96 m (Irregular)  
Lot Area:      0.43759 ha

**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>	Currently under construction for townhouse and back to back townhouse units	Residential “R6-5” Zone, Modified; Multiple Residential “RM3-40” Zone, Modified; and, Multiple Residential “RM3-41” Zone, Modified
<b><u>Surrounding Lands:</u></b>		
<b>North</b>	Currently under construction for Multiple Dwelling	Multiple Residential “RM3-40” Zone, Modified
<b>South</b>	Vacant Lands	Mixed Use Commercial “MUC-4” Zone, Modified; and Conservation/Hazard Lands (P5) Zone
<b>East</b>	Vacant lands	Conservation/Hazard Lands (P5) Zone; and Multiple Residential “RM3-40” Zone, Modified
<b>West</b>	Vacant Lands and existing Multiple Dwelling	Multiple Residential “RM5” Zone

**POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS**

**Provincial Policy Statement (PPS):**

The application has been reviewed with respect to the Provincial Policy Statement, 2014 (PPS). The application is consistent with Policy 1.1.3.1 that directs growth to Settlement Areas and implements Policy Nos. 1.1.3.2, 1.1.3.4, and 1.4.3 with respect to the promotion of densities which efficiently uses land and resources and encourages a

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compact form of development that provides for a mix of housing types to meet the projected requirements of current and future residents.

Policy 2.1.1 requires that “natural features and areas are protected for the long term.” Furthermore, Policy 2.1.2 identifies that:

“The diversity and connectivity of natural features in an area, and the long-term ecological function and biodiversity of natural heritage systems, should be maintained, restored or, where possible, improved, recognizing linkages between and among natural heritage features and areas, surface water features and ground water features.”

The natural heritage value of the subject lands was previously reviewed under the “Lots 6 to 13 (Inclusive), and Blocks B, C, D, E and F, Registered Plan M-101” Plan of Subdivision (62M-1211) and has satisfied the above policies.

Additionally, Policy 1.2.6.1 requires that major facilities and sensitive land uses should be planned to ensure they are appropriately designed, buffered and / or separated from each other to prevent or mitigate adverse effects from odour, noise and other contaminants, minimize risk to public health and safety, and to ensure the long-term viability of major facilities.

Similar to natural heritage, the above noise concerns were addressed through the related Draft Plan of Subdivision and related Site Plan Control Applications.

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

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

Section 1.2.2 of the Growth Plan sets out the guiding principles of the Plan. Specifically, 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; and 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 proposes to extend existing services into the site in an effort to capitalize on current infrastructure investment and introduces a different type of tenure in an area with environmental and cultural heritage constraints, utilizing land in an efficient manner.

Accordingly, the proposal conforms to the policies of the Growth Plan for the Greater Golden Horseshoe.

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

The subject lands are designated “Neighbourhoods” on Schedule “E-1” – Urban Land Use Designations.

Staff note that the subject development was approved through the previous related development applications, and the subject application will simply establish common elements and tenure. The following policies amongst others apply to the application:

In review of “Medium Density Residential” policies, Section E.3.5 of Volume 1, the following “Function” policies are applicable:

- “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.”

The proposal is to establish a common element condominium for a multiple dwelling development located within the interior of the neighbourhood, with connection to a Collector Road, Green Road, and future commercial uses and public open space on the south side of Frances Avenue, which complies with the policies noted above.

Furthermore, the “Scale” and “Design” policies, Section E.3.5.7 to E.3.5.9, inclusive, of Volume 1, are also applicable, being:

“Scale

- 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.

Design

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.
- e) The City may require studies, in accordance with Chapter F – Implementation Policies, completed to the satisfaction of the City, to demonstrate that the height, orientation, design, and massing of a building or structure shall not unduly overshadow, block light, or result in the loss of privacy of adjacent residential uses.”

The proposed development is located on a local road with minimal low density residential dwellings along this portion of Frances Avenue and connects to the collector road, Green Road. The development has been designed in a manner that is compatible with existing and future uses in the surrounding area.

Based on Schedule B (Natural Heritage Systems) of the UHOP, Core Areas have been identified adjacent to the subject properties. Core Areas are the most important components of the Natural Heritage System in terms of biodiversity, productivity and ecological and hydrological functions. The Core Areas have been identified as the Community Beach Ponds Environmentally Significant Area (ESA) and Lake Ontario.

Any development or site alteration within or adjacent to Core Areas shall not negatively impact their natural features or their ecological functions as per policy C.2.3. A comprehensive Environmental Impact Statement (EIS) was prepared by Dougan and

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Associates (2008; revised 2009) in support of previous applications (25T-2008-09 / OPA-08-19 / ZAC-08-079). Through the EIS, the ESA has been identified as an important stopover for migrating birds. A 10 m vegetation protection zone (VPZ) has been implemented to protect the ESA.

Accordingly, through the Site Plan (DA-14-027), an Avian Impact Assessment was prepared by Dougan and Associates (February 13, 2015) to address the concern with respect to migratory birds, specifically Block K, the apartment building located adjacent to Lake Ontario. In addition a Tree Protection Plan and Landscape Plan were approved through the Site Plan process.

Lastly, appropriate noise mitigation (i.e. warning clause(s), noise barriers and ventilation requirements) are to be implemented through the related Site Plan Control application, in accordance with Policy Section B.3.6.3 of Volume 1.

Based on the foregoing, it is the opinion of Natural Heritage Planning staff that there will be no further negative impacts on the natural heritage features or functions of the Natural Heritage System.

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

**City of Stoney Zoning By-law No 3692-92:**

On February 10, 2010, the City of Hamilton approved the respective Zoning By-law Amendments, as per City of Hamilton By-law 10-026 to 10-028, inclusive, which reflected the proposed form of development for the subject lands, being townhouse units, maisonette units; and a multiple dwelling (apartment).

The mainsonette units are located in the R6-5 Zone. Parking for the maisonette units is located in both the R6-5 Zone and the RM3-40. Eleven visitor parking spaces for the maisonette units are required to be provided in the R6-5 Zone, whereas ten are provided. As such, there appears to be a zoning deficiency with respect to parking for the maisonette units, in that visitor's parking is being provided within a separate zone. Therefore, staff have included Condition (6) of Appendix "D" to Report PED16056 requiring the submission and final approval of the necessary Minor Variances. In addition, the development shall conform to Zoning By-law No 3692-92 as per Condition (1) of Appendix "D" to Report PED16056.

**RELEVANT CONSULTATION**

The following departments and agencies had no comments or objections:

- Hydro One Networks Inc.



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The following departments and agencies submitted comments:

**Forestry and Horticulture Section (Public Works Department)** have no concerns with the subject application, but have advised that the requirement for cash in lieu of street trees to the amount of \$4,500 plus HST, payable to Forestry, Department ID: 445990, Account number: 45519; with corresponding amendments to the Landscape Plan / Street Tree Planting Plan remains outstanding.

Planning staff note that this would be a requirement of both the Draft Approved Plan of Subdivision “Lots 6 to 13 (Inclusive), and Blocks B, C, D, E and F Registered Plan M-101” Plan of Subdivision (62M-1211) and Site Plan Control application DA-14-027.

Accordingly, these matters are addressed by Conditions (2) and (9) of Appendix “D” to Report PED16056, which requires that the proposed Draft Plan of Condominium comply with the final Site Plan under File No. DA-14-027.

**Geomatics and Corridor Management Section (Public Works Department)** have noted that access permits for the two proposed access locations have not been secured by the owner / applicant. Accordingly, a request for completion of the access permit requirements has been identified.

In review, staff note that access permits are addressed through the related Site Plan Control application, File No. DA-14-027, to which the proposed Draft Plan of Condominium must be in compliance with, as per Condition (2) of Appendix “D” to Report PED16056.

**Hamilton Municipal Parking Services (HMPS) (Planning and Economic Development Department)** has noted that the proposed Draft Plan of Condominium does not identify driveway locations nor the garages and the corresponding parking space dimensions. Staff have advised that parking spaces and garages be appropriately dimensioned to ensure their proper use for parking.

In review, Planning staff note that driveway locations and garages are shown on the related Site Plan Control Application, File No. DA-14-027, to which the proposed Draft Plan of Condominium must be in compliance with, as per Condition (2) of Appendix “D” to Report PED16056.

**Business Programs Section (Public Works Department)** have advised and request that the following note be added to the plan:

“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, as amended.”

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In addition, the owner / applicant is advised of the following:

- Construction material is prohibited from collection and arrangements must be made with a private contractor for its collection and disposal.
- 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 Public Works Department to request the start of waste collection services.
- A site visit by Public Works Department 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.
- Prior to the commencement of collection service on private property, an “*Agreement for on-site Collection of Municipal Solid Waste*” must be completed and submitted to the City. A certificate of insurance naming the City as additionally insured (in relation to waste collection services) must also be submitted prior to the start of service.

Staff note that the inclusion of this notation is better suited as a warning clause in all offers of purchase and sale and / or rental leases, thereby ensuring advisement to all potential homeowners and / or tenants. Accordingly, staff have included this clause as Condition (5)(i) of Appendix “D” to Report PED16056.

**Strategic Planning Section (Public Works Department)** have identified a request for cash-in-lieu of parkland. Planning staff note that this would be a requirement of both the Draft Approved Plan of Subdivision “Lots 6 to 13 (Inclusive), and Blocks B, C, D, E and F Registered Plan M-101” Plan of Subdivision (62M-1211) and Site Plan Control application DA-14-027.

Accordingly, this is addressed by Condition (2) of Appendix “D” to Report PED16056, which requires that the proposed Draft Plan of Condominium comply with the final Site Plan under File No. DA-14-027.

**Health Hazards Section (Public Health Department)** have requested that a written dust mitigation plan be formulated. The plan should identify all potential sources of dust generation from site clearance to final construction and lot development. Details should be provided regarding effective practices to be used (ie., 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 clearly state contact information (name, address, phone #, etc.) for the personnel responsible for performing dust mitigation actions as necessary. As a reference guide, *Best Practices for the Reduction of Air Emissions from Construction and Demolition Activities* (March 2005 Cheminfo Services Inc.) may be used.

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This requirement is in addition to any pre-grading agreement etc., the City may impose and the pre-grading agreement does not replace the dust plan.

Staff note that construction has begun in accordance with Final Site Plan of Site Plan File No. DA-14-027, and is subject to standard best management construction practices. In addition, Section 3.06 “Street Maintenance / Cleaning Plan” of the registered Standard Form Subdivision Agreement, WE 739474 also addresses this requirement.

**Chronic Disease Prevention (Public Health Department)** have identified the following recommendations for site design:

- “• Provide option for cycling via on-site secure bike parking for visitors;
- Provide only the minimum required parking spaces and/or explore ways to reduce parking such as designating preferred parking for carpooling; and,
- To increase visibility and safety of pedestrians within common area
  - Ensure pedestrian walkways are well-lit
  - Consider enhancing pedestrian crossings via raised crosswalk that are flush with adjoining sidewalk, or made with contrasting materials or colour.”

In review, Planning staff note that these design elements were incorporated within the related Site Plan Control Application, File No. DA-14-027, to which the proposed Draft Plan of Condominium must be in compliance with, as per Condition (2) of Appendix “D” to Report PED16056.

**Ministry of Transportation** have advised that they have no concerns and / or comments with respect to the subject application, provided the necessary permits are acquired. Subsequent to the original circulation of this application, the MTO has issued a Building / Land Use permit on January 26, 2016.

**Horizon Utilities** have no comments / concerns with the subject application, but have provided the following advisements and information:

- “• Do not excavate within two metres of hydro poles and anchors;
- Excavation within one metre of underground hydro plant is not permitted unless approval is granted by a Horizon Utilities representative and is present to provide direct supervision. Cost associated with this task shall be at the owner's expense;
- Horizon Utilities must be contacted if the removal, isolation or relocation of existing plant is required, all cost associated with this work will be at the owners expense;

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- CALL BEFORE YOU DIG, arrange for underground hydro cable locate(s) before beginning construction by contacting Ontario One Call @ 1-800-400-2255; and,
- Clearances from Overhead and Underground existing electrical distribution system must be maintained in according to:
  - Ontario Building Code (1997) Section 3.1 (3.1.18.1);
  - Electrical Safety Code Rule 75-312;
  - Occupational Health and Safety Act (OHandSA) - Construction Projects (Electrical Hazards);
  - CAN/CSA-C22.3 No. 1-10, Overhead System; and,
  - C22.3 No. 7- 10 Underground Systems.”

The above information has been provided to the owner / applicant to address the above requirement.

**Canada Post** have advised that mail delivery service to the subdivision will be through centralized Community Mail Boxes (CMBs). Given the number and the layout of the lots in the subdivision, we have determined that the CMB(s) will be installed on site, being the rear of Number 29 facing the sidewalk towards the roadway.

If the development includes plans for (a) multi-unit building(s) with a common indoor entrance, the developer must supply, install and maintain the mail delivery equipment within these buildings to Canada Post’s specifications.

Canada Post have requested that their office be advised if the project description changes so that they may determine the impact (if any). Also, should this condominium application be approved, please provide notification of the new civic addresses as soon as possible.

Canada Post have also requested notice of the excavation date for the first foundation/first phase as well as the date development work is scheduled to begin. Additionally, please provide the expected installation date(s) for the CMB(s). This particular requirement has been included as Condition (10) of Appendix “D” to Report PED16056.

In addition, the developer will need to consult with Canada Post to determine suitable permanent locations for the Community Mail Boxes. The developer will then indicate these locations on the appropriate servicing plans. Planning staff note that this particular requirement is addressed through Section 1.22 of the registered Standard Form Subdivision Agreement, WE 739474, and is therefore satisfied.

Furthermore, the developer is to agree, prior to offering any units for sale, to display a map on the wall of the sales office in a place readily accessible to potential homeowners

that indicates the location of all Community Mail Boxes within the development, as approved by Canada Post. They are to further agree to include in all offers of purchase and sale a statement which advises the purchaser that mail will be delivered via Community Mail Box and to note the locations of all Community Mail Boxes within the development, and to notify affected homeowners of any established easements granted to Canada Post to permit access to the Community Mail Box. Planning staff note that this particular requirement is addressed through Sections 1.46(f) and 2.10(b) of the registered Standard Form Subdivision Agreement, WE 739474, and is therefore satisfied.

Moreover, the developer will provide a suitable and safe temporary site for a Community Mail Box until curbs, sidewalks and final grading are completed at the permanent Community Mail Box locations. Canada Post will provide mail delivery to new residents as soon as the homes are occupied. Planning staff have included this requirement as Condition (11) of Appendix “D” to Report PED16056.

Lastly, the developer is to agree to provide the following for each Community Mail Box site and to include these requirements on the appropriate servicing plans:

Any required walkway across the boulevard, per municipal standards;

- Any required curb depressions for wheelchair access, with an opening of at least two meters (consult Canada Post for detailed specifications); and,
- A Community Mailbox concrete base pad per Canada Post specifications.

Planning staff note that this particular requirement is addressed through Section 4.01(h) of the registered Standard Form Subdivision Agreement, WE 739474, and is therefore satisfied.

## **PUBLIC CONSULTATION**

In accordance with the provisions of the *Planning Act* and the Council Approved Public Participation Policy, Notice of Complete Application and Preliminary Circulation was sent to 451 property owners within 120 m of the subject property on November 5, 2015, for the proposed Approval of a Draft Plan of Condominium application.

Furthermore, a Public Notice Sign was posted on the property on November 12, 2015, and updated on February 3, 2016 with the Public Meeting date. Finally, Notice of the Public Meeting was given on February 12, 2016, in accordance with the requirements of the *Planning Act*.

To date, two public submissions have been received requesting additional details regarding the subject application, and another requesting notice of public meeting and

decision. Additional information was provided to the one submission requesting further details by Planning Staff on December 2, 2015, to which no further comments and / or concerns have been identified and / or received. The individuals of the second submission have been included in all future notice lists.

## **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 implements condominium tenure for a form of development previously approved through City of Hamilton By-law Nos. 10-026; 10-027; and, 10-028, and the Draft Approved Plan of Subdivision “Lots 6 to 13 (Inclusive), and Blocks B, C, D, E and F Registered Plan M-101” Plan of Subdivision (62M-1211) and Site Plan Control application DA-14-027, which provides for a form of development that is compatible with surrounding land uses.
2. The proposed Draft Plan of Condominium (common elements) would be comprised of the following common elements: an internal condominium roadway, internal sidewalks, landscaped areas and visitors parking areas, as shown on Appendix “B” to Report PED16056. The condominium road will provide access to Frances Avenue.
3. Growth Management has reviewed the application and provides the following comments and information:

The proposed servicing, grading, fencing, curbing, street trees, roadworks, landscaping, etc. for this townhouse condominium block were reviewed under applications DA-14-027 and 25T-200809. Therefore we have no grading or servicing concerns respecting the application from an Engineering perspective.

The following condition will be required as a condition of condominium draft plan approval for this application:

“That the Owner / Developer ensure the following wording is included in the associated Condominium Declaration to the satisfaction of the Senior Director of Growth Management:

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, catchbasins, and 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.”

Accordingly, the above clause has been included as Condition (8) of Appendix “D” to Report PED16056.

4. The land proposed for the common elements condominium and the lots for the associated townhouse and multiple dwellings will be created through an exemption from Part Lot Control. Part Lot Control Application PLC-16-002 has been submitted and is currently 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, as per Condition (3) of Appendix “D” to Report PED16056.
5. The development of the respective of 72 residential units, comprised of 40 townhouse dwellings and 32 back to back freehold townhouse units, of the proposed Draft Plan of Condominium (common elements) comprised of the following common elements: an internal condominium roadway, internal sidewalks, landscaped areas and visitors parking areas, attached as Appendix “B” to Report PED16056, are subject to compliance with final approved Site Plan Control application DA-14-027, as required under Condition (2) of Appendix “D” to Report PED16056.
6. 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 all the subject residential parcels become “tied” to the proposed Draft Plan of Condominium (common elements). This will have the effect of ensuring that individual townhouse lots are not sold until the condominium has been registered as a Common Elements Condominium under the *Condominium Act* (Condition (4) of Appendix “D” to Report PED16056).

## **ALTERNATIVES FOR CONSIDERATION**

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

## **ALIGNMENT TO THE 2012 – 2015 STRATEGIC PLAN**

### **Strategic Priority #1**

A Prosperous and 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”: “Lots 6 to 13 (Inclusive), and Blocks B, C, D, E and F Registered Plan M-101” Plan of Subdivision (62M-1211)
- Appendix “D”: Conditions of Draft Plan Approval for Draft Plan of Condominium (Common Elements) 25CDM-201520
- Appendix “E”: Public Submissions

:AC/YR