



CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Planning Division

TO:	Chair and Members Planning Committee
COMMITTEE DATE:	April 5, 2016
SUBJECT / REPORT NO:	Application for Approval of a Draft Plan of Condominium (Common Element) by Urban Solutions Planning and Land Development Consultants Inc. for Lands Located at 98 Shoreview Place, Stoney Creek (PED16076) (Ward 10)
WARD(S) AFFECTED:	Ward 10
PREPARED BY:	Gerry Tchisler Planner II (905) 546-2424 Ext. 4148 Stephen Robichaud Director of Planning and Chief Planner
SUBMITTED BY:	Jason Thorne General Manager Planning and Economic Development Department
SIGNATURE:	

RECOMMENDATION

- (a) That approval be given to **Red-line Revised Draft Plan of Condominium Application 25CDM-201517 by Urban Solutions Planning and Land Development Consultants Inc.**, to establish a Draft Plan of Condominium (common element) consisting of a condominium road network, 36 visitor parking spaces, and amenity / landscaped open space areas for 72 freehold townhouse units on lands located at 98 Shoreview Place (Stoney Creek), as shown on Appendix “A” to Report PED16076, subject to the following conditions:
- i) That the approval for Draft Plan of Condominium (Common Element) Application 25CDM-201517, consisting of a condominium road network, 36 visitor parking spaces, and amenity / landscaped open space areas applies to the redlined plan prepared by A.T. McLaren Limited, certified by S.D. McLaren, and dated August 7, 2015, attached as Appendix “B” to Report PED16076; and,
 - ii) That the conditions of Draft Plan of Condominium Approval 25CDM-201517 provided as Appendix “C” to Report PED16076 be received and endorsed by City Council.

EXECUTIVE SUMMARY

The purpose of this application is to establish a Draft Plan of Condominium (Common Element). The common elements would consist of a condominium road network, 36 visitor parking spaces, and amenity / landscaped open space areas for 72 freehold townhouse units located on POTLs (parcels of tied land). The property will have two driveway accesses off of Shoreview Place. The subject lands are identified as Lot 15 in Registered Plan of Subdivision M-101. A future application for an exemption from Part Lot Control will be required to create the POTLs.

The proposed Draft Plan of Condominium has merit and can be supported as it complies with the Urban Hamilton Official Plan (UHOP), conforms to Stoney Creek Zoning By-law No. 3692-92 as amended by By-law No. 13-247, and implements Site Plan Control application DA-13-235.

Alternatives for Consideration – See Page 13

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 9, 2013: By-law No. 13-247 passed by Council to amend Stoney Creek Zoning By-law No. 3692-92 to permit a change in zoning from the Small Scale Institutional "IS" Zone to the Multiple Residential "RM3-52" Zone, Modified for the subject lands.

April 28, 2014: Conditional approval of Site Plan Control Application DA-13-235 granted by the Manager of Development Planning, Heritage and Design.

August 21, 2014: Minor Variance application SC/A-14:200 approved by the Committee of Adjustment (no appeals filed).

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August 13, 2015: Condominium Application 25CDM-201517 is received.

September 24, 2015: Application deemed complete.

November 4, 2015: Public Notice Sign placed on the subject lands.

November 5, 2015: Circulation of Notice of Complete Application and Preliminary Circulation for Condominium Application 25CDM-201517 sent to 15 property owners within 120 m of the subject lands.

March 9, 2016: Public Notice Sign updated to indicate public meeting date.

March 18, 2016: Notice of Public Meeting circulated to 15 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) consisting of a condominium road network, 36 visitor parking spaces, and amenity / landscaped open space areas for 72 freehold townhouse units, as shown on the attached Appendix "B" to Report PED16076. The property will have two driveway accesses off of Shoreview Place. Nineteen of the townhouse units will front directly onto Shoreview Place but will still be tied to the common elements of the condominium in order to benefit from the visitor parking and amenity areas.

The proposal has received conditional approval under Site Plan Control application DA-13-235. The subject lands are identified as Lot 15 in Registered Plan of Subdivision M-101, "South Shore Estates". A future application for an exemption from Part Lot Control will be required to create the 72 POTLs on which the townhouse units will be situated.

Details of Submitted Application:

Location: 98 Shoreview Place, Stoney Creek

Owner: KING-TIS Investments Limited

Applicant / Agent: Urban Solutions Planning and Land Development Consultants Inc. (c / o Sergio Manchia)

Property Description:

<u>Area:</u>	2.027 ha
<u>Frontage:</u>	220 m (along Shoreview Place)
<u>Depth:</u>	73 m (along westerly property line)

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Servicing: Full Municipal Services

EXISTING LAND USE AND ZONING:

	<u>Existing Land Use</u>	<u>Existing Zoning</u>
<u>Subject Lands:</u>	Vacant	Multiple Residential "RM3-52" Zone
<u>Surrounding Lands:</u>		
North	Vacant (proposed future multiple residential development) & Open Space	Multiple Residential "RM3-40" Zone and Open Space (P4) Zone
South	North Service Road/Queen Elizabeth Way (QEW)	Multiple Residential "RM3-52" Zone to centreline of QEW
East	Mixed commercial and multiple residential uses (under construction)	Mixed-Use Commercial "MUC-5" Zone.
West	Vacant	Neighbourhood Park (P1) Zone

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

Staff note that the principal land use and corresponding zoning regulations were previously implemented through City of Hamilton By-law 13-247, Registered Plan of Subdivision M-101 "South Shore Estates" and Site Plan Control application DA-13-235.

Provincial Planning Policy Framework

The Provincial planning policy framework is established through the *Planning Act* (Section 3), the Provincial Policy Statement (PPS 2014), the Growth Plan for the Greater Golden Horseshoe (the Growth Plan) and the Greenbelt Plan. The *Planning Act* requires that all municipal land use decisions affecting planning matters be consistent with the PPS. The Places to Grow Act and the Greenbelt Act require that all municipal land use decisions made under the *Planning Act* conform to the Growth Plan and the Greenbelt Plan.

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The mechanism for the implementation of the Provincial plans and policies is through the Official Plan. Through the preparation, adoption and subsequent Ontario Municipal Board approval of the City of Hamilton Official Plans, the City of Hamilton has established the local policy framework for the implementation of the Provincial planning policy framework. As such, matters of provincial interest (e.g. efficiency of land use, balanced growth and environmental protection) are reviewed and discussed in the Urban Hamilton Official Plan (UHOP) analysis below.

As the application for a Draft Plan of Condominium complies with the UHOP, it is staff's opinion that the application is:

- consistent with Section 3 of the *Planning Act*,
- consistent with the Provincial Policy Statement (2014);
- conforms to the Growth Plan for the Greater Golden Horseshoe; and,

Urban Hamilton Official Plan

The subject lands are identified as “Neighbourhoods” on Schedule “E” - Urban Structure and designated “Neighbourhoods” on Schedule “E-1” - Urban Land Use Designations in the UHOP. The following policies, amongst others, apply:

“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.”

Additionally, the following policies apply as they specifically 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.3.2.1 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.”

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The proposal to establish a Draft Plan of Condominium (Common Element) consisting of a condominium road network, 36 visitor parking spaces, and amenity / landscaped open space areas will permit the development of 72 freehold townhouse units. This will support the growth of the neighbourhood as a complete community offering a range of housing forms and tenures.

- “E.3.4.1 The preferred location for low density residential uses is within the interior of neighbourhoods.
- E.3.4.3 Uses permitted in low density residential areas include single-detached, semi-detached, duplex, triplex, and street townhouse dwellings.
- E.3.4.4 For low density residential areas the maximum net residential density shall be 60 units per hectare.
- E.3.4.5 For low density residential areas, the maximum height shall be three storeys.
- E.3.4.6 Development in areas dominated by low density residential uses shall be designed in accordance with the following criteria:
- a) Direct access from lots to adjacent major or minor arterial roads shall be discouraged.
 - b) Backlotting along public streets and in front of parks shall be discouraged. The City supports alternatives to backlotting, such as laneway housing and window streets, to promote improved streetscapes and public safety, where feasible.
 - c) A mix of lot widths and sizes compatible with streetscape character; and a mix of dwelling unit types and sizes compatible in exterior design, including character, scale, appearance and design features; shall be encouraged. Development shall be subject to the Zoning By-law regulations for appropriate minimum lot widths and areas, yards, heights, and other zoning regulations to ensure compatibility.
 - d) Development, including the creation of infill lots involving the creation of new public streets or extensions, shall generally proceed by way of plan of subdivision. Such plans shall achieve the logical and sequential extension of streets and municipal services and an efficient lotting pattern.”

While the proposed townhouse development meets the intent of the UHOP in terms of design and location criteria, it does not meet the density and form provision. The density

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of the proposed development is approximately 35 units per hectare (uph), placing it into the Low Density Residential category (policies for which are quoted above). This category permits street townhouses but does not permit block townhouses (defined as “Multiple Dwellings” in the UHOP).

Zoning By-law Amendment application ZAC-12-042 was submitted on October 25, 2012 and approved on October 9, 2013 to change the zoning on the property from Small Scale Institutional “IS” Zone to the current Multiple Residential “RM3-52” Zone, Modified. This zone permits, among other things, both street townhouses and block townhouses. Since the application was submitted to the City prior to the UHOP being approved by the Ontario Municipal Board on August 16, 2013, the application was evaluated under the former Stoney Creek Official Plan and thus deemed to conform. This development now has legal non-complying status.

The UHOP recognizes such situations, as outlined in Section F.1.12 below.

“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.

F.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. Given that the proposed Draft Plan of Condominium application deals with establishing tenure, it therefore does not conflict with the intent and purpose of the UHOP and Zoning By-law.

The above analysis has reviewed the relevant policies contained within the UHOP as they apply to the subject lands. Staff are of the opinion that the application complies with the UHOP.

Stoney Creek Zoning By-law No. 3692-92:

Zoning By-law Amendment application ZAC-12-042 was submitted on October 25, 2012 and approved on October 9, 2013 (By-law 13-247) to change the zoning on the property from the Small Scale Institutional “IS” Zone to the current Multiple Residential “RM3-52” Zone, Modified. This zone permits a variety of residential housing forms, including street townhouses and block townhouses. The site specific zoning required some minor modifications to the parent zone provisions to reflect the proposed condominium tenure and the irregular shape of the lot. These modifications included deeming the lot line abutting Shoreview Place the front lot line, reductions in front and side yard setbacks, reduction in the minimum distance between buildings on the same lot, location of parking spaces, deeming the condominium road a street for the purposes of zoning review, permitting the zoning review to be done based on the exterior property boundary and not individual lot lines created through a future application for an exemption from Part Lot Control, and a minor reduction in landscaping area.

Additionally, through review of Site Plan Control application DA-13-235, it was determined that variances were required for the front yard setback, landscaping requirements, parking space sizes, driveway width, and distance of parking spaces to the street. The variances were approved through Minor Variance application SC/A-14:200 on August 21, 2014.

RELEVANT CONSULTATION

The following departments and agencies had no comments or objections:

- Corridor Management Section, Public Works Department;
- Strategic Planning Section, Public Works Department;
- Forestry and Horticulture Section, Public Works Department;
- Horizon Utilities; and,
- Hydro One Networks Inc.

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) in Appendix “C” to Report PED16076).

Furthermore, they 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) 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.
- 3) 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.
- 4) If continuous forward movement cannot be provided for the collection vehicle and the site lacks sufficient space for the collection vehicle to safely turn around, waste cannot be collected by municipal forces and a private waste hauler must be utilized.”

These considerations have been addressed through Site Plan Control application DA-13-235 that was conditionally approved on April 28, 2014.

Canada Post has advised that mail delivery service to the development 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 two CMBs will be installed in the boulevard next to the visitor parking in the location shown on the Draft Plan of Condominium attached as Appendix “B” to Report PED16076. The installation

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will be done to the satisfaction of Canada Post and the Senior Director of Growth Management. Canada Post requires standard conditions for Draft Plans of Condominium which stipulate interim delivery measures, specific installation criteria, and notification to future purchasers of the use of CMBs through clauses in purchase and sale agreements. These conditions are included as Conditions 5(iv), 6, 7, 8, 9 and 10 in Appendix “C” to Report PED16076.

Ministry of Transportation has advised that the entire site is located within the Ministry’s Permit Control Area and thus will require permits from the Ministry prior to the commencement of any construction. This requirement is being addressed as a condition of final approval for Site Plan Control application DA-13-235. The Ministry did not provide any comments or conditions for the Draft Plan of Condominium.

Public Health Services has indicated that a Pest Control Plan be developed for the construction / development phase of the project, focusing on rats and mice. The plan is to be implemented during work activity such as demolition, bush clearing, grading, etc. Given that the Draft Plan of Condominium application that is the subject of this report deals with establishing tenure, this note is inappropriate as a condition of final approval. However, it has been forwarded to the applicant for advisory purposes.

Union Gas Limited has requested that as a condition of final approval that the owner / developer provide Union Gas with the necessary easements and / or agreements required for the provision of gas services for this project. This has been incorporated as Condition 11 in Appendix “C” to Report PED16076.

Hamilton Municipal Parking System has indicated that residents of similar development have been reluctant to use their garages for parking vehicles and therefore recommend a warning clause be included in purchase and sale agreements indicating that the owner should ensure that their parking needs are met on site as on-street parking may not be available or be guaranteed in perpetuity. This has been incorporated as Condition 5 (ii) in Appendix “C” to Report PED16076.

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 15 property owners within 120 m of the subject property on November 5, 2015 requesting comments on the application. Furthermore, a Public Notice Sign was posted on the property on November 4, 2015. To date, no correspondence from the public has been received.

A Notice of the Public Meeting was sent to 15 property owners within 120 m of the subject property on March 18, 2016 and the Public Notice Sign was updated with the

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date of the public meeting on March 9, 2016, 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 (2014) and conforms to the Growth Plan for the Greater Golden Horseshoe (Places to Grow);
 - (ii) It complies with the UHOP; and,
 - (iii) The proposal establishes condominium tenure for a form of development permitted under Stoney Creek Zoning By-law No. 3692-92 as amended by By-law 13-247, under Registered Plan of Subdivision M-101 “South Shore Estates” and under conditionally approved Site Plan Control application DA-13-235.
2. The proposed Draft Plan of Condominium (common elements) would be comprised of a condominium road network, 36 visitor parking spaces, and amenity / landscaped open space areas. All of the common elements would be maintained by the future Condominium Corporation. 53 of the townhouse units will have frontage on the condominium road network while 19 will have frontage onto Shoreview Place. All units will hold an interest in the Condominium Corporation, including those fronting onto Shoreview Place as they need to benefit from the common visitor parking spaces and amenity areas.
3. The lot boundaries proposed for the common elements and the POTLs on which the townhouse units will be situate will be created through a future application for an exemption from Part Lot Control. Final approval and registration of the Draft Plan of Condominium cannot occur until such time that an application for an exemption from Part Lot Control has been submitted and approved and the By-law exempting the lands from Part Lot Control has been passed by Council and registered on title (Condition 3 in Appendix “C” to Report PED16076).
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 POTLs (as shown on the Draft Plan of Condominium included in Appendix “B” to Report PED16076) 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 in Appendix “C” to Report PED16076).

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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 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 Community Mail Boxes (Conditions 5(i),(ii) and (iv) in Appendix “C” to Report PED16076).
6. The proposal received conditional approval under Site Plan Control application DA-13-235 on April 28th, 2014. The conditional approval lapsed on April 28th, 2015 with a one year extension approved on April 29th, 2016. The applicant is currently in the process of clearing conditions in order to receive final approval. The Draft Plan of Condominium must comply with the approved Site Plan. Therefore, a condition has been included that requires Site Plan Control application DA-13-235 to receive final approval (Condition 2 in Appendix “C” to Report PED16076).
7. Through review of Site Plan Control application DA-13-235, it was determined that warning clauses must be added to Purchase and Sale Agreements, Rental Leases, and the Development Agreement for the subject lands regarding noise impacts and attenuation measures. These warning clause requirements are reflected in Conditions 14 and 15 in Appendix “C” to Report PED16076.
8. Staff have requested that three minor revisions be made to the Draft Plan of Condominium drawing to update the key map, revise the scale, and add an additional parking space to ensure that it reflects the Site Plan drawing conditionally approved under Site Plan Control application DA-13-235. These revisions are shown as notations on the Draft Plan of Condominium drawing in Appendix “B” to Report PED16076.
9. The Public Works Section has no comments regarding water, sanitary or minor storm servicing with respect to this application as these matters are being reviewed under Site Plan Control application DA-13-235. Condition 12 (in Appendix “C” to Report PED16076) has been added to the conditions of final approval, as per the request of Public Works, outlining the Condominium Corporation’s responsibilities with respect to maintenance of the common elements.

ALTERNATIVES FOR CONSIDERATION

Should the Plan of Condominium (common elements) not be approved, the applicant / owner could develop the lands as a rental development.

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”: Final Approved Site Plan

GT/