



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

<b>TO:</b>	Chair and Members Planning Committee
<b>COMMITTEE DATE:</b>	December 6, 2016
<b>SUBJECT / REPORT NO:</b>	Application for Approval of Draft Plan of Condominium (Common Element), by Mattamy Homes (Waterdown) Inc., for Lands Known as 493 Dundas Street East (Waterdown) (PED16231) (Ward 15)
<b>WARD(S) AFFECTED:</b>	Ward 15
<b>PREPARED BY:</b>	Madeleine Giroux (905) 546-2424 Ext. 2664  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-201314, by Mattamy Homes (Waterdown) Inc., Owner**, to establish a Draft Plan of Condominium (Common Element) to create a condominium road with manoeuvring area, internal sidewalks, a 912 sq m landscaped area, and 30 visitor parking spaces for 84 freehold townhouse units consisting of 15 rear lane townhouse dwelling units, 10 live-work units, 34 maisonette dwelling units, and 25 standard condominium townhouse dwelling units, on lands located at 493 Dundas Street East (Waterdown), as shown on Appendix "A" to Report PED16231, subject to the following conditions:

- (i) That the approval for Draft Plan of Condominium (Common Element) Application 25CDM-201314 applies to the plan prepared by Rady-Pentex & Edward Surveying Ltd., certified by R. Denbroeder, OLS, and dated September 22, 2016, consisting of a condominium road with manoeuvring area, internal sidewalks, a 912 sq m landscaped area and 30 visitor parking spaces attached as Appendix "B" to Report PED16231;

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- (ii) That the conditions of Draft Plan of Condominium Approval provided as Appendix “C” to Report PED16231 be received and endorsed by City Council.

## **EXECUTIVE SUMMARY**

The purpose of this Report is to receive approval to establish a Draft Plan of Condominium (Common Element) to create the following common elements, as shown on Appendix “B” to Report PED16231:

- An internal condominium roadway (including a manoeuvring area) with one access from Spring Creek Drive and one access from the future Stillwater Crescent;
- Internal sidewalks;
- A 912 sq m landscaped area; and,
- Thirty (30) visitor parking spaces.

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).

The proposed Draft Plan of Condominium conforms to the Town of Flamborough Zoning By-law No. 90-145-Z, as amended by By-law 15-186. Further, it is consistent with the Draft Plan of Subdivision known as “Mattamy - Waterdown, Phase 2” (25T-201308) and the Registered Plan of Subdivision 62M-1101 “Upcountry Estates, Phase 1A” (attached as Appendices “D” and “E”), and will implement the Site Plan Control Application DA-15-174 once it receives final approval (Conditions (i), (iii) and (iv) of Appendix “C”).

### ***Alternatives for Consideration – See Page 16***

## **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**

### **Proposal:**

The purpose of this application is to establish a Draft Plan of Condominium (Common Element) to create the following common elements, as shown on Appendix “B” to Report PED16231:

- An internal condominium roadway (including a manoeuvring area) with one access from Spring Creek Drive and one access from the future Stillwater Crescent;
- Internal sidewalks;
- A 912 sq m landscaped area; and,
- Thirty (30) visitor parking spaces.

The proposed lots will be created through a future Part Lot Control Application and shall be developed in accordance with Site Plan Control Application DA-15-174 once it has received final approval, as per Conditions (iii), (iv) and (v) in Appendix “C”. The property is currently subject to a Zoning By-law Amendment application to remove the Holding Provision (ZAH-16-055), the completion of which forms Condition (vi) in Appendix “C” to Report PED16231.

### **Urban Hamilton Official Plan (UHOP) Amendment Application UHOPA-15-009 (OPA No. 38)**

The purpose and effect of this Amendment was to remove the Mattamy (Waterdown) Subdivision lands from the UF-2, Flamborough Area Specific policies of Volume 3 of the UHOP and from Map F-2 (Volume 3, Area Specific Policies).

This application was approved by Planning Committee on August 11, 2016, and accordingly, the subject lands are designated Mixed Use – Medium Density on Schedule E-1 of the UHOP.

### **Draft Plan of Subdivision Application 25T-201308 and Zoning By-law Amendment Application ZAC-13-05**

The purpose of Draft Plan of Subdivision Application 25T-201308 was to implement the proposed Plan of Subdivision known as “Mattamy – Waterdown, Phase 2” consisting of 36 blocks for a mixture of residential dwelling types and densities, commercial uses, conservation / hazard lands and open space. The subject application pertains specifically to Block 27, as shown on Appendix “D” to Report PED16231.

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The purpose of Zoning By-law Amendment Application ZAC-13-055 was to permit a change in zoning from the Agriculture “A” Zone in the Town of Flamborough Zoning By-law No. 90-145-Z to a range of modified residential and mixed-use zones in order to implement the proposed Draft Plan of Subdivision. The proposal also included lands to be rezoned into the City of Hamilton Zoning By-law No. 05-200 for open space uses and conservation / hazard lands.

Specifically, Block 27 was rezoned to the Medium Density Residential “R6-42-H” Holding Zone, Modified in order to permit rear lane townhouses, block townhouses and maisonette dwellings, as well as site specific regulations. The Holding Provision was applied to address the achievement of stormwater management quantity and quality control targets, to the satisfaction of the City of Hamilton and Conservation Halton.

The above-noted applications were approved by Planning Committee on August 11, 2016, and staff note that the Draft Plan of Subdivision has not yet been registered. Accordingly, Condition (ii) has been included in Appendix “C” to Report PED16231.

**Site Plan Control Application DA-15-174**

The property is subject to Site Plan Control Application DA-15-174, which was granted conditional approval on June 17, 2016, and which complies with the requirements of Zoning By-law No. 90-145-Z, as amended by By-law 15-186.

Thirteen (13) blocks were conditionally approved through the above-noted Site Plan Control application (as shown on Appendix “F” to Report PED16231). Blocks 1 and 2 consist of ten (10) three-storey live-work units fronting Spring Creek Drive. Blocks 3, 9 and 10 consist of a total of 34 three-storey maisonette units. Blocks 4 – 8 (inclusive) consist of 25 two-storey block townhouse units, and Blocks 11 – 13 (inclusive) consist of 15 three-storey rear-lane townhouse units. The approval also includes an internal roadway accessed from Spring Creek Drive to the west and the future Stillwater Crescent to the north with manoeuvring area and internal sidewalks, 30 visitor parking spaces and 912 sq m of landscaped area. The amenity area includes the proposed location for the required Canada Post Community Mailbox (as discussed in the Relevant Consultation section, below).

**Minor Variance Application FL/A-16:294**

The purpose of this application was to recognize the location of parking spaces for those units abutting Spring Creek Drive, specifically permitting them to be located 2.6 m from the boundary of a residential zone and streetline, and within a yard abutting a street, whereas the Zoning By-law requires them to be located 3.0 m from a residential zone and streetline and does not permit them to be located in a yard abutting a street. The application was also to permit the proposed block townhouses and rear lane

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townhouses to be considered street townhouses for zoning purposes, and to permit a reduced rear yard setback of 6.6 m for the block townhouses whereas the Zoning By-law requires 7.0 m. This application was approved by the Committee of Adjustment on October 6, 2016. Final approval of Minor Variance application FL/A-16:294 forms Condition (vii) in Appendix “C” to Report PED16231.

**Chronology:**

- December 20, 2013: Original applications ZAC-13-055, 25T-201308, 25CDM-201313 and 25CDM-201314 were received.
- January 15, 2014: Notice of Complete Application sent to Owner / Agent.
- February 7, 2014: Notice of Complete Application and Preliminary Circulation mailed to 196 property owners within 120 m of the subject lands.
- March 4, 2014: Public Notice Sign was posted on the subject property.
- June 2, 2014: First Public Open House at Knox Presbyterian Church, Waterdown.
- September 25, 2014: Revised applications ZAC-13-055, 25T-201308, 25CDM-201313 and 25CDM-201314 were received, in addition to Preliminary Site Plan and updated Planning Justification Report, Functional Servicing Report and Environmental Impact Study. Revised application included heritage dwelling fronting onto Dundas Street East.
- February 5, 2015: Second Public Open House at Knox Presbyterian Church, Waterdown.
- February 20, 2015: Application for Amendment to the UHOP (UHOPA-15-009) received.
- February 24, 2015: Application for Amendment to the UHOP (UHOPA-15-009) deemed complete.
- August 11, 2015: 25T-201308, ZAC-13-055 & UHOPA-15-009 were approved by Planning Committee.
- October 19, 2015: Site Plan Control application DA-15-174 was received.

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June 17, 2016: Site Plan Control application DA-15-174 received conditional approval.

October 6, 2016: Minor Variance application FL/A-16:294 was approved by the Committee of Adjustment.

November 9, 2016: Public Notice Sign updated to indicate Public Meeting date.

November 18, 2016: Notice of Public Meeting circulated to 196 property owners within 120 m of the subject lands.

**Details of Submitted Application:**

**Location:** Part of Block 195, Plan 62M-1231 and Part of Block 165, Plan 62M-1101, municipally known as 493 Dundas Street East, Waterdown.

(See Location Map attached as Appendix “A” to Report PED16231)

**Owner / Applicant:** Mattamy (Waterdown) Ltd.

**Agent:** Korziak Land Use Planners (Martin Quarcoopome)

**Property Description:** Lot Frontage: Approx. 159.58 m (Dundas Street East)  
Approx. 83.66 m (Spring Creek Drive)  
Approx. 109.12 m (Avonsyde Boulevard)

Lot Area: Total - 2.02 ha  
Common Element – 1.066 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>	Vacant & Mattamy (Waterdown) Sales Centre	Medium Density Residential “R6-42-H” Holding Zone, Modified and Urban Commercial “UC-16” Zone, Modified & Urban Commercial “UC-15-H” Holding Zone,

Modified

**Surrounding Lands:**

<b>North</b>	Agricultural	Rural (A2) Zone
<b>South</b>	Existing Single Detached Dwelling and Stormwater Management Pond	Urban Commercial “UC-H” Holding Zone, Modified & Public Use “P” Zone
<b>East</b>	Vacant & Existing Gas Bar	Urban Commercial “UC-12-H” Holding Zone, Modified, Urban Commercial “UC-13” Zone, Modified & Automotive Commercial “AC” Zone
<b>West</b>	Single Detached Residential Currently Under Construction	Urban Residential “R1-69” Zone, Modified

**POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS**

Staff note that the principal land use and corresponding zoning regulations were previously implemented by OPA No. 38 and the City of Hamilton Zoning By-law No. 15-186, the draft approved “Mattamy - Waterdown, Phase 2” Plan of Subdivision (25T-201308), and Site Plan Control application DA-15-174.

**Provincial Planning Policy Framework**

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

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 Official Plan analysis below.

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

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

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

The subject lands received approval of an Urban Hamilton Official Plan Amendment application (UHOPA-15-009) to remove them from the Area Specific "UF-2" Designation. UHOP Amendment No. 38 specifically recognized Block 27 of the Draft Approved Plan of Subdivision 25T-201308 within the Mixed Use - Medium Density Designation of the UHOP.

A full policy review of the Urban Hamilton Official Plan was undertaken for the associated Urban Hamilton Official Plan Amendment, Zoning By-law Amendment, and Draft Plan of Subdivision, and is provided in Report PED15020.

The following policies are of relevance to the proposed Draft Plan of Condominium (Common Element) for Block 27 for the Mixed Use - Medium Density designation. In particular, the proposal:

- Complies with the range of permitted uses (i.e. live-work units and multiple dwellings noted in Policy E.4.6.5) and with the direction to maintain the planned retail function of the Plan provided in Policy E.4.6.15;
- Will provide for a compact urban form that supports pedestrian use and a vibrant people place (Policy E.4.6.17);
- Will allow for integration with other such uses as single detached dwellings to the north and the heritage dwelling and site surrounding Block 27 (E.4.6.25); and,
- Complies with the applicable policies for urban design (i.e. B.3.3.2.1, B.3.3.2.2 and B.3.3.2.3); gateways (B.3.3.4.2 and B.3.4); and noise mitigation (i.e. B.3.6.3.1, B.3.6.3.4, B.3.6.3.11 and B.3.6.3.14).

Based on the above, the proposed Draft Plan of Condominium (Common Element) complies with the UHOP.

**Niagara Escarpment Plan**

The subject property is designated "Urban Area" in the Niagara Escarpment Plan.



The Plan directs that proposed uses in the Urban Area designation may be permitted subject to conformity with Part 2, Development Criteria, Development Objectives (for Urban Areas), and where applicable, zoning by-laws that are not in conflict with the Niagara Escarpment Plan.

The General Development Criteria which are applicable to the proposed development are:

- “2.2.1 Permitted uses may be allowed provided that:
- (a) The long term capacity of the site can support the use without a substantial negative impact on Escarpment environmental features such as contours, water quality, water quantity, natural vegetation, soil, wildlife, population, visual attractiveness and cultural heritage features.
  - (b) The cumulative impact of development will not have serious detrimental effects on the Escarpment environment (e.g. water quality, vegetation, soil, wildlife, and landscape).
  - (d) Development meets applicable federal, provincial and municipal requirements including health and servicing requirements.
- 2.2.4 Any development permitted should be designed and located in such a manner as to preserve the natural, visual and cultural characteristics of the area.
- 2.2.5 Where development involves new roads, road improvements or service corridors, their designation and alignment should be in harmony with the Escarpment landscape.
- 2.2.6 The design of subdivision, condominiums or similar forms of residential lot ownership within Urban Areas, Minor Urban Centres and Escarpment Recreation Areas, should be in harmony with and maintain the existing character of the Escarpment landscape.”

The proposed Draft Plan of Condominium, including the proposed road layout and distribution of land uses, is consistent with the above-noted policies and has addressed the natural and cultural heritage characteristics of the site in a manner that retains and protects these resources.

**Town of Flamborough Zoning By-law No. 90-145-Z:**

The subject lands are zoned Medium Density Residential “R6-42-H” Holding Zone, Modified, Urban Commercial “UC-16” Zone, and Urban Commercial “UC-15-H” Holding Zone, Modified in the Town of Flamborough Zoning By-law 90-145-Z, amended by By-law No. 15-186. The parent Medium Density Residential “R6” Zone allows for block townhouse dwellings and accessory uses and structures. The site-specific zoning defined various other residential dwelling types, including live-work dwelling units, maisonette dwelling units and rear lane townhouse dwelling units, in addition to providing further site-specific modifications for each type of residential use.

The parent Urban Commercial “UC” Zone permits a range of commercial uses and associated regulations. The Urban Commercial “UC-16” Zone, Modified permitted live-work units in addition to the prescribed commercial units. The Urban Commercial “UC-15-H” Holding Zone, Modified permitted a limited range of commercial uses within the existing heritage building.

The Holding Provision was applied to address the achievement of stormwater management quantity and quality control targets, to the satisfaction of the City of Hamilton and Conservation Halton.

The proposal shall be developed in accordance with conditionally approved Site Plan Control application DA-15-174, and conforms to the applicable provisions and requirements of By-law No. 90-145-Z, as amended by By-law No. 15-186, and subject to final approval of Minor Variance application FL/A-16:294, which was heard by the Committee of Adjustment on October 6, 2016 (Condition (vii) in Appendix “C” to Report PED16231).

**RELEVANT CONSULTATION**

The following departments and agencies had no comments or objections:

- Niagara Escarpment Commission;
- Hydro One; and,
- Infrastructure Planning (Planning and Economic Development Department).

The following departments and agencies submitted comments:

**Conservation Halton:**

As part of Conservation Halton’s review of Plan of Subdivision 25T-201308, a Holding Provision requiring a detailed Stormwater Management Report for Blocks 236 and 239

on the Storm Drainage Plan, identified as Blocks 26, 27, and 35 on the Draft Plan of Subdivision was required to demonstrate that site controls are designed in accordance with the quantity and quality targets identified in the Stormwater Management Report for Mattamy – Waterdown, Phase 2, prepared by R.J. Burnside and Associates Ltd., dated April 2015. In order to ensure that these technical requirements are addressed, a Holding Provision has been placed on Blocks 26, 27, and 35 until such time as the aforementioned Draft Plan condition is fulfilled to the satisfaction of Conservation Halton.

The proponent's consultant, R.J. Burnside, has been working directly with Conservation Halton to address their requirements. Accordingly, Conservation Halton is satisfied with the on-site controls for Site Plan Control application DA-15-174.

**Corridor Management (Public Works Department):**

A Traffic Impact Study was required by Corridor Management which requires final approval prior to registration of the proposed Draft Plan of Subdivision.

The conditions of Draft Plan Approval for Subdivision 25T-201308 will address the requirements of the City through the Traffic Impact Study with respect to the construction of a roundabout, driveway locations, traffic signal controls for the East-West Arterial, pavement marking and traffic sign plans, including required turning lanes, required road widths for sidewalks, storage requirements for roads which connect to the East-West Arterial, and alignment requirements for connecting roads.

With respect to Block 27, pavement marking, traffic sign plans and traffic signal controls are specifically required as conditions of Draft Plan Approval for Subdivision Plan 25T-201308. Specific access requirements will be addressed through the Site Plan Control approval.

**Source Protection Planning (Public Works Department):**

Source Protection Planning reviewed reports submitted by the applicant with respect to a Karst Assessment, Hydrogeological Assessment and Preliminary Geotechnical Investigation as part of the review of Draft Plan of Subdivision 25T-201308.

Conditions for dewatering (to ensure that contamination of nearby wells does not occur during construction) and a scoped Hydrogeological Assessment and mitigation plan were required as conditions of Draft Plan Approval for Subdivision 25T-201308.

**Waste Management (Public Works Department):**

The proposed development will be eligible for weekly collection of garbage, recycling, organics and leaf and yard waste through the City of Hamilton.

The design requirements for City Waste Management vehicles are for a turn-around with a minimum length of 34 metres. This will be addressed through the Site Plan Control process. A warning clause has been included as Condition (ix)(c) in Appendix “C” to PED16231 to notify purchasers / tenants that the property is eligible for 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.

**Union Gas:**

As a condition of final approval, the Owner shall provide to Union Gas Limited the necessary easements and / or agreements required for the provision of gas services for the project in a form satisfactory to Union Gas Limited. The following wording is recommended:

“That the owner / developer shall provide to Union Gas Limited the necessary easements and / or agreements required by Union Gas Limited for the provision of gas services for this project, in a form satisfactory to Union Gas Limited” (Condition (ix) in Appendix “C” to Report PED16231).

**Canada Post:**

Canada Post will provide mail delivery service to the subdivision through centralized Community Mail Boxes (CMBs). Conditions for the CMBs are addressed through Section 1.22 of the Standard Form Subdivision Agreement. Further warning clauses to inform property owners about the centralized mailboxes are included as a condition of Draft Plan Approval for Subdivision 25T-201308.

Standard conditions for the Common Element Condominium 25CDM-201314 will also apply with respect to the following (Conditions (ix)(d), (xii), (xiii), (xiv), (xv), (xvi)(a) and (b) and (xvii) in Appendix “C” to Report PED16231):

- The inclusion of statements within offers of purchase and sale to advise of the use and locations of a designated centralized mail box;
- The determination of suitable temporary centralized mail box locations;
- The installation of a concrete pad for the community mail box;

- The provision of engineering drawings to identify the location of the concrete pad; and,
- The identification of all centralized mail facilities on maps, information boards and plans.

### **Bell Canada:**

Bell Canada has requested standard conditions pertaining to the availability of communication / telecommunication infrastructure, addressed through the Standard Form Subdivision Agreement.

The following condition for telecommunications is standard for condominiums and would apply to the proposed Draft Plan of Condominium (Condition (xviii) in Appendix “C” to Report PED16231):

“That the owner shall provide the Manager of Design and Construction with evidence that satisfactory arrangements, financial and otherwise, have been made with a telecommunication service provider, approved by the Canadian Radio and Telecommunication Commission (CRTC), that adequate telecommunication service will be provided to the condominium, including 9-1-1 emergency calling service that identifies, at a minimum, the caller’s name and location information”.

### **PUBLIC CONSULTATION**

In accordance with provisions of the *Planning Act* and Council’s Public Participation Policy, the Draft Plan of Condominium was circulated as part of the Notice of Complete Application to 196 property owners within 120 m of the subject lands on February 7, 2014. No correspondence was received by staff.

Furthermore, a Public Notice Sign was posted on the property on March 4, 2014 and updated on November 9, 2016 with the Public Meeting date. Finally, Notice of the Public Meeting was given on November 18, 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 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 Town of Flamborough Zoning By-law No. 90-145-Z, amended by City of Hamilton By-law No. 15-186, and the “Mattamy - Waterdown, Phase 2” Draft Approved Plan of Subdivision (25T-201308), and the “Upcountry Estates, Phase 1A” Registered Plan of Subdivision (62M-1101). It will implement the conditionally approved Site Plan Control application DA-15-174, which provides for a form of development that is compatible with surrounding land uses.
2. The proposed Draft Plan of Condominium (Common Element) will be comprised of the following common elements: a condominium road with manoeuvring area, internal sidewalks, a 912 sq m landscaped area and 30 visitor parking spaces as shown on the attached plan marked as Appendix “B” to Report PED16231. The condominium road will provide access to Spring Creek Drive and Stillwater Crescent. All of the common elements, including the condominium road, internal sidewalks, landscaped area, and the visitor parking areas will be maintained by the future Condominium Corporation. Eighty-four (84) townhouse dwellings will have access from the private condominium road and will 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 a future exemption from Part Lot Control. In this regard, final approval and registration of the common element condominium cannot occur until such time as a future Part Lot Control application is approved and the By-law removing lands from Part Lot Control has been passed by Council (Condition (v) in Appendix “C” to Report PED16231).
  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 will 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 (viii) in Appendix “C” to Report PED16231).
  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 (ix)(a) to (d) in Appendix “C” to Report PED16231).

6. Growth Management, Planning and Economic Development staff have indicated that as required by Section 51 (17) of the *Planning Act*, buildings within or adjacent to the land proposed to be subdivided should be shown.

Growth Management has 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 included as in the conditions of Draft Plan of Condominium approval (Note 1, Appendix “C” to Report PED16231).

7. Staff require the inclusion of the following warning clause in all Purchase and Sale Agreements:

“On-street, public parking in the surrounding neighbourhood is limited and cannot be guaranteed in perpetuity. Garage space for this unit is provided and intended for the purposes of parking a vehicle. It is the owner’s responsibility to ensure that their parking needs can be met on site. On-street, over flow parking may not be available” (Condition (ix)(b) in Appendix “C” to Report PED16231).

8. The applicant must register the Draft Plan of Subdivision 25T-201318 in order for Block 27 to be created, prior to final approval of the Plan of Condominium (Condition (ii) in Appendix “C” to Report PED16231).

9. The applicant must receive final approval of Site Plan Control DA-15-174 as a condition of Draft Plan of Condominium approval (Condition (iii) in Appendix “C” to Report PED16231).

10. The applicant must receive final approval of Minor Variance application FL/A-16:294 as a condition of Draft Plan of Condominium approval (Condition (vii) in Appendix “C” to Report PED16231).

11. A Noise Feasibility Study, prepared by HGC Engineering Ltd., dated November 3, 2015 was reviewed by staff. Staff are satisfied with the findings of the study and have required that warning clauses for units 1-10, 16-17, 47, 58-59, and 70-73 and 84 (as shown on Site Plan DA-15-174) be included in future Purchase and Sale Agreements, Rental Leases and in the Development Agreement.

These warning clauses are included as Conditions (x)(a) and (b) as well as (xi)(a) and (b) in Appendix “C” to Report PED16231.

12. The owner shall satisfy all conditions, financial or otherwise, of the City of Hamilton (Condition (xx) in Appendix “C” to Report PED16231).
13. Staff also note that the City of Hamilton is in the process of creating a new comprehensive Zoning By-law for the entire City. The new Zoning By-law is being prepared in phases by Land Use topic. New Commercial and Residential zoning may be implemented which could be different than the current zoning. Accordingly, if a Building Permit has not been issued by the City prior to the new zoning coming into effect, the approved site plan may be affected related to zoning compliance, which may require further planning approvals (i.e. Minor Variance, Zoning Amendment, etc.). This has been included in Condition (i) and as Note #2 in Appendix “C” to Report PED16231.

## **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 2016 – 2025 STRATEGIC PLAN**

### **Healthy and Safe Communities**

*Hamilton is a safe and supportive city where people are active, healthy, and have a high quality of life.*

### **Clean and Green**

*Hamilton is environmentally sustainable with a healthy balance of natural and urban spaces.*

### **Built Environment and Infrastructure**

*Hamilton is supported by state of the art infrastructure, transportation options, buildings and public spaces that create a dynamic City.*

## **APPENDICES AND SCHEDULES ATTACHED**

- Appendix “A”: Location Map
- Appendix “B”: Proposed Draft Plan of Condominium
- Appendix “C”: Recommended Conditions of Approval

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*OUR Vision: To be the best place to raise a child and age successfully.*

*OUR Mission: To provide high quality cost conscious public services that contribute to a healthy, safe and prosperous community, in a sustainable manner.*

*OUR Culture: Collective Ownership, Steadfast Integrity, Courageous Change, Sensational Service, Engaged Empowered Employees.*



**SUBJECT: Application for Approval of Draft Plan of Condominium (Common Element), by Mattamy Homes (Waterdown) Inc., for Lands Known as 493 Dundas Street East (Waterdown) (PED16231) (Ward 15) – Page 17 of 17**

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- Appendix “D”: Draft Approved Plan of Subdivision (25T-201308)
- Appendix “E”: Registered Plan of Subdivision 62M-1101
- Appendix “F”: Conditionally Approved Site Plan

:MG/mo

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