



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

<b>TO:</b>	Chair and Members Planning Committee
<b>COMMITTEE DATE:</b>	February 14, 2017
<b>SUBJECT/REPORT NO:</b>	Application for Approval of a Draft Plan of Condominium (Common Element), for Lands known as 120 John Fredrick Drive (Ancaster) (PED17018) (Ward 12)
<b>WARD(S) AFFECTED:</b>	Ward 12
<b>PREPARED BY:</b>	Michael Fiorino (905) 546-2424 Ext. 4424
<b>SUBMITTED BY:</b>	Stephen Robichaud Director, Planning and Chief Planner Planning and Economic Development Department
<b>SIGNATURE:</b>	

**RECOMMENDATION**

That approval be given to **Redline Revised Draft Plan of Condominium Application 25CDM-201608, by WEBB Planning Consultants Inc., on behalf of Losani Homes (1998) Limited, owner**, to establish a Draft Plan of Condominium (Common Element) to create a condominium road, sidewalks, landscaped areas, 19 visitor parking spaces, centralized mailboxes and exclusive use common element areas, on lands located at 120 John Fredrick Drive (Ancaster), as shown on Appendix “A” to Report PED17018, subject to the following conditions:

- (a) That the approval for Draft Plan of Condominium (Common Element) Application 25CDM-201608 applies to the plan prepared by A.T. McLaren Limited, certified by S. D. McLaren, and dated September 16, 2016, consisting of a condominium road, sidewalks, landscaped areas, 19 visitor parking spaces, centralized mailboxes, an exclusive use common element area identified as E-11 to E-26 and common element – restricted access (limits to be fenced) identified as E-27 and E-28, in favour of 52 semi-detached dwelling units, attached as Appendix “B” to Report PED17018; and,
- (b) That the conditions of Draft Plan of Condominium Approval 25CDM-201608 attached as Appendix “C” to Report PED17018, be received and endorsed by City Council.

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## **EXECUTIVE SUMMARY**

The purpose of the application is to establish a Draft Plan of Condominium (Common Element) to create the following common elements: a condominium road, sidewalks, landscaped areas, 19 visitor parking spaces, centralized mailboxes and also exclusive use common element areas in favour of 52 semi-detached dwelling units, as approved under final approved Site Plan Control Application DAR-15-024. The condominium road will provide access to John Fredrick Drive. The subject lands are to be developed as semi-detached dwelling units, fronting onto a private condominium road, by way of a future Part Lot Control Application PLC-16-019, currently being processed.

Staff have requested that two minor revisions be made to the Draft Plan of Condominium drawing. The revisions are to identify the common element – restricted access area as E-27 and E-28 and to add a Note to the Draft Plan identifying that pursuant to Section 51(32) of the *Planning Act*, draft approval shall lapse if the plan is not given final approval within 3 years.

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 City of Hamilton Zoning By-law No. 05-200, as amended by Minor Variance applications AN/A-15:419 and AN/A-16:226. Further, it is consistent with and will implement the final approved Site Plan DAR-15-024.

***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:**

- June 9, 2016: Condominium Application 25CDM-201608 “Block 4 - Ancaster Glen – Phase 2” is deemed complete.
- June 27, 2016: Circulation of Notice of Complete Application and Preliminary Circulation for Condominium Application 25CDM-201608 sent to 30 property owners within 120 m of the subject lands.
- June 24, 2016: Public Notice Sign placed on the subject lands.
- January 18, 2017: Public Notice Sign updated to indicate Public Meeting date.
- January 27, 2017: Notice of Public Meeting circulated to 30 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) to create the following common elements: a condominium road, sidewalks, landscaped areas, 19 visitor parking spaces, centralized mailboxes and also an exclusive use common element area (identified as E-11 to E-26) and a common element with restricted access (limits to be fenced), identified as E-27 and E-28, in favour of 52 semi-detached dwelling units, as approved under final approved Site Plan Control Application DAR-15-024 attached as Appendix “B” to Report PED17018. The private condominium road will provide access to John Fredrick Drive.

### **Details of Submitted Application:**

- Location:** 120 John Fredrick Drive (Ancaster)  
(See Location Map attached as Appendix “A”)
- Owner / Applicant:** Losani Homes (1998) Limited, c/o: Fred Losani
- Agent:** WEBB Planning Consultants Inc., c/o: James Webb
- Property Description:** Lot Frontage: ± 256.097 m (John Fredrick Drive)  
Lot Depth: ± 120 m (East to West)

**SUBJECT: Application for Approval of Draft Plan of Condominium (Common Element), for Lands Known as 120 John Frederick Drive (Ancaster) (PED17018) (Ward 12) - Page 4 of 14**

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Lot Area: 2.118 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>	Semi-detached dwellings under construction	Neighbourhood Institutional (I1) Zone
<b><u>Surrounding Lands:</u></b>		
<b>North</b>	Natural Open Space	Conservation Hazard Lands (P5)
<b>South</b>	Townhouses under construction	Residential Multiple "H-RM6-603" Holding Zone
<b>East</b>	Public Open Space	Public Open Space (O2) Zone
<b>West</b>	Townhouse Dwellings and Natural Open Space	Residential Multiple 2 "RM2-661" Zone, and Conservation Hazard Lands (P5)

**POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS**

**Provincial Policy Statement (PPS):**

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.

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,

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**SUBJECT: Application for Approval of Draft Plan of Condominium (Common Element), for Lands Known as 120 John Frederick Drive (Ancaster) (PED17018) (Ward 12) - Page 5 of 14**

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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); and,
- conforms to 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 and as "Institutional, Public Elementary School" on Map B.2.3-1 – Garner Neighbourhood Secondary Plan. The following policies, amongst others apply to the application.

Archaeology Policy B.3.4.4.3 in the Urban Hamilton Official Plan states:

"B.3.4.4.3 In areas of archaeological potential identified on Appendix F-4 – Archaeological Potential, an archaeological assessment:

- a) may be required and submitted prior to or at the time of application submission for the following planning matters under the Planning Act when they involve soil disturbance or site alteration:
  - i) site plan applications; and,
  - ii) plans of condominium."

The subject property meets five of the ten criteria used by the City of Hamilton and Ministry of Tourism, Culture and Sport for determining archaeological potential:

- 1) Within 250 m of known archaeological sites;
- 2) Within 300 m of a primary watercourse or permanent waterbody, 200 m of a secondary watercourse or seasonal waterbody, or 300 m of a prehistoric watercourse or permanent waterbody;
- 3) Local knowledge associates areas with historic events/activities/occupations;
- 4) In an area of sandy soil in areas of clay or stone; and,
- 5) Along historic transportation routes.

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**SUBJECT: Application for Approval of Draft Plan of Condominium (Common Element), for Lands Known as 120 John Frederick Drive (Ancaster) (PED17018) (Ward 12) - Page 6 of 14**

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These criteria define the property as having archaeological potential. Accordingly, Section 2 (d) of the *Planning Act* and Section 2.6.2 of the *Provincial Policy Statement* apply to the subject application.

A Stage 1-2 archaeological report (P384-0233-2014) has been submitted to the City of Hamilton and Ministry of Tourism, Culture and Sport. While the Provincial interest has yet to be signed off by the Ministry, Staff concurs with the recommendations made in the report, and the archaeology condition for the subject application has been met to the satisfaction of staff. As Staff has requested a copy of the letter from the Ministry when available, Condition 3 of Appendix “C” to Report PED17018 has been included to ensure a copy of the letter is provided from the Ministry of Tourism, Culture and Sport.

Through the review and approval of the associated development applications, the proposal has been reviewed in accordance with Policy Section C.2.3 Natural Heritage System - Core Areas of Volume 1.

“C.2.3 It is the intent of this policy to preserve and enhance Core Areas and to ensure that any development or site alteration within or adjacent to them shall not negatively impact their natural features or their ecological functions.

C.2.3.1 In accordance with the policies of this Plan, Schedule B – Natural Heritage System, identifies Core Areas to include key natural heritage features and key hydrological features. Core Areas of the City’s Natural Heritage System also include other locally and provincially significant natural areas. Schedule B – Natural Heritage System shall be amended when new Core Areas are identified.

C.2.3.2 Core Areas include key natural heritage features, key hydrological features and provincially significant and local natural areas that are more specifically identified by Schedule B-1-8 – Detailed Natural Heritage Features. Core Areas are the most important components in terms of biodiversity, productivity, and ecological and hydrological functions.

C.2.3.3 The natural features and ecological functions of Core Areas shall be protected and where possible and deemed feasible to the satisfaction of the City enhanced. To accomplish this protection and enhancement, vegetation removal and encroachment into Core Areas shall generally not be permitted, and appropriate vegetation protection zones shall be applied to all Core Areas.”

Natural Heritage Planning staff have stated that this Common Element Condominium application is in accordance with the approved Site Plan Control application DAR-15-024. As well, Natural Heritage Planning staff has advised that the lands from the drip

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**SUBJECT: Application for Approval of Draft Plan of Condominium (Common Element), for Lands Known as 120 John Frederick Drive (Ancaster) (PED17018) (Ward 12) - Page 7 of 14**

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line to the east limit of the subdivision will be a conservation easement; in which the lands from the drip line to a distance of 10 metres west of the drip line will be a common element restricted area, where no structures or pools will be permitted, along with very limited grading, allowing for transitional grading to be permitted. A chain link fence will be installed at the surveyed drip line location and all lands shall remain in private ownership in favour of all 52 residential units.

Condition 6 of Appendix “C” to Report PED17018 has been included to ensure that required warning clauses are included in all purchase and sale agreements and any rental or lease agreements required for occupancy in accordance with the approved Site Plan (DAR-15-024).

Based on the foregoing, staff are of the opinion that the proposal complies with Volume 1 of the Urban Hamilton Official Plan.

**Garner Neighbourhood Secondary Plan:**

The subject lands are designated “Institutional, Public Elementary School” on Map B.2.3-1 – Garner Neighbourhood Secondary Plan.

Staff note that initially this site was intended for a Public Elementary School, however, the Hamilton-Wentworth District School Board declared the lands surplus for a Public Elementary School and instead the land was proposed for residential development. No amendment was required to the Institutional designation as the residential use complies with parent Institutional policy E.6.2.6 of Volume 1, which states:

“E.6.2.6 Notwithstanding Policy E.6.2.2, where institutional uses cease on lands designated Institutional, low density residential uses, parks and open space uses, or *community facilities/services* uses may be permitted without an amendment to this Plan, provided the residential uses are *compatible* with the surrounding area and are in keeping with the policies of this Plan.”

Semi-detached dwellings are considered low density residential in accordance with policy E.3.4.3 of Volume 1 of the Official Plan. Therefore, the proposal complies with the Garner Neighbourhood Secondary Plan.

**Hamilton Zoning By-law No. 05-200**

The subject lands are zoned Neighbourhood Institutional (I1) Zone in the City of Hamilton Zoning By-law No. 05-200. The Neighbourhood Institutional (I1) Zone permits semi-detached dwellings. In addition, Minor Variance applications AN/A-15:419 and AN/A-16:226, addressed various modified standards for lot area and frontage, side and rear yard setbacks, a daylighting triangle and parking. Site Plan Control Application

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**SUBJECT: Application for Approval of Draft Plan of Condominium (Common Element), for Lands Known as 120 John Frederick Drive (Ancaster) (PED17018) (Ward 12) - Page 8 of 14**

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DAR-15-024 was granted final approval on November 4, 2016. Conditions 1 and 2 of Appendix "C" to Report PED17018 have been included to ensure the proposal is developed in accordance with these approvals.

**RELEVANT CONSULTATION**

The following departments and agencies had no comments or objections:

- Geomatics and Corridor Management Section (Public Works Department);
- Forestry and Horticulture Section (Public Works Department);
- Recreation Division (Community and Emergency Services Department); and,
- Hydro One Networks Inc.

The following departments and agencies submitted comments:

**Hamilton Conservation Authority (HCA)** has advised that the HCA's concerns related to site grading, servicing, stormwater management and sediment control have been addressed through review and approval of the related Site Plan Control Application DAR-15-024 and the issuance of a Letter of Permission under Development, Interference with Wetlands, and Alterations to Shorelines and Watercourses Regulation 161/06.

**Business Programs Section (Public Works Department)** have advised and requested 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."

Staff note that this notation was addressed through the approval of Site Plan Control Application DAR-15-024.

**Transportation Management (Public Works Department)** have advised that the development must consider the needs of pedestrians with disabilities, ensure sidewalks are a minimum of 1.5 metres and that the Transit Oriented Development (TOD) guidelines be implemented. Staff note that these comments were addressed through Site Plan application DAR-15-025 which was granted final approval on November 4, 2016.

**Landscape Architectural Services Section (Public Works Department)** have identified that cash-in-lieu of parkland will be required. Staff note that this matter is



**SUBJECT: Application for Approval of Draft Plan of Condominium (Common Element), for Lands Known as 120 John Frederick Drive (Ancaster) (PED17018) (Ward 12) - Page 9 of 14**

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addressed through Section 1.06 of the Registered Subdivision Agreement (Instrument WE1073279).

**Waste Management (Public Works Department)** have advised that the proposed development will be 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. In addition, Waste Management has advised that 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 additional insured (in relation to waste collection services) must also be submitted prior to the start of service.

These requirements have been addressed as Condition 7 in Appendix "C" to Report PED17018.

### **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 City of Hamilton Zoning By-law No. 05-200 as amended by Minor Variance applications AN/A-15:419 and AN/A-16:226. It will implement the approved Site Plan Control application DAR-15-024, which provides for a form of development that is compatible with surrounding land uses.
  
- (2) The proposed Draft Plan of Condominium (Common Element) is comprised of the following common elements: a condominium road, sidewalks, landscaped areas, 19 visitor parking spaces, centralized mailboxes, exclusive use common element area identified as E-11 to E-26 and common element area with restricted access (limits to be fenced), identified as E-27 and E-28, as shown on the attached plan, marked as Appendix "B" to Report PED17018. The condominium road will provide access to John Frederick Drive. All units will hold an interest in the Condominium Corporation to benefit from the common visitor parking spaces and amenity areas. Fifty-two semi-detached dwelling units will have access from the private condominium road and will hold an interest in the common element condominium corporation.

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**SUBJECT: Application for Approval of Draft Plan of Condominium (Common Element), for Lands Known as 120 John Frederick Drive (Ancaster) (PED17018) (Ward 12) - Page 10 of 14**

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- (3) The applicant must ensure that the final Plan of Condominium complies with the final approved Site Plan Control application DAR-15-024, approved on November 4, 2016, to the satisfaction of the Director of Planning and Chief Planner (Condition 2 of Appendix “C” to Report PED17018).
- (4) The land proposed for the common element condominium and the lots for all of the semi-detached dwelling units will be created through Part Lot Control application PLC-16-019. In this regard, final approval and registration of the common element condominium cannot occur until such time as the future Part Lot Control application is approved and the By-law removing the lands from Part Lot Control has been passed by Council (Condition 4 of Appendix “C” to Report PED17018). The applicant has submitted a Part Lot Control application, PLC-16-019 which is currently under review.
- (5) The applicant must 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” to Report PED17018) becomes “tied” to the proposed Draft Plan of Condominium. This will have the effect of ensuring that individual semi-detached lots are not sold until the condominium has been registered as a common elements condominium under the *Condominium Act* (Condition 5 of Appendix “C” to Report PED17018).
- (6) The proposed condominium road will be privately owned and maintained. As a condition of approval, the applicant must include warning clauses in the Development Agreement and all purchase and sale agreements and rental leases to advise perspective purchasers that the City of Hamilton will not provide maintenance or snow removal and that the provided garages are for parking (including that on-street, overflow parking may not be available and cannot be guaranteed in perpetuity) (Conditions 8 (i) and (ii) of Appendix “C” to Report PED17018).
- (7) Growth Management staff have provided the following comments that as required by Section 51 (17) of the *Planning Act*.
  - the plan must be signed by the surveyor. Bearings and dimensions should be provided to identify the boundary of the proposed common element;
  - the specific type of services should be identified; and,
  - 62M-1226 should be added to the Legal Description on the Draft Plan of Condominium.

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**SUBJECT: Application for Approval of Draft Plan of Condominium (Common Element), for Lands Known as 120 John Frederick Drive (Ancaster) (PED17018) (Ward 12) - Page 11 of 14**

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Staff note that the above comments have been addressed as the applicant has provided a revised Draft Plan of Condominium.

Furthermore, the Note below has been added to the Draft Plan of Condominium as Note 1 as shown on Appendix "C" to Report PED17018.

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

Staff also notes that the final registration of the Condominium Agreement shall be undertaken by Growth Planning.

This requirement has been addressed as Condition 14 in Appendix "C" to Report PED17018.

- (8) Development Engineering has advised that all issues pertaining to the grading, drainage and servicing have been reviewed as per approved Site Plan Control application DAR-15-024 and are subject to the terms and conditions therein. Development Engineering requests the following condition to be included:

**"NOTICE REGARDING PERMEABLE PAVER MAINTENANCE**

The primary maintenance requirement for permeable pavers is to clean the surface drainage voids. Fine debris and dirt accumulate in the drainage openings and reduce the pavement's flow capacity. It is natural for clogging to occur over time, but routine maintenance can reduce this problem. A maintenance checklist follows:

- Inspection of the site should occur monthly for the first few months after construction. Then inspections can occur on an annual basis, preferably after rain events when clogging will be obvious.
- Conventional street sweepers equipped with vacuums, water, and brushes can be used to restore permeability. Vacuum sweep ideally four times a year, properly disposing of the removed material. Follow the sweeping with high-pressure hosing of the surface pores. If necessary, add additional aggregate fill material made up of clean gravel.
- Potholes and cracks can be filled with patching mixes, and spot clogging of porous concrete may be fixed by drilling approximately 0.5-inch holes every few feet. Damaged interlocking paving blocks can be replaced.

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**SUBJECT: Application for Approval of Draft Plan of Condominium (Common Element), for Lands Known as 120 John Frederick Drive (Ancaster) (PED17018) (Ward 12) - Page 12 of 14**

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- An active street sweeping program in the site's drainage area will also help to prolong the functional life of the pavement.

Even though some irreplaceable loss in permeability should be expected over the paver's lifetime, the longevity of the system can be increased by following the maintenance schedule for vacuum sweeping and high pressure washing, restricting the area's use by heavy vehicles, limiting the use of de-icing chemicals and sand, and implementing a stringent sediment control plan.”

This has been included as Condition 15 of Appendix “C” to Report PED17018.

- (9) Canada Post has reviewed the development through Site Plan Control application DAR-15-024 and advised that this development will receive mail service through a Centralized Community Mail Box (CMB).

Furthermore, the Developer / Owner shall consult with Canada Post for suitable permanent locations for the CMB and identify on appropriate servicing plans. In addition, prior to offering any units for sale, a map shall be displayed to potential homeowners indicating location of all CMBs and a warning clause shall be included noting these locations and any necessary easements.

Moreover, the Developer / Owner shall provide a suitable and safe temporary site for a CMB until curbs, sidewalks, and final grading are completed at the permanent locations. Mail delivery to new residents will be provided as soon as the homes are occupied. Of note, the servicing plans shall include concrete pad(s) and any required curb depressions for wheelchair access with an opening of at least 2 m (consult Canada Post for detailed specifications).

As such, the standard Canada Post conditions have been included as Conditions 8 (iii), 9, 10, 11, 12 and 13.

- (10) The owner shall satisfy all conditions, financial or otherwise, of the City of Hamilton (Condition 16 in Appendix “C” to Report PED17018).
- (11) Staff have requested that two minor revisions be made to the Draft Plan of Condominium drawing. The revisions are to identify the common element – restricted access area as E-27 and E-28 and to add a Note to the Draft Plan identifying that pursuant to Section 51(32) of the *Planning Act*, draft approval shall lapse if the plan is not given final approval within three years.
- (12) The Draft Plan of Condominium has two exclusive use common element areas. The areas identified as E-11 to E-26 on Appendix “B” to Report PED17018 are

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exclusive use common element where no structures or pools will be permitted, along with very limited grading, allowing for transitional grading to be permitted. The areas identified as E-27 and E-28 on Appendix “B” to Report PED17018 are common element areas with restricted access. A chain link fence will be installed at the surveyed drip line location and the lands shall remain in private ownership in favour of all 52 semidetached dwelling units. Condition 6 of Appendix “C” to Report PED17018 identifies that the owner shall include warning clauses in all purchase and sale agreements and any rental or lease agreements required for occupancy to ensure that these exclusive use lands be preserved with only limited transitional grading being permitted.

- (13) The subject lands are intended to function with the abutting lands to the south. As such, staff are recommending that the Owner enter and register into a Joint Use Agreement with the City as a condition of Draft Plan of Condominium approval in order to permit the use of shared storm and water services across the future property line(s) and to establish a private sewer and water servicing easement over the future common element private condominium road in addition to easements for vehicular and pedestrian access to the satisfaction of the Senior Director of Growth Management.

This requirement has been addressed as Condition 17 in Appendix “C” to Report PED17018.

## **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.*

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**Built Environment and Infrastructure**

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**APPENDICES AND SCHEDULES ATTACHED**

- Appendix "A": Location Map
- Appendix "B": Proposed Draft Plan of Condominium
- Appendix "C": Recommended Conditions of Approval
- Appendix "D": Draft Approved Plan of Subdivision (25T-201308)
- Appendix "E": Approved Site Plan, DAR-15-024

yr:mf