



CITY OF HAMILTON
Planning and Economic Development Department
Planning Division

TO:	Chair and Members Planning Committee
COMMITTEE DATE:	July 11, 2017
SUBJECT/REPORT NO:	Application for Approval of Draft Plan of Condominium (Common Element), for Lands Located at 1169 Garner Road East, Ancaster (PED17119) (Ward 12)
WARD(S) AFFECTED:	Ward 12
PREPARED BY:	Melanie Schneider (905) 546-2424 Ext. 1224
SUBMITTED BY:	Steve Robichaud Director, Planning & Chief Planner Planning and Economic Development
SIGNATURE:	

RECOMMENDATION

That **Draft Plan of Condominium Application 25CDM-201617, by Losani Homes (1998) Ltd., (Owner)**, to establish a Draft Plan of Condominium (Common Element) to create a condominium road network, sidewalks, pedestrian walkway, amenity space, and 46 visitor parking spaces, on lands located at 1169 Garner Road East (Ancaster), as shown on Appendix "A" to Report PED17119, be **APPROVED**, subject to the following conditions:

- a) That the approval for Draft Plan of Condominium (Common Element) application 25CDM-201617 applies to the plan prepared by A.T. McLaren Ltd., certified by S.D. McLaren, dated May 17, 2017, and consisting of a condominium road network, sidewalks, pedestrian walkway, amenity space, and 46 visitor parking spaces attached as Appendix "B" to Report PED17119;
- b) That the conditions of Draft Plan of Condominium Approval attached as Appendix "C" to Report PED17119 be received and endorsed by City Council.

EXECUTIVE SUMMARY

The purpose of the application is to establish a Draft Plan of Condominium (Common Element) to create the following common elements for a 92 dwelling unit development, comprised of 38 townhouse units and 54 maisonette units, as shown on Appendix “B” to Report PED17119:

- An internal condominium road network with one driveway access point from Garner Road East;
- 1.5 metre wide sidewalks;
- Pedestrian walkway, providing connection to the Ancaster Woodlands Subdivision to the north;
- Amenity space; and,
- 46 visitor parking spaces, including 2 barrier free 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 (2017), and complies with the Urban Hamilton Official Plan (UHOP).

The proposed Draft Plan of Condominium will conform to Zoning By-law No. 87-57, as amended by By-law No. 16-035, is consistent with the Registered Plan of Subdivision 62M-1236 “Ancaster Woodlands, Phase 1” (attached as Appendix “D” to Report PED17119), and will implement final approved Site Plan Control Application DA-16-025.

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

Proposal:

The purpose of the application is to establish a Draft Plan of Condominium (Common Element) to create the following common elements, as shown on Appendix “B” to Report PED17119:

- An internal condominium road network with one driveway access point from Garner Road East;
- 1.5 metre wide sidewalks;
- Pedestrian walkway, providing connection to the Ancaster Woodlands Subdivision to the north;
- Amenity space; and,
- 46 visitor parking spaces, including 2 barrier free spaces.

The proposed 92 lots associated with the Draft Plan of Condominium will be created through a future Part Lot Control Application, and shall be developed in accordance with final approved Site Plan Control Application DA-16-025, as per Conditions ii and iii of Appendix “C” to Report PED17119.

Chronology:

November 17, 2016: Condominium Application 25CDM-201617, “Ancaster Woodlands, Phase 1 – Block 1”, is deemed complete.

December 5, 2016: Circulation of Notice of Complete Application and Preliminary Circulation for Condominium Application 25CDM-201617 sent to twelve property owners within 120 metres of the subject lands.

December 23, 2016: Site Plan Control Application DA-16-025 is granted Final Approval.

December 29, 2016: Public Notice Sign is placed on the subject lands.

May 17, 2017: Revised Draft Plan of Condominium submitted.

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June 14, 2017: Public Notice Sign updated to indicate Public Meeting date.

June 23, 2017: Notice of Public Meeting circulated to twelve property owners within 120 metres of the subject lands.

Details of Submitted Application:

Location: 1169 Garner Road East (Ancaster)
(see Location Map attached as Appendix "A" to Report PED17119)

Owner / Applicant: Losani Homes (1998) Ltd., c/o Fred Losani

Agent: WEBB Planning Consultants Inc., c/o James Webb

Property Description: Lot Frontage: 50.896 metres (Garner Road East)

Lot Depth: 319.304 metres (North to South)

Lot Area: 1.68 ha

Servicing: Full Municipal Services

EXISTING LAND USE AND ZONING

	<u>Existing Land Use</u>	<u>Existing Zoning</u>
<u>Subject Lands:</u>	38 Townhouse Dwelling Units and 54 Maisonette Dwelling Units (currently under construction)	Residential Multiple 6 "RM6-611" Zone, Modified
<u>Surrounding Lands:</u>		
North	Single Detached Dwellings (currently under construction)	Residential 4 "R4-612" Zone, Modified
South	Hamilton District Christian High School	Community Institutional (I2) Zone
East	Hydro One Networks Inc. Corridor and a Single Detached Dwelling	Agricultural "A" Zone

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West City of Hamilton Lands and a Public “P” Zone and Single Detached Dwelling Agricultural “A” Zone

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

Provincial Policy Statement (2014)

The Provincial Planning Policy Framework is established through the *Planning Act* (Section 3) and the Provincial Policy Statement (PPS 2014). The *Planning Act* requires that all municipal land use decisions affecting planning matters be consistent with the PPS.

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 Plan, 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, environmental protection and sensitive land uses) are reviewed and discussed in the Official Plan analysis that follows.

Staff also note Cultural Heritage policies have not been updated within the UHOP in accordance with the PPS (2014). The following policy of the PPS (2014) also applies:

“2.6.2 Development and site alteration shall not be permitted on lands containing archaeological resources or areas of archaeological potential unless significant archaeological resources have been conserved.”

As part of previous Zoning Application (ZAC-15-008) and Plan of Subdivision (25T-200518(R), Stage 1 and 2 (P384-014-2013) Archaeological Reports for the subject property were submitted to the City and the Ministry of Tourism, Culture and Sport. The Province signed off on the reports for compliance with licensing requirements in a letter dated August 28, 2013. Staff are of the opinion that the municipal interest in the archaeology for the subject property has been satisfied.

As the application for a Draft Plan of Condominium complies with the Official Plan and the relevant policies pertaining to Cultural Heritage in the PPS, 2014, it is staff’s opinion that the application is:

- Consistent with Section 3 of the *Planning Act*; and,

- Consistent with the Provincial Policy Statement.

Growth Plan for the Greater Golden Horseshoe (2017)

The following policies, amongst others, from the Growth Plan for the Greater Golden Horseshoe are applicable to the proposal:

- “2.2.1.2 Forecasted growth to the horizon of this Plan will be allocated based on the following:
- a) the vast majority of growth will be directed to settlement areas that:
 - i. have a delineated built boundary;
 - ii. have existing or planned municipal water and wastewater systems; and,
 - iii. can support the achievement of complete communities.
 - c) within settlement areas, growth will be focused in:
 - iii. locations with existing or planned transit, with a priority on higher order transit where it exists or is planned; and,
 - iv. areas with existing or planned public service facilities.”

The subject lands are located within a settlement area, outside of the built boundary, as shown on Appendix “G” – Boundaries Map of the Urban Hamilton Official Plan (UHOP). The lands are located north of an existing school and located approximately 500 metres from existing commercial uses in order to contribute to a complete community and an area with existing public service facilities. The lands are also located along the BLAST network, serviced by HSR Routes #34 and #44, ensuring that the location is serviced by planned and existing transit. As part of the Draft Plan of Subdivision Application 25T-200518 and Site Plan Control Application DA-16-025, planned municipal water and wastewater systems were reviewed to ensure that sufficient municipal systems were in place to support the proposal. Accordingly, the proposal conforms to the Growth Plan for the Greater Golden Horseshoe (2017).

Urban Hamilton Official Plan (UHOP)

Volume 1 – Parent Policies

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

- “B.3.2.4.1 The development of a full range of housing forms, types, and densities shall be provided for and promoted throughout the City of Hamilton through residential intensification and new development. A full range of housing forms, types and densities means the full spectrum of physical housing types including single detached dwellings, semi-detached dwellings, duplexes, townhouses of various types (street, block, stacked), apartments and other forms of multiple dwellings, and lodging houses, built at a range of densities.
- B.3.3.1.5 Ensure that new development is compatible with and enhances the character of the existing environment and locale.
- E.2.6.4 The Neighbourhoods element of the urban structure shall permit and provide the opportunity for a full range of housing forms, types and tenure, including affordable housing and housing with supports.
- E.3.1.3 Plan and designate lands for a range of housing types and densities, taking into account affordable housing needs.
- E.3.2.3 The following uses shall be permitted on lands designated Neighbourhoods on Schedule E-1 – Urban Land Use Designations:
- a) Residential dwellings, including second dwelling units and housing with supports.”

The subject lands form part of the registered “Ancaster Woodlands – Phase 1” Draft Plan of Subdivision. As such, the proposed development is consistent with the planned neighbourhood character, and incorporates a range of housing types and densities into an area that is comprised of existing single detached and townhouse dwelling units.

Meadowlands Neighbourhood IV Secondary Plan

The subject lands are designated “Medium Density Residential 2c” in the Meadowlands Neighbourhood IV Secondary Plan (Volume 2). Accordingly, the following policies, amongst others, apply:

- “B.2.6.1.5 Notwithstanding Section E.3.5.2 and E.3.5.7 of Volume 1, the following policies shall apply to the Medium Density Residential 2c designations identified on Map B.2.6-1 – Meadowlands Neighbourhood IV – Land Use Plan:
- a) In the Medium Density Residential 2c designation:
 - i) the density shall be a maximum of 70 units per net residential hectare;
 - ii) predominantly apartment dwellings and innovative attached housing forms in buildings; and,
 - iii) generally located adjacent to or in close proximity to Arterial and/or Collector Roads, *community facilities/services* and open space areas.”

The proposed Draft Plan of Condominium proposes to establish tenure of common elements including sidewalks, a road network, amenity space and parking in support of 92 dwelling units, comprised of back-to-back units (maisonettes), and block townhouse units. The development has a residential density of 54.8 units per hectare and is located adjacent to open space areas to the east, and has frontage on Garner Road East, being a Major Arterial road.

Accordingly, the proposal complies with the policies of the Meadowlands Neighbourhood IV Secondary Plan.

Town of Ancaster Zoning By-law No. 87-57

The subject lands are zoned Residential Multiple “RM6-611” Zone, Modified in the Town of Ancaster Zoning By-law No. 87-57. The parent Residential Multiple “RM6” Zone permits apartment buildings and accessory units thereto. The amending By-law No. 16-035 proposed additional uses including multi-plex and townhouse dwellings, private roadways, and landscaping.

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The proposal has been developed in accordance with approved Site Plan Control Application DA-16-025, granted final approval on December 23, 2016, and complies with the applicable provisions and requirements of By-law No. 87-57, as amended by By-law No. 16-035. Condition i of Appendix "C" to Report PED17119 has 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:

- Hamilton Conservation Authority; and,
- Corridor Management, Public Works Department.

Recycling and Waste Collection, Public Works Department have noted that despite the lands being eligible for municipal collection of waste, recycling, and organics, a portion of the lands are not serviceable based on the road layout. Staff note that as per the Final Approved Site Plan Control Application, DA-16-025, the applicant proposes a private waste hauler to ensure that all of the subject lands are appropriately serviced.

Bell Canada responded with the following information:

"The Developer is hereby advised that prior to commencing any work, the Developer must confirm that sufficient wire-line communication / telecommunication infrastructure is available. In the event that such infrastructure is unavailable, the Developer shall be required to pay for the connection to and / or extension of the existing communication / telecommunication infrastructure.

If the Developer elects not to pay for the above noted connection, then the Developer will be required to demonstrate to the satisfaction of the Municipality that sufficient alternative communication / telecommunication will be provided to enable, at a minimum, the effective delivery of communication / telecommunication services for emergency management services (i.e., 911 Emergency Services)."

Further, Bell Canada has requested the following Condition to be included as part of the Draft Plan of Condominium Approval:

"The Owner shall indicate in the Agreement, in words satisfactory to Bell Canada, that it will grant to Bell Canada any easements that may be required, which may include a blanket easement, for communication / telecommunication infrastructure. In the event of any conflict with existing Bell Canada facilities or easements, the Owner shall be responsible for the relocation of such facilities or easements."

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This has been included as Condition iv in Appendix “C” to Report PED17119.

Canada Post Corporation noted that mail delivery services will be provided to the condominium through a lock box assembly to be installed within the common element at the developer’s expense. Canada Post requests updates if the project description changes in order to assess if there are any impacts. If the application is approved Canada Post requires notification of the civic address as soon as possible. The centralized mail box has been determined through the Final Approved Site Plan Control Application DA-16-025. Further, the associated requests have been addressed through Condition v in Appendix “C” to Report PED17119.

Hydro One Networks Inc. noted that the subject lands are adjacent to an existing Hydro One Corridor and have requested Conditions, outlined as Condition vi in Appendix “C” to Report PED17119. Staff have received confirmation that items a., b., d., and e. of proposed Condition vi have been addressed to the satisfaction of Hydro One, and the remainder of Conditions are still considered outstanding. Accordingly, the Condition continues to remain applicable.

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 twelve property owners within 120 metres of the subject property on December 5, 2016, requesting comments on the application.

Furthermore, a Public Notice Sign was posted on the property on December 29, 2016 and updated on June 14, 2017 with the Public Meeting date. Finally, Notice of the Public Meeting was given on June 23, 2017, in accordance with the requirements of the *Planning Act*.

To date, one public submission has been received, requesting to be informed of future developments on the subject lands. Concerns from the property owner are related to traffic flow, pedestrian walkways, and comprehensive development of adjacent lands. The issues and concerns in the correspondence are summarized in the Analysis and Rationale for Recommendation Section (see Appendix “F” to Report PED17119).

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);

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- (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 Ancaster Zoning By-law No. 87-57, amended by City of Hamilton By-law No. 16-035, and the “Ancaster Woodlands – Phase 1” Plan of Subdivision (62M-1236). It will implement the final approved Site Plan Control Application DA-16-025, which provides for a form of development that is compatible with surrounding land uses.
2. The proposed Draft Plan of Condominium (Common Element) would be comprised of the following common elements: a condominium road network, sidewalks on portions of the condominium road, pedestrian walkway, amenity space, and 46 visitor parking spaces, as shown on the attached plan marked as Appendix “B” to Report PED17119. The condominium road will provide access to Garner Road East. All of the common elements, including the condominium road, sidewalk, amenity area, and the visitor parking areas would be maintained by the future Condominium Corporation. Thirty-eight (38) townhouse dwellings and fifty-four (54) maisonette dwellings would have frontage on the private condominium road and would hold an interest in the common element condominium corporation.
 3. The land proposed for the common element condominium and the lots for all of the dwelling units will be created through a by-law for an exemption from Part Lot Control. In this regard, final approval and registration of the Common Element Condominium cannot occur until such time as a Part Lot Control Application has been submitted and approved, and the By-law removing lands from Part Lot Control has been passed by Council (Condition iii of Appendix “C” to Report PED17119).
 4. The applicant must also enter into a Development Agreement with the City of Hamilton as a condition of Draft Plan of Condominium approval. This Agreement would ensure that the tenure of the proposed Common Elements (as shown on the Draft Plan of Condominium attached as Appendix “B” to Report PED17119) becomes “tied” to the proposed Draft Plan of Condominium. This will have the effect of ensuring that individual townhouse and maisonette lots are not conveyed until the condominium has been registered as a Common Elements Condominium under the *Condominium Act* (Condition vii of Appendix “C” to Report PED17119).
 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

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Leases to advise prospective purchasers that the City of Hamilton will not provide maintenance or snow removal (see Condition viii in Appendix “C” to Report PED17119).

6. Growth Planning staff have reviewed the proposed Draft Plan of Condominium and have requested standard noting be included in the list of Draft Plan of Condominium Conditions which provides for a three year approval limit. This note has been included in Appendix “C” to Report PED17119.
7. The circulation of the application to consider a Draft Plan of Condominium application has resulted in the submission of correspondence from one adjacent property owner (see Appendix “F” to Report PED17119).

Existing Traffic and Urbanization for Garner Road East

The property owner has raised concerns that this area of Garner Road East has many development applications with no clear timing for road widenings or sidewalk installation, given the proximity to the Hamilton District Christian High School to the south. Staff note that in order to register the Ancaster Woodlands – Phase 1 Subdivision, the associated Subdivision Agreement entails that the developer is responsible for installation of sidewalks along all proposed public right of ways. Staff also note that a road widening was dedicated to the City of Hamilton as part of the Subdivision registration, which may be used for installation of services, for sidewalks, or bike lanes. However, no Capital Works Projects have been approved by City Council to date for this work. All road work proposed to facilitate this development has been addressed through the associated Draft Plan of Subdivision and Site Plan Control Applications. Accordingly, staff are satisfied that the applicants have contributed sufficiently to upgrading the road network.

Comprehensive Land Development for Adjacent Lands

The adjacent land owner has raised concerns that the proposed road layout of the Draft Plan of Condominium does not provide for potential road connections to the lands located at 1157 and 1175 Garner Road East. Staff note that the proposed layout does include roadways that can be extended from the northerly rear lot line of 1157 Garner Road East, and to the lands at 1175 Garner Road East from the easterly roadway. Accordingly, staff are satisfied that the surrounding lands can be developed in a comprehensive manner.

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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

Community Engagement & Participation

Hamilton has an open, transparent and accessible approach to City government that engages with and empowers all citizens to be involved in their community.

Healthy and Safe Communities

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

APPENDICES AND SCHEDULES ATTACHED

- Appendix “A”: Location Map
- Appendix “B”: Proposed Draft Plan of Condominium
- Appendix “C”: Recommended Conditions of Approval
- Appendix “D”: Registered Plan of Subdivision
- Appendix “E”: Final Approved Site Plan
- Appendix “F”: Public Comments

Ms/jp