



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

<b>TO:</b>	Chair and Members Planning Committee
<b>COMMITTEE DATE:</b>	March 20, 2018
<b>SUBJECT/REPORT NO:</b>	Application for Approval of a Draft Plan of Condominium (Common Element) for lands located at 1001, 1009 and 1035 Garner Road East (Ancaster) (Ward 12) (PED18049)
<b>WARD(S) AFFECTED:</b>	Ward 12
<b>PREPARED BY:</b>	Michael Fiorino 905 546 2424 Ext. 4424
<b>SUBMITTED BY:</b>	Steve Robichaud Director, Planning and Chief Planner Planning and Economic Development Department
<b>SIGNATURE:</b>	

**RECOMMENDATION**

That **Draft Plan of Condominium Application 25CDM-201703, by A.J. Clarke and Associates Ltd., on behalf of A. DeSantis Developments Ltd., Owner,** to establish a Draft Plan of Condominium (Common Element) to create a condominium road network, sidewalks, landscaped areas, 47 visitor parking spaces and centralized mailboxes, on lands located at 1001, 1009 and 1035 Garner Road East (Ancaster), as shown on Appendix "A" attached to Report PED18049, be **APPROVED** subject to the following conditions:

- (a) That the approval for Draft Plan of Condominium (Common Element) application 25CDM-201703 applies to the plan prepared by A.T. McLaren Limited, certified by S. D. McLaren, and dated January 11, 2017, consisting of a condominium road network, sidewalks, landscaped areas, 47 visitor parking spaces and centralized mailboxes, in favour of 70 block townhouse dwelling units and 24 maisonette dwelling units, attached as Appendix "B" to Report PED18049; and,
- (b) That the conditions of Draft Plan of Condominium Approval 25CDM-201703, attached as Appendix "C" to Report PED18049, 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: a private condominium road network, sidewalks, landscaped areas, 47 visitor parking spaces and centralized mailboxes. The condominium road will access on to Garner Road East. The subject lands are to be developed for 70 block townhouse dwelling units and 24 maisonette dwelling units, fronting onto a private condominium road, by way of Part Lot Control Application PLC-17-022.

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 complies with the Urban Hamilton Official Plan, as amended by OPA No. 42, conforms to the Town of Ancaster Zoning By-law No. 87-57, as amended by By-law No. 16-066 and Minor Variance Application AN/A-17:52. Further, it is consistent with and will implement the conditionally approved Site Plan Control Application DA-16-151.

### ***Alternatives for Consideration – See Page 12***

## **FINANCIAL – STAFFING – LEGAL IMPLICATIONS**

Financial: N/A

Staffing: N/A

Legal: As required by 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: a condominium road network, sidewalks, landscaped areas, 47 visitor parking spaces and centralized mailboxes, in accordance with the conditionally approved Site Plan Control Application DA-16-151, attached as Appendix “D” to Report PED18049. The private condominium road will

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provide access to Garner Road East and will be tied to 70 block townhouse dwelling units and 24 maisonette dwelling units.

**Chronology:**

- January 30, 2017: Condominium Application 25CDM-201703 is received.
- February 28, 2017: Condominium Application 25CDM-201703 is deemed complete.
- March 7, 2017: Circulation of Notice of Complete Application and Preliminary Circulation for Condominium Application 25CDM-201703 sent to 33 property owners within 120 m of the subject lands.
- March 29, 2017: Public Notice Sign placed on the subject lands.
- February 21, 2018: Public Notice Sign updated to indicate Public Meeting date.
- March 2, 2018: Notice of Public Meeting circulated to 33 property owners within 120 m of the subject lands.

**Details of Submitted Application:**

- Location:** 1001, 1009 and 1035 Garner Road East (Ancaster)  
(See Appendix "A" to Report PED18049)
- Owner / Applicant:** A DeSantis Developments Ltd.,
- Agent:** A.J. Clarke & Associates Ltd.
- Property Description:** Lot Frontage: ± 128.47 m (Garner Road East)  
Lot Depth: ± 145.33 m (North to South)  
Lot Area: 2.30 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	Residential Multiple "RM5-668" Zone, Modified
<b><u>Surrounding Lands:</u></b>		
<b>North</b>	Vacant	Residential Multiple "RM2-667" Zone, Modified
<b>South</b>	Single Detached Dwelling	Institutional "I" Zone and Rural (A2) Zone
<b>East</b>	Vacant	Residential Multiple "RM2-616" Zone, Modified
<b>West</b>	Vacant	Residential Multiple "RM2-670" Zone, Modified

**POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS**

**Provincial Policy Statement (PPS 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 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 that follows.

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*, and,

- consistent with the Provincial Policy Statement (2014).

**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 on the north side of Garner Road East, west of Raymond Road. The subject lands are located in the vicinity of existing commercial uses contributing to a complete community and an area with existing public service facilities. The lands are also located along the S Line of the BLAST network, which is serviced by HSR Route #44, ensuring that the location is serviced by planned and existing transit. As part of the Draft Plan of Subdivision Application 25T-201501 and Site Plan Control Application DA-16-151, planned municipal water and wastewater systems were reviewed to ensure that sufficient municipal systems are 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)**

The subject lands are designated “Neighbourhoods” on Schedule “E-1” – Urban Land Use Designations in the Urban Hamilton Official Plan (UHOP). The subject lands are

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also designated “Low Density Residential 3b”, as amended by OPA No. 42, on Map B.2.6-1 – Land Use Plan of the Meadowlands Neighbourhood IV Secondary Plan.

Through the review and approval of the associated development applications, the proposal has been reviewed in accordance with Policy Section C.2.7 Natural Heritage System - Linkages of Volume 1. Through a detailed review of the subject lands, this Linkage was identified as a wooded area. Generally, where new development or site alteration is proposed within a Linkage, the applicant shall prepare a Linkage Assessment:

“C.2.7.5 Where new development or site alteration is proposed within a Linkage in the Natural Heritage System as identified in Schedule B – Natural Heritage System, the applicant shall prepare a Linkage Assessment. On sites where an Environmental Impact Statement (EIS) is being prepared, the Linkage Assessment can be included as part of the EIS report. Any required Linkage Assessment shall be completed in accordance with Policy F.3.2.1.11 – Linkage Assessments.”

Through previous development applications (UHOPA-15-001; ZAC-15-003; 25T-201501), it was identified that trees were removed (permits granted by the City’s Forestry Conservation By-law Officer for removal) and the Linkage was no longer on the property. Tree preservation will be completed through Condition No. 5.10 of the City’s Standard Conditions of Subdivision and, as such, Staffs’ concern with regards to the Natural Heritage has been addressed through the associated Plan of Subdivision.

**Meadowlands Neighbourhood IV Secondary Plan**

The subject lands are also designated “Low Density Residential 3b”, as amended by By-law No. 16-065, on Map B.2.6-1 – Land Use Plan of the Meadowlands Neighbourhood IV Secondary Plan. The purpose of the Urban Hamilton Official Plan Amendment was to:

- Redesignate the subject lands from “Low Density Residential 2b” to “Low Density Residential 3b”;
- To remove the proposed southerly public road from the Meadowlands Neighbourhood IV Secondary Plan; and,
- Removal of the lands known as 1035 Garner Road East from Schedule “B” – Natural Heritage System.

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The following policies, amongst others, apply to the proposed Draft Plan of Condominium:

**“B.2.6.1.4 Low Density Residential Designations**

Notwithstanding Section E.3.4.3 and E.3.4.4 of Volume 1, the following policies shall apply to the Low Density Residential designations identified on Map B.2.6-1 – Meadowlands Neighbourhood IV – Land Use Plan:

- b) In the Low Density Residential 3b designation:
- i) the density shall be a maximum of 50 units per net residential hectare;
  - ii) predominantly town house dwellings and innovative attached housing dwelling forms shall be permitted; and,
  - iii) generally located at the periphery of residential neighbourhoods adjacent to or close to arterial and/or collector roads.”

The “Low Density Residential 3b” designation in the Secondary Plan identifies a maximum density of 50 units per net residential hectare (uph), which permits town house dwellings and innovative attached housing forms (including maisonettes). In regard to this development, the density is calculated at 41.3 uph, which complies with Policy B.2.6.1.4 b) i). Additionally, these units will be two storeys in height (10.5 m) and will have access to Garner Road East, which is a Major Arterial, thereby complying with the requirements of Section B.2.6.1.4 b) iii). As such, the proposal complies with the UHOP, as amended by OPA No. 42.

**Ancaster Zoning By-law No. 87-57**

The subject lands are zoned Residential Multiple “RM5-668”, Zone, Modified, in the Town of Ancaster Zoning By-law No. 87-57, as amended by By-law 16-066. The amending By-law permits residential uses in accordance with the provisions of the Residential Multiple “RM5” Zone, which permits various forms of multiple dwellings, including block townhouse dwellings. Additionally, a Minor Variance Application (AN/A-17:52), was required to accommodate this development proposal. The approved Minor Variance Application permits the following:

- That the private / condominium roads shall be deemed to be street(s), and parking and landscaping are permitted within the street(s) and common elements;

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- Street townhouse dwellings fronting onto a private condominium road shall be considered block townhouse dwellings and multi-plex dwellings for the purpose of the regulations of the “RM5-668” contained in Site Specific By-Law 16-066;
- A minimum front yard of 3.0 m shall be provided;
- A 675.8 sq m children’s play area / amenity area to be located on the north-west corner of Block 1 and Block 5 which is zoned “RM2-667”; and,
- The boundaries of Block 1, according to the most current draft of the Final Plan of Subdivision (yet to be registered), shall be deemed to be the lot lines, and regulations including but not limited to lot area, lot frontage, lot coverage, and building setbacks, landscaped areas, parking requirements, and accessory buildings, shall be from the exterior boundaries of Block 1 according to the unregistered final plan of subdivision and not from individual properties or boundaries created by registration of a condominium plan or created by Part Lot Control.

The proposal has been developed in accordance with conditionally approved Site Plan Control Application DA-16-151, granted conditional approval on December 20, 2016, and received a one year extension on December 1, 2017 which grants conditional approval until December 20, 2018, and conforms with the applicable provisions and requirements of Zoning By-law No. 87-57 and the site specific Residential Multiple “RM5-668”, Zone, Modified, as further amended by Minor Variance Application AN/A-17:52. Condition Nos. 1 and 2 of Appendix “C” to Report PED18049 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:

- Hydro One.

**Recycling and Waste Disposal (Public Works Department)** have advised that the property is eligible for waste collection service, however, based on the current site design, may not be serviceable and, as such, the following note be added to and addressed through the Site Plan Application:

“This property is eligible for weekly collection of garbage, recycling, organics and leaf and yard waste through the City of Hamilton subject to compliance with specifications indicated by the Public Works Department and subject to compliance with the City’s Solid Waste Management By-law 09-067, as amended.”

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Staff note that this notation will be addressed through the conditionally approved Site Plan Control Application DA-16-151. Condition No. 5 to Appendix “C” Report PED18049 has been included as the service for the collection of waste on private property requires an “Agreement for on-site Collection of Municipal Solid Waste” prior to the commencement of Municipal collection.

**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 m and that the Transit Oriented Development (TOD) guidelines be implemented. Staff note that these comments and the Transportation Demand Management Options Report are being addressed through Site Plan Control Application DA-16-151 which has been conditionally approved.

**Recreation Division, Community and Emergency Services Department** has an opportunity to provide a public pedestrian connection on Block 5, which will enable a pedestrian connection to parkland and school located northeast of the subject lands. Recreation Staff encourage that the pedestrian connection, to deter future residents walking / cycling along Garner Road East to access the park / school site as it is presently a rural cross section and does not have sidewalks, which may pose safety concerns. Additionally, due to the limited private amenities being provided in the condominium development, pedestrian connection to the future road (i.e. Beasley Grove) be established for accessing the future neighbourhood park and school site. Staff note that these comments are addressed through the design of Site Plan Control Application DA-16-151 which includes the pedestrian connection.

**Transit Planning (Public Works Department)** have advised that the subject lands are served by HSR route #44 operating daily and along the future S Line rapid transit corridor. Pedestrian access from the subject land to Garner Road East has been provided through the common element sidewalks throughout the site which will provide opportunity for residents to utilize planned public transportation along Garner Road East.

**Vector Borne Disease (Public Health Services)** have advised that a Pest Control Plan, focusing on rats and mice, shall be developed and implemented for the demolition, construction / development phase of the project and continue until the project is complete. Staff notes that these comments are addressed through Site Plan application DA-16-151.

**Corridor Management (Public Works Department)** provided comments regarding the turning lanes, access widths, visibility triangles, internal traffic signs and pavement markings. Staff notes that these comments are being addressed through Site Plan Control Application DA-16-151.

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**Canada Post Corporation** noted that mail delivery services will be provided to the condominium through centralized mail facilities (Lock Bock 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 location has been determined through the conditionally approved Site Plan Control Application DA-16-151. Further, the requested conditions have been addressed through Condition Nos. 6 (iv), 7, 8, 9, 10 and 11 in Appendix "C" to Report PED18049.

**Union Gas** has requested that the owner provide Union Gas with any necessary easements and / or agreements for gas services. Condition No. 13 of Appendix "C" to Report PED18049 has been included to address this.

## **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 as amended by By-law No. 16-065; and,
  - (iii) The proposal establishes condominium tenure for a form of development permitted under the Town of Ancaster Zoning By-law No. 87-57 as amended by By-law No. 16-066 and further amended by Minor Variance application AN/A-17:52. It will implement the conditionally approved Site Plan Control application DA-16-151, 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 network, sidewalks, landscaped areas, 47 visitor parking spaces and centralized mailboxes, as shown on the attached plan, marked as Appendix "B" to Report PED18049. The private condominium road will provide access to Garner Road East. All units will hold an interest in the Condominium Corporation to benefit from the common visitor parking spaces and landscaped areas. Seventy (70) block townhouse dwelling units and twenty-four (24) maisonette dwelling units will have access from the private condominium road network and will hold an interest in the Common Element Condominium Corporation.

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3. The applicant must ensure that the final Plan of Condominium complies with the final approved Site Plan Control Application DA-16-151, conditionally approved on December 20, 2016, to the satisfaction of the Director of Planning and Chief Planner (Condition No. 2 of Appendix “C” to Report PED18049).
4. The land proposed for the common element condominium and the lots for all of the townhouse and maisonette dwelling units will be created through Part Lot Control Application PLC-17-022. In this regard, final approval and registration of the Common Element Condominium cannot occur until such time as the Plan of Subdivision is registered, the Part Lot Control Application is approved and the By-law removing the lands from Part Lot Control has been passed by Council (Condition No. 3 of Appendix “C” to Report PED18049). The applicant has submitted a Part Lot Control Application, PLC-17-022 which is currently under review. In addition, Condition No. 14 has been included to ensure final registration of the M-Plan for the Garner Estates Subdivision (25T-201501) prior to the final approval of Plan of Condominium.
5. 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” to Report PED18049) becomes “tied” to the proposed Draft Plan of Condominium. This will have the effect of ensuring that individual townhouse and maisonette lots are not sold until the condominium has been registered as a Common Elements Condominium under the Condominium Act (Condition No. 4 of Appendix “C” to Report PED18049).
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 or lease agreements 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) (Condition No. 6 (i) and (iii) of Appendix “C” to Report PED18049).
7. Development Engineering has advised that all issues pertaining to the grading, drainage and servicing have been reviewed as per conditionally approved Site Plan Control Application DA-16-151 and are subject to the terms and conditions therein. Furthermore, Development Engineering has advised that it is the responsibility of the Condominium Corporation to ensure that the maintenance and repair of all utilities within the Common Elements be maintained at the

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Corporations own expense. The above comments have been included as Condition Nos. 6 (ii) and 12 of Appendix “C” to Report PED18049.

- (8) Growth Management staff have advised that the following note be added to the Draft Plan of Condominium Conditions as Note 1 (see Appendix “C” to Report PED18049):

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

In addition, the Condominium Corporation will be requires to maintain the Common Elements, including all utilities, at their own expense. This requirement has been addressed as Condition No. 12 in Appendix “C” to Report PED18049.

9. The owner shall satisfy all conditions, financial or otherwise, of the City of Hamilton (Condition No. 15 in Appendix “C” to Report PED18049).

## **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.*

### **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
- Appendix “D”: Conditionally Approved Site Plan Control Application DA-16-151

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