



CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Planning Division

TO:	Chair and Members Planning Committee
COMMITTEE DATE:	May 1, 2018
SUBJECT/REPORT NO:	Application for Approval of a Draft Plan of Condominium (Common Element) for Lands Located at 50 John Frederick Drive (Ancaster) (Ward 12) (PED18095)
WARD(S) AFFECTED:	Ward 12
PREPARED BY:	Michael Fiorino (905) 546-2424 Ext. 4424
SUBMITTED BY:	Steve Robichaud Director, Planning and Chief Planner Planning and Economic Development Department
SIGNATURE:	

RECOMMENDATION

That **Draft Plan of Condominium Application 25CDM-201708, by WEBB Planning Consultants Inc., on behalf of 1541079 Ontario Inc. (Losani Homes Limited), owner**, to establish a Draft Plan of Condominium (Common Element) to create a condominium road network, sidewalks, landscaped areas, 12 visitor parking spaces, centralized mailboxes and exclusive use common element areas, on lands located at 50 John Frederick Drive (Ancaster), as shown on Appendix “A” attached to Report PED18095, be **APPROVED** subject to the following conditions:

- (a) That the approval for Draft Plan of Condominium (Common Element) application 25CDM-201708 applies to the plan prepared by A.T. McLaren Limited, certified by S. D. McLaren, and dated March 12, 2018, consisting of a condominium road network, sidewalks, landscaped areas, 12 visitor parking spaces, centralized mailboxes and exclusive use common element areas, in favour of 21 townhouse dwelling units attached as Appendix “B” to Report PED18095;
- (b) That the conditions of Draft Plan of Condominium Approval 25CDM-201708, attached as Appendix “C” to Report PED18095, 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, 12 visitor parking spaces, centralized mailboxes and also exclusive use common element areas in favour of 21 townhouse dwelling units, as approved under final approved Site Plan Control Application DA-16-180. The condominium road will provide access to John Fredrick Drive. The subject lands are being developed as townhouse dwelling units fronting onto a private condominium road. A Part Lot Control Application (File No. PLC-17-024) is currently being processed will create the parcels of land.

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 Ancaster Zoning By-law No. 87-57, as amended by By-law No. 16-220. Further, it is consistent with and will implement the final approved Site Plan (Application DA-16-180).

Alternatives for Consideration – See Page 11

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 private condominium road network, sidewalks, landscaped areas, 12 visitor parking spaces, centralized mailboxes and also an exclusive use common element area (identified as R-1 to R-14 on Appendix “B” to Report PED18095), in favour of 21 townhouse dwelling units, as approved under final approved Site Plan Control Application DA-16-180 attached as Appendix “B” to

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Report PED18095. The private condominium road will provide access to John Fredrick Drive.

Chronology:

- September 14, 2017: Condominium Application 25CDM-201708 “Block 14 - Ancaster Glen – Phase 2” is deemed complete.
- September 21, 2017: Circulation of Notice of Complete Application and Preliminary Circulation for Condominium Application 25CDM-201708 sent to 12 property owners within 120 m of the subject lands.
- September 28, 2017: Public Notice Sign placed on the subject lands.
- April 4, 2018: Public Notice Sign updated to indicate Public Meeting date.
- April 13, 2018: Notice of Public Meeting circulated to 12 property owners within 120 m of the subject lands.

Details of Submitted Application:

Location: 50 John Fredrick Drive (Ancaster)
(See Location Map attached as Appendix “A” to Report PED18095)

Owner / Applicant: 1541079 Ontario Inc. c/o: Losani Homes Ltd.

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

Property Description: Lot Frontage: ± 131.90 m (John Fredrick Drive)

Lot Depth: ± 55.98 m (East to West)

Lot Area: 0.57 ha

Servicing: Full Municipal Services

EXISTING LAND USE AND ZONING

	<u>Existing Land Use</u>	<u>Existing Zoning</u>
<u>Subject Lands:</u>	Townhouse dwellings under construction	Residential Multiple “RM5-678” Zone, Modified
<u>Surrounding Lands:</u>		
North	Semi-detached dwellings	Neighbourhood Institutional (I1) Zone
South	Single detached dwelling	Residential Multiple “H-RM6-603” Holding Zone, Modified
East	Public Open Space	Public Open Space (O2) Zone
	Single detached dwelling	Agricultural “A-216” Zone, Modified
West	Townhouse Dwellings	Residential Multiple “RM5-660” 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. However, the UHOP has not been updated with respect to the cultural heritage policies of the Provincial Policy Statement. The subject property meets four 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;

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- 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) In an area of sandy soil in areas of clay or stone; and,
- 4) Along historic transportation routes.

These criteria define the property as having archaeological potential. Accordingly, Section 2.6.2 of the *Provincial Policy Statement* applies to the subject application.

As part of Site Plan Control Application DA-16-180, a Stage 1-2 archaeological report (P384-0233-2014) was submitted to the City of Hamilton and Ministry of Tourism, Culture and Sport. The Province signed off on the reports for compliance with licensing requirements in a letter dated August 6, 2016. Staff are of the opinion that the municipal interest in the archaeology of this portion of the site has been satisfied.

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, east of John Frederick Drive. The subject lands are located in the vicinity of existing commercial uses and future employment lands which contribute to a complete community. 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 Registered Plan of Subdivision 62M-1226 and Site Plan Control Application DA-16-180, 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 and as “Low Density Residential 2c” on Map B.2.3-1 – Garner Neighbourhood Secondary Plan. The following policies, amongst others, apply to the application.

- “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.2.3.3 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.”

A Core Area has been identified within and adjacent to (east) of the subject property. This Core Area is identified as a Significant Woodland (Southcote Woodland). This woodland has been designated as Natural Open Space within the Garner Neighbourhood Secondary Plan. Areas that are designated Natural Open Space shall remain in their natural state, subject to any protection, conservation and replanting required by the City and the Hamilton Conservation Authority (HCA).

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To aid in mitigating possible impacts such as encroachment, dumping and invasive species, a 2.0 m landscape area was identified adjacent to the woodland. A Tree Protection Plan and Landscape Plan were reviewed and approved through Site Plan Control Application DA-16-180 to ensure the natural features and their ecological function were not negatively impacted. Furthermore, a Compensation Planting Plan was included as a special condition of Site Plan Control approval which required compensation and replanting of trees to ensure protection and that the natural state of the woodlot be preserved. Condition No. 12 of Appendix “C” to Report PED18095 has been included to ensure that required warning clauses notifying home owners of the features and restrictions are included in all purchase and sale agreements and any rental or lease agreements required for occupancy, in accordance with the approved Site Plan (DA-16-180).

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 “Low Density Residential 2c” on Map B.2.3-1 – Garner Neighbourhood Secondary Plan. The proposal has been reviewed in accordance with Low Density Residential 2c policies of Section B.2.3.1.3 which states:

“B.2.3.1.3 Low Density Residential Designations

Notwithstanding Policies 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.2.3-1 – Garner Neighbourhood – Land Use Plan.

- e) In the Low Density Residential 2c designation:
 - i) the permitted uses shall be street townhouses, block townhouses, courtyard townhouse and other innovative ground-oriented attached housing forms; and,
 - ii) the density shall not exceed 37 dwelling units per gross/net residential hectare.”

Townhouse dwellings are considered low density residential in accordance with policy B.2.3.1.3 of the Garner Neighbourhood Secondary Plan in Volume 2 of the Official Plan. Furthermore, the proposal has a density of 36.84 units per hectare and therefore, the proposal complies with the Garner Neighbourhood Secondary Plan.

Ancaster Zoning By-law No. 87-57

The subject lands are zoned Residential Multiple “RM5-678” Zone, Modified, in the Town of Ancaster Zoning By-law No. 87-57, as amended by By-law 16-220. 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 townhouse dwellings. Site Plan Control Application DA-16-180 was granted final approval on December 8, 2017. Condition Nos. 1 and 2 of Appendix “C” to Report PED18095 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;
- Recreation Division (Community and Emergency Services Department); and,
- Landscape Architectural Services Section (Public Works Department).

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 were addressed through the approved Site Plan Control Application DA-16-180.

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”.

Staff note that this notation was addressed through the approved Site Plan Control Application DA-16-180. Condition No. 5 to Appendix “C” Report PED18095 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 were addressed through Site Plan Control Application DA-16-180, which was granted final approval on December 8, 2017.

Forestry and Horticulture Section (Public Works Department) have requested confirmation that the Landscape Plan demonstrated that the applicant has provided sufficient street tree plantings at this development. Staff notes that these comments were addressed through the approved Site Plan Control Application DA-16-180.

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 approved Site Plan Control Application DA-16-180. Further, the requested conditions have been addressed through Condition Nos. 6 (iv), 7, 8, 9, 10 and 11 in Appendix "C" to Report PED18095.

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 Ancaster Zoning By-law No. 87-57 as amended by By-law No. 16-220. It will implement the approved Site Plan Control Application DA-16-180, 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, 12 visitor parking spaces, centralized mailboxes and exclusive use common element areas identified as R-1 to R-14, as shown on the attached plan, marked as Appendix "B" to Report PED18095. 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. Twenty-one townhouse dwelling units will have access from

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- the private condominium road network and will hold an interest in the Common Element Condominium Corporation.
- 3) The applicant must ensure that the final Plan of Condominium complies with the final approved Site Plan Control Application DA-16-180, approved on December 8, 2017, to the satisfaction of the Director of Planning and Chief Planner (Condition No. 2 of Appendix “C” to Report PED18095).
 - 4) The land proposed for the common element condominium and the lots for all of the townhouse dwelling units will be created through Part Lot Control Application PLC-17-024. 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 No. 3 of Appendix “C” to Report PED18095). The applicant has submitted a Part Lot Control Application, PLC-17-024 which is currently under review.
 - 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 PED18095) 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 No. 4 of Appendix “C” to ped PED18095).
 - 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 PED18095).
 - 7) Development Engineering has advised that all issues pertaining to the grading, drainage and servicing have been reviewed as per approved Site Plan Control Application DA-16-180 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 Corporations own expense. The above comments have been included as Condition Nos. 6 (ii) and 13 of Appendix “C” to Report PED18095.

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- 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 PED18095):

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 required to maintain the Common Elements, including all utilities, at their own expense. This requirement has been addressed as Condition No. 13 in Appendix “C” to Report PED18095.

- 9) The Draft Plan of Condominium has two exclusive use common element areas. The common element areas identified as R-1 to R-14 on Appendix “B” to Report PED18095 are exclusive use common element areas 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 and the lands shall remain in private ownership in favour of all 21 townhouse dwelling units. Condition No.12 of Appendix “C” to Report PED18095 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.
- 10) The subject lands are intended to function with the abutting lands to the north. As such, a Joint Use Agreement was required with the City as a condition of Draft Plan of Condominium approval for the lands to the north in order to permit the use of shared storm and water services across the property line(s) and to establish a private sewer and water servicing easement over the common element private condominium road in addition to easements for vehicular and pedestrian access to the satisfaction of the Senior Director of Growth Management. Staff note that servicing, access and maintenance easements were established through Part Lot Control Application PLC-16-019 (By-law No. 17-078) and a Joint Use Agreement which was registered on November 9, 2017 as Instrument No. WE1249097.
- 11) The owner shall satisfy all conditions, financial or otherwise, of the City of Hamilton (Condition No. 15 in Appendix “C” to Report PED18095).

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

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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.

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”: Approved Site Plan Control Application DA-16-180

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