



CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Planning Division

TO:	Chair and Members Planning Committee
COMMITTEE DATE:	July 9, 2019
SUBJECT/REPORT NO:	Application for Draft Plan of Condominium (Vacant Land) for Lands Located at 121 Fiddler's Green Road (PED19131) (Ward 12)
WARD(S) AFFECTED:	Ward 12
PREPARED BY:	Melanie Schneider (905) 546-2424 Ext. 1224
SUBMITTED BY:	Steve Robichaud Director, Planning and Chief Planner Planning and Economic Development Department
SIGNATURE:	

RECOMMENDATION(S)

That **Draft Plan of Condominium Application 25CDM-201816, by Wellings Planning Consultants Inc., on Behalf of Sonoma Homes Inc. (Michael Chiaravalle), owner** to establish a Draft Plan of Condominium (Vacant Land) to create a private road, landscaped areas, and five units on lands located at 121 Fiddler's Green Road (Ancaster), as shown on Appendix "A", attached to Report PED19131, be **APPROVED** subject to the following conditions:

- (a) That the approval for Draft Plan of Condominium (Vacant Land) application 25CDM-201816 applies to the plan prepared by A.T. McLaren Limited, certified by S.D. McLaren, and dated April 10, 2019, consisting of a private road, landscaped areas, and five units for a total of five single detached dwellings, attached as Appendix "B" to Report PED19131;
- (b) That the conditions of Draft Plan of Condominium Approval 25CDM-201816, attached as Appendix "C" to Report PED19131, be received and endorsed by City Council.

EXECUTIVE SUMMARY

The purpose of the application is to establish a Draft Plan of Condominium (Vacant Land) to create a private road, landscaped areas, and five units for a total of five single detached dwellings. The proposed development is conditionally approved under Site Plan Control application DA-18-207. The private road will access onto Fiddler's Green Road. The proposed Draft Plan of Condominium conforms to the Town of Ancaster Zoning By-law No. 87-57, as amended by By-law No. 17-181.

The proposed Draft Plan of Condominium has merit and can be supported as it is consistent with the Provincial Policy Statement (PPS), conforms to A Place to Grow (2019), and complies with the Urban Hamilton Official Plan (UHOP).

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 (Vacant Land).

HISTORICAL BACKGROUND

Proposal:

The purpose of the application is to establish a Draft Plan of Condominium (Vacant Land) to create a private road, landscaped areas, and five units for a total of five single detached dwellings to be developed on the subject lands in accordance with conditionally approved Site Plan Control application DA-18-207, attached as Appendix "D" to Report PED19131. The private road will provide access to Fiddler's Green Road.

By-law No. 05-535

In 2005, Council passed By-law No. 05-535 rezoning the subject lands from Residential Multiple "RM3-459" Zone to the Existing Residential "ER-538", "ER-539", and "ER-540" Zones. The effect of this by-law was to allow for the development of two additional single detached dwellings on proposed flag shaped lots, in addition to the existing dwelling on the subject lands.

Ontario Municipal Board (OMB) Decision)

On March 24, 2016 the OMB issued a Decision and Order that dealt with the Site-Specific appeals for the subject lands, pertaining to the Ancaster Wilson Street Secondary Plan. The Board found that the subject lands were located within a stable residential neighbourhood comprised of single detached dwellings. Also, the development goals of Ancaster Wilson Street Secondary Plan apply to the secondary plan area as a whole, and are not necessarily intended to be met on the subject lands.

The Board found that a “modest amount of intensification” of up to six units on the subject lands was consistent with the Provincial Policy Statement (2014) as this amount of intensification can be accommodated on the subject lands while maintaining the character of the area.

By-law No. 17-181

On August 15, 2017, Planning Committee approved Zoning By-law Amendment application ZAR-17-011 for the development of five single detached dwellings. The application was appealed to the OMB (now Local Planning Appeal Tribunal) by a third party. The OMB issued a Decision and Order which approved the Zoning By-law Amendment and By-law No. 17-181, allowing for a change in zoning from the Existing Residential “ER-538”, “ER-539”, and “ER-540” Zones to the Residential Multiple “R5-688” Zone for the development of five single detached dwellings on the subject lands, in accordance with the Ancaster Wilson Street Secondary Plan.

Site Plan Control Application DA-18-207

On December 17, 2018, Site Plan Control application DA-18-207 was conditionally approved by the Manager of Development, Heritage and Design. This Site Plan Control application implemented the proposal reviewed under Zoning By-law Amendment application ZAR-17-011 for the development of five single detached dwellings accessed from a condominium road.

Chronology:

<u>October 30, 2018:</u>	Condominium Application 25CDM-201816 received.
<u>November 15, 2018:</u>	Condominium Application 25CDM-201816 is deemed complete.
<u>December 6, 2018:</u>	Circulation of Notice of Complete Application and Preliminary Circulation for Condominium Application 25CDM-201816 sent to 187 property owners within 120 m of the subject lands.

SUBJECT: Application for Draft Plan of Condominium (Vacant Land) for Lands Located at 121 Fiddler's Green Road (PED19131) (Ward 12) - Page 4 of 12

December 14, 2018: Public Notice Sign placed on the subject lands.

June 12, 2019: Public Notice Sign updated to indicate Public Meeting date.

June 21, 2019: Notice of Public Meeting circulated to 187 property owners within 120 m of the subject lands.

Details of Submitted Application:

Location: 121 Fiddler's Green Road (Ancaster)
(See Location Map attached as Appendix "A" to Report PED19131)

Owner / Applicant: Sonoma Homes Inc.

Agent: Wellings Planning Consultants Inc. c/o Glenn Wellings

Property Description:

<u>Lot Frontage:</u>	30 m
<u>Lot Depth:</u>	102 m
<u>Lot Area:</u>	3,048 sq m

Servicing: Full Municipal Services

EXISTING LAND USE AND ZONING

	<u>Existing Land Use</u>	<u>Existing Zoning</u>
<u>Subject Lands:</u>	Single detached dwelling (to be demolished)	Residential "R5-688" Zone, Modified
<u>Surrounding Lands:</u>		
North	Single Detached Dwellings, Multiple Residential Housing for Senior Citizens	Existing Residential "ER" Zone, Residential Multiple "RM6-217" Zone, Modified
South	Single Detached Dwelling	Existing Residential "ER" Zone
East	Single Detached Dwellings	Existing Residential "ER" Zone

West

Single detached dwellings

Existing Residential “ER”
Zone

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 and conform to the Growth Plan for the Greater Golden Horseshoe (A Place to Grow 2019).

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 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 A Place to Grow (2019).

Urban Hamilton Official Plan (UHOP)

The subject lands are identified as “Neighbourhoods” on Schedule “E” – Urban Structure, designated as “Neighbourhoods” on Schedule “E-1” – Urban Land Use Designations in the UHOP, and, “Low Density Residential 1” in the Ancaster Wilson Street Secondary Plan of Volume 2. The following policies, amongst others, are applicable to the subject application.

Noise

The UHOP contains relevant policies with respect to noise. Section B.3.6.3 indicates:

- “B.3.6.3.1 Development of noise sensitive land uses, in the vicinity of provincial highways, parkways, minor or major arterial roads, collector roads, truck routes, railway lines, railway yards, airports, or other uses considered to be noise generators shall comply with all applicable provincial and municipal guidelines and standards.”

SUBJECT: Application for Draft Plan of Condominium (Vacant Land) for Lands Located at 121 Fiddler's Green Road (PED19131) (Ward 12) - Page 6 of 12

In regard to the above applicable policies, dBA Acoustical Consultants Ltd. has prepared an Environmental Noise Feasibility Study, dated January 2019, to mitigate the noise generated from Fiddler's Green Road (a Minor Arterial). Specific building materials, a 1.83m high noise barrier and noise warning clauses are required to protect the rear yard of Unit 1. The noise warning clauses must be provided in future purchase of sale and lease agreements for Unit 1 (see Condition No. 9 of Appendix "C" to Report PED19131).

Natural Heritage

Trees have been observed on the subject property. The City recognizes the importance of trees to the health and quality of life in the community and encourages the protection and restoration of trees.

"C.2.11.1 The City recognizes the importance of trees and woodlands to the health and quality of life in our community. The City shall encourage sustainable forestry practices and the protection and restoration of trees and forests."

In addition, a Private Tree Protection By-law (2000-118) is in place for the Town of Ancaster, which regulates the removal of individual trees that are 45 cm diameter-at-breast-height (DBH) or greater.

A Tree Protection Plan (TPP) and a Landscape Plan are under review with the associated Site Plan Control application DA-18-207 and will need to be approved by staff prior to final Site Plan approval.

Ancaster Wilson Street Secondary Plan:

The subject lands are designated as "Low Density Residential 1" on Map B.2.8-1 – Ancaster Wilson Street Secondary Plan Land Use Plan.

The proposed development consists of five single detached units, each having a minimum unit area of 375 square metres, and a minimum frontage of 18.0 metres, with access from a private condominium road, all of which comply with the policies of the Secondary Plan.

"B.2.8.7.2 In addition to Sections B.3.2 - Housing Policies, C.3.2 - Urban Area General Provisions, and E.3.0 - Neighbourhood Designations of Volume 1, the following policies apply to all residential land use designations identified on Map B.2.8-1-Ancaster Wilson Street Secondary Plan: Land Use Plan:

- d) Direct access to individual dwelling units from Wilson Street and Fiddlers Green Road shall be discouraged. Alternative forms of access, such as use of shared or common access points and rear lane arrangements, shall be encouraged."

SUBJECT: Application for Draft Plan of Condominium (Vacant Land) for Lands Located at 121 Fiddler's Green Road (PED19131) (Ward 12) - Page 7 of 12

As the form of development will be a Condominium, the proposed individual units will not be directly accessed from Fiddler's Green Road but rather by a private road. As such, the proposal complies with the above policy.

"B.2.8.7.3 Low Density Residential Designations

- a) In addition to Section E.3.4 – Low Density Residential of Volume 1, for lands designated Low Density Residential 1 on Map B.2.8-1 - Ancaster Wilson Street Secondary Plan: Land Use Plan, the following policies shall apply:
 - i) Notwithstanding Policy E.3.4.3 of Volume 1, the permitted uses shall be limited to single detached dwellings and semi-detached dwellings.
 - iii) Notwithstanding Policy E.3.4.4 of Volume 1, the net residential density range shall be 1 - 20 units per hectare.
 - iv) Notwithstanding Policy E.3.4.5 of Volume 1, the maximum building height shall be 2.5 storeys."

The "Low Density Residential 1" designation in the Secondary Plan identifies a maximum density of 20 units per net residential hectare (uph), which permits single detached and semi-detached dwellings. In regard to this development, the proposed Draft Plan of Condominium complies with the above noted policies by establishing tenure for single detached dwellings having a density of 16 units per hectare.

Therefore, the proposal complies with the policies of the Ancaster Wilson Street Secondary Plan.

Ancaster Zoning By-law No. 87-57

The subject lands are zoned Residential "R5-688" Zone, Modified in the Ancaster Zoning By-law No. 87-57, as amended by By-law No. 17-181. The "R5-688" Zone, Modified permits the proposed form of development, being five single detached dwellings on one lot. Since the proposal is to establish a Vacant Land Condominium, comprised of five units for five single detached dwellings having access onto a private condominium road, the proposal conforms to the Ancaster Zoning By-law No. 87-57, as amended by By-law No. 17-181. Condition No. 1 of Appendix "C" to Report PED19131 has been included to ensure the proposal is developed in accordance with the Zoning By-law.

Site Plan Control Application DA-18-207

Site Plan Control application DA-18-207 received conditional approval from the Manager of Development Planning, Heritage and Design on December 17, 2018. The proposed Draft Plan of Condominium will be required to comply with the final approved Site Plan (see Condition No. 2 of Appendix "C" to Report PED19131).

RELEVANT CONSULTATION

The following Departments / Agencies have no comments or objections:

- Hydro One Networks Inc; and,
- Transportation Planning Division.

The following Departments and Agencies have provided comments on the application:

Canada Post Corporation has identified that the site will be serviced by a centralized mailbox. The applicant will need to locate the mailbox on site per standard requirements. Associated warning clauses regarding this requirement have been included as Condition Nos. 3(ii) and 4 to 8 in Appendix "C" to Report PED19131.

Hamilton Street Rail (HSR) has noted that the lands are serviced along Fiddler's Green Road by existing transit. Direct pedestrian connections should be provided to the public pedestrian network as a result. This comment is being addressed through the Site Plan Control application DA-18-207.

Healthy Environments Division, Healthy and Safe Communities Department have requested a Pest Control Plan focusing on rats and mice during the demolition and construction phase of the development proposal. This is being implemented through the Site Plan Control application DA-18-207.

Recycling and Waste Disposal Section, Public Works Department has reviewed the development and noted that the site is eligible for municipal waste collection. Prior to Occupancy, the future residents will be required to enter into an Agreement for On-Site Collection of Municipal Solid Waste in order to begin waste collection on private property.

Union Gas Ltd. requires that the applicant provide necessary easements and/or agreements for the provision of gas services for this project. This has been included as Condition No. 11 in Appendix "C" to Report PED19131.

Public Consultation

In accordance with the provisions of the *Planning Act* and the Council Approved Public Participation Policy, Notice of Complete Application and Preliminary Circulation was sent to 187 property owners within 120 m of the subject property on December 6, 2018.

To date, two submissions have been received from the public through this circulation. These submissions are attached as Appendix "E" to Report PED19131, are summarized in the Analysis and Rationale for Recommendation section of this Report and a staff response is provided in response to the issued concerns and comments submitted.

A Public Notice Sign was posted on the property on December 14, 2018 and updated on June 12, 2019 with the Public Meeting date. Finally, Notice of the Public Meeting was given in accordance with the requirements of the *Planning Act* on June 21, 2019.

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 A Place to Grow: Growth Plan for the Greater Golden Horseshoe;
 - (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 17-181. It will implement the conditionally approved Site Plan Control Application DA-18-207, which provides for a form of development that is compatible with surrounding land uses.
2. The proposed Draft Plan of Condominium (Vacant Land) is comprised of the following common elements: a private condominium road, landscaped areas, and five units for single detached dwellings, as shown on the attached plan, marked as Appendix "B" to Report PED19131. The private condominium road will provide access to Fiddler's Green Road. All five units will be accessed from the private condominium road.
3. The applicant must ensure that Site Plan Control Application DA-18-207, conditionally approved on December 17, 2018, receives final approval and that the Final Plan of Condominium complies with the final approved Site Plan, to the satisfaction of the Director of Planning and Chief Planner (Condition No. 2 of Appendix "C" to Report PED19131).

4. The proposed condominium road will be privately owned and maintained. As a condition of approval, the applicant must include warning clauses in 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. 3 (i) and (iii) of Appendix "C" to Report PED19131).
5. Development Engineering has advised that the stormwater management and site servicing for this site contains infrastructure that requires specific maintenance. Warning clauses relating to this maintenance must be provided in all purchase and sale and rental or lease agreements for units and have been included as Condition No. 10 of Appendix "C" to Report PED19131.
6. Growth Management staff have advised that the following standard note be added to the Draft Plan of Condominium Conditions as Note 1 (see Appendix "C" to Report PED19131):

"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."
7. The owner shall satisfy all conditions, financial or otherwise, of the City of Hamilton (Condition No. 12 in Appendix "C" to Report PED19131).
8. The circulation of the application for Draft Plan of Condominium has resulted in the submission of correspondence from two nearby property owners (see Appendix "E" to Report PED19131). The concerns raised by the property owners are summarized as follows.

Zoning By-law Amendment Activity

The submissions note that the subject lands have been reviewed under several Zoning By-law Amendment applications over the years and opine that each proposal has not been in character with the surrounding neighbourhood. Further, the second submission objects to any condominium road being constructed. The submission also outlines concerns with the zoning requirements including lot coverage, lot size, and density. Staff note that the lands have been reviewed against the residential intensification policies through Report PED17152, which noted that the Residential "R5-688" Zone, Modified, is compatible with the surrounding lands. Further, the modified "R5-688" Zone was adopted by Council on August 18, 2017 and further approved by the Ontario Municipal Board (now Local Planning Appeal Tribunal) on March 26, 2018. As the Draft Plan of

Condominium application is meant to establish tenure for the development, these concerns have been previously addressed and are outside of the parameters of this application.

Existing Dwelling on Site

One of the submissions noted that the lands are not vacant and that the existing single detached dwelling is still habitable. Staff note that the Vacant Land Condominium refers to the type of Condominium tenure defined under the *Condominium Act* and is not a reflection of what exists on the lands today. Further, the existing dwelling on site is not protected under the *Ontario Heritage Act*. Accordingly, there is no requirement to maintain the existing dwelling which is intended to be demolished in order to facilitate the proposed development.

Location of Driveway Access

One of the submissions has requested that the driveway location be shifted to be adjacent to the northerly side property line. Due to the Zoning By-law setback requirements, the location of the driveway is set to be adjacent to the southerly side yard. Further, the location of the driveway was set in its current position to address previous feedback from the public as discussed in Report PED17152.

Location of Unit #5

One of the submissions has suggested to shift Unit #5 to avoid impacts on mature trees on site. Unit 5 shown on the Draft Plan of Condominium refers to the area on which a single detached dwelling can be placed within, as required for a Vacant Land Condominium. The retention of mature trees is being reviewed under the required Tree Protection Plan as part of the Site Plan Control application DA-18-207.

Stormwater Management and Grading

Concerns were raised with potential conflicts with stormwater management, increased lot coverage, intensive grading and increase in flooding events. Staff note that stormwater management and grading is reviewed through the Site Plan Control application DA-18-207. The lot coverage was reviewed through the previous Zoning By-law Amendment application and is not under the purview of this application.

Details of Development Design

The submission raised concerns with how and where snow will be removed and stored and the placement of fencing on site for security purposes. These items are not regulated under the Zoning By-law, but are under the purview of the Site Plan Control application. A warning clause for snow removal has been included as Condition No. 3 (i) in Appendix "C" to Report PED19131.

Coordination of Underground Works during Construction

The submission identified that any works within the municipal right of way should be coordinated at the same time as any above ground works as part of the construction process. This is dealt with during the construction process and is beyond the scope of the Draft Plan of Condominium review.

ALTERNATIVES FOR CONSIDERATION

Should the proposed Plan of Condominium (Vacant Land) not be approved, the applicant / owner could develop the lands as a rental development. No additional approvals would be required to facilitate this alternative.

ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN

Community Engagement and 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.

Our People and Performance

Hamiltonians have a high level of trust and confidence in their City government.

APPENDICES AND SCHEDULES ATTACHED

Appendix "A" – Location Map

Appendix "B" – Draft Plan of Condominium

Appendix "C" – Draft Plan Conditions

Appendix "D" – Site Plan

Appendix "E" – Public Submissions