



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

<b>TO:</b>	Chair and Members Planning Committee
<b>COMMITTEE DATE:</b>	May 18, 2021
<b>SUBJECT/REPORT NO:</b>	Application for Approval of a Draft Plan of Condominium (Common Element) for Lands Located at 270 Melvin Avenue, Hamilton (PED21104) (Ward 4)
<b>WARD(S) AFFECTED:</b>	Ward 4
<b>PREPARED BY:</b>	Mark Kehler (905) 546-2424 Ext. 4148
<b>SUBMITTED BY:</b>	Steve Robichaud Director, Planning and Chief Planner Planning and Economic Development Department
<b>SIGNATURE:</b>	

**RECOMMENDATION**

- (a) That **Draft Plan of Condominium application 25CDM-2021007, by Wilson Street., Ancaster Inc., Owner** to establish a Draft Plan of Condominium (Common Element) comprised of a private road, sidewalks, landscaped areas, and eight visitor parking spaces for 42 street townhouse dwellings on lands located at 270 Melvin Avenue (Hamilton), as shown on Appendix “A”, attached to Report PED21104, be **APPROVED** subject to the following conditions:
- (i) That the approval for Draft Plan of Condominium (Common Element) application 25CDM-2021007 applies to the plan prepared by A.T. McLaren Limited, certified by S.D. McLaren, O.L.S., and dated October 20, 2020, comprised of a private road, sidewalks, landscaped areas and eight visitor parking spaces for 42 street townhouse dwellings, attached as Appendix “B” to Report PED21104;
  - (ii) That the conditions of Draft Plan of Condominium Approval 25CDM-2021007, attached as Appendix “C” to Report PED21104, be received and endorsed by City Council.

## **EXECUTIVE SUMMARY**

The subject property is municipally known as 270 Melvin Avenue. The Owner has applied for approval of a Draft Plan of Condominium (Common Element) comprised of a private road, sidewalks, landscaped areas and eight visitor parking spaces that will be tied to 42 street townhouse dwellings.

The proposed development has received conditional Site Plan approval (Application DA-19-073). The private road will access onto Melvin Avenue.

The proposed Draft Plan of Condominium will conform to the Hamilton Zoning By-law No. 05-200, as amended by Minor Variance application No. HM/A-19:207.

The proposed Draft Plan of Condominium has merit and can be supported for the following reasons:

- It is consistent with the Provincial Policy Statement (2020) (PPS);
- It conforms to the Growth Plan for the Greater Golden Horseshoe 2019, as amended (Growth Plan); and,
- It complies with the Urban Hamilton Official Plan (UHOP).

## **Alternatives for Consideration – See Page 10**

## **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) comprised of a private road, sidewalks, landscaped areas and eight visitor parking spaces that will be tied to 42 street townhouse dwellings. The subject lands are being developed in accordance with Site Plan Control application DA-19-073 attached as Appendix “D” to Report PED21104, that has been conditionally approved. The private road will provide access to Melvin Avenue.

**SUBJECT: Application for Approval of Draft Plan of Condominium (Common Element) for Lands Located at 270 Melvin Avenue, Hamilton (PED21104) (Ward 4) - Page 3 of 11**

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**Site Plan Control Application DA-19-073**

On September 25, 2019, Site Plan Control application DA-19-073 was conditionally approved. The Site Plan Control application provides for the site layout and design for 42 street townhouse dwellings, the landscaped amenity areas and eight visitor parking spaces.

**Minor Variance Application HM/A-19:207**

The Committee of Adjustment approved Minor Variance application HM/A-19:207 on November 28, 2019 to facilitate Site Plan Control application DA-19-073 which permitted adjustments to the following requirements:

- Reduction to the minimum required lot areas for interior and corner lots;
- Reduction to the minimum unit widths;
- Reduction to the minimum flankage yard setback;
- Reduction to the minimum rear yard setback;
- Increase to the maximum building height;
- Increase to the maximum encroachment for balconies and covered porches; and,
- Elimination of a planting strip requirement between parking spaces and the lot line abutting Melvin Avenue.

**Part Lot Control Application PLC-21-002**

The applicant has submitted a Part Lot Control application (PLC-21-002) to create parcels of tied land for the proposed street townhouse dwellings and to create parcels for the private condominium road. At the time of preparation of the report, the application is currently under review.

**Report Fact Sheet**

<b>Application Details</b>	
Applicant/Owner:	Wilson St., Ancaster Inc.,
File Number:	25CDM-2021007
Type of Application:	Draft Plan of Condominium (Common Element)
Proposal:	To create a private road, sidewalks, landscaped areas and eight visitor parking spaces for 42 street townhouse dwellings.

**SUBJECT: Application for Approval of Draft Plan of Condominium (Common Element) for Lands Located at 270 Melvin Avenue, Hamilton (PED21104) (Ward 4) - Page 4 of 11**

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<b>Property Details</b>	
Municipal Address:	270 Melvin Avenue
Lot Area:	0.683 ha
Servicing:	Full Municipal Services.
Existing Use:	Vacant land, formerly used as a parking lot and open space for the adjacent St. Nicholas Ukrainian Catholic Church.
<b>Documents</b>	
Provincial Policy Statement (PPS)	Proposal is consistent with the PPS.
A Place to Grow:	Proposal conforms to the Growth Plan.
Official Plan Existing:	Neighbourhoods on Schedule "E-1" – Urban Land Use Designations in the UHOP.
Official Plan Proposed:	No proposed amendment.
Zoning Existing:	Community Institutional (I2) Zone
Zoning Proposed:	No proposed amendment.
Modifications Proposed:	N/A
<b>Processing Details</b>	
Received:	February 8, 2021
Deemed Complete:	February 24, 2021
Notice of Complete Application:	Sent to 115 property owners within 120 metres of the subject property on March 11, 2021.
Public Notice Sign:	March 31, 2021 and updated on April 21, 2021.
Notice of Public Meeting:	April 30, 2021

**SUBJECT: Application for Approval of Draft Plan of Condominium (Common Element) for Lands Located at 270 Melvin Avenue, Hamilton (PED21104) (Ward 4) - Page 5 of 11**

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Public Consultation:	N/A
Public Comments:	To date, staff have not received any public submissions through this circulation.
Processing Time:	99 days

**EXISTING LAND USE AND ZONING**

	Existing Land Use	Existing Zoning
<b>Subject Lands:</b>	Vacant land	Community Institutional (I2) Zone
<b>Surrounding Lands:</b>		
<b>North</b>	Multiple dwellings	“E” (Multiple Dwellings, Lodges, Clubs, etc.) District
<b>South</b>	Semi detached dwellings	“D” (Urban Protected Residential – One and Two Family Dwellings, etc.) District
<b>East</b>	Single detached dwellings	Community Institutional (I2) Zone and “D” (Urban Protected Residential – One and Two Family Dwellings, etc.) District
<b>West</b>	Place of worship	Community Institutional (I2) Zone

**POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS**

**Provincial Policy Statement (PPS 2020)**

The Provincial Planning Policy framework is established through the *Planning Act* (Section 3) and the Provincial Policy Statement (PPS). 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, as amended).

The mechanism for the implementation of the Provincial plans and policies is through the Official Plan. Through the preparation, adoption and subsequent Local Planning Appeal Tribunal 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 (2020); and,
- conforms to A Place to Grow 2019, as amended.

### **Urban Hamilton Official Plan (UHOP)**

The subject lands are identified as "Neighbourhoods" on Schedule "E-1" – Urban Land Use Designations in the UHOP. The proposed net residential density of 61 units per hectare falls within the Medium Density Residential category of the Neighbourhoods designation and the following policies, amongst others apply to the proposal.

- "E.3.5.1 Medium density residential areas are characterized by multiple dwelling forms on the periphery of neighbourhoods in proximity to major or minor arterial roads, or within the interior of neighbourhoods fronting on collector roads.
- E.3.5.2 Uses permitted in medium density residential areas include multiple dwellings except street townhouses.
- E.3.5.7 For medium density residential uses, the net residential density shall be greater than 60 units per hectare and not greater than 100 units per hectare.
- E.3.5.8 For medium density residential uses, the maximum height shall be six storeys."

The proposed townhouse development on a condominium road with a density of 61 units per hectare is considered a block townhouse (multiple dwelling) for the purposes of the UHOP. Block townhouses are a permitted use in the Medium Density Residential category of the Neighbourhoods designation. The dwellings have a height of three storeys and the development is located at the periphery of the neighbourhood in proximity to Parkdale Avenue North, a minor arterial road.

Therefore, the proposal complies with the Urban Hamilton Official Plan.

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

The subject lands are zoned Community Institutional (I2) Zone in Hamilton Zoning By-law No. 05-200 which permits street townhouse dwellings. Section 4.3b) of the Zoning By-law permits street townhouses to have frontage on a private condominium road.

Minor Variance application HM/A-19-207 was approved by the Committee of Adjustment on November 28, 2019, which made adjustments to the minimum lot area, minimum unit width, minimum flankage yard setback, minimum rear yard setback, maximum building height, maximum encroachments for balconies and porches and minimum planting strip requirement along a lot line abutting a street of the Community Institutional (I2) Zone.

The proposal conforms to Hamilton Zoning By-law No. 05-200. Condition No. 1 of Appendix "C" to Report PED21104 requires that the proposal is developed in accordance with the Zoning By-law.

## **Site Plan Control Application DA-19-073**

Site Plan Control application DA-19-073 received conditional approval on September 25, 2019. 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 PED21104).

## **RELEVANT CONSULTATION**

<b>Departments and Agencies</b>		
	<b>Comment</b>	<b>Staff Response</b>
Growth Management, Planning and Economic Development Department	<p>The municipal address 270 Melvin Avenue will be retained for the common element.</p> <p>The Owner shall finalize municipal addressing for the parcels of tied lands and street naming for the common element with Growth Planning staff.</p> <p>A note shall be added to the Draft Approval Conditions advising that draft approval shall lapse if final approval is not given within three years.</p>	<p>The requirement to finalize municipal addressing and street naming is addressed through Condition No. 13 of Appendix "C" to Report PED21104.</p> <p>The note has been included in Appendix "C" to Report PED21104.</p>

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OUR Mission: To provide high quality cost conscious public services that contribute to a healthy, safe and prosperous community, in a sustainable manner.

OUR Culture: Collective Ownership, Steadfast Integrity, Courageous Change, Sensational Service, Engaged Empowered Employees.

**SUBJECT: Application for Approval of Draft Plan of Condominium (Common Element) for Lands Located at 270 Melvin Avenue, Hamilton (PED21104) (Ward 4) - Page 8 of 11**

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	Extensions will be considered if a written request is received two months before the draft approval lapses.	
Recycling and Waste Disposal Section, Public Works Department	<p>The site is eligible for municipal waste collection, subject to meeting design requirements.</p> <p>The Owner is responsible for all waste removal up until the time that an "Agreement for On-site Collection of Solid Waste" is finalized, and municipal collection services are initiated.</p> <p>If the development is not designed according to municipal waste collection specifications, the developer must arrange for a private waste hauler and advise as part of any agreement of purchase and sale or lease agreement that the property is not serviceable for municipal waste collection.</p>	<p>Details regarding eligibility for municipal waste collection is being addressed through Site Plan Control Application DA-19-073.</p> <p>The requirement for waste removal prior to the initiation of municipal collection services is addressed in Condition No. 11 of Appendix "C" to Report PED21104.</p> <p>The requirement to arrange for a private waste hauler and advise residents should municipal waste collection specifications not be met is addressed in Condition No. 12 of Appendix "C" to Report PED21104.</p>
Development Engineering Approvals Section, Planning and Economic Development Department	<p>Site grading, drainage and servicing design shall be in accordance with Site Plan Control Application DA-19-073.</p> <p>Recommend the inclusion of conditions for the on-going maintenance and / or replacement costs for any structures within the condominium lands.</p>	These requirements are addressed through Condition Nos. 2, 14, 15, and 16 of Appendix "C" to Report PED21104.
Canada Post Corporation	The site will be serviced by a centralized mailbox. The applicant will need to locate the	Associated warning clause and conditions regarding these requirements have been included as



**SUBJECT: Application for Approval of Draft Plan of Condominium (Common Element) for Lands Located at 270 Melvin Avenue, Hamilton (PED21104) (Ward 4) - Page 9 of 11**

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	mailbox on site per standard requirements.	Condition Nos. 5 (ii) and 6 to 10 in Appendix "C" to Report PED21104.
Bell Canada	Necessary easements and / or agreements for the provision of communication / telecommunication infrastructure for this project is required.	This has been included as Condition No. 18 in Appendix "C" to Report PED21104.
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. 17 in Appendix "C" to Report PED21104.
<b>Public Consultation</b>		
	Comment	Staff Response
	To date, staff have not received any public submissions through this circulation.	N/A - No submissions received.

**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 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 Hamilton Zoning By-law No. 05-200. It will implement the conditionally approved Site Plan Control application DA-19-073, 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: private road, sidewalks, landscaped areas and eight visitor parking spaces for 42 street townhouse dwellings, as shown on the attached plan, marked as Appendix "B" to Report PED21104. The private

condominium road will provide access to Melvin Avenue. All units will be accessed from the private condominium road.

3. Future owners and residents of this development shall be advised through Condition Nos. 5 (i) and (iii) of Appendix “C” to Report PED21104 that their garages are provided for the purposes of parking a vehicle and not for storage purposes. In addition, they will be advised that the Condominium Corporation will be responsible for maintenance and snow removal for the private road network.
4. Prior to this Common Element Condominium being registered, Site Plan Control application DA-19-073 and Part Lot Control application PLC-21-002 shall receive final approval per Condition Nos. 1, 2 and 3 of Appendix “C” to Report PED21104. The condominium must be created in order to allow the lots created through Part Lot Control application PLC-21-002 to have frontage on a road.
5. A Development Agreement is required to ensure that the street townhouse dwellings have legal rights tied to the Common Element Condominium and has been included as Condition No. 4 in Appendix “C” to Report PED21104.
6. The owner shall satisfy all conditions, financial or otherwise, of the City of Hamilton included as Condition No. 19 in Appendix “C” to Report PED21104).

## **ALTERNATIVES FOR CONSIDERATION**

Should the proposed Draft Plan of Condominium (Common Element) not be approved, the proposal would be considered a block townhouse development, which is not permitted in the Community Institutional (I2) Zone. A Zoning By-law Amendment application would therefore be required to implement the proposal.

## **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.

### **Built Environment and Infrastructure**

*Hamilton* is supported by state of the art infrastructure, transportation options, buildings and public spaces that create a dynamic City.

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**APPENDICES AND SCHEDULES ATTACHED**

Appendix "A" – Location Map  
Appendix "B" – Draft Plan of Condominium  
Appendix "C" – Draft Plan Conditions  
Appendix "D" – Site Plan