

CITY OF HAMILTON

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Planning Division

TO: Chair and Members Planning Committee	WARD AFFECTED: WARD 7
COMMITTEE DATE: February 15, 2011	
SUBJECT/REPORT NO: Application for Approval of a Draft Plan of Condominium (Common Element) (25CDM-201009) for Lands Located at 615-647 Rymal Road East (Hamilton) (PED11021) (Ward 7)	
SUBMITTED BY: Tim McCabe General Manager Planning and Economic Development Department	PREPARED BY: Cam Thomas (905) 546-2424, Ext.4229
SIGNATURE:	

RECOMMENDATION:

That approval be given to **Condominium Application 25CDM-201009, "Park Town East", (Rymal Square Developments - Tom Weisz), Owner**, to establish a Draft Plan of Condominium (Common Element) to create an internal road network and visitor parking for 69 townhouse dwelling units within Block 23 of Registered Plan 62M-1025, located at 615-647 Rymal Road East (Hamilton), as shown on the attached map marked as Appendix "A" to Report PED11021, subject to the following conditions:

- (a) That this approval applies to the plan prepared by Urbex Engineering Ltd. and certified by John Nouwens, O.L.S., dated August 30, 2010, showing the condominium road network, visitor parking and adjacent fencing and landscaped areas, acoustical barrier and associated landscaping and corner gateway feature, attached as Appendix "B" to Report PED11021.
- (b) That the Final Plan of Condominium shall comply, in all respects, with the approved Site Plan (DA-10-10), to the satisfaction of the Director of Planning.

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- (c) That the Final Plan of Condominium shall comply with all of the applicable provisions of Hamilton Zoning By-law 6593 and By-law 09-222.
- (d) That the owner agrees to deed, free and clear to the City of Hamilton, any easements that may be required for utility purposes.
- (e) That the owner shall include the following warning clause in the Condominium Agreement and in all Purchase and Sale Agreements, and Rental or Lease Agreements, to the satisfaction of the Director of Planning:

“Purchasers are advised that the City of Hamilton shall not be responsible for the maintenance, repair and replacement of the condominium visitors parking areas and adjacent perimeter chain link fencing and landscaped areas, acoustical barrier and adjacent landscaping areas, and corner entrance wall.”

- (f) That the owner shall include the following warning clauses in the Condominium Agreement and in all Purchase and Sale Agreements, and Rental or Lease Agreements, to the satisfaction of the Director of Planning:

Units 33, 36, 47, 50, 59, and 68

“Purchasers are advised that sound levels due to increasing road traffic may occasionally interfere with some activities of the dwelling occupants as the sound levels exceed the Municipality’s and the Ministry of the Environment’s Noise criteria.”

Units 1, 34, 35, 48, 49, 60, 61, 62, 63, and 69

“Purchasers are advised that despite the inclusion of noise control features in the development and within the building units, sound levels due to increased road traffic may on occasion interfere with some activities of the dwelling occupants as the sound levels exceed the Municipality’s and the Ministry of the Environment’s Noise criteria.

This dwelling has been fitted with a forced air heating system and ducting, etc., and was sized to accommodate central air conditioning. Installation of central air conditioning by the occupant will allow windows and exterior doors to remain closed, thereby ensuring that the sound levels are within the Municipality’s and the Ministry of the Environment’s Noise criteria.”

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- (g) That the owner shall include the following warning clause in the Condominium Agreement, and in all Purchase and Sale Agreements and Rental or Lease Agreements, to the satisfaction of the Director of Operations and Maintenance, Public Works Department:

“Purchasers/tenants are advised that the City of Hamilton will not be providing maintenance or snow removal service for the private condominium roads.”

- (h) That the owner shall provide the Manager of Design and Construction with evidence that satisfactory arrangements, financial and otherwise, have been made with a telecommunication service provider, approved by the Canadian Radio and Telecommunication Commission (CRTC), that adequate telecommunication service will be provided to the condominium, including 9-1-1 emergency calling service that identifies, at a minimum, the caller’s name and location information.
- (i) That the owner shall include in all Purchase and Sale Agreements and Rental or Lease Agreements, a statement that advises the prospective purchaser/tenant of the following matters pertaining to Canada Post, to the satisfaction of Canada Post and the Director of Development Engineering:
- (i) That the home/business mail delivery will be from a designated Centralized Mail Box; and,
 - (ii) That the developers/owners will be responsible for officially notifying the purchasers of the exact Centralized Mail Box locations prior to the closing of any home sales.
- (j) That the owner shall agree, to the satisfaction of Canada Post and the Director of Development Engineering, to undertake the following:
- (i) Work with Canada Post and Development Engineering to determine and provide temporary suitable Centralized Mail Box locations, which may be utilized by Canada Post, until the curbs, boulevards, and sidewalks are in place in the remainder of the subdivision;
 - (ii) Install a concrete pad in accordance with the requirements of, and in locations to be approved by, Canada Post and the Director of Development Engineering, to facilitate the placement of Community Mail Boxes;

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- (iii) Identify the pads above on the engineering servicing drawings. Said pads are to be poured at the time of the sidewalk and/or curb installation within each phase of the plan of subdivision; and,
- (iv) Determine the location of all centralized mail receiving facilities in cooperation with Canada Post and the Director of Development Engineering, and to indicate the location of the centralized mail facilities on appropriate maps, information boards, and plans. Maps are also to be prominently displayed in the sales office(s) showing specific Centralized Mail Facility locations.
- (k) That the owner shall receive final approval for a Part Lot Control Application, including the enactment and registration on title of the Part Lot Control Exemption By-law, to the satisfaction of the Manager of Development Planning.
- (l) That the owner shall enter into a Condominium Agreement to ensure that the tenure of each of the proposed 69 freehold units has legal interest, in common, to the Common Elements Condominium, to the satisfaction of the City Solicitor.
- (m) That the owner shall satisfy all conditions, financial or otherwise, of the City of Hamilton.
- (n) That the owner shall enter into, and register on title, the Condominium Agreement including the approved plan of condominium and related conditions, to the satisfaction of the City Solicitor.

EXECUTIVE SUMMARY

The purpose of the Draft Plan of Condominium application is to establish a common element condominium road, visitor parking lot with 23 visitor parking spaces, entrance feature, acoustical barriers, and associated exterior landscaping that is to be developed in association with 69 townhouse dwellings within Registered Plan 62M-1135. The required conditions of Draft Plan Approval address the provision of warning clauses for noise, road maintenance, the repair and maintenance of common elements features, Canada Post requirements, and Telecommunication requirements. The proposed draft plan of condominium has merit and can be supported since it is consistent with the PPS, conforms to the Hamilton-Wentworth Official Plan and the City of Hamilton Official Plan, complies with Zoning By-law No. 09-222, and implements the approved Plan of Subdivision and Site Plan Application DA-10-10.

Alternatives for Consideration - See Page 14.

FINANCIAL / STAFFING / LEGAL IMPLICATIONS

Financial: None.

Staffing: None.

Legal: As required under the Planning Act, Council shall hold at least one (1) Public Meeting to consider an application for a Common Element Draft Plan of Condominium.

HISTORICAL BACKGROUND

The subject property is approximately 1.62 hectares (acres) in area, and is located at the north-west corner of Rymal Road East and Upper Sherman Avenue (see Appendix "A"). The abutting lands consist of semi-detached dwellings to the north along Jonathon Court and townhouses to the west (595 Rymal Road East).

Demolition control was approved for the removal of single-detached dwellings in deteriorated condition on both 615 and 647 Rymal Road in November, 2007, to allow for the consolidation of the property. The applicant submitted a re-zoning application (ZAC-07-094) in 2007 for 69 condominium townhouse units on private roads.

The application was brought forward to the Planning and Economic Development Committee on October 6, 2009, and was supported. The Zoning By-law Amendment was passed by Council on October 28, 2009, and is known as the "RT-30/S-1623" (Townhouse, Maisonette) District, Modified. The amending zoning allows setbacks and frontages (i.e. 6m) for the individual lots to be determined from the condominium roads. The creation of the individual townhouse lots would, however, require the approval of an application and By-law for the removal of Part Lot Control.

Site Plan Application (DA-10-10) was received January 19, 2010, and was approved with conditions on February 24, 2010, to permit 69 townhouse dwelling units, an internal condominium road, and 23 visitor parking spaces. (The final site plan, however, will be modified to show 25 parking spaces).

As one of the special conditions of Site Plan Approval, the applicant was required to obtain the approval of Minor Variances from the Committee of Adjustment to address reduced setbacks with further eaves projections for four of the lots within the development. The required variances were considered to be minor and were supported by staff and the Committee of Adjustment (on September 9, 2010). In addition, other special conditions of Site Plan Approval were also required to address noise assessment, the evaluation and removal of underground storage tanks, and the removal of unused sewers.

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The Plan of Condominium application is for the establishment of a Common Element condominium road, visitor parking lot and associated fencing and landscaped areas, acoustical barrier and associated exterior landscaping and entrance feature (see Appendix "B"), which will be developed in association with 69 townhouse dwelling units located at 615-647 Rymal Road East (see Appendix "C"). The application will be to implement the final approved Site Plan Application DA-10-010. The subject lands are rectangular in configuration, with separate entrances on Rymal Road East and Upper Sherman, to allow for access to an internal road system that will accommodate 11 townhouse blocks. The proposed common element condominium will require Part Lot Control removal for the creation of 69, 6 metre wide townhouse parcels, which will front onto the condominium roads.

CHRONOLOGY:

July 2, 2010: Submission of Application for a Common Elements Condominium by Urbex Engineering Ltd. on behalf of Rymal Square Developments Inc.

July 26, 2010: Application 25CDM-201009 is deemed complete.

July 27, 2010: Circulation of Notice of Complete Application for 25CDM-201009 to all residents within 120 metres of the subject property.

January 28, 2011: Circulation of Notice of Public Meeting to all Residents within 120 metres of the subject property.

Details of Submitted Application

Location: 615-647 Rymal Road East

Owner/Applicant: Rymal Square Developments Inc.

Property Description: Frontage: 16.7m. (approximately)

Lot Depth: 91.3m.

Area: 0.236 ha.

EXISTING LAND USE AND ZONING:

Subject Lands: Vacant

Surrounding Lands:

	<u>Existing Land Use</u>	<u>Existing Zoning</u>
<u>Subject Lands:</u>	Vacant	“RT-30/S-1623” (Street-Townhouse) District
West	Semi-Detached Dwelling	“RT-20/S-1156” (Townhouse - Maisonette) District
North	Semi-Detached Dwellings	“D/S-1493” (Urban Protected Residential - One and Two Family Dwellings, etc.) District
East	Vacant Lands	“G-1/S-996” (Designed Shopping Centre) District and “G-1” (Designed Shopping Centre) District
South	Single-Detached Dwelling with Existing Scrap Metal Drop-Off Business and Adjacent Single-Detached Dwellings and Vacant Land	“AA” (Agricultural) District

POLICY IMPLICATIONS

Provincial Growth Plan for the Greater Golden Horseshoe (Places to Grow):

The application has been reviewed with respect to the Provincial Growth Plan for the Greater Golden Horseshoe (Places to Grow). The application is consistent with policies that direct new growth to the built up areas, as per the Policies contained in Sections

2.2.2 and 2.2.3 of the Places to Grow Plan. The proposal maintains the intent to develop and create complete communities which provide for housing opportunities.

Therefore, the proposal conforms with the Places to Grow Growth Plan for the Greater Golden Horseshoe.

Provincial Policy Statement:

The application is generally consistent with the Provincial Policy Statement where it promotes growth in Settlement Areas, and implements Policies 1.1.1, 1.1.3.2, and 1.4.1, which speak to the provision of densities that efficiently use land and provide a mix of housing types.

Hamilton Wentworth Official Plan:

The subject property is designated “Urban Area” in the Hamilton-Wentworth Official Plan. Policy 3.1 outlines that a wide range of uses, defined through Area Municipal Official Plans and based on full municipal services, will be concentrated in the Urban Areas.

Urban Areas are intended to accommodate approximately 96% of new residential housing units in the Region to the year 2020. As the nature of the application proposes a Common Elements condominium for 69 townhouse units on full municipal services, the proposal conforms to the Hamilton-Wentworth Official Plan.

Hamilton Official Plan:

The subject property is designated “Residential” on Schedule “A”, Land Use Concept, in the Hamilton Official Plan.

The policies which are of relevance to this application are:

- “A.2.1.1 The primary uses permitted in the areas designated on Schedule “A” as RESIDENTIAL will be for dwellings. Various types of dwellings are included within this designation, while preference will be given to the locating of similar densities of development together.

- A.2.1.8 It is the intent of Council that a variety of housing styles, types, and densities be available in all RESIDENTIAL areas of the City, and further, that proposals for new development or re-development will contribute to the desired mix of housing, where practicable. In this regard, Council will be guided by the Housing Policies of Subsection C.7 and the Neighbourhood Plan Policies of Subsection D.2.

A.2.1.14 In evaluating the merits of any proposal for multiple-family RESIDENTIAL development, Council will be satisfied that the following considerations are met:

- i) The height, bulk, and arrangement of buildings and structures will achieve harmonious design and integrate with the surrounding areas; and,
- ii) Appropriate open space, including landscaping and buffering, will be provided to maximize the privacy of residents and minimize the impact on adjacent lower-density uses.”

Council has determined, through their approval of Re-zoning Application ZAC-07-094 to develop townhouses on the subject lands, that the proposal conforms to the policies of the Hamilton Official Plan. In addition, corresponding changes to the Butler Neighbourhood Plan to recognize the land use of the site as Medium Density would provide further conformity to the Hamilton Plan.

New Urban Hamilton Official Plan (Council Adopted):

The New Urban Hamilton Official Plan was adopted by Council on July 9, 2009. The Plan has been forwarded to the Province for approval, but is not yet in effect. The subject lands are designated “Neighbourhoods” on Schedule E - Urban Structure and Schedule E-1 - Urban Land Use Designations of the New Urban Hamilton Official Plan.

The proposed townhouse dwelling units that are associated with the proposed condominium road and visitor parking would conform to the “Neighbourhoods” designation policies of the New Urban Hamilton Official Plan.

RELEVANT CONSULTATION

The following Departments and Agencies had no comments or objections:

- Parking and By-law Services Division.
- Traffic Engineering Section, Public Works Department.
- Infrastructure and Source Water Protection Planning Section, Public Works Department.
- Horizon Utilities.
- Union Gas.

Bell Canada

Bell Canada has advised that the following conditions shall apply to the proposed condominium approval:

- a. The owner must confirm that sufficient wireline communication / telecommunication infrastructure must be available to provide service to the proposed development. Alternatively, the owner shall be required to demonstrate that sufficient alternative communication / telecommunication facilities are available within the proposed development to enable, at a minimum, the effective delivery of communication / telecommunication services for emergency management services (i.e. 911 Emergency Services).
- b. The owner shall agree in the agreement, in words satisfactory to Bell Canada, to grant to Bell Canada any easements that may be required for telecommunication services. Easements may be required subject to final servicing decisions. In the event of any conflict with existing Bell Canada facilities or easements, the owner/developer shall be responsible for the re-location of such facilities or easements.

Since telecommunications carriers are subject to change, the City's standard condition will apply (see Recommendation (h)).

Public Works Department - Forestry and Horticultural Section

Urban Forestry has advised that there are 2 trees on the Upper Sherman road allowance which will require removal, of which one is in good condition and the other is in poor condition. As part of the applicant's Site Plan Approval, a Tree Management Plan has been required, which was approved October 1, 2010. The approved Tree Management Plan identifies 6 new street trees along the Upper Sherman road allowance, as well as 14 new street trees along the Rymal Road East road allowance.

Canada Post

Canada Post has requested that the owner shall, to the satisfaction of the Director of Development Engineering of the City of Hamilton, and Canada Post:

- (a) *Include on all offers of purchase and sale, a statement that advises the prospective purchaser:*
 - (i) *That the home/business mail delivery will be from a designated Centralized Mail Box.*

- (ii) That the developers/owners be responsible for officially notifying the purchasers of the exact Centralized Mail Box locations prior to the closing of any home sales.*

- (b) The owner further agrees to:*
 - (i) Work with Canada Post to determine and provide temporary suitable Centralized Mail Box locations, which may be utilized by Canada Post, until the curbs, boulevards, and sidewalks are in place in the remainder of the subdivision.*

 - (ii) Install a concrete pad in accordance with the requirements of, and in locations to be approved by, Canada Post, to facilitate the placement of Community Mail Boxes*

 - (iii) Identify the pads above on the engineering servicing drawings. Said pads are to be poured at the time of the sidewalk and/or curb installation within each phase of the plan of subdivision.*

 - (iv) Determine the location of all centralized mail receiving facilities in co-operation with Canada Post, and to indicate the location of the centralized mail facilities on appropriate maps, information boards, and plans. Maps are also to be prominently displayed in the sales office(s) showing specific Centralized Mail Facility locations.*

- (c) Canada Post's multi-unit policy, which required that the owner/developer provide the centralized mail facility at their own expense, will be in affect for buildings and complexes with a common lobby, common indoor or sheltered space.*

See Recommendations (i) and (j).

Public Consultation

In accordance with Council's Public Participation Policy, the application was circulated as part of the Notice of Complete Application to 218 residents within 120 metres of the subject lands on September 8, 2010. As a result of the pre-circulation, no letters were received expressing concerns on the application.

Notice of the Public Meeting will be given in accordance with the requirements of the Planning Act through circulation to property owners within 120 metres of the subject lands. In addition, a Public Notice Sign was posted on the property in late October, 2009.

ANALYSIS / 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 the Places to Grow Plan.
 - (ii) It conforms with and implements the “Urban” designation of the Hamilton-Wentworth Regional Official Plan.
 - (iii) It conforms to the “Residential” designation of the City of Hamilton Official Plan.
 - (iv) The proposal conforms to the Hamilton Urban Official Plan.

2. The purpose of the Draft Plan of Condominium (Common Element) is to approve the proposed condominium road, visitor parking area, acoustical barrier, entrance feature and landscaping that will implement Site Plan Application DA-10-10, which was approved with conditions on February 24, 2010. The approved Site Plan is shown in Appendix “D”. Site Plan DA-10-10 is nearing finalization with the completion of the stormwater management plan, grading plan, servicing plan, landscape plan, tree management plan, and special conditions.

The outstanding matters required for the finalization of the site plan include the dedication to the City of a 12m by 12m road widening required for the daylighting triangle at the intersection, a lighting plan, a satisfactory cost estimate for services and landscaping, and the provision of securities. As these matters would not affect the location of the common elements features (i.e. internal roads, entrances, parking areas and associated fencing and landscaping, and acoustical barriers, entrance features and associated landscaping) required through this condominium application, staff is agreeable to having the common elements draft plan of condominium brought forward at this time for approval prior to the finalization of the site plan application.

3. Staff would also note that the owner would be responsible for the maintenance, repair, and replacement of the acoustical barrier and associated exterior landscaping. The acoustical barrier is from 2.22m - 2.44m in height, and is to be provided along the sections of Rymal Road East, which directly abut residential units, and along the portion of the site that fronts onto Upper Sherman Avenue.

Similarly, the owner would also be responsible for the maintenance, repair, and replacement of the stone entrance feature to be situated at the south-easterly corner of the property. The entrance feature is 0.9m in width, and from 2.66 - 2.88m in height. These requirements are being addressed through Recommendation (e).

4. The creation of the individual townhouse parcels within the plan of condominium would require the approval of an application and By-law for the removal of Part Lot Control under Section 50(7) of the Planning Act prior to final registration of the Draft Plan of Condominium (Recommendation (k)).
5. The applicant must also enter into a Development Agreement with the City of Hamilton as a condition of draft plan approval. This Agreement would ensure that the tenure of all the subject residential parcels become “tied” to the proposed draft plan of condominium (Common Elements 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 (Recommendation (l)).
6. The proposed condominium road will be privately owned and maintained. As a condition of approval (Recommendation (g)), the applicant must include a warning clause in all Purchase and Sale Agreements and Rental and Lease Agreements to advise purchasers of the following:

“Purchasers are advised that the City of Hamilton will not be providing any maintenance or snow removal service for the internal condominium roads.”

In addition, the Condominium Corporation would have the option of securing the City’s Waste Management services for the removal of garbage and recyclables, or could elect to retain a private waste haulage contractor. In the event that the City’s Waste Management services are retained for the proposed condominium, a Private Road Agreement would be required.

7. The applicant’s Acoustical Report, which was a requirement of Site Plan Approval, has identified the need for the following warning clauses to be included in all offers and agreements of purchase and sale and lease for the indicated units:

Units 33, 36, 47, 50, 59, and 68

“Purchasers are advised that sound levels due to increasing road traffic may occasionally interfere with some activities of the dwelling occupants as the sound levels exceed the Municipality’s and the Ministry of the Environment’s Noise criteria.”

Units 1, 34, 35, 48, 49, 60, 61, 62, 63, and 69

“Purchasers are advised that despite the inclusion of noise control features in the development and within the building units, sound levels due to increased road traffic may, on occasion, interfere with some activities of the dwelling occupants as the sound levels exceed the Municipality’s and the Ministry of the Environment’s Noise criteria.”

“This dwelling has been fitted with a forced air heating system and ducting, etc., and was sized to accommodate central air conditioning. Installation of central air conditioning by the occupant will allow windows and exterior doors to remain closed, thereby ensuring that the sound levels are within the Municipality’s and the Ministry of the Environment’s Noise criteria.”

These requirements are being addressed through Recommendation (f).

ALTERNATIVES FOR CONSIDERATION:

If the Draft Plan of Condominium application is denied, the applicant would have the option of developing the properties as a rental project or may seek to apply for the approval of a standard condominium.

CORPORATE STRATEGIC PLAN

Focus Areas: 1. Skilled, Innovative and Respectful Organization, 2. Financial Sustainability, 3. Intergovernmental Relationships, 4. Growing Our Economy, 5. Social Development, 6. Environmental Stewardship, 7. Healthy Community

Financial Sustainability

- ◆ Effective and sustainable Growth Management.
- ◆ Delivery of municipal services and management capital assets/liabilities in a sustainable, innovative, and cost-effective manner.
- ◆ Generate assessment growth/non-tax revenues.

Healthy Community

- ◆ Plan and manage the built environment.

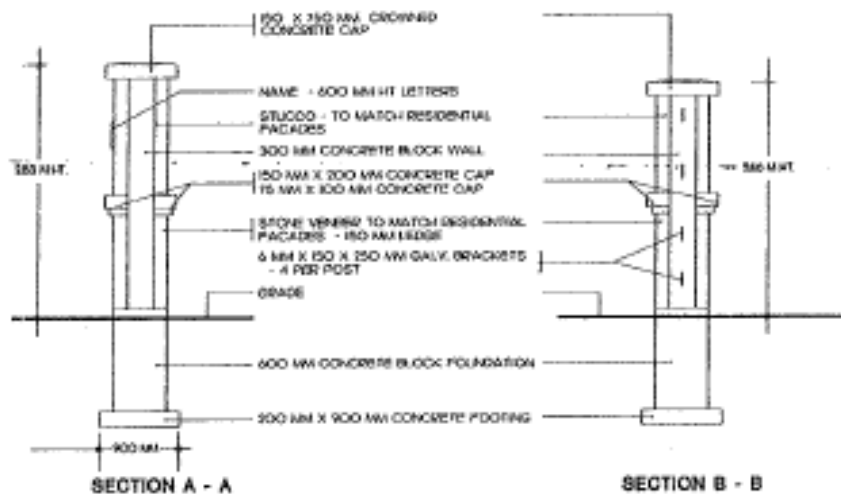
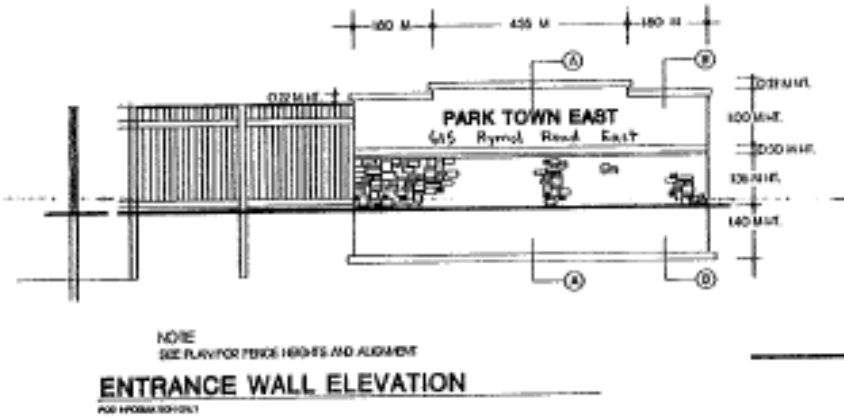
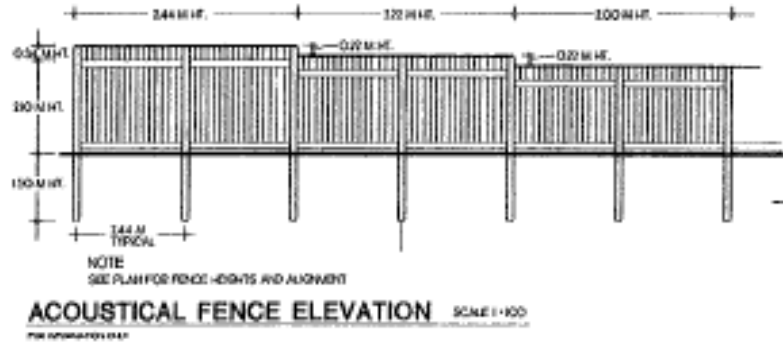
APPENDICES / SCHEDULES

- Appendix "A": Location Map
- Appendix "B": Draft Plan of Condominium
- Appendix "C": Redline Approved Site Plan DA-10-10
- Appendix "D": Approved Landscaping Plan (DA-10-10)
- Appendix "E": Acoustical Barriers and Entrance Wall Details (DA-10-10)

:CT

Attachs. (5)

Appendix "E" to Report PED11021
 Acoustical Barrier and Entrance Wall Details
 for Site Plan Application DA-10-10
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ENTRANCE WALL DETAIL SCALE 1:25
 FOR INFORMATION ONLY