TO: Chair and Members Planning Committee

COMMITTEE DATE: February 4, 2014

SUBJECT/REPORT NO: Application for Approval of a Draft Plan of Condominium (Common Elements), by 162215 Ontario Inc. (Branthaven 2000 Inc.), for Lands Known as 45 Royal Winter Drive, Binbrook (Glanbrook) (PED14020) (Ward 11)

WARD(S) AFFECTED: Ward 11

PREPARED BY: Peter De Iulio (905) 546-2424 Ext. 1345

SUBMITTED BY: Joe-Anne Priel Acting General Manager Planning and Economic Development Department

SIGNATURE: 

RECOMMENDATION

That approval be given to Draft Plan of Condominium Application 25CDM-201306, by 162215 Ontario Inc. (Branthaven 2000 Inc.), Owner, to establish a Draft Plan of Condominium (Common Elements Condominium) to create a condominium road, visitor parking areas, landscaped areas, and open space, for 43 freehold townhouse dwellings, on lands located at 45 Royal Winter Drive, Binbrook (Glanbrook), as shown on Appendix “A” to Report PED14020, subject to the following conditions:

(a) That this approval shall apply to the plan, prepared by A.T. McLaren Limited, and certified by S. D. McLaren, dated March 27, 2013, showing a common element road, visitor parking areas, landscaped areas, and open space, attached as Appendix “B” to Report PED14020;

(b) That the Final Plan of Condominium shall comply with all of the applicable provisions of Zoning By-law No. 464, as amended by By-law No. 07-217 and Minor Variance applications GL/A-12:219 and GL/A-13:12;

(c) That the final plan of condominium shall comply, in all respects, with the approved Site Plan (DA-12-174), to the satisfaction of the Director of Planning;

OUR Vision: To be the best place in Canada to raise a child, promote innovation, engage citizens and provide diverse economic opportunities.
OUR Mission: WE provide quality public service that contribute to a healthy, safe and prosperous community, in a sustainable manner.
OUR Values: Accountability, Cost Consciousness, Equity, Excellence, Honesty, Innovation, Leadership, Respect and Teamwork.
(d) That the owner shall receive final approval of Part Lot Control Application PLC-13-032, including the enactment and registration on title of the Part Lot Control Exemption By-law, to the satisfaction of the Director of Planning;

(e) That the owner shall enter into a Development Agreement to ensure that the tenure of each of the proposed freehold townhouse dwellings having frontage on the condominium road has legal interest, in common, to the Common Elements Condominium, to the satisfaction of the City Solicitor;

(f) That the owner shall include the following warning clauses in the Development Agreement and all Purchase and Sale Agreements, and any rental or lease agreements required for occupancy:

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

(ii) "Purchasers/tenants are advised that garages are provided for the purpose of parking a vehicle. It is the responsibility of the owner/tenant to ensure that their parking needs (including those of visitors) can be accommodated on site. On-street, over flow parking may not be available and cannot be guaranteed in perpetuity."

(g) That the owner shall agree to include in all offers of purchase and sale, a statement that advises the purchaser:

(i) That the home/business mail delivery will be from a designated Centralized Mail Box;

(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.

(h) That the owner shall agree 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 the Senior Director of Growth Management and 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;

(iv) Determine the location of all centralized mail receiving facilities in co-operation with the Senior Director of Growth Management and Canada Post, and to indicate the location of 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.

(i) 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;

(j) That the owner/developer shall provide to Union Gas Limited, the necessary easements and/or agreements required by Union Gas Limited for the provision of gas services for this project, in a form satisfactory to Union Gas Limited;

(k) That, prior to the registration of the final plan, the owner shall provide the Senior Director of Growth Management with a copy of the Condominium Declaration Document to ensure that the owner is committed to establish a drainage easement, in favour of the Condominium Corporation, over the front and rear yards of the units within the plan of condominium; and,

(l) That the owner shall satisfy all conditions, financial or otherwise, of the City of Hamilton.

EXECUTIVE SUMMARY

The purpose of the application is to establish a Draft Plan of Condominium (Common Elements) for 43 freehold townhouse dwellings. The common element would consist of a driveway, visitor parking areas, landscaped areas, and miscellaneous open space. The proposed Draft Plan of Condominium has merit and can be supported since it is consistent with the Provincial Policy Statement (PPS), conforms with Places to Grow and the Urban Hamilton Official Plan (UHOP), complies with Zoning By-law No. 464, and implements the Registered Plan of Subdivision 62M-1128, “Fairgrounds Phase 1” (see Appendix “C”), and Site Plan Control Application DA-12-174 (see Appendix “D”).
FINANCIAL – STAFFING – LEGAL IMPLICATIONS (for recommendation(s) only)

Financial: N/A

Staffing: N/A

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

HISTORICAL BACKGROUND

Chronology:

July 11, 2007: By-law No. 07-217 passed by Hamilton City Council. The By-law changed the zoning from the Residential Multiple “RM4-161” Zone to the Residential Multiple “RM3-223” Zone (Zoning Application File Number ZAC-06-75). This Zone permits townhouses.

September 1, 2009: Registration of Draft Plan of Subdivision 62M-1128 “Fairgrounds Phase 1” (see Appendix “C”). Block 106 is the subject lands (45 Royal Winter Drive).

January 10, 2013: Conditional approval of Site Plan Control Application DA-12-174 granted by the Manager of Development Planning, Heritage and Design, to construct 43 townhouses with 38 fronting onto a condominium road.

August 16, 2013: Condominium Application 25CDM-201306, “45 Royal Winter Drive”, is deemed complete.

September 20, 2013: Public Notice Sign placed on the Subject Lands.

September 24, 2013: Circulation of Notice of Complete Application and Preliminary Circulation for Condominium Application 25CDM-201306 sent to 36 residents within 120 m. of the subject lands.
Proposed: The purpose of the application is to establish a Draft Plan of Condominium (Common Elements) to create the following condominium elements: a condominium road, visitor parking areas, landscaped areas, and open space for 43 street townhouse dwellings, as shown on the attached plan marked as Appendix “B”. The condominium road will provide access to Royal Winter drive at two locations. The 43 lots, with associated easements, and the elements in common will be created once Part Lot Control Application PLC-13-032 is final approved and the By-law is passed and registered on title.

Details of Submitted Application:

Location: 45 Royal Winter Drive (Binbrook) (See Appendix “A”)

Owner/Applicant: 162215 Ontario Inc. (Branthaven 2000 Inc.)

Agent: Branthaven Development Corp., c/o Sean Wadsworth

Property Description: Lot Frontage: 112.86 m.
Lot Depth: 97.84 m.
Lot Area: 1.04 ha.

Servicing: Full Municipal Services

EXISTING LAND USE AND ZONING:

<table>
<thead>
<tr>
<th>Subject Lands:</th>
<th>Existing Land Use</th>
<th>Existing Zoning</th>
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</thead>
<tbody>
<tr>
<td>Vacant (townhouses under construction)</td>
<td>Residential Multiple “RM3-223” Zone</td>
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</table>
Surrounding Lands:

<table>
<thead>
<tr>
<th>Direction</th>
<th>Land Use</th>
<th>Zone Description</th>
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</thead>
<tbody>
<tr>
<td>North</td>
<td>Single Detached Dwellings</td>
<td>Residential “R4-222” Zone</td>
</tr>
<tr>
<td>South</td>
<td>Woodlot</td>
<td>Public Open Space “OS2-161” Zone</td>
</tr>
<tr>
<td>East</td>
<td>Single Detached Dwellings and Fairgrounds Community Park</td>
<td>Residential “R4-222” Zone and Public Open Space “OS2” Zone</td>
</tr>
<tr>
<td>West</td>
<td>Woodlot</td>
<td>General Agricultural “A2” Zone</td>
</tr>
</tbody>
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POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

Provincial Policy Statement:

The application has been reviewed with respect to the PPS. The application is consistent with the policies that focus growth in Settlement Areas, Policy No. 1.1.3.1. It also implements Policy Nos. 1.1.3.2, 1.1.3.4, and 1.4.3 with respect to promotion of densities which efficiently use land and resources, and appropriate intensification and redevelopment.

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

The subject lands are located within a designated Greenfield area, as defined by Places to Grow. Policy No. 2.2.7.1 states that development will be designed to contribute to complete communities; to create densities and an urban form that support walking; and, that provides a diverse mix of land uses. Policy No. 2.2.7.2 also requires a minimum density target not less than 50 residents per hectare (but measured over the entire designated Greenfield area of Hamilton). The proposed density meets the growth target. Proposed sidewalks in the development link to existing municipal sidewalks.

Based on the foregoing, the proposal conforms to the policies of the Growth Plan for the Greater Golden Horseshoe (Places to Grow).

Urban Hamilton Official Plan:

The subject lands are designated “Neighbourhoods” on Schedule “E” - Urban Structure and Schedule “E-1” - Urban Land Use designations, and “Low Density Residential 2h"
on Map B.5.1-1 – Binbrook Village Secondary Plan. This designation permits multiple
dwelling unit types including street, block and stacked townhouse dwellings, and
duplexes and triplexes. Therefore, the application conforms with the UHOP.

RELEVANT CONSULTATION

The following Departments and Agencies had no comments or objections:

- Geomatics and Corridor Management Section, Public Works Department.
- Hydro One.

The following Departments and Agencies submitted comments:

The Niagara Peninsula Conservation Authority (NPCA) has previously provided
comments for a Site Plan Control Application, dated February 11, 2013, for this project.
In that letter, the NPCA noted that the stormwater management plan for this proposal
meets the general intent of the “Stormwater Management Plan for the Fairgrounds East
Subdivision.”

The NPCA also noted in its email of September 24, 2013 (Mallory/De Iulio), that the
NPCA had issued NPCA Permit No. 3228 for the installation of a culvert at 45 Royal
Winter Drive.

As such, the NPCA is satisfied that the proposed development has been reviewed and
meets the NPCA’s requirements. Therefore, the NPCA has no objection to the
proposed draft plan of condominium.

Strategic Planning Section (Public Works Department) has advised that the property
is eligible for municipal waste collection subject to the following specifications:

1. Road layout must be designed to permit the continuous forward movement of
collection vehicles, including the radius of a cul-de-sac turning circle. Continuous
forward movement must be provided exclusive of any parking spaces and stored
snow. A drive through access route, a 13 m. radius turning circle, or a turnaround
area, allowing for a maximum three-point turn of not more than one truck length are
all acceptable options for accommodating this requirement. It appears that the Site
Plan will need to be modified to adhere to this requirement (the drive through access
route does have a 13 m. radius, and the turnaround areas allow for a maximum
three-point turn of not more than one truck length on the final, approved Site Plan).
2. The City of Hamilton is committed to provide safe and effective waste collection service and will fully comply with the Ontario Occupational Health and Safety Act’s (OHSA) regulations at all times. Clause 104(1) of the OHSA regulations - specifically the 2008 OHSA and Regulations (Consolidated Edition) - states: vehicles, machines and equipment at a project shall not be operated in reverse.

3. Waste collection service will commence when the development is substantially completed and there is free and clear access. The developer or owner is required to contact the City at 905-546-CITY to request the start of waste collection service. A site visit by City staff is required prior to the start of waste collection service.

4. Prior to the commencement of City waste collection service, the developer is responsible for the collection of all waste (garbage, recycling, organics, etc.) from any and all occupied units.

5. For collection of waste on Private Roads, an Agreement for On-Site Collection of Municipal Solid Waste must be executed and submitted to the City prior to the start of service.

6. Construction material will not be collected: collection arrangements must be made with a private contractor.

7. On collection day, the collection area shall be in an accessible location, free and clear of any construction debris and vehicles.

8. Individual waste containers, blue boxes and green carts will be collected curbside in front of each property.

With respect to road programming, the City’s Encroachments on City Property Policy (the “Policy”) discourages encroachments on City Property. Accordingly, the applicant is advised that all proposed buildings and other structures (including awnings, eaves and canopies), landscaping, fences, etc. must be constructed within the legal boundaries of the private property. It is incumbent on the applicant to determine the property lines. Any encroachments existing as of today’s date that are not permitted under an Encroachment Agreement must be removed. Alternatively, the applicant may choose to apply to have the existing encroachments legitimized by applying for an Encroachment Agreement under the Policy.

**Hamilton Municipal Parking System** has concerns with the proposed easement as shown on the site plan. The location of the easement would reduce the size of the driveway parking spaces, and could cause some future concerns.
The Forestry and Horticulture Section, Public Works Department advises that there are Municipal Tree Assets located on the road allowance of Royal Winter Drive and, therefore, a Tree Management Plan will be required. Tree Protection is a measure of efforts to preserve existing trees during the Planning of New Developments, Infrastructure Enhancements, Utility Upgrades and Residential Improvements. Tree Management combined with Arboricultural Best Practices and Reforestation ensures the sustainability of our Urban Forest.

The Forestry and Horticulture Section requests that a Tree Management Plan be prepared by a Certified Landscape Architect. All trees within this proposed development area must be surveyed, identified and accurately plotted on the plan to determine ownership, including intentions regarding retention or removal. It is compulsory that all proposed surface treatment changes within individual tree driplines as well as property lines, building footprints, driveways, utility construction corridors and temporary access roads be accurately depicted on the submission.

The Tree Inventory Analysis Table on the Tree Management Plan shall not be considered complete without the following data and recommended action for each tree:

- Species by Botanical and common name;
- Diameter at breast height in centimeters or millimeters;
- Ownership (> 50% at ground level = ownership);
- Biological health;
- Structural condition;
- Proposed grade changes within individual driplines (compulsory);
- Proposed utility construction within individual driplines (compulsory);
- Proposed removals or relocations; and,
- Proposed trees to be protected.

If it is determined and verified that existing trees can remain, a Tree Protection Zone Detail with notes showing Tree Preservation Techniques shall be included on the submission as per the Tree Preservation and Protective Measures for Trees Affected by Construction Policy.

In addition, Forestry and Horticulture will require a detailed Landscape Planting Plan. This should be prepared by a Certified Landscape Architect, showing the placement of all trees on the development site be submitted for review. The Landscape Plan should specifically outline full planting details including the size and species of trees to be planted, as well as hard surface and soft surface area percentages on the site. Trees can define and humanize a thoroughfare and one of the Conditions of Approval will be the submission of a Landscape Planting Plan. Tree species selection should take into account cultural requirements, cultivars (fruitless etc.) salt and heat tolerance, mature...
tree size, public visibility and private daylight triangles, potential pest concerns, as well as the exposure (south west prevailing winds). Trees planted on the road allowance should have a minimum caliper of 50 mm. Soil depth in Planting or Landscape Strips should be an absolute minimum of 36 cm. as this is the depth of a 70 cm. root ball on an average 50 mm. caliper tree and soil volume is a key component of new tree survival.

The clearance of a Street Tree Planting condition will be provided upon receipt of a plan depicting new trees and a cash payment as shown in Item 2.8 of the completed Subdivision Agreement. The remittance is to be made payable directly to the Forestry and Horticulture Section. The Forestry and Horticulture Section will not accept cash-in-lieu of trees to be installed in Stormwater Management Ponds, Entrance Features, or Roundabouts.

All of these concerns have been addressed through the subdivision and Site Plan approvals.

**Canada Post** has advised that this development will receive mail service to centralized mail facilities provided through their Community Mailbox Program. Canada Post requires standard conditions pertaining to offers of purchase and sale to advise purchasers of the community mailboxes, and for requirements to provide the community mailboxes within the development. The conditions requested by Canada Post are included as Recommendations (g) and (h).

**Union Gas Limited** has requested that the Draft Plan of Condominium be subject to a standard condition of approval to provide Union Gas Limited any necessary easements or agreements for the provision of gas services for this project. This condition is included as Recommendation (j).

**PUBLIC CONSULTATION**

In accordance with the provisions of the Planning Act and Council’s Public Participation Policy, 36 Notices of Complete Application and Preliminary Circulation were sent to property owners within 120 m. of the subject property on September 24, 2013, requesting comments on the application. Furthermore, a Public Notice Sign was posted on the property on September 20, 2013. Finally, Notice of the Public Meeting was given on January 17, 2014, in accordance with the requirements of the Planning Act. To date, no comments have been 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 PPS and conforms to the Growth Plan for the Greater Golden Horseshoe (Places to Grow).
   (ii) It conforms with the UHOP.
   (iii) The proposal implements condominium tenure for a form of development, as previously approved by Council through Zoning Application ZAC-06-075 and the Committee of Adjustment through Minor Variance Applications GL/A-12:219 and GL/A-13:12, and by staff through Site Plan Control Application DA-12-174, and provides for a townhouse development that is compatible with surrounding land uses.

2. The proposed Draft Plan of Condominium (Common Elements) would be comprised of the following common elements: a looped internal road accessing Royal Winter Drive with sidewalk; two visitor parking areas for 22 parking spaces; and landscaped areas consisting of a small common amenity area and other open space areas. 38 of the proposed townhouse dwelling units would have frontage onto the condominium road, while five have direct frontage onto Royal Winter Drive. All of the common elements, including the open space areas, would be maintained by the future Condominium Corporation.

3. The land proposed for the common elements condominium and the lots for townhouses will be created through an exemption from Part Lot Control. Part Lot Control Application PLC-13-032 has been submitted, and is under review. In this regard, final approval and registration of the Common Elements Condominium cannot occur until such time as the Part Lot Control Application is final approved, and the By-law removing the lands from Part Lot Control has been passed, to the satisfaction of the Director of Planning (see Recommendation (d)).

4. 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). 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 (see Recommendation (e)).

5. The proposed condominium road will be privately owned and maintained. As a condition of approval, the applicant must include a warning clause in the

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Development Agreement and all Purchase and Sale 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 (and that on-street, over-flow parking may not be available and cannot be guaranteed in perpetuity). An acknowledgement clause is also included to advise purchasers of the centralized mailboxes (see Recommendations (f) and (g)).

ALTERNATIVES FOR CONSIDERATION

Should the Plan of Condominium (Common Elements Condominium) not be approved, the applicant/owner could develop the lands as a standard block condominium development or as a rental development. A change in tenure from the proposed common element condominium to a standard form condominium would require a new or revised condominium application.

ALIGNMENT TO THE 2012 – 2015 STRATEGIC PLAN

Strategic Priority #1
A Prosperous & Healthy Community

WE enhance our image, economy and well-being by demonstrating that Hamilton is a great place to live, work, play and learn.

Strategic Objective
1.6 Enhance Overall Sustainability (financial, economic, social and environmental).

APPENDICES AND SCHEDULES ATTACHED

- Appendix “A”: Location Map
- Appendix “B”: Proposed Draft Plan of Condominium
- Appendix “C”: Registered Plan of Subdivision
- Appendix “D”: Final Approved Site Plan

:PD
Attachs. (4)