TO: Chair and Members 
Planning Committee

WARD(S) AFFECTED: WARD 11

COMMITTEE DATE: September 20, 2011

SUBJECT/REPORT NO:
Applications for a Zoning By-law Amendment and for Approval of a Draft Plan of Subdivision, "Oasis - Phase 1", and Draft Plan of Condominium, for Lands Located at 130 and 170 Palacebeach Trail (Stoney Creek) (PED11162) (Ward 11)

SUBMITTED BY:
Tim McCabe
General Manager
Planning and Economic Development Department

PREPARED BY:
Jennifer Haan
(905) 546-2424, Ext. 1230

SIGNATURE:

RECOMMENDATION

(a) That approval be given to Zoning Amendment Application ZAC-11-008, by Homes By DeSantis (Meadows) Inc., Owner, for changes in zoning from the Neighbourhood Development “ND” Zone to the Multiple Residential “RM2-27” Zone, with a Special Exception (Block 1); from the Neighbourhood Development “ND” Zone to the Multiple Residential “RM2-28” Zone, with a Special Exception (Block 2); from the Multiple Residential “RM3” Zone to the Multiple Residential “RM2-28” Zone, with a Special Exception (Block 3); and to zone lands as Conservation/Hazard Land “P5” Zone (Block 4), to permit the development of 13 street townhouse dwelling units, 41 freehold townhouse dwelling units fronting a private (condominium) road, and the preservation of a creek block, for lands located at 130 and 170 Palacebeach Trail (Stoney Creek), as shown on Appendix “A” to Report PED11162, on the following basis:

(i) That the draft By-laws, attached as Appendices “B” and “C” to Report PED11162, which have been prepared in a form satisfactory to the City Solicitor, be enacted by City Council.
ii) That the amending By-laws be added to Map No. “2” of Zoning By-law No. 3692-92, and Map No. 1151 and Map No. 1202 of Schedule “A” of Zoning By-law No. 05-200.

iii) That the proposed changes in zoning are in conformity with the Hamilton-Wentworth Official Plan, and the City of Stoney Creek Official Plan.

(b) That approval be given to Draft Plan of Subdivision Application 25T-201101, by Homes By DeSantis (Meadows) Inc., Owner, to establish a draft plan of subdivision known as “Oasis - Phase 1”, on lands located at 130 and 170 Palacebeach Trail (Stoney Creek), as shown on Appendix “A” to Report PED11162, subject to the following conditions:

i) That this approval apply to “Oasis - Phase 1”, 25T-201101, prepared by IBI Group, and certified by G.G. Aldworth, O.L.S., dated January 27, 2011, and last revised on July 21, 2011, showing 13 lots for street townhouses (Lots 1-13), 41 lots for freehold townhouses fronting on a private (condominium) road (Lots 14-54), 1 block for the condominium road and other common elements (Block 55), and 1 block for a watercourse (Block 56), attached as Appendix “D” to Report PED11162, subject to the owner entering into a Standard Form Subdivision Agreement, as approved by City Council, and with the Special Conditions attached as Appendix “E” to Report PED11162;

ii) Acknowledgement that there will be no City share for any municipal works associated with this development; and,

iii) That payment of Cash-in-Lieu of Parkland will be required, pursuant to Section 42 of the Planning Act, prior to the issuance of each building permit. The calculation for the Cash-in-Lieu payment shall be based on the value of the land on the day prior to the issuance of the first building permit for each said Lot or Block.

With regard to Lots 1 to 13 (street townhouses) and Lots 14 to 54 and Block 55 (block townhouses), a parkland dedication, at a ratio of 0.6 ha per 300 dwelling units, will be required.
Furthermore, with regard to Block 56, as per the definition of “Net Land Area” in Parkland Dedication By-law No. 09-124, Environmental Lands are not to be included in the calculation and are, therefore, not subject to any Parkland Dedication. However, the owner/applicant is advised that as per Section 7 of the By-law, any conveyance or dedication of said Environmental Lands shall not be considered a conveyance for park or other recreational purpose pursuant to Sections 3 to 6 of the By-law.

All in accordance with the Financial Policies for Development and the City’s Parkland Dedication By-law, as approved by Council.

(c) That approval be given to **Draft Plan of Condominium Application 25CDM-201108, by Homes By DeSantis (Meadows) Inc., Owner**, to establish a draft plan of condominium (Common Elements Condominium) to create a condominium road and sidewalk, as well as visitor parking areas, landscaped areas, and an enhanced noise barrier in conjunction with 41 freehold townhouse lots, on lands located at 130 and 170 Palacebeach Trail (Stoney Creek), as shown on Appendix “A” to Report PED11162, subject to the following conditions:

(i) That this approval apply to the plan prepared by IBI Group, and certified by G.G. Aldworth, P.L.S., dated January 27, 2011, and last revised on July 21, 2011, showing the common elements (Block 55), attached as Appendix "F" to Report PED11162.

(ii) That the Final Plan of Condominium complies with all the applicable provisions of Zoning By-law No. 3692-92.

(iii) That the owner receives final approval and registers Draft Plan of Subdivision 25T-201101, to the satisfaction of the Director of Planning.

(iv) That the owner enters into a Development Agreement to ensure that the tenure of each of the proposed 41 freehold lots have legal interest, in common, to the Common Elements Condominium, to the satisfaction of the City Solicitor.

(v) That the owner includes the following warning clause in the Development Agreement, all Purchase and Sale Agreements, and any rental or lease agreements required for occupancy:

   “Purchasers are advised that the City of Hamilton will not be providing maintenance or snow removal service for the private condominium road or sidewalk.”
(vi) That the owner includes the following warning clause in the Development Agreement, all Purchase and Sale Agreements, and any rental or lease agreements required for occupancy:

“The owner (being the future condominium corporation) agrees to maintain, repair, or replace the enhanced noise barrier consisting of a berm/wall combination, located within Block 55. Any maintenance, repair, or replacement of the noise enhancement barrier shall be with the same material and to the same standards as the original.”

(vii) That the owner includes the following warning clause in the Development Agreement, all Purchase and Sale Agreements, and any rental or lease agreements required for occupancy:

“Acknowledgement that in the event Municipal Garbage Collection cannot be accommodated for Lots 14 to 54, private garbage collection shall be arranged and implemented by the Condominium Corporation.”

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

The following warning clauses shall be included within all offers and agreements of purchase and sale or lease for Lots 1 - 13, and 28 - 54:

“Purchasers/tenants are advised that despite the inclusion of noise control features in this development and within the building units, sound levels due to increasing road traffic may occasionally interfere with some activities of the dwelling occupants as the sound levels exceed the criteria of the Municipality and the Ministry of the Environment.”

"This dwelling unit has been fitted with central air conditioning which will allow windows and exterior doors to remain closed, thereby ensuring that the indoor sound levels are within the criteria of the Municipality and the Ministry of the Environment."
“Purchasers/tenants are advised that the acoustical barrier, as installed, shall be maintained, repaired, or replaced by the owner. Any maintenance, repair, or replacement shall be with the same material and to the same standards as the original.”

The following warning clauses shall be included within all offers and agreements of purchase and sale or lease for Lots 22 - 27:

“This dwelling unit has been fitted with a forced air heating system and the ducting, etc., were sized to accommodate the installation of a central air conditioning. Installation of central air conditioning by the occupant will allow windows and exterior doors to remain closed, thereby ensuring that the indoor sound levels are within the criteria of the Municipality and the Ministry of the Environment. (Note: the location and installation of the outdoor air conditioning device should be done so as to minimize the noise impacts and comply with the noise criteria of MOE Publication NPC-216, Residential Air Conditioning Devices.)”

The following warning clause shall be included within all offers and agreements of purchase and sale or lease for Lots 14 - 21:

“This dwelling unit has been fitted with a forced air heating system and the fans, ducts, etc., were sized to accommodate the installation of a central air conditioning system if it is found necessary by the owner/occupant at any time in the future. Installation of central air conditioning by the occupant will allow windows and exterior doors to remain closed, thereby ensuring that the indoor sound levels are within the Municipality’s and the Ministry of the Environment’s noise criteria. (Note: the location and installation of the outdoor air conditioning device should be done so as to comply with the noise criteria of MOE Publication NPC-216, Residential Air Conditioning Devices.)”
and thus minimize the noise impacts both on and in the immediate vicinity of the subject property.)"

(vix) That the owner provides the Senior Director of Growth Management with evidence that satisfactory arrangements, financial or 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.

(vx) That the owner satisfies any conditions, financial or otherwise, of the City of Hamilton.

**EXECUTIVE SUMMARY**

The purpose of these applications is to amend the City of Stoney Creek Zoning By-law, and establish a plan of subdivision and plan of condominium to permit the development of the subject lands for 13 lots for street townhouses fronting onto Palacebeach Trail, and 41 lots for freehold townhouses fronting on a condominium road. The common element condominium development also includes visitor parking areas, landscaped areas, and an enhanced noise barrier.

The proposal has merit and can be supported since the applications are consistent with the Provincial Policy Statement and the Growth Plan for the Greater Golden Horseshoe, and conform to the Hamilton-Wentworth Official Plan and the City of Stoney Creek Official Plan. The proposed development is compatible with and complementary to the existing uses in the immediate area. The proposed development also represents good planning by, among other things, providing for the development of a complete community, enhancing the streetscape along Palacebeach Trail, providing permanent protection for the existing watercourse, and making efficient use of a vacant parcel of land and existing infrastructure within the urban boundary.

*Alternatives for Consideration - See Page 34.*

**FINANCIAL / STAFFING / LEGAL IMPLICATIONS** (for Recommendation(s) only)

Financial: N/A.

Staffing: N/A.
LEGAL:

As required by the Planning Act, Council shall hold at least one (1) Public Meeting to consider applications for an amendment to the Zoning By-law, approval of a draft plan of subdivision, and approval of a draft plan of condominium (common elements).

HISTORICAL BACKGROUND (Chronology of events)

Proposal

The subject lands, totalling 1.83 hectares, are located on the northwest corner of the North Service Road and Glover Road, and also have frontage on Palacebeach Trail. The subject lands are currently vacant, and a watercourse traverses the westerly lot line.

The applicant has submitted applications for a Zoning By-law Amendment, a Draft Plan of Subdivision, and a Draft Plan of Condominium (common elements), which proposes to create street townhouse units fronting onto Palacebeach Trail, freehold townhouse units fronting onto a private (condominium) road, and a block for the existing watercourse.

The applicant proposes to amend City of Stoney Creek Zoning By-law No. 3692-92 by changing the zoning on the subject lands from the Neighbourhood Development “ND” Zone and Residential Multiple “RM3” Zone to a Modified Residential Multiple “RM2” Zone. The application also proposes to amend the City of Hamilton Zoning By-law No. 05-200 by adding the lands containing an existing watercourse to the Conservation/Hazard Land (P5) Zone (see Appendix “A”).

The proposed plan of subdivision (see Appendix “D”), if approved as submitted, is intended to create 13 lots for street townhouse units with frontage on Palacebeach Trail (Lots 1 - 13), 41 lots for freehold townhouse units fronting on a private condominium road (Lots 14 - 54), 1 block for the condominium road and other common elements (Block 55), and 1 block for the existing watercourse (Block 56). The block containing the existing watercourse is proposed to be dedicated to the City of Hamilton.

The proposed draft plan of condominium (see Appendix “F”) is intended to create a condominium road to provide vehicular access for the 41 townhouse units, and will also contain other common element features including visitor parking spaces, a noise enhancement barrier, and landscaped areas. The applicant has submitted a concept plan (see Appendix “G”), and has requested a number of site-specific modifications in order to implement the proposed development of the subject lands for townhouse dwellings units. The proposed modifications will be discussed in greater detail in the Analysis / Rationale for Recommendation section of the Report (see Page 26 - Point 2).
Chronology:

October 2009: Submission of Formal Consultation Application FC-09-189 by IBI Group, on behalf of Marz Homes Holdings, via Offer of Purchase and Sale of the lands.

January 31, 2011: Submission of Applications ZAC-11-008 (Zoning By-law Amendment) and 25T-201101 (Draft Plan of Subdivision) by IBI Group, on behalf of Homes By DeSantis (Meadows) Inc.

February 14, 2011: Applications ZAC-11-008 and 25T-201101 are deemed complete.

February 23, 2011: Circulation of Notice of Complete Application and Preliminary Circulation for Applications ZAC-11-008 and 25T-201101 to all residents within 120 metres of the subject lands.

May 31, 2011: Submission of Application 25CDM-201108 (Draft Plan of Condominium) by IBI Group on behalf of Homes By DeSantis (Meadows) Inc.

June 13, 2011: Application 25CDM-201108 is deemed complete.

June 27, 2011: Neighbourhood Meeting held by IBI Group with Councillor, residents, and staff in attendance.

June 28, 2011: Circulation of Notice of Complete Application and Preliminary Circulation for Application 25CDM-201108 to all residents within 120 metres of the subject lands.

September 2, 2011: Circulation of Notice of Public Meeting to all residents within 120 metres of the subject lands and all residents who provided written comments.

Previous Applications

The north-easterly portion of the subject lands was previously included as a block within the approved “Bridgeport Phase 3” Subdivision (Block 60), and was zoned Multiple Residential “RM3” Zone to permit multiple residential uses such as townhouses (see Appendix “A” - Block 3). The subject property also includes Block 67 of the “Bridgeport Phase 3” Subdivision, a narrow remnant piece of land along the south side of Palacebeach Trail, which is not currently zoned for development.
The remainder of the lands were not part of the previous “Bridgeport Phase 3” Subdivision plan. A previous zoning amendment application was submitted in 2008, by Ontario Realty Corporation (ORC), the previous landowner, for these lands in 2008 (ZAC-08-029) for the purpose of establishing zoning for a condominium townhouse development. At the time, the lands did not have access to Palacebeach Trail as a result of Block 67 not being part of the proposal. In order to obtain access/frontage to Palacebeach Trail, the subject lands had to be merged with the remnant Block 67 of the “Bridgeport Phase 3” Subdivision plan, before development. All lands are now currently under the same ownership, and the subject applications propose to establish a single, comprehensive townhouse development. The previous zoning application for only a portion of the lands (ZAC-08-029) has been withdrawn and replaced with the current proposal that is the subject of this Report.

**Details of Submitted Application:**

**Location:**
130 and 170 Palacebeach Trail (see Appendix “A”)

**Owner/Applicant:**
Homes By DeSantis (Meadows) Inc. (Gabe DeSantis)

**Agent:**
IBI Group (John Ariens)

**Property Description:**

- **Lot Frontage:**
  - Palacebeach Trail - 160.64 metres
  - North Service Road - 189.49 metres
  - Glover Road - 150.37 metres

- **Lot Depth:**
  - Irregular - 79.44 metres

- **Lot Area:**
  - 1.83 hectares

- **Servicing:**
  - Full Municipal Services

Vision: To be the best place in Canada to raise a child, promote innovation, engage citizens and provide diverse economic opportunities.

Values: Honesty, Accountability, Innovation, Leadership, Respect, Excellence, Teamwork
EXISTING LAND USE AND ZONING:

<table>
<thead>
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<th>Existing Land Use</th>
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Surrounding Land Uses

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<th>Rural Residential “RR” Zone, Residential “R4-19” Zone, Residential “R5-9” Zone, Multiple Residential “RM2-11” Zone, Multiple Residential “RM3” Zone, and Open Space “OS” Zone</th>
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<td>Multiple Residential “RM3-26” Zone and Open Space “OS” Zone</td>
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POLICY IMPLICATIONS

Provincial Policy Statement

The Provincial Policy Statement (PPS) provides policy direction of provincial interest related to land use planning and development. The Planning Act requires that, in exercising any authority that affects planning matters, planning authorities shall be consistent with policy statements issued under the Act. The application is consistent with the Provincial Policy Statement since Policy 1.1.3.1 states that ‘Settlement Areas’ shall be the focus of growth, and Policy 1.1.3.2 (a) states that land use patterns within Settlement Areas shall be based on densities and a mix of land uses which efficiently use land and resources.
The application is also consistent with the housing policies of the Provincial Policy Statement, since Policies 1.4.3 (b), (c), and (d) state that planning authorities shall provide for an appropriate range of housing types and densities to meet projected requirements by facilitating all forms of housing required to meet the social, health, and well-being requirements of current and future residents; permit and facilitate all forms of residential intensification and redevelopment; direct new housing towards locations where appropriate levels of infrastructure and public service facilities are or will be available; and that planning authorities shall promote densities for new housing which efficiently use land, resources, infrastructure, and public service facilities.

Policy 1.7.1(e) outlines that long-term economic prosperity will be supported by planning so that major facilities (such as airports, transportation corridors, sewage treatment facilities, waste management systems, industries and aggregate activities) and sensitive land uses are appropriately designed, buffered, and separated from each other to prevent adverse effects from odour, noise and other contaminants, and minimize risk to public health and safety. The subject lands are located adjacent to Glover Road, and are located approximately 40 metres from the Queen Elizabeth Way (QEW). The proximity of the proposed sensitive land use to road noise sources triggers the requirement for a Noise Study. Staff notes that a Noise Study, titled “Road Traffic Noise Feasibility Study, Waterview Phase IV”, dated November 22, 2010, and prepared by HGC Engineering, was submitted as part of the subject applications. The Noise Study has been reviewed by City staff. The recommendations of the Noise Study included the requirement for the provision of noise barriers to protect the outdoor living areas of the units located in close proximity to the QEW, the inclusion of specific building components for some units within the development, as well as the inclusion of noise warning clauses as part of the future Purchase and Sale and/or Lease Agreements for units within the subject development. The recommendations of the Noise Study will be implemented through both the Subdivision and Condominium Agreements.

In order to address the usability of the front yards of units in close proximity to the QEW and, in turn, ensure that liveable spaces are being provided within the entire subdivision, not just within the outdoor living area as defined by the Ministry of Environment (MOE), an addendum to the Noise Study was required. The applicant submitted a Noise Study addendum, dated July 15, 2011, prepared by HGC Engineering. The addendum found that in addition to the noise attenuation barrier required to meet MOE guidelines, an additional 3.0 metre high noise barrier, consisting of 1.8 metre high wood noise fence on top of a 1.2 metre high berm along the southerly property boundary of the subject lands, will improve the noise levels in the front yards of the units facing the QEW and, in turn, will improve their usability.
While the City typically requires durisol type noise walls adjacent to Highways, since the function of the southerly perimeter noise barrier is to decrease noise levels beyond the MOE guidelines, the provision of a wood noise wall component was found to be an acceptable form of additional noise attenuation beyond the required noise mitigation measures, as per MOE Guidelines. Furthermore, the enhanced noise barrier is located within the common element block of the draft plan of condominium (Block 55) and is to function as a common element feature. As such, it is recommended that the owner include the following in the Development Agreement for the proposed Plan of Condominium (see Recommendation (c)(vi)):

“The owner (being the future condominium corporation) agrees to maintain, repair, or replace the enhanced noise barrier consisting of a berm/wall combination, located within Block 55. Any maintenance, repair, or replacement of the enhanced noise barrier shall be with the same material and to the same standards as the original.”

Based on the foregoing noise information, the following condition of draft plan of subdivision approval is recommended (Appendix “E” - Condition 1) in order to ensure that all of the noise mitigation measures and warning clauses of the Noise Study and addendum are implemented as part of the development:

“That prior to registration of the draft plan, the owner shall investigate the noise levels on the site and determine and implement the noise control measures that are satisfactory to the City of Hamilton in meeting the Ministry of the Environment’s recommended sound level limits. An Acoustical Report, prepared by a qualified Professional Engineer containing the recommended control measures, shall be submitted, to the satisfaction of the City of Hamilton, Director of Planning. Should a peer review of the Acoustical Report be warranted, all associated costs shall be borne by the owner/applicant, and shall be submitted, to the satisfaction of the City of Hamilton, Director of Planning.”

Policy 2.6.2 requires that development and site alteration shall only be permitted on lands containing archaeological resources or areas of archaeological potential if the significant archaeological resources have been conserved by removal and documentation, or by preservation on site. The subject lands have been determined as an area of archaeological potential, as they meet 4 of the 10 criteria used by the City of Hamilton and the Ministry of Tourism and Culture in determining potential. Accordingly, a Stage 1 and 2 Archaeological Report was submitted to the Ministry of Tourism and Culture by the applicant and the Provincial interest was signed off in a letter dated November 30, 2005. Staff concur with the report, and have no further concerns with regards to archaeology.
Policy 3.1.1 states that development shall generally be directed to areas outside of, among other things, hazardous lands adjacent to river, stream, and small inland lake systems which are impacted by flooding hazards and/or erosion hazards. In this case, the floodplain limits have been identified through the submission of a topographical survey prepared by IBI Group, dated January 8, 2009, as well as the supporting report, titled “Hydrologic and Hydraulic Analyses Report for Bridgeport Watercourses”, prepared by A.J. Clarke and Associates Ltd., dated January 20, 2006, to the Hamilton Conservation Authority (HCA). The HCA acknowledged that the proposed Open Space block (see Appendix “D” - Block 56) would contain the watercourse channel and its associated flood and erosion hazard lands. The Open Space block will be zoned as Conservation/Hazard Lands and dedicated to the City of Hamilton, which will preclude development from occurring within the flooding hazard.

Based on the foregoing, the proposal is consistent with the Provincial Policy Statement.

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

Approximately three quarters of the subject lands are located within the City of Hamilton’s “Built Boundary”, and the remainder of the subject lands are located within a “Designated Greenfield Area”, as defined by the Growth Plan. As the proposal is providing for a compact residential development in an urban Settlement Area in Hamilton, is contributing to the creation of a complete neighbourhood, and is utilizing existing infrastructure, it is consistent with the guiding principles found in Part 1.2.2 of the Plan. These principles state that the basis for guiding decisions on how land is developed should include building compact, vibrant, and complete communities, and optimizing the use of existing and new infrastructure to support growth in a compact, efficient form. The proposed development for these lands is also consistent with the general intensification policies of the Plan, specifically, Policy 2.2.2.1, which states that population growth will be accommodated by directing development to Settlement Areas, and Policy 2.2.3.1, which states that by the year 2015 and for each year thereafter, a minimum of 40% of all residential development occurring annually within each upper and single-tier municipality will be within the built-up area.

Based on the foregoing, the proposal is consistent with the Growth Plan for the Greater Golden Horseshoe.

**Hamilton-Wentworth Official Plan**

The subject property is designated as “Urban Area” in the Hamilton-Wentworth Official Plan. Policy C-3.1 of the plan outlines that a wide range of urban uses, defined through Area Municipal Official Plans and based on full municipal services, will be concentrated in the Urban Areas. These areas are intended to accommodate approximately 96% of new residential housing units in the Region to the year 2020.
Policy B-9.2 states that the City shall consider the protection and preservation of regionally significant historical and cultural resources, including recognized archaeological sites, in the review of proposals for development and redevelopment. Where possible, these attributes will be incorporated into the overall design in a manner which minimizes adverse impacts and encourages maintenance and protection. As outlined earlier, the applicant submitted a Stage 1 and 2 Archaeological Report, and the Provincial interest was signed off in a letter dated November 30, 2005. Staff concur with the report, and have no further concerns with regards to archaeological potential.

The proposal conforms to the policies of the Hamilton-Wentworth Official Plan.

City of Stoney Creek Official Plan

The subject property is designated as “Residential” on Schedule “A” - General Land Use Plan, and “Medium Density Residential” on Schedule “A4” - Urban Lakeshore Area Secondary Plan, of the City of Stoney Creek Official Plan. The watercourse which traverses the west side of the subject lands is designated as a “Class 3 - Rehabilitation Area” and “Watercourses - Rehabilitation Areas (min. 60m wide)” on Schedule “B” - Stoney Creek Open Spaces and Natural Environment System (SCONES), and the lands are also considered to be part of the “Lakeshore Protection Area” delineated on Schedule “B”.

The residential policies in the City of Stoney Creek Official Plan state that the primary uses permitted in areas designated for residential shall be for dwellings, and that the location of various types and residential densities shall be outlined in the relevant Secondary Plans (Policy A.1.2.1). Council is directed to ensure that an adequate number of dwellings, parks, schools and other community facilities are available, in part by establishing appropriate designations and policies in the relevant secondary plans (Policy A.1.2.11). All new development must also be provided with full municipal services (Policy A.1.2.5).

Policy 1.2.12(b), outlines that the “Medium Density Residential” designation identified in applicable secondary plans shall permit densities of approximately 30 to 49 units per Net Residential Hectare, and shall permit predominantly townhouse dwellings and walk-up apartments. The policy also outlines that, generally, these types of dwellings are to be located at the periphery of the Residential Neighbourhoods adjacent to arterial roads and/or collector roads. The proposal is for the development of townhouse dwellings and would establish a density of 31 units per hectare on the lands (excluding the creek block). As the proposal is for residential uses (townhouse development) and conforms to the designation established in the secondary plan, it is consistent with the above policies.
Policy A.1.2.17 notes that in the evaluation of any proposal for multiple family residential development, Council should be satisfied that:

“a) Schools and neighbourhood commercial facilities will be adequate for the increased residential density resulting from the proposal;

b) The height, bulk, and arrangement of buildings and structures will achieve harmonious design and will not conflict with the existing and/or expected development of the surrounding area.

c) Appropriate off-street parking, landscaped areas, protection for abutting residential uses, where warranted, and other accepted site planning features can be satisfactorily accommodated on the proposed site; and,

d) Ingress and egress to the property will be so designed as to minimize traffic hazards and congestion on surrounding streets.”

Policy A.1.2.19 also notes that “in the development of new residential areas, and as far as practical in the infilling or redevelopment of established areas, Council may undertake or require the following in order to achieve high standards of residential amenity:

a) Provision and maintenance of adequate off-street parking;

b) Provision, improvement and/or maintenance of on-site landscaping; and,

c) Provision, improvement and/or maintenance of adequate separation distances and the placement of buffering features between residential uses of differing densities as well as other land uses.”

The proposed layout of the development is considered to be appropriate for the site, as the units are maintaining the required height limits, sufficient yards are being provided abutting existing residential uses, and the street townhouses contribute to the creation of a complete streetscape along the south side of Palacebeach Trail. Two accesses are being provided for the proposed 41 block townhouses to ensure appropriate ingress and egress. Parking requirements are also being satisfied in accordance with the Zoning By-law, and landscaped areas are being provided for on the site. In addition, the School Boards have not identified any concerns with the proposed development. Therefore, the proposal is consistent with Policies A.1.2.17 and A.1.2.19 of the Official Plan.
The Official Plan also contains several policies which require appropriate measures to attenuate the effects of noise adjacent to highways and visual intrusion or other undesirable effects on new residential development adjacent to highways (A.1.2.20(c), A.1.2.27). The Urban Lakeshore Secondary Plan also addresses noise in Policy A.13.4.3, which states that “as the Queen Elizabeth Way is located in proximity to the Lakeshore Areas, these lands are subject to higher levels of noise from highway traffic. Accordingly, Council shall require any residential development or redevelopment to conform to the minimum noise levels, as established by the Ministry of the Environment and Energy. In this regard, an open space buffer, in the form of a landscaped berm, or a combination earthen berm and noise wall, shall be provided between the North Service Road and lands designated for residential uses for the purpose of noise attenuation.” As discussed in detail on Page 11 of this Report, the applicant has submitted a Noise Study, which outlines mitigation measures for noise attenuation, including the provision of noise walls to protect the rear yard amenity areas of the proposed units, as per MOE Guidelines, as well as providing an enhanced noise barrier consisting of a combined wood fence berm within the 14 metre MTO setback to improve the usability of the front yards of units in close proximity to the QEW and, in turn, ensure that liveable spaces are being provided within the entire subdivision, not just within the outdoor living area. A condition of draft plan approval (see Appendix “E” - Condition 1) is recommended to ensure that all of the noise mitigation measures and warning clauses of the Noise Study and addendum are implemented as part of the development.

As the property contains an existing watercourse, which is designated as a “Class 3 Rehabilitation Area” and is within the “Lakeshore Protection Area”, the environmental policies contained in the Official Plan for the Stoney Creek Open Spaces and Natural Environmental System (SCONES) are also applicable to the site. The existing watercourse, referred to specifically as Stoney Creek Watercourse No. 6.2, is classified as a Type 2 stream corridor, as defined by the Ministry of Natural Resources (B.1.2.1(c)). Some of the key objectives of the policies are to protect and preserve designated environmental areas in their natural state wherever possible, to promote sustainable development by supporting the protection of the environment while meeting the economic needs of Stoney Creek, to maintain biodiversity by protecting and connecting natural areas and open spaces, and to improve the quality of watercourses in order to ensure there is no net loss of fisheries habitat (B.1.1.1(a), (b), (c), (e)).

Policy B.1.2.8(a) applies specifically to natural areas which contain watercourses. This policy encourages the promotion and enhancement of watercourses through the regeneration of natural vegetation along streams and creeks. In order to assist in the protection of streams, the policy states that a 30 metre buffer from the stable top-of-bank on either side of MNR Type 1 and 2 watercourses will be established, where possible. At the submission of a planning application, the proponent will have the top-of-bank surveyed and mapped, which will form the basis for calculating the 30 metre buffer. Improved environmental management options for the buffer areas, as identified
in an EIS, EDA, or Stewardship Agreement should demonstrate how potential negative effects on water quality and fish habitat will be mitigated or improved by the application. Through the previous rezoning application on these lands (ZAC-08-029), the applicant submitted a topographical survey, prepared by IBI Group, dated January 8, 2009, as well as the supporting report titled "Hydrologic and Hydraulic Analyses Report for Bridgeport Watercourses", prepared by A.J. Clarke and Associates Ltd., dated January 20, 2006, to the Hamilton Conservation Authority (HCA). Both the HCA and City staff acknowledge that the proposed open space block (see Appendix “D” - Block 56) is sufficient to contain the watercourse channel and its flood and erosion hazard lands, as well as the majority of the vegetation abutting the watercourse. Staff also notes that sections of this watercourse have already been channelized north of the subject lands (through approval of the previous Bridgeport Subdivision), and there is not a need to provide the full 30 metre buffer for the watercourse, as it has been previously disturbed. However, there is some existing vegetation on the site outside of the proposed creek block which may be impacted by the development, including a stand of small trees and some edge vegetation located in Block 56, and that this will be further reviewed through approval of the subdivision conditions and at the Site Plan Stage of development.

The objective of the Lakeshore Protection Area policies is to preserve and protect the Lake Ontario shoreline from erosion. The proposal for the subject lands is not abutting the lake; therefore, no shoreline protection works are needed. Policy B.3.2.9 requires Council to ensure that no development occurs within a defined floodplain unless adequate measures are taken, to the satisfaction of the Conservation Authority. The Hamilton Conservation Authority has acknowledged that the proposed creek block is sufficient to contain the existing watercourse and its flood and erosion hazard lands (i.e. 100 year floodplain area). The creek block is also proposed to be rezoned to the Conservation/Hazard Land (P5) Zone to preclude any development within this area. Therefore, the proposal conforms to the Lakeshore Protection Area policies.

The proposal conforms to the policies of the City of Stoney Creek Official Plan.

**Trillium Neighbourhood Plan**

The subject property is designated as “Medium Density Residential” in the Trillium Neighbourhood Plan. The proposed townhouse development conforms to the neighbourhood plan.

**New Urban Hamilton Official Plan**

The Urban Hamilton Official Plan was adopted by Council on July 9, 2009, and was approved, with modifications, by the Ministry of Municipal Affairs and Housing on March 16, 2011. A number of appeals have been filed with the Ontario Municipal Board; therefore, the plan is not yet in effect.
The subject lands are designated as “Neighbourhoods” on Schedule “E” - Urban Structure and on Schedule “E-1” - Land Use Designations. The subject lands are also designated as “Low Density Residential 3c” in the Urban Lakeshore Area Secondary Plan, which forms part of the Urban Hamilton Official Plan.

The subject lands are considered to be partially located in a “built-up” area of Hamilton, and partially within a “Greenfield” area. Hamilton is required to achieve a minimum of 40% of all residential development within the built-up area, and “Greenfield” areas must be planned to achieve an overall minimum density of 50 people and jobs per hectare. (Vol.1, A.2.3.3.3, A.2.3.3.4). The proposed development would help the City to meet these requirements.

The Urban Hamilton Official Plan states that intensification shall be encouraged within the built-up area, as it is a key component of Hamilton’s growth strategy (Vol. 1, B.2.4, B.2.4.1.1). Forty percent of residential intensification, which includes infill development and the development of vacant parcels of land within the built-up area, is anticipated to occur within areas designated as “Neighbourhoods” on Schedule “E” - Urban Structure (Vol.1, B.2.4.1.3(c)). Policies B.2.4.1.4 and B.2.4.2.2 (Vol.1) outline a number of criteria which should be evaluated when considering residential development in the built-up area, and specifically within areas designated as “Neighbourhoods”. The proposal generally complies with these policies as the proposed unit types, building form, and density is compatible with and complements the existing neighbourhood; the layout and design of the proposal is integrated appropriately with existing development; and the development makes good use of the existing street network, existing infrastructure capacity, and vacant parcel of land.

The proposal is also consistent with the Urban Housing goals outlined in the plan to provide for a range of housing types, forms, and densities in the urban area to meet the social, health, and well-being requirements of current and future residents (Vol. 1, B.3.2.1.1, B.3.2.4.1), and with the Urban Design policies of Section B.3.3 (Vol.1) of the Plan, in that it respects existing development patterns, promotes design consistent with the surrounding environment, and it conserves the natural features on the site. It also contributes to the creation of a continuous animated street edge along Palacebeach Trail, and contributes to sustainability by achieving a compact development.

The “Low Density Residential 3c” designation of the Urban Lakeshore Area Secondary Plan permits low rise apartments, row houses, stacked and block townhouses, and innovative forms of attached housing with a density range of 30 to 49 units per hectare (Vol. 2, B.7.3.1.4). The proposal is consistent with this designation and has a density of 31 units per hectare.

Based on the above-noted policies, the proposal would conform to the policies of the new Urban Hamilton Official Plan.
Staging of Development

The proposal is consistent with the Criteria for Staging of Development, in that utilities and services are available, there are no budgetary impacts, it supports a healthy growing economy, provides for additional assessment and Development Charges revenue, provides housing opportunities, and complies to the Official Plan.

RELEVANT CONSULTATION

Agencies/Departments that did not Respond or Have no Concerns or Objections:

- Taxation Division, Corporate Services Department.
- Recreation Division, Community Services Department.
- Municipal Property Assessment Corporation.
- Hydro One.
- Union Gas.
- Cogeco Cable.
- French Public School Board.
- French Catholic School Board.
- Hamilton-Wentworth District School Board.
- Hamilton-Wentworth Separate School Board.
- Hamilton Police Services.
- Hamilton Emergency Services.

Agencies/Departments that Submitted Comments:

The Traffic Engineering Section (Public Works Department) has advised that they have no comment with respect to amending the Zoning By-law. With respect to the draft plan of subdivision (and conceptual site plan - see Appendix “G”), the following comments were provided:

"The access radius at the westerly end of the property encroaches into the driveway of the first unit in Block 1. We recommend this radius is reduced slightly so it does not interfere with the driveway. We note there is a sidewalk shown on the plan that abruptly ends in front of the fifth unit in Block 1. We recommend this sidewalk is continued the length of the site.

We have access/manoeuvering issues regarding Block 5. As proposed, commercial vehicles will need to reverse a significant distance to exit this area since there is no turn-around area to utilize. In the past, this type of design was not acceptable to Waste Management staff for health and safety reasons involving their garbage collection staff. We advised the applicant that municipal collection for this Block may not be permissible."
We also noted that delivery truck drivers may follow the same Health and Safety regulations, which prevent a truck from reversing a certain number of metres.

Any new or change in access requires the applicant/owner to apply for, and receive, an Access Permit from the Public Works Department. Prior to commencing any work, a Site Plan, approved by the City, must be submitted by the applicant. The applicant must remove all abandoned accesses and restore the curb and boulevard, at their expense, to the satisfaction of the Director of Operations and Maintenance, Public Works Department. All driveway works within the municipal road allowances must be completed by a contractor bonded with the City of Hamilton. An onsite meeting may be required with the contractor and City staff.

We require a minimum clearance of 1.2m between the proposed accesses and any adjacent poles, hydrants, etc. Any relocation of these items to comply with our requirements will by undertaken at the applicant’s expense. We require minimum 3 metre by 3 metre visibility triangles between the access limits and the ultimate road allowance limits of Palacebeach Trail in which the maximum height of any objects or mature vegetation cannot exceed a height of 0.70m above the corresponding perpendicular centreline elevation of the adjacent streets.”

These comments/concerns will be addressed through detailed design at the Site Plan Control Stage. A revision to the layout of Building 5 may be required to ensure that none of the proposed units are located on a dead end street or to create a “T” turn-around area at the end of the street for garbage collection. Alternatively, the owner may choose to opt for private garbage collection for the units which do not front on Palacebeach Trail.

The Operations and Waste Management Division (Public Works Department) has advised that they do not have any comments concerning the Zoning By-law Amendment. With regard to the draft plan of subdivision, Operations and Waste Management advised that the property is eligible for weekly collection of garbage, organics, recyclable material, and leaf and yard waste through the City of Hamilton subject to compliance with specifications indicated by the Operations and Waste Management Division and subject to compliance with the City’s Solid Waste Management By-law 09-067. On the conceptual site plan between Blocks 2 and 5 there is a dead-end street that does not have a turn-around area for collection vehicles. The street must be designed in such a way as to allow a collection vehicle to enter the site, collect the waste, and exit without the need to back-up onto a road. A turn-around area allowing for a three-point turn of not more than one truck length or a drive through access route are acceptable options for accommodating this requirement.
As mentioned above, these comments/concerns will be addressed through detailed design at the Site Plan Control Stage. A revision to the layout of Building 5 may be required to ensure that none of the proposed units are located on a dead-end street or to create a “T” turn-around area at the end of the street for garbage collection. Alternatively, the owner may choose to opt for private garbage collection for the units which do not front on Palacebeach Trail. In the event that municipal garbage collection cannot be accommodated for Lots 14 to 54, a warning clause should be included in all Purchase and Sale Agreements, and any rental or lease agreements required for occupancy. As such, a draft plan condition has been included in Appendix “E” (see Condition 3) and a condition has been included in the proposed Plan of Condominium (see Recommendation (c)(vii)).

**Public Health Services (Health Protection Division)** has advised that they have no objection to the proposed applications provided any existing or proposed dwellings constructed on the lots are properly connected to the available municipal sewers and water supply. If a septic tank exists on the subject property, it is recommended that it be emptied by a Ministry of Environment licensed sewage hauler, and then filled with soil. This is to reduce the likelihood of a safety hazard. If a water well exists on the property that is, or will no longer be used, it is recommended that the water well be abandoned according to Regulation 903 under the Ontario Water Resources Act. The Ministry of the Environment (MOE) is the agency that oversees this legislation.

As is mentioned in the Analysis/Rationale for Recommendation section of this Report, the subject lands will be connected to the existing municipal services along Palacebeach Trail. In addition, the conditions requested by Public Health Services are addressed through Conditions 30 and 31 in the recommended special conditions of draft plan approval (see Appendix “E”).

**Canada Post** has advised that this subdivision will receive mail service to centralized mail facilities provided through their Community Mailbox Program.

The owner shall complete, to the satisfaction of the Director of 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 cooperation 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.

The conditions requested by Canada Post are addressed through Conditions 4 and 5 in the recommended special conditions of draft plan approval (Appendix “E”), and through Part 1.22 of the City of Hamilton’s Standard Form Subdivision Agreement.

**Horizon Utilities** has advised that if required, relocation, modification, or removal of any existing hydro facilities shall be at the owner’s expense. Developers shall be responsible for the cost of civil work associated with duct structures, transformer foundations, and all related distribution equipment. Should the Developer choose to employ Horizon Utilities to prepare design and procure the materials required to service this site, a minimum of 5 months notification is required. It would be advantageous for the Developer if Horizon Utilities were contacted at the stage where the site plan becomes available. Please note that it takes approximately 20 weeks to purchase a transformer.

**Bell Canada** has advised that a detailed review of the draft plan of subdivision has been completed, and has requested the following conditions for the draft plan of subdivision:

1. The Developer is hereby advised that prior to commencing any work within the Plan, the Developer must confirm that sufficient wire-line communication / telecommunication infrastructure is currently available within the proposed development to provide communication / telecommunication service to the proposed
development. In the event that such infrastructure is not available, the Developer is hereby advised that the Developer may be required to pay for the connection to and/or extension of the existing communication / telecommunication infrastructure. If the Developer elects not to pay for such connection to and/or extension of the existing communication / telecommunication infrastructure, the Developer shall be required to demonstrate to the municipality 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).

2. Bell Canada requires one or more conduit(s) of sufficient size from each unit to the room(s) in which the telecommunication facilities are situated, and one or more conduits from the room(s) in which the telecommunication facilities are located to the street line.

The standard conditions requested by Bell Canada are addressed in Part 2.6 of the City of Hamilton’s Standard Form Subdivision Agreement, and as a condition of Condominium approval (see Recommendation (c)(vix)).

**Hamilton Municipal Parking System** has advised that the applicant should ensure that on-site parking spaces and garages are suitably dimensioned without encumbrances, to ensure the continued use of these facilities for parking purposes. The applicant should ensure that all existing and future parking requirements, including visitor parking, are met on site. The applicant shall also ensure that the drive aisles are at least 6.0 metres wide to facilitate two-way traffic and manoeuvring in/out of the visitor spaces.

The **Ministry of Transportation** has advised that they have no concerns with the proposed rezoning application. However, the owner must be advised that all proposed permanent buildings and structures both above and below ground, utilities, frontage roads, fire routes, essential parking spaces, stormwater management ponds and associated berms, noise walls and other essential structures must be set back 14.0 metres (45 ft.) from the north limits of the North Service Road right-of-way. The Ministry will require the following to be included as a condition of draft approval for the plan of subdivision:

1. That prior to final approval, the owner shall submit to the Ministry of Transportation for their review and approval, a stormwater management plan and report indicating the intended treatment of the calculated runoff and impacts on the QEW right-of-way.
As a further note, all proposed post-development site generated runoff must be directed away from the QEW right-of-way. Any flows directed towards the QEW right-of-way must be maintained to pre-development levels. The calculations must include flows generated by 5, 10, 25, 50, 100 year, and regional storms. The owner is solely responsible for all noise mitigation measures. While MTO will not require a full traffic impact study at this time, the proponent must submit a traffic assessment brief to MTO outlining the expected traffic generated by this proposed development. The owner must also be advised that Ministry building/land use permits for all buildings within 46 metres (150 ft.) of the QEW highway property line, and within 395 metres of the intersection of the QEW and Glover Road, will be required prior to any grading and construction on this site. Separate building/land use permits will be required as well.

The conditions requested by the Ministry of Transportation are addressed through Conditions 6 to 9 in the recommended special conditions of draft plan approval (Appendix “E”). In addition, a Special Exception has been included in the amending By-law to ensure no development occurs within 14.0 metres of the southerly property line abutting the North Service Road (see Appendix “B”).

**Forestry and Horticulture Section (Public Works Department)** has advised that an assessment of the draft plan, conceptual site plan, and zoning amendment plan shows that there are no Urban Forestry municipal tree conflicts. There are no municipal trees located on the current road allowance fronting this vacant site. Private trees exist, including a stand alone wooded area and wooded riparian zone adjacent to the creek block, to be dedicated to the City of Hamilton. Hamilton does not have a private Tree By-law, and the two single site trees within the proposed Lot 4 of Block 1 are not subject to the City of Hamilton Tree By-law 06-151.

A wooded area (Riparian Zone) is presently adjacent to the proposed creek block (Block 56) and extends into the development site. The removal of edge Riparian trees to facilitate construction exposes interior trees, which are generally growing with a large upper crown and minimal lateral limbs, and these new edge trees are susceptible to blow over. A stand-alone wooded area is located in the western portion of the lot and its composition should be reported to Richard Canfor, the Forest Conservation Officer, who will provide approval for its removal (see Appendix “E” - Condition 10).

Maintaining Riparian Vegetation to the extent possible will help to stabilize the riverbanks, provide shading/cover for the river, filter contaminants, and improve wildlife habitat and esthetics. The current submission shows a 5 metre buffer between the top of the bank (Block 56) and the western edge of Block 55 (Common Element Road). The current proposal would see the removal of the entire stand-alone wooded area, the two single trees within Lot 4, and a significant portion of the Riparian Zone trees.
Between 41% and 49% of the site is specified as landscape open space. One of the conditions of approval will be the submission of a Tree Planting Plan showing 50mm caliper deciduous trees to be located on the Palacebeach Trail road allowance, along the Private Condo Road, as well as fronting the townhouses. The approved Planting Plan must be implemented by the Developer, as Forestry and Horticulture staff does not plant trees on private property and would prefer not to install the trees along Palacebeach Trail. The Forestry and Horticulture Section also requires that Riparian plantings be proposed along the creek channel as part of the Landscape Plan submission.

The requested Planting Plan for street trees is included as Condition 11 in the recommended special conditions of draft plan approval (Appendix “E”). As the development containing the 41 townhouse units fronting on the private condominium road is subject to Site Plan Control, approval of a Landscape Plan/Street Tree Planting Plan for Lots 14 to 54, and Blocks 55 and 56, will be required at that stage.

**Hamilton Conservation Authority** has advised that in conjunction with the review of the previous rezoning application (ZAC-08-029), staff requested that the applicant (ORC) delineate the floodplain associated with Watercourse 6.2 in order that development limits be established. In this regard, the applicant’s agent, IBI Group, submitted a topographical survey illustrating the floodplain limits on Figure 1, Floodplain Limits for 461 North Service Road, prepared by IBI Group, dated January 8, 2009, as well as the supporting Hydrologic and Hydraulic Analyses Report for Bridgeport Watercourses, prepared by A.J. Clarke and Associates Ltd., dated January 20, 2006. Subsequently, HCA acknowledged that ORC’s proposed Open Space Block would contain the watercourse channel and its flood and erosion hazard lands. In order to protect Block 56 from future development, the zoning on Block 56 will be changed to an appropriate Open Space Zone.

Block 56 and the southerly portion of Block 55 is located within HCA’s regulated area pursuant to our *Development, Interference with Wetlands, and Alterations to Shorelines and Watercourses Regulation 161/06 under Ontario Regulation 97/04*. As such, a HCA permit will be required prior to any grading and/or construction activities, or watercourse alteration within the regulated area. In addition, HCA will require that a Stormwater Management Brief be submitted to HCA for review and approval which satisfactorily addresses Normal (Level 2) quality control and sediment and erosion control.

The conditions requested by the Hamilton Conservation Authority are addressed through Conditions 12 to 15 in the recommended special conditions of draft plan approval (see Appendix “E”).
Public Consultation

In accordance with the Bill 51 changes to the Planning Act and Council’s Public Participation Policy, Notice of Complete Application and Preliminary Circulation for the Zoning By-law Amendment and Draft Plan of Subdivision applications was circulated to 146 property owners within 120 metres of the subject property on February 23, 2011. Notice of Complete Application and Preliminary Circulation for the Draft Plan of Condominium application was circulated to 146 property owners within 120 metres of the subject property on June 28, 2011. A Public Notice Sign for the Zoning By-law Amendment and Draft Plan of Subdivision applications was also posted on the subject lands on February 24, 2011. A second Public Notice Sign for the Draft Plan of Condominium application was posted on the subject lands on July 4, 2011.

As a result of the preliminary circulation and notice, staff received three letters submitted by area residents, which are included in Appendix “H”. The comments received included issues related to the density of the development, the neighbourhood not having the potential space and road capacity for the proposed units, street congestion, and a concern about the design of the units being too identical. These comments/concerns are discussed in the Analysis/Rationale for Recommendation section of this Report (see Page 32 - Point 7).

At the request of the Ward Councillor, a Neighbourhood Information Meeting organized by the proponent was held on June 27, 2011. The purpose of the Neighbourhood Meeting was to introduce the development proposal to the area residents and provide the opportunity for them to ask questions about the proposal. The proponent also introduced the future planned development immediately west of the subject lands to the residents to obtain initial feedback. Nine residents attended the meeting. Notice of the Public Meeting was given in accordance with the requirements of the Planning Act.

ANALYSIS / RATIONALE FOR RECOMMENDATION

(include Performance Measurement/Benchmarking Data, if applicable)

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 Growth Plan for the Greater Golden Horseshoe, as it represents an opportunity for growth in Settlement Areas.

   (ii) It implements the Hamilton-Wentworth Official Plan and the City of Stoney Creek Official Plan, including the Urban Lakeshore Area Secondary Plan.
SUBJECT: Applications for a Zoning By-law Amendment, and for Approval of a Draft Plan of Subdivision, “Oasis - Phase 1”, and Draft Plan of Condominium, for Lands Located at 130 and 170 Palacebeach Trail (Stoney Creek) (PED11162) (Ward 11) - Page 27 of 35

(iii) The proposed development is considered to be compatible with existing land uses in the immediate area.

(iv) The proposed development represents good planning by, among other things, providing for the development of a complete community, enhancing the streetscape along Palacebeach Trail, providing permanent protection for the existing watercourse, and making efficient use of a vacant parcel of land and existing infrastructure within the urban boundary.

2. The applicant has requested amendments to the City of Stoney Creek Zoning By-law No. 3692-92 in order to provide development regulations to implement the development concept shown in the conceptual site plan attached as Appendix “G”. The amendments would remove the Neighbourhood Development “ND” Zone from the southern portion of the lands and establish a modified Multiple Residential “RM2” Zone across the entire site. Separate modifications to the Multiple Residential “RM2” Zone have been included for the lands proposed for street townhouses and for the lands proposed for a block townhouse development in order to implement the proposed layout.

Multiple Residential “RM2” Zone - Street Townhouse Units (Block 1)

Lot Area

The zoning for the street townhouse lots is proposed to be altered to reduce the minimum lot area requirement to 159 square metres for interior lots, 215 square metres for end lots, and 240 square metres for corner lots, whereas 180 square metres, 240 square metres, and 270 square metres is required, respectively. As the applicant is providing adequate building setbacks, parking, landscaping, and rear yard amenity areas for the units, and densities are in compliance with the Official Plan, the requested change is considered to be minor in nature and appropriate for the design of the lots, and the overall layout of the subject lands.

Rear Yard Setback

Based on a review of the initial conceptual site plan submitted with the application, staff had requested that the applicant provide a 1.5 metre sidewalk along the private condominium road in order to ensure safe and accessible pedestrian movements through the townhouse development and to provide connectivity with the existing and proposed municipal sidewalk along Palacebeach Trail. In order to accommodate the requested sidewalk, it is proposed that the rear yard setback be slightly reduced to a minimum 7.1 metres, whereas 7.5 metres is required. Staff is of the opinion that the proposed
reduction is minor in nature, and will still provide adequate rear yard amenity space for the dwelling units.

**Multiple Residential “RM2” Zone - Freehold Townhouse Units on Private Condominium Road (Blocks 2 and 3)**

As the current Zoning By-law does not provide zoning provisions for the proposed freehold townhouse units fronting onto a private condominium road, a number of site-specific zoning modifications to the Residential Multiple “RM2” Zone (applicable to street townhouse dwellings) are required to implement the proposed development. Firstly, a zoning modification is required to deem the private condominium road as a public street in order to create freehold townhouse lots on a private road. Each of the 41 townhouse units will be sold as separate lots, each with interest in the common elements, as established by the Draft Plan of Condominium application. The common elements include the private road, visitor parking, an enhanced noise barrier, and landscaped areas.

To address comments from the Ministry of Transportation, a site-specific zoning modification has been included in the amending By-law to prohibit any building, structure, required parking area, or stormwater management facility to be located within 14.0 metres of the southerly lot line abutting the North Service Road.

**Lot Area**

The zoning for the freehold townhouse lots fronting on a private road is also proposed to be modified to reduce the minimum lot area to 154 square metres for interior lots, 206 square metres for end lots, and 215 square metres for corner lots, whereas 180 square metres, 240 square metres, and 270 square metres is required, respectively. Similar to the street townhouse lots, adequate building setbacks, parking, landscaping, and rear yard amenity areas are being provided. Therefore, the requested change is considered to be minor in nature and appropriate for the design of the lots, and the overall layout of the proposed development.

**Yard Setbacks**

As previously mentioned, the inclusion of the 1.5 metre sidewalk throughout the proposed development has resulted in a number of modifications to lot frontage, and yard setbacks. Minor reductions in lot frontage and flankage side yard setbacks are required for two corner units within the proposed development. A minimum lot frontage of 8.4 metres and flankage side yard of 2.0 metres are proposed for corner units, whereas a 9.0 metre lot frontage and 3.0 metre
flankage side yard are required for corner units. Staff is of the opinion that appropriate lot widths and setbacks are being provided.

The applicant is also proposing a minimum rear yard setback of 6.0 metres, whereas 7.5 metres is required. Staff notes that the 6.0 metre rear yard applies only to one grouping of units, where the remainder of the units are providing rear yard setbacks that range from 7.13 to 8.28 metres. Staff is of the opinion that the proposed reduction is minor in nature, and will still provide adequate rear yard amenity space for the dwelling units. A slight increase of 1% to the maximum lot coverage is also required. Again, this increase is only required for the same grouping of units that requires the reduced rear yard to 6 metres. The increase is considered minor and can be supported.

Parking Requirements

As these units will function similar to a typical block townhouse development, and on-street parking will not be permitted on the 6.6 metre wide private road, it is necessary to provide visitor parking spaces on site. Staff included a zoning modification to require that visitor parking spaces be provided at a minimum of 0.5 parking spaces per unit for the 41 freehold units fronting on a private condominium road, which is the minimum requirement under the Multiple Residential “RM3” Zone. Based on this ratio, a minimum of 21 visitor parking spaces are required. The concept plan included in Appendix “G” shows 27 visitor parking spaces. Staff notes that 6 of these parking spaces are located within the required 14.0 metre MTO setback and, therefore, cannot be counted as required parking spaces. However, these parking spaces may be provided and utilized over and above the required number of parking spaces.

3. The proposed Draft Plan of Subdivision (see Appendix “D”) will consist of 13 lots for street townhouses (Lots 1 to 13), 41 lots for freehold townhouse units fronting on a private condominium road (Lots 14 to 54), 1 block for a condominium road and other common elements (Block 55), and 1 block for a watercourse (Block 56).

Staff has had consideration for the criteria contained in Sub-section 51(24) of the Planning Act to assess the appropriateness of the proposed subdivision. Staff advises that:

(a) It is consistent with the Provincial Policy Statement and the Growth Plan for the Greater Golden Horseshoe (Places to Grow).

(b) It is not premature and is in the public interest, since the planned function of the lands is being implemented.
(c) It conforms with the policies of the Official Plan, and is compatible with existing adjacent plans of subdivision (i.e. Bridgeport).

(d) The lands can appropriately be used for residential purposes.

(e) The existing road network abutting the property and road linkages to the neighbourhood are adequate to service the proposed units.

(f) The dimensions and shape of the proposed lots are appropriate.

(g) The restrictions on the proposed development, including noise mitigation requirements and Ministry of Transportation road setback requirements, are appropriate and can be accommodated by the development.

(h) The existing watercourse and the 100 year floodplain area abutting the watercourse will be conserved and protected through the dedication of Block 56 to the City of Hamilton.

(i) Adequate municipal services are available, the particulars of which will be determined as part of the standard conditions of draft plan approval and Subdivision Agreement, and as part of a Site Plan application required for Lots 14 to 54 and Block 55.

(j) School Boards did not express any concerns with the proposed development.

(k) No land will be dedicated to the City of Hamilton for public purposes, but the owner will be required to pay Cash-in-Lieu of Parkland at a rate of 0.6 hectares for each 300 dwelling units proposed. (Recommendation (b)(iii))

(l) The east-west orientation of a significant number of the building lots provides an opportunity for passive solar energy gain, and the design of the development provides for land use efficiencies.

(m) The massing, character, and external design of the proposed buildings were considered as part of the review, however, will be reviewed in greater detail at the Site Plan Control Stage. Landscaping design will be addressed through a draft plan condition which requires the submission of a Street Tree Planting Plan for the street townhouse units fronting onto Palacebeach Trail, and through the submission of a Landscape Plan for the remaining townhouse units at the Site Plan Control stage.
4. **Engineering Details**

The subject lands will be serviced from an existing 300mm sanitary sewer, 1050mm/1200mm storm sewer, and 200mm watermain on Palacebeach Trail along the frontage of the lands. The lands are captured within the overall limits of the lands shown on the approved stormwater and sanitary drainage plan for the Bridgeport subdivision development, and the storm system has been sized to accommodate the proposed land use. To service the development, private sewer and water drain connections will be required to be constructed from the existing services on Palacebeach Trail. There are no municipal services on the North Service Road. Individual water metres will be required for Lots 14 to 54, and the internal road, sewer, and water services will be privately owned. Internal private sewer and water servicing for Lots 14 to 54 will be dealt with under the Permit Process at the Site Plan Control stage. As a condition of draft plan of subdivision approval, the owner will be required to submit a water servicing study for the development. There is no cost sharing anticipated for the development.

There are no road widenings required on Palacebeach Trail, Glover Road, or on the North Service Road abutting the development. The owner will be required to submit the necessary transfer deeds to the City to convey Block 56 as a creek block containing the existing watercourse. The owner will also be required to pay their proportionate share for the future urbanization of North Service Road adjacent to Blocks 55 and 56 (see Appendix “E” - Condition 20). The improvements required along the frontage of the subject lands abutting the North Service Road include the installation of sidewalks and street lighting.

The owner will be required to construct a sidewalk along the south and east sides of Palacebeach Trail abutting the development. Any paving and/or concrete curbing removed on Palacebeach Trail for the installation of private service connections will be restored, at the owner’s expense.

Proposed special conditions related to engineering details are listed as Conditions 16 through 29 in Appendix “E”.

5. **Draft Plan of Condominium**

The proposed Draft Plan of Condominium (Common Elements Condominium) consists of one block (see Appendix “F” - Block 55), which is comprised of a 6.6 metre wide condominium road to provide vehicular access to the proposed 41 townhouse lots from two locations on Palacebeach Trail, a 1.5 metre sidewalk, visitor parking spaces, landscaped areas, and a noise enhancement barrier.
As previously mentioned, the 41 townhouse lots will be created through the Draft Plan of Subdivision, therefore, final approval and registration of the Common Elements Condominium cannot occur until such time as the plan of subdivision has been registered (see Recommendation (c)(iii)).

The applicant must also enter into a Development Agreement with the City of Hamilton as a condition of draft plan approval. The Agreement is required to ensure that the tenure of all the subject residential parcels becomes “tied” to the proposed Draft Plan of Condominium. This will have the effect of ensuring that individual townhouse lots are not sold until the condominium road has been registered as a common element under the Condominium Act (see Recommendation (c)(iv)).

The proposed condominium road and sidewalk will be privately owned and maintained. As a condition of approval, the applicant must include a warning clause in the Development Agreement and all Purchase and Sale Agreements to advise perspective purchasers of the following (see Recommendation (c)(v)):

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

In addition, the owner is proposing to provide an enhanced noise barrier within the 14.0 metre MTO setback. This enhanced noise barrier is being provided as an additional noise attenuation measure, over and above the required noise walls located between units on the subject lands. As this enhanced noise barrier is located on lands under common element, the following condition must be included in the Development Agreement and all Purchase and Sale Agreements to advise perspective purchasers of the following (see Recommendation (c)(vi)):

“The owner (being the future condominium corporation) agrees to maintain, repair, or replace any noise barrier(s) consisting of a wall or berm/wall combination, located within Block 55. Any maintenance, repair, or replacement of the noise barrier(s) shall be with the same material and to the same standards as the original.”

In addition to being included in the Subdivision Agreement, noise warning clauses will also be included in the Development Agreement and all Purchase and Sale Agreements (see Recommendation (c)(viii)).
6. At the Site Plan Control stage, changes to the layout of the site may be required to address comments received from the Operations and Waste Management Division and the Traffic Engineering Section (see Pages 18 - 19). Specifically, the portion of the condominium road accessing the seven townhouses directly across from the visitor parking spaces (see Appendix “G”) may need to be reoriented to eliminate the dead-end street layout with regards to waste pick-up and truck/larger vehicle manoeuvring. Alternatively, some units may need to be removed at the end of this section of road to create a “T” turn-around area for trucks and larger vehicles. Staff notes that a redesign at the Site Plan stage will also require revisions to the plan of subdivision and plan of condominium. As an alternative, the owner may opt for private garbage pick-up for the units which front the private condominium road.

7. In response to the circulation of the application, three e-mails were received from area residents. Concerns raised included the density of the development, the neighbourhood not having the potential space and roads for the proposed units, street congestion, a concern about the design of the units being too identical, and a lack of playground or parkland space for children to play.

The Urban Lakeshore Area Secondary Plan and the Trillium Neighbourhood Plan for the area both identified these lands for “Medium Density” development, which ranges from 30-49 units per hectare. The Zoning By-law permits densities up to 40 units per hectare. The density of the proposed development, as previously noted, is 31 units per hectare, which is at the low end of the medium density range. Staff notes that one of the comments received referred to this development as being high density. Neither the density range nor the built form represents “High Density” development, as described in the Official Plan. As the proposal meets these density restrictions, staff is of the opinion that the density and proposed development is appropriate for the subject lands, and implements the Secondary Plan.

Palacebeach Trail was purposely built in its current location to permit access to these lands and other abutting undeveloped lands for future development, as new accesses are not permitted on North Service Road. Palacebeach Trail serves only the immediate neighbourhood, and two exits from the neighbourhood are available via Dartmouth Gate and Glover Road, which are approximately 350m and 225m (road distance) from the property, respectively. As such, the Traffic Engineering Section of the Public Works Department has no concerns with the road network or the traffic levels based on the number of units proposed.
Another concern raised was that the design of the units would be too identical. The design of the individual block townhouse units is determined at the Site Plan stage. Staff notes that although the design of the units has not been finalized at this point, the design of the units will be reviewed to ensure consistency with the Council-approved Site Plan Guidelines. The development must also be consistent with the “Community of Bridgeport” Architectural Design Guidelines, which apply to this specific neighbourhood. The street townhouses (Lots 1 - 13) are not subject to site plan control. However, Condition 2 of the recommended draft plan conditions (see Appendix “E”) requires that all development be consistent with the “Community of Bridgeport Architectural Design Guidelines”.

In response to the issue concerning no provisions being made for a playground or park, staff notes that each townhouse unit will provide an appropriately sized rear yard for amenity space. Staff also notes that the proposed Seabreeze Park - a Neighbourhood Park - is located east of the subject lands and accessible from Seabreeze Crescent. Development of this park is scheduled to begin this year. Staff notes that the Secondary Plan also identifies another Neighbourhood Park to the west of the subject lands, although timing for development of this park is not known at this time.

**ALTERNATIVES FOR CONSIDERATION**

<table>
<thead>
<tr>
<th>(include Financial, Staffing, Legal and Policy Implications and pros and cons for each alternative)</th>
</tr>
</thead>
</table>

If the applications are denied, the applicant would not be able to develop the lands zoned with the Neighbourhood Development “ND” Zone, and these lands would remain vacant and could only be used for limited agricultural purposes. The watercourse which crosses the property would remain under private ownership. The remainder of the lands (northeast portion) could be developed for townhouse uses in accordance with the provisions of the existing Multiple Residential “RM3” Zone, of Zoning By-law No. 3692-92 (see Appendix “A” - Block 3).

**CORPORATE STRATEGIC PLAN**  
(Linked to Desired End Results)


**Financial Sustainability**

- Effective and sustainable Growth Management.

---

Vision: To be the best place in Canada to raise a child, promote innovation, engage citizens and provide diverse economic opportunities.

*Values: Honesty, Accountability, Innovation, Leadership, Respect, Excellence, Teamwork*
• Delivery of municipal services and management capital assets/liabilities in a sustainable, innovative, and cost-effective manner.

The proposed development is compact and utilizes an existing road network and existing servicing capacity, resulting in a more sustainable, cost-effective development.

**Social Development**

• Everyone has a home they can afford that is well maintained and safe.

The proposed townhouse units will provide a greater housing choice for the area.

**Environmental Stewardship**

• Natural resources are protected and enhanced.

The watercourse and associated buffer area will be protected to ensure no negative impacts on the quality of the watercourse.

**Healthy Community**

• Plan and manage the built environment.

The lands are being developed in accordance with the planned uses for the area, and the development is a logical extension of development along Palacebeach Trail. The units will provide housing opportunities for residents of Hamilton.

**APPENDICES / SCHEDULES**

- Appendix “A”: Location Map
- Appendix “B”: Implementing Zoning By-law Amendment to City of Stoney Creek Zoning By-law 3692-92
- Appendix “C”: Implementing Zoning By-law Amendment to Zoning By-law 05-200
- Appendix “D”: Draft Plan of Subdivision
- Appendix “E”: Draft Plan of Subdivision Conditions
- Appendix “F”: Draft Plan of Condominium
- Appendix “G”: Conceptual Site Plan
- Appendix “H”: Public Comment Submissions

:JH
Attachs. (8)
WHEREAS the City of Hamilton Act, 1999, Statutes of Ontario, 1999 Chap.14, Sch. C. did incorporate, as of January 1st, 2001, the municipality “City of Hamilton”;

AND WHEREAS the City of Hamilton is the successor to certain area municipalities, including the former area municipality known as "The Corporation of the City of Stoney Creek" and is the successor to the former Regional Municipality, namely, The Regional Municipality of Hamilton-Wentworth;

AND WHEREAS the City of Hamilton Act, 1999 provides that the Zoning By-laws of the former area municipalities continue in force in the City of Hamilton until subsequently amended or repealed by the Council of the City of Hamilton;

AND WHEREAS Zoning By-law No. 3692-92 (Stoney Creek) was enacted on the 8th day of December, 1992, and approved by the Ontario Municipal Board on the 31st day of May, 1994;

AND WHEREAS the Council of the City of Hamilton, in adopting Item of Report 11- of the Planning Committee, at its meeting held on the day of , 2011, recommended that Zoning By-law No. 3692-92 (Stoney Creek), be amended as hereinafter provided;

AND WHEREAS this by-law is in conformity with the Official Plan of the City of Hamilton (formerly the City of Stoney Creek Official Plan), approved by the Minister under the Planning Act on May 12, 1986;
NOW THEREFORE the Council of the City of Hamilton enacts as follows:

1. That Map No. 2 of Schedule “A”, appended to and forming part of By-law No. 3692-92 (Stoney Creek), is amended;

   (a) by changing from the Neighbourhood Development “ND” Zone to the Multiple Residential “RM2-27” Zone, Modified, the lands identified as “Block 1”;

   (b) by changing from the Neighbourhood Development “ND” Zone to the Multiple Residential “RM2-28” Zone, Modified, the lands identified as “Block 2”; and,

   (c) by changing from the Multiple Residential “RM3” Zone to the Multiple Residential “RM2-28” Zone, Modified, the lands identified as “Block 3”,

   the extent and boundaries of which are shown on a plan hereto annexed as Schedule “A”.

2. That Sub-section 6.9.6, “Special Exemptions”, of Section 6.9 Multiple Residential “RM2” Zone, of Zoning By-law No. 3692-92 (Stoney Creek), be amended by adding Special Exemptions, “RM2-27” and “RM2-28”, as follows:

   (a) “RM2-27” - 130 and 170 Palacebeach Trail, Schedule “A”, Map No. 2

      Notwithstanding the provisions of Paragraphs (a) and (e) of Section 6.9.3 “Zone Regulations” of Zoning By-law No. 3692-92, on those lands zoned “RM2-27” by this by-law, the following shall apply:

      (a) Minimum Lot Area
          Interior Unit - 159 square metres
          End Unit - 215 square metres
          Corner Unit - 240 square metres

      (e) Minimum Rear Yard - 7.1 metres

   (b) “RM2-28” - 130 and 170 Palacebeach Trail, Schedule “A”, Map No. 2

      For the purpose of this by-law, a common element condominium road shall be deemed to be a street.

      All buildings, structures, required parking areas, and stormwater management facilities shall be setback a minimum of 14.0 metres from a Provincial Highway Right-of-Way.
Notwithstanding the provisions of Paragraphs (a), (b), (d), (e), and (i) of Section 6.9.3 “Zone Regulations” of Zoning By-law No. 3692-92, on those lands zoned “RM2-28” by this by-law, the following shall apply:

(a) **Minimum Lot Area**
   - Interior Unit: 154 square metres
   - End Unit: 206 square metres
   - Corner Unit: 215 square metres

(b) **Minimum Lot Frontage**
   - Corner Unit: 8.4 metres

(d) **Minimum Side Yard**
   - Corner Unit: 2 metres

(e) **Minimum Rear Yard**
   - 6 metres

(i) **Maximum Lot Coverage**
   - 51 percent

In addition to the regulations of Section 6.9.3 “Zone Regulations”, a minimum of 0.5 visitor parking spaces for each townhouse dwelling unit shall be provided and maintained.

3. That no building or structure shall be erected, altered, extended or enlarged, nor shall any building or structure or part thereof be used, nor shall any land be used, except in accordance with the Multiple Residential “RM2” Zone provisions, subject to the special requirements referred to in Section 2.

4. That the Clerk is hereby authorized and directed to proceed with the giving of notice of the passing of this by-law, in accordance with the Planning Act.

**PASSED and ENACTED** this [ ] day of [ ], 2011.

____________________________________  ___________________________
R. Bratina                                  R. Caterini
Mayor                                      Clerk

ZAC-11-008
This is Schedule "A" to By-Law No. 11-
Passed the ........ day of ................., 2011

Schedule "A"

Map Forming Part of By-Law No. 11-_____
to Amend By-law No. 3692-92

Subject Property
130 & 170 Palacebeach Trail

- Block 1 - Change in Zoning from the Neighbourhood Development "ND" Zone to the Multiple Residential "RM2-27" Zone, Modified.
- Block 2 - Change in Zoning from the Neighbourhood Development "ND" Zone to the Multiple Residential "RM2-28" Zone, Modified.
- Block 3 - Change in Zoning from the Multiple Residential "RM0" Zone to the Multiple Residential "RM2-29" Zone, Modified.
- Block 4 - Refer to Zoning By-law No. 05-200.

Scale: N.T.S.
File Name/Number: ZAC-11-008, 25T-2011001
Date: August 4, 2011
Planner/Technician: AC/AL
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
CITY OF HAMILTON

BY-LAW NO. [Bill No.]

To Amend Zoning By-law No. 05-200
Respecting the Property Located at 130 Palacebeach Trail (Stoney Creek)

WHEREAS the City of Hamilton has in force several Zoning By-laws which apply to the different areas incorporated into the City by virtue of the City of Hamilton Act, 1999, S.O. 1999, Chap. 14;

AND WHEREAS the City of Hamilton is the lawful successor to the former Municipalities identified in Section 1.7 of By-law No. 05-200;

AND WHEREAS Zoning By-law No. 05-200 was enacted on the 25th day of May, 2005;

AND WHEREAS the Council of the City of Hamilton, in adopting Item [Bill No.] of Report 11- [Bill No.] of the Planning Committee at its meeting held on the [Bill No.] day of [Bill No.], 2011, recommended that Zoning By-law No. 05-200 be amended as hereinafter provided;

AND WHEREAS this By-law is in conformity with the Official Plan of the City of Hamilton (the Official Plan of the former City of Stoney Creek);

NOW THEREFORE the Council of the City of Hamilton enacts as follows:

1. That Map Nos. 1151 and 1202 of Schedule “A”, to Zoning By-law No. 05-200, are amended by incorporating additional Conservation/Hazard Land (P5) Zone boundaries for the applicable lands, the extent and boundaries of which are shown as Block 1 on a plan hereto annexed as Schedule “A”.
2. That the Clerk is hereby authorized and directed to proceed with the giving of notice of the passing of this By-law, in accordance with the Planning Act.

3. That this By-law No. [blacked out] shall come into force, and be deemed to come into force, in accordance with Sub-section 34(21) of the Planning Act, either upon the date of passage of this By-law or as otherwise provided by the said Sub-section.

PASSED and ENACTED this [blacked out] day of [blacked out], 2011.

__________________________________________  ____________________________________________
R. Bratina                                      R. Caterini
Mayor                                          Clerk

ZAC-11-008
This is Schedule "A" to By-Law No. 11-
Passed the ........ day of .................., 2011

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Schedule "A"

Map Forming Part of By-Law No. 11-____

to Amend By-law No. 05-200
Maps 1151 and 1202

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Subject Property

130 and 170 Palacebeach Trail

Block 1 - Lands to be Zoned Conservation/Hazard Lands (P5) Zone

Block 2 - Refer to Zoning By-law No. 3092-92.
Special Conditions of Draft Plan of Subdivision Approval for “Oasis - Phase 1”

1. That, **prior to registration of the draft plan**, the owner shall investigate the noise levels on the site and determine and implement the noise control measures that are satisfactory to the City of Hamilton in meeting the Ministry of the Environment’s recommended sound level limits. An Acoustical Report, prepared by a qualified Professional Engineer containing the recommended control measures, shall be submitted, to the satisfaction of the City of Hamilton, Director of Planning. Should a peer review of the Acoustical Report be warranted, all associated costs shall be borne by the owner/applicant, and shall be submitted, to the satisfaction of the City of Hamilton, Director of Planning.

2. That the owner **agrees, in writing**, to adhere to the Bridgeport Architectural Design Guidelines, dated July, 2004, for Lots 1 to 13, to the satisfaction of the Director of Planning. In addition, and at the owner’s expense, a “Control Architect” shall be retained, whose function shall be:

   (i) To ensure, amongst other matters, the appropriate development of each lot with respect to siting, built form, materials, colours, and landscaping in compliance with the approved Architectural Design Guidelines; and,

   (ii) To certify, through stamping and signing, all drawings for the development of each lot and/or block subject to the Architectural Guidelines prior to the issuance of any building permit(s).

3. That the owner **agrees, in writing**, to include the following warning clause in all Purchase and Sale Agreements, and any rental or lease agreements required for occupancy:

   “In the event that Municipal Garbage Collection cannot be accommodated for Lots 14 to 54, private garbage collection shall be arranged and implemented by the Condominium Corporation”.

4. That the owner **agrees, in writing**, to include the following statements in all offers of purchase and sale:

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

   (b) 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.
5. That the owner agrees to:

(a) Work with Canada Post, and the Senior Director of Growth Management, 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.

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

6. That, **prior to preliminary grading or servicing**, the owner shall submit a copy of a Stormwater Management Report and plans, indicating the intended treatment of the calculated runoff and any resultant impacts on the highway drainage system, to the satisfaction of the Ministry of Transportation of Ontario.

7. That, **prior to preliminary grading or servicing**, the owner shall submit a copy of a Traffic Assessment Brief, indicating the anticipated traffic volumes, to the satisfaction of the Ministry of Transportation of Ontario.

8. That the following warning clause be included in the Standard Form Subdivision Agreement:

   "The owner is advised that all permanent buildings and structures, both above and below ground, utilities, frontage roads/fire routes, essential parking spaces, and other essential structures must be set back 14.0 metres (45 feet) from the North limits of the North Service Road Right-of-Way."

9. That, **prior to preliminary grading or servicing**, the owner/applicant shall apply for and receive approval of a Ministry of Transportation building/land use permit for all buildings within 46 metres (150 feet) of the QEW highway property line, and within 395 metres of the intersection of the QEW and Glover Road.

10. That, **prior to any grading or construction on the site**, the owner/applicant shall report the composition of the stand alone wooded area and the Riparian zone to the City of Hamilton’s Forest Conservation Officer.

11. That, **prior to registration of the draft plan**, the owner shall submit a Tree Planting Plan showing 50mm caliper deciduous trees on the Palacebeach Trail road allowance, for review and approval by the Director of Planning.
12. That, prior to preliminary grading or servicing, the owner/applicant shall prepare and implement an erosion and sediment control plan for the subject property, to the satisfaction of the Hamilton Conservation Authority. The approved plans should include the following notes:

(a) All erosion and sediment control measures shall be installed prior to development and maintained throughout the construction process, until all disturbed areas have been re-vegetated;

(b) All erosion and sediment control measures shall be inspected after each rainfall, to the satisfaction of Authority staff;

(c) Any disturbed area not scheduled for further construction within 45-days will be provided with a suitable temporary mulch and seed cover within 7-days of the completion of that particular phase of construction.

(d) All disturbed areas shall be re-vegetated with permanent cover immediately following completion of construction.

13. That, prior to preliminary grading or servicing, the owner/applicant shall prepare and implement a stormwater management plan for the subject property, to the satisfaction of the Hamilton Conservation Authority. The approved plan shall ensure that current Provincial drainage and Stormwater Quality Guidelines are implemented.

14. That, prior to preliminary grading or servicing, the owner/applicant shall prepare and implement a lot grading plan, to the satisfaction of the Hamilton Conservation Authority.

15. That, prior to preliminary grading or servicing, the owner/applicant shall obtain a permit from the Hamilton Conservation Authority under its Development, Interference with Wetlands, and Alterations to Shorelines and Watercourses Regulation 161/06 under Ontario Regulation 97/04 prior to any grading and/or construction activities, or watercourse alteration within HCA’s regulated area.

16. That, prior to registration of the final plan, the owner shall submit the necessary transfer deeds to the City to convey Block 56 abutting the west limit of the draft plan to the City for the purposes of stormwater management, to the satisfaction of the Senior Director of Growth Management.

17. That, prior to registration of the final plan, the owner shall agree to register an easement for drainage purposes over Lots 13 to 54, including Block 55, in favour of the future Condominium Corporation, to the satisfaction of the Senior Director of Growth Management.
18. That, **prior to servicing**, the owner shall indicate all driveway locations on the engineering drawings for all lots, and that driveways be located outside of the limits of all daylight triangles, to the satisfaction of the Senior Director of Growth Management.

19. That, **prior to registration of the final plan**, the owner shall implement the recommendations of the approved Noise Study and any associated addendum, including construction of a concrete noise barrier, to the satisfaction of the Senior Director of Growth Management.

20. That, **prior to registration of the final plan**, the owner shall pay its proportionate share for the future urbanization of the North Service Road adjacent to Block 55 and Block 56, to the satisfaction of the Senior Director of Growth Management.

21. That, **prior to servicing**, the owner is required to relocate, as required, all affected utility poles, hydrants, pedestals, hydro vaults, etc. on Palacebeach Trail, at their expense, to the satisfaction of the Senior Director of Growth Management.

22. That, **prior to servicing**, the owner shall prepare an on-street parking plan, based on the premise of achieving on-street parking for 40% of the total number of units fronting on Palacebeach Trail (Lots 1 - 13), to the satisfaction of the Senior Director of Growth Management.

23. That, **prior to servicing**, the owner shall include in the engineering design a provision for construction of municipal sidewalks on the south/east side of Palacebeach Trail from the existing westerly limit of Lot 6 to the north limit of the subdivision, to the satisfaction of the Senior Director of Growth Management.

24. That, **prior to servicing**, the owner shall prepare a Geotechnical Report and implement the Report’s recommendations, to the satisfaction of the Senior Director of Growth Management.

25. That, **prior to servicing**, the owner shall include in the engineering design a minimum 1.8m high chain link fence along the east and west sides of the Creek Block 56 and vehicular barricades to extend the full width of the channel along the north and south limit of the channel, to the satisfaction of the Senior Director of Growth Management.

26. That **prior to servicing**, the owner’s engineering design and cost estimate schedules shall provide for all road, driveway, and boulevard restoration, including reconstruction of the full width pavement and concrete curb on Palacebeach road from the west limit of Lot 1 to the east limit of Lot 13, at their expense, to the satisfaction of the Senior Director of Growth Management.

27. That, **prior to servicing**, the owner shall provide, to the satisfaction of the Senior Director of Growth Management, a plan or procedure for dealing with
issues concerning dust control and street cleaning (external roads included) throughout construction within the subdivision, including homes. This document will also include, first point of contact, a schedule for regular cleaning of streets that is specific to the methods to be used, the source of water, and the contractor or agent to be used to undertake the works, as well as the contractor/agent contact information, so that the City can direct works be completed, as necessary.

28. That, prior to servicing, the owner shall complete a water distribution analysis to determine whether the existing water system can adequately service the proposed development, to the satisfaction of the Manager of Engineering Design and Construction. The report shall also focus on the following issues:

(a) Tabularize the expected occupancy;
(b) Generate water demand and fire flow calculation for this development;
(c) Demonstrate how the proposal fits with GRIDS numbers;
(d) Confirm the water servicing layout based on field information and hydraulic models;
(e) Provide documentation that the Fire Department is satisfied with the proposed fire fighting provisions.

29. That, prior to servicing, the owner shall prepare a plan showing the design and location of siltation and erosion control devices in accordance with the “Erosion and Sediment Control Guidelines for Urban Construction December 2006” Manual, to the satisfaction of the Senior Director of Growth Management.

30. That, prior to registration of the final plan of subdivision, any existing septic tank be pumped out by a licensed contractor, collapsed and/or refilled with suitable material to prevent it from caving in, to the satisfaction of the Director, Health Protection, Public Health Services.

31. That, prior to registration of the final plan of subdivision, any existing abandoned water wells are plugged in accordance with Ontario Regulation 903/90 under the Ontario Water Resource Act, to the satisfaction of the Director, Health Protection, Public Health Services. (Environment Ontario's Fact Sheet entitled: “Water Wells and Groundwater Supplies Recommended Methods of Plugging Water Wells" are available from the Ministry of Environment).
Hi Melanie,

This email is a followup to our conversation this afternoon.

My concern with the proposed development is the density of the housing, the probable sameness of the exteriors, and the street congestion.

Has a traffic study been done, and if so, what access will the homeowners in the proposed development have to their townhouse units other than Dartmouth Gate?

Furthermore, I question why the planning staff did not arrange a town meeting with Councillor Johnson, the Waterview Village community, and the developer, prior to preparing a staff report for Council consideration.

A response would be appreciated.

Argia Cowle
Hi Melanie,

We reside at 3 Watershore Drive, Stoney Creek and hereby feel that this neighbourhood doesn't have the potential space and roads for the building of 13 street townhouses and 41 condo townhouses on Palacebeach Trial. We would like to oppose the Draft Plan for "Oasis" Development.

Best Regards,

Vilas Samineni & Prathima Samineni
From: Joe Maio
To: Haan, Jennifer
Subject: Condominium Application: File # 25CDM-201108

Dear Madam,

I live at 185 Palacebeach Trail, and I have just received the proposed draft plan for 130 and 170 Palacebeach Trail. I object to the overall development project for a number of reasons. I am sure that Mr Gabe Desantis wants to maximize his profit margin by squeezing as many units as possible, without any regard to the negative impact that this project will have for the whole area. To me this transcends to greediness, and the city of Hamilton is going along with it. I am not opposed to the area being developed but it has to be done the right way, with a common sense approach, and not having these units rammed down our throats.

Placing this many units in such a small area will create a high density issue, already Palacebeach Trail is crowded with cars parked on both sides of the street, from residents living in the presently occupied townhouses. These townhouses have driveways that can only accommodate one car, but most of them have two, three and in some cases more cars per unit. So they don't have a choice but parking on the street. Can you imagine what it will be like when all these proposed units are occupied, and this is without taking in consideration visitors parking, which in my opinion by looking at the proposal is not enough, but I am sure it will be justified by saying that it meets the minimum standard allowed by the city. I have to use Galileo Drive to go and come back to my house, because of the congestion on this street, especially on weekends. This past winter there was no snow clearance provided for days on end after a snow storm, and the street was totally impassable with snow mounds and cars all over the place.

We are paying taxes, but are not receiving adequate service from the city, like public transit, parking enforcement, etc...but then this is another issue.

This is an area with young children playing outside on the street and behind parked cars, there is no provision been made for a playground or a park nearby where these children can go and play and be safe.

But the most absurd thing is the fact that the entry and exit points for the 41 freehold townhouses and the 74 back to back units fronting to a common element private road is on Palacebeach Trail, instead of been on North Service road or Glover Rd. This does not make any sense.

The scope of this project needs to be reviewed more closely, and scaled down to a more reasonable and manageable level. If changes are not made, surely an appeal to the Ontario Municipal Board is likely to occur, delaying this project further.

Regards,

G. Maio
185 Palacebeach trail
Stoney Creek, ON L8E 0C2