**CITY OF HAMILTON**

**PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT**

**Planning Division**

<table>
<thead>
<tr>
<th><strong>TO:</strong> Chair and Members Planning Committee</th>
<th><strong>WARD(S) AFFECTED:</strong> WARD 3</th>
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<tbody>
<tr>
<td><strong>COMMITTEE DATE:</strong> April 19, 2011</td>
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**SUBJECT/REPORT NO:**
Application for a Draft Plan of Condominium (Common Elements Condominium) for the Lands Located at 19 Niagara Street (Hamilton) (PED11065) (Ward 3)

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

**PREPARED BY:**
Joe Muto
(905) 546-2424, Ext 7859

**RECOMMENDATION:**

That approval be given to **Condominium Application 25CDM-201015, by Habitat Humanity, c/o Bob McConkey (Owner)**, to establish a draft plan of condominium (Common Elements Condominium), “Habitat for Humanity”, comprised of 14 visitor parking spaces for 8 townhouse units located at 19 Niagara Street (Hamilton), known legally as Part 5, Reference Plan 62R-18910, as shown on the attached location map marked as Appendix “A”, subject to the following conditions:

(a) That this approval shall apply to the plan prepared by A.T. McLaren Ltd., and certified by S.D. McLaren, O.L.S., dated December 14, 2010, showing the following condominium element of 14 visitor parking spaces and associated manoeuvring area, attached as Appendix “B” to Report PED11065.

(b) That the Final Plan of Condominium shall comply with all of the applicable provisions of Zoning By-law No. 05-200.
(c) That the owner shall enter into a Condominium Agreement to ensure that the tenure of each of the proposed 8 freehold units and shared parking area has legal interest, in common, to the Common Elements Condominium, to the satisfaction of the City Solicitor.

(d) That the final plan of condominium shall comply, in all respects, with the approved Site Plan (DA-10-019) and Site Plan Amendment (SPA-10-154), including the completion of all conditions of Site Plan Approval, to the satisfaction of the Director of Planning.

(e) That the owner shall include the following warning clause in the Condominium Agreement and 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 parking lot.”

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

(g) That the owner shall enter into, and register on title, the Condominium Agreement incorporating the approved plan of condominium and related conditions, to the satisfaction of the City Solicitor.

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**EXECUTIVE SUMMARY**

The purpose of the application is to establish a draft plan of condominium (Common Elements Condominium) comprised of 14 shared parking spaces relating to 8 parcels of tied land for street townhouse units currently under construction (see Appendix “B”). The proposed draft plan of condominium has merit and can be supported since it is consistent with the Provincial Policy Statement, conforms to the Hamilton-Wentworth Official Plan and the City of Hamilton Official Plan, complies with Zoning By-law No. 05-200, and implements the approved Site Plan Control Applications DA-10-019 and SPA-10-154 (see Appendices “C” and “D”).

*Alternatives for Consideration - See Page 9.*

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

Financial: N/A.

Staffing: N/A.
HISTORICAL BACKGROUND (Chronology of events)

<table>
<thead>
<tr>
<th>Date</th>
<th>Event</th>
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<tbody>
<tr>
<td>December 24, 2007</td>
<td>Submission of Zoning By-law Amendment Application ZAC-07-100 for the purpose of the inclusion of additional uses in the (I3) Zone, including 11 street townhouse units.</td>
</tr>
<tr>
<td>January 17, 2008</td>
<td>Application ZAC-07-100 is deemed complete.</td>
</tr>
<tr>
<td>January 30, 2008</td>
<td>Circulation of Notice of Complete Application for ZAC-07-100.</td>
</tr>
<tr>
<td>July 10, 2008</td>
<td>By-law No. 08-173 approved by Council, which re-zoned the property Major Institutional (I3, H3, 12) Zone. A Holding provision was implemented on the subject lands so as to appropriately address archaeological, site contamination, and noise concerns.</td>
</tr>
<tr>
<td>November 6, 2008</td>
<td>Consent Application HM/B-08:138 approved by the Committee of Adjustment to sever a parcel of land for street townhouse purposes and retain a parcel of land containing the existing Robert Land Community Centre.</td>
</tr>
<tr>
<td>November 19, 2009</td>
<td>Consent Application HM/B-08:139 lapsed and applicant re-submits Application HM/B-09:88, which is approved by the Committee of Adjustment.</td>
</tr>
<tr>
<td>February 17, 2010</td>
<td>Submission of Site Plan Application DA-10-019.</td>
</tr>
<tr>
<td>February 24, 2010</td>
<td>Application DA-10-019 deemed complete and circulated to applicable departments and agencies.</td>
</tr>
<tr>
<td>April 8, 2010</td>
<td>Application DA-10-019 conditionally approved by the Manager of Development Planning and Letter of Conditional Approval mailed to owner.</td>
</tr>
<tr>
<td>April 23, 2010</td>
<td>Submission of Application ZAH-10-020 for the purpose of lifting the “H” Holding Zone on lands zoned (I3, H3, 12).</td>
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</table>
April 28, 2010: Application ZAH-10-020 is deemed complete.

May 26, 2010: By-law No.10-119 approved by Council to remove Holding provision.

July 29, 2010: Application DA-10-019 receives final clearance and Final Approval Clearance letter mailed to owner.

October 21, 2010: Consent Application HM/B-10:139-142 for street townhouse lots approved by the Committee of Adjustment.

October 21, 2010: Minor Variance Application HM/A-10:248 approved by the Committee of Adjustment for relief from side yard setbacks, minimum setback from the parking area to the street line, landscape strip reduction, parking spaces within the rear/flankage yard, parking area separation from the street line for on site manoeuvring, a barrier free parking space, separation of parking on a separate lot from the proposed development, to permit the parking for the proposed development to be contained on a separate lot as the common element parking lot.


Details of Submitted Application

Location: 19 Niagara Street (formerly 460 Wentworth Street North)  
Part 5, Reference Plan 62R-18651

Applicant/Owner(s): Habitat for Humanity  
(c/o Bob McConkey)

Agent: IBI Group Inc.  
(c/o John Ariens)

Property Description: Lot Area: 1896.54m$^2$  
Lot Frontage: Approx. 78.182 metres  
Lot Depth: Approx. 22.143 metres

Vision: To be the best place in Canada to raise a child, promote innovation, engage citizens and provide diverse economic opportunities.
Values: Honest, Accountability, Innovation, Leadership, Respect, Excellence, Teamwork
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EXISTING LAND USE AND ZONING

<table>
<thead>
<tr>
<th>Subject Lands:</th>
<th>Existing Land Use</th>
<th>Existing Zoning</th>
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</thead>
<tbody>
<tr>
<td>Subject Lands:</td>
<td>Street Townhouses (Under Construction)</td>
<td>Major Institutional (I3,12) Zone (By-law No. 05-200)</td>
</tr>
</tbody>
</table>

Surrounding Lands:

<table>
<thead>
<tr>
<th>North</th>
<th>Residential Single-Detached Dwellings</th>
<th>Urban Protected Residential (One and Two Family Dwellings, etc.) “D/S-647b” Zone</th>
</tr>
</thead>
<tbody>
<tr>
<td>South</td>
<td>Industrial Warehouse</td>
<td>“K” (Heavy Industry Etc) District Light Industrial (M6) Zone (under appeal)</td>
</tr>
<tr>
<td>East</td>
<td>Residential Single-Detached Dwellings</td>
<td>Urban Protected Residential (One and Two Family Dwellings etc.) “D/S-647b” Zone</td>
</tr>
<tr>
<td>West</td>
<td>Robert Land School Community Centre</td>
<td>Major Institutional (I3, 12) Zone (By-law No. 05-200)</td>
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POLICY IMPLICATIONS

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

The application has been reviewed with respect to the Provincial Growth Plan for the Greater Golden Horseshoe (Places to Grow). The application is consistent with policies that direct new growth to the built up areas, as per the Policies contained in Sections 2.2.2 and 2.2.3 of the Places to Grow Plan. The proposal maintains the intent to develop and create complete communities which provide for housing opportunities. Therefore, the application conforms with the Growth Plan for the Greater Golden Horseshoe.

Provincial Policy Statement

The application has been reviewed with respect to the Provincial Policy Statement (PPS). Staff recognizes that the application is consistent with the policies of 1.1.3.1 that states that Settlement Areas shall be the focus of growth, and their vitality and regeneration shall be promoted; and implements Policies 1.1.1, 1.1.3.2, and 1.4.1, which speak to the provision of densities that make an efficient use of land and provide
a mix of housing types. The proposal is consistent with the policies of the Provincial Policy Statement.

**Hamilton-Wentworth Official Plan**

The subject property is designated as “Urban Area” in the Hamilton-Wentworth Official Plan. Policy C-3.1 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. As the nature of the application is for the establishment of a common element parking lot to facilitate a street townhouse development approved under Site Plan Applications DA-10-019 and SPA-10-154, where full municipal services will be available, the proposal conforms to the Hamilton-Wentworth Official Plan.

**City of Hamilton Official Plan**

The lands are designated as “Major Institutional” on Schedule “A” - General Land Use Plan in the Hamilton Official Plan. However, “Major Institutional” policies state in Section 2.6.5 that “Residential uses may be permitted in this designation provided that they are compatible with the surrounding area and are in keeping with the Residential policies set out in Subsections A.2.1 of this Plan.” Based on the foregoing, staff notes the proposal meets the intent and conforms to the “Residential” policies in the Hamilton Official Plan.

Furthermore, Subsection C.7 of the Hamilton Official Plan includes policies for “Residential and Environment and Housing”. Specifically this Section states that the development of new residential and infill is practical, and that Council may require items such as maintaining off-street parking as well as street landscaping. The Hamilton Official Plan’s policies on “Housing” intend to encourage housing stock for a variety of clients in all areas of the City, and to recognize the need for all development to enhance the scale and character of the existing, surrounding residential areas. Staff notes the proposal is sympathetic to the aforementioned development concerns. The surrounding area is characterized by medium and low density residential development. Therefore, the proposed plan of condominium to establish a common parking area conforms to the City of Hamilton Official Plan.

**New Urban Hamilton Official Plan (Council Adopted)**

The new Urban Hamilton Official Plan was adopted by Council on July 9, 2009. The Minister issued his decision on the Plan on March 16, 2011. The decision is currently in the 20-day appeal period until April 5, 2011. The subject lands are identified with the “Neighbourhoods” designation on Schedule E, Urban Structure Plan and Schedule E-1,
Urban Land Use Designations. Accordingly, the 14 visitor parking spaces located in a shared parking area would conform to the new Urban Hamilton Official Plan.

By-law No. 05-200

The lands are zoned Major Institutional (I3,12) Zone in By-law No. 05-200, as amended by By-law No. 08-173 and By-law No. 10-119. The application complies with the applicable provisions of Zoning By-law No. 05-200.

RELEVANT CONSULTATION

The following Departments and Agencies had no comments or objections:

- Traffic Engineering Section, Public Works Department.
- Operations and Waste Management Division, Public Works Department.
- Capital Budgets Section, Corporate Services Department.
- Taxation Division, Corporate Services Department.
- Capital Budgets Section, Corporate Services Department.
- Recreation Division, Community Services Department.
- Parking Services, Hamilton Municipal Parking System.
- Development Engineering.
- Hamilton Police Services.
- Hydro One.
- Hydro One Union Gas.
- Canada Post.
- Canadian National Railway Properties.
- Canadian Pacific Railway Properties.

Forestry and Horticulture Section, Public Works Department, has advised that visibility triangles must be denoted on the plan in the soft surface areas, and the planting of one calliper tree per area is required.

Traffic Planning Engineering Section, Public Works Department

Traffic Engineering and Operations require that an Access Permit be obtained from the Department, which will include the assessment of the removal of the redundant access approaches and re-establishment of a municipal sidewalk. A copy of the approved site plan and appropriate payment must be submitted for this permit.

According to comments from Traffic staff on related Site Plan Application SPA-10-154, the applicant is advised that the City has received neighbourhood complaints regarding grading/road concerns as a result of construction. Traffic staff indicates the applicant should pursue actions to restore the road to its former state. The applicant’s consultant
has been apprised of the current state of the road, and has advised that the applicant is committed to fully bringing the road back to its former state.

Public Consultation

In accordance with the new provisions of the Planning Act and Council’s Public Participation Policy, Notice of Complete Application and Preliminary Circulation were sent to property owners within 120 metres of the subject property on January 26, 2011, requesting comments or support for the application.

To date, no letters have been received from members of the public. Additionally, the agent has confirmed a Public Notice Sign was posted on the property as of February 10, 2011, and 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 conforms to the Places to Grow Plan.

   (ii) It conforms with and implements the “Urban” designation of the Hamilton-Wentworth Regional Official Plan.

   (iii) It conforms to the “Major Institutional” policies of the City of Hamilton Official Plan.

   (iv) The proposal implements the “Civic and Institutional” designation of the Industrial Sector B and Keith Neighbourhood Plan, which was approved by Council Approved on October 10, 1978.

   (v) The proposal is consistent with the new Urban Hamilton Official Plan.

   (vi) The proposal complies with By-law No. 05-200.

   (vii) The proposal is consistent with approved Site Plan Control Applications DA-10-109 and SPA-10-154 (see Appendices “C” and “D”).

   (viii) The proposal is compatible with existing residential uses in the surrounding area.
2. The purpose of the Draft Plan of Condominium (Common Element) is to establish a common elements condominium for a shared visitor parking lot that will facilitate the tenure of the proposed freehold 8 townhouse units.

As the proposal conforms with the Provincial Growth Plan for the Greater Golden Horseshoe (Places to Grow), is consistent with the Provincial Policy Statement, is in conformity with the Hamilton-Wentworth Official Plan and City of Hamilton Official Plan, as amended, and as the proposed draft plan condominium complies with the City of Hamilton Zoning By-law No. 05-200, the proposed Draft Plan of Condominium can be supported.

3. Through the processing of the various planning applications mentioned in the Historical Background section of this Report, it was identified that noise mitigation for the proposed residential development was required due to the proximity of the site to active Canadian National Railway lines. As a result, a Noise Study was prepared identifying the required noise mitigation measures, which included noise barriers, building components, restrictions for the placement of windows on the building flankage closest to the railway, and warning clauses. These measures were reflected through both applications for Site Plan Approval (DA-10-019 and SPA-10-154).

ALTERNATIVES FOR CONSIDERATION:
(include Financial, Staffing, Legal and Policy Implications and pros and cons for each alternative)

Should the Plan of Condominium (Common Elements Condominium) not be approved, the project could only proceed as a standard form of condominium development or as rental units with frontage onto a public road.

CORPORATE STRATEGIC PLAN  (Linkage to Desired End Results)


Financial Sustainability

• Effective and sustainable Growth Management.
• Generate assessment growth/non-tax revenues.
Social Development

- Everyone has a home they can afford that is well maintained and safe.
- The proposal for street townhouses is one of the various housing types that will be available within the registered Plan of Subdivision.

Healthy Community

- Plan and manage the built environment.

APPENDICES / SCHEDULES

- Appendix “A”: Location Map
- Appendix “B”: Proposed Draft Plan of Condominium
- Appendix “C”: Site Plan Application
- Appendix “D”: Proposed Site Plan Amendment Application

:LWO/JM
Attachs. (4)