SUBJECT: Application for Approval of a Draft Plan of Condominium (Common Elements Condominium) for a Portion of Lands Located on Baseline Road (Block 29, Registered Plan 62M-1109) (Stoney Creek) (PED08150) (Ward 11)

RECOMMENDATION:

That approval be given to Condominium Application 25CDM-200804, “Marina Point at Baseline”, by A. DeSantis Developments Ltd., owner, to establish a draft plan of condominium (Common Elements Condominium) to create a condominium road, storm water drainage channel, visitor parking area, fencing, amenity and landscaped areas, and easements for utility, servicing, access and maintenance, for 73 block townhouse dwellings located on Baseline Road, (Stoney Creek) (Block 29, Registered Plan 62M-1109), as shown on the attached map marked as Appendix “A” to Report PED08150, subject to the following conditions:

(a) That this approval applies to the plan prepared by A. J. Clarke and Associates Limited, dated January, 2008, showing the following condominium elements: a road, storm water drainage channel, 38 visitor parking spaces, amenity areas, landscaped areas, fencing, and easements for utility, servicing, access and maintenance, attached as Appendix “B” to Report PED08150.

(b) That the Final Plan of Condominium complies with all of the applicable provisions of Zoning By-law No. 3692-92.
(c) That the Owner shall enter into a Development Agreement to ensure that the tenure of each of the proposed 73 freehold units has legal interest, in common, to the Common Elements Condominium, to the satisfaction of the City Solicitor.

(d) That the Owner shall receive final approval of Part Lot Control Application PLC-08-007, including the enactment and registration on title of the Part Lot Control Exemption By-law, to the satisfaction of the Manager of Development Planning.

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

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

(f) That the Owner shall place adequate signage on the site, in accordance with the requirements of the Hamilton-Wentworth District School Board, advising that:

“Students from this development are likely to be redirected to schools outside of the area with available capacity, and that students may be transported as governed by the Board Transportation Policy.”

(g) That the Owner provides the Manager of Design and Construction with evidence that satisfactory arrangements, financial and otherwise, have been made with a telecommunication service provider, approved by the Canadian Radio and Telecommunication Commission (CRTC), that adequate telecommunication service will be provided to the condominium, including 9-1-1 emergency calling service that identifies, at a minimum, the caller’s name and location information.

(h) That the final plan of condominium complies, in all respects, with the approved Site Plan (DA-05-177), to the satisfaction of the Director of Planning, Planning and Economic Development Department.

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

Tim McCabe
General Manager
Planning and Economic Development Department
EXECUTIVE SUMMARY:

The purpose of the application is to establish a draft plan of condominium (Common Elements Condominium) for a 73 unit freehold block townhouse development. 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 and Stoney Creek Official Plans, and implements the plan of subdivision and approved zoning.

BACKGROUND:

Proposal

The purpose of the application is to establish a draft plan of condominium (Common Elements Condominium) to create the following condominium elements: a condominium road, storm water drainage channel, visitor parking area, fencing, amenity and landscaped areas, and easements for utility, servicing, access and maintenance for 73 townhouse dwellings, as shown on the attached plan marked as Appendix “B”. The condominium road would provide access to Baseline Road in two locations. The 73 lots, with associated easements, and the elements in common would be created through Part Lot Control Application PLC-08-007.

Part Lot Control Application PLC-08-007

The applicant has applied concurrently for the removal of Part Lot Control and to establish a draft plan of condominium (Common Elements Condominium). The Part Lot Control Application has not yet been approved, but upon approval and passing of the implementing By-law to remove the subject lands from Part Lot Control, the following parts on the draft reference plan would be created (see Appendix “C”):

- 73 lots for street townhouses (Parts 1-73 and 77-150, inclusive).
- 73 Utility/Servicing easements for the street townhouses (Parts 77-150, inclusive).
- A Common Elements Condominium Corporation (Parts 74-76, inclusive), comprised of a condominium road, storm water drainage channel, visitor parking area, fencing, amenity and landscaped areas.
- Utility/Servicing easements for the Common Elements Condominium (Parts 74-76, inclusive).
- An easement in favour of the City of Hamilton for construction, access and maintenance of a proposed storm water drainage channel (Part 75 and Part 108).
Committee of Adjustment Application SC/A-08:73

Application SC/A-08:73 was approved by the Committee of Adjustment on April 3, 2008 (see Appendix “D”), and became final and binding on April 23, 2008. The purpose of this application was to obtain relief from the provisions of Zoning By-law No. 3692-92 to allow a private condominium road to be considered a street for the purpose of lot frontage, to allow townhouse dwellings fronting on a private condominium road to be considered a block townhouse development, and to allow the boundary of Block 29 on Plan 62M-1109 to be deemed the lot lines for the purpose of applying the regulations of the “RM3” Zone, including, but not limited to lot frontage, lot area, lot coverage, density, building setbacks, separation distance, floor area, height, landscaping, amenity areas, and parking.

Site Plan Application DA-05-177

Site Plan Application DA-05-177 for the construction of a 73 unit block townhouse development was approved, with conditions, on September 26, 2007 (see Appendix “E”). The applicant has fulfilled all of the conditions of approval and the site plan application was given final approval on April 18, 2008.

Subdivision Application 25T200315 “Marina Point on Baseline”

The plan of subdivision known as “Marina Point on Baseline” was draft approved on June 14, 2006. The subdivision was registered on April 8, 2008 as Plan 62M-1109. Block 29 of the subdivision is intended for the block townhouse dwellings and the Common Elements Condominium Corporation.

Official Plan Amendment Application OP-03-21

On October 29, 2003, Council approved OPA No. 104 to redesignate the subject lands from “Highway Commercial” to “Residential” on the General Land Use Plan and from “Highway Commercial” to “Medium Density Residential” on the Urban Lakeshore Area Secondary Plan for the City of Stoney Creek, as part of the implementation of the “Marina Point on Baseline” draft plan of subdivision.

Zoning Application ZAC-03-071

On October 29, 2003, Council approved By-law No. 03-308 to rezone the subject lands from the Neighbourhood Development “ND” Zone to the Multiple Residential “RM3” Zone, as part of the implementation of the “Marina Point on Baseline” draft plan of subdivision.
Details of Submitted Application

Location: Baseline Road, Block 29 on Registered Plan 62M-1109 (see Appendix “A”)

Owner/Applicant: A. DeSantis Developments Limited

Agent: A.J. Clarke and Associates Ltd.

Property Description:
- Total Lot Area: 26,430.71 square metres
- Total Lot Frontage: 21.00 metres (2 road accesses at 10.5 metres each)
- Total Lot Depth: irregular, 0 to 113.5 metres

Servicing: Full Municipal Servicing

EXISTING LAND USE AND ZONING:

<table>
<thead>
<tr>
<th>Subject Land:</th>
<th>Existing Land Use</th>
<th>Existing Zoning</th>
</tr>
</thead>
<tbody>
<tr>
<td>North</td>
<td>Vacant (Future Single Detached Dwellings), Single Detached Dwellings</td>
<td>Single Residential “R3” Zone, Single Residential “R2-13” Zone</td>
</tr>
<tr>
<td>East</td>
<td>QEW Transportation Corridor (Fifty Road Interchange), Single Detached Dwellings</td>
<td>Institutional “I(H)” Zone, Single Residential “R3” Zone</td>
</tr>
<tr>
<td>South</td>
<td>North Service Road/QEW Transportation Corridor</td>
<td>N/A</td>
</tr>
<tr>
<td>West</td>
<td>Vacant</td>
<td>Neighbourhood Development “ND” Zone</td>
</tr>
</tbody>
</table>
ANALYSIS/RATIONALE:

1. The proposal has merit and can be supported for the following reasons:
   - It is consistent with the Provincial Policy Statement.
   - It conforms to the Hamilton-Wentworth Official Plan.
   - It conforms to the City of Stoney Creek Official Plan and the Urban Lakeshore Area Secondary Plan.
   - The proposed development is compatible with existing and planned development in the surrounding area.

2. The proposed draft plan of condominium (Common Elements Condominium) would be comprised of the following condominium elements: an internal road accessing Baseline Road in two locations, 38 visitor parking spaces, fencing, amenity and landscaped areas, easements for utility/servicing, and an easement in favour of the City of Hamilton for construction, access and maintenance of the proposed storm water drainage channel. The two condominium driveways are 6 metres wide and would provide legal vehicular access to the 73 street townhouse dwellings. The amenity area, landscaped area and fencing will provide aesthetics and will be maintained by the Condominium Corporation.

3. The land proposed for the common elements condominium and the 73 street townhouses will be created through an exemption from Part Lot Control. In this regard, final approval and registration of the Common Elements Condominium cannot occur until such time as Part Lot Control Application PLC-08-007 is approved and the By-law removing the lands from Part Lot Control has been passed, to the satisfaction of the Manager of Development Planning (Recommendation (d)).

4. The applicant must also enter into a Development Agreement with the City of Hamilton as a condition of draft plan approval. This Agreement would ensure that the tenure of all the subject residential parcels become “tied” to the proposed draft plan of condominium (Common Elements Condominium). This will have the effect of ensuring that individual townhouse lots are not sold until the condominium has been registered as a Common Elements Condominium under the Condominium Act (Recommendation (c)).

5. The proposed condominium roads will be privately owned and maintained. As a condition of approval, the applicant must include a warning clause in the Development Agreement and the Purchase and Sale Agreements to advise perspective purchasers of the following (Recommendation (e)):
“Purchasers are advised that the City of Hamilton will not be providing any maintenance or snow removal service for the private condominium road.”

6. Hamilton-Wentworth District Schools are at or exceed capacity in the area of the proposed common elements condominium corporation. As a condition of approval, the applicant must post a sign on the property to advise perspective purchasers of the following (Recommendation (f)):

“Students from this development are likely to be redirected to schools outside of the area with available capacity, and that students may be transported as governed by the Board Transportation Policy.”

7. The proposed common elements condominium corporation is also located in close proximity to a Provincial Highway (Queen Elizabeth Way). Noise warning/mitigation clauses were requested as part of the review of the previous subdivision application for the property (25T-200315). Three noise warning clauses were included in the Subdivision Agreement, and were also required to be placed in all Purchase and Sale Agreements and/or rental or lease agreements required for occupancy. Therefore, no additional noise warning clauses are required for this condominium application.

ALTERNATIVES FOR CONSIDERATION:

In the event Council does not approve the proposed draft plan of condominium (Common Elements Condominium) application, the project could only proceed as a standard block condominium development.

FINANCIAL/STAFFING/LEGAL IMPLICATIONS:

<table>
<thead>
<tr>
<th>Category</th>
<th>Implication</th>
</tr>
</thead>
<tbody>
<tr>
<td>Financial</td>
<td>N/A</td>
</tr>
<tr>
<td>Staffing</td>
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<tr>
<td>Legal</td>
<td>As required under the Bill 51 version of the Planning Act, Council shall hold at least one (1) Public Meeting to consider an application for a Draft Plan of Condominium (Common Elements Condominium).</td>
</tr>
</tbody>
</table>

POLICIES AFFECTING PROPOSAL:

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 their vitality and regeneration shall be promoted.

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

The application is consistent with the growth management policies of the Growth Plan for the Greater Golden Horseshoe 2006. Section 2.2.2 indicates that population growth will be accommodated by building compact, transit-supportive communities in designated Greenfield areas. This application is consistent with the Growth Plan for the Greater Golden Horseshoe 2006, since it proposes to create a compact development within the Urban Area.

Hamilton-Wentworth Official Plan


City of Stoney Creek Official Plan

The subject property is designated “Residential” on Schedule ‘A’ - General Land Use Plan and “Medium Density Residential” on Schedule ‘A4’ - Urban Lakeshore Area Secondary Plan, in the City of Stoney Creek Official Plan. The proposed townhouses and condominium elements conform to the general intent of the City of Stoney Creek Official Plan in that the Official Plan encourages a compact, efficient and attractive urban development with a full range of housing types and prices throughout the municipality.

RELEVANT CONSULTATION:

The following Departments and Agencies had no comments or objections:

- Taxation Division, Corporate Services Department
- Traffic Engineering and Operations Section, Public Works Department
- Capital Planning and Implementation Section, Public Works Department
- Forestry and Horticulture Section, Public Works Department
- Communications Section, Hamilton Emergency Services
- Hamilton Police Service
- Hamilton Conservation Authority
- Canada Post
The following Departments and Agencies submitted comments:

Bell Canada

Bell Canada has requested that the following be included as conditions of Draft Plan of Condominium approval:

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. The Owner shall agree in the Agreement, in words satisfactory to Bell Canada, to grant to Bell Canada any easement that may be required for telecommunications services. Easement may be required subject to final servicing decisions. In the event of any conflict with existing Bell Canada facilities or easement, the owner/developer shall be responsible for the relocation of such facilities or easements.

Condition 1 has been addressed through the inclusion of Condition (g) in the Recommendation of this report. Condition 2 will be addressed in the Development Agreement required by Recommendation (c) of the report.
Hamilton-Wentworth District School Board

The Hamilton-Wentworth District School Board has no objections to the Draft Plan of Condominium as submitted; however, the Board has made the following recommendations:

Schools within the surrounding area are at or exceed current enrolment capacity. As a result, should the City of Hamilton proceed with such a development, the Hamilton-Wentworth District School Board requires that the developer agree to having included as a condition of draft plan approval:

“The Developer, at their expense, place adequate signage on the site, based on Board specifications, advising that “Students from this development are likely to be redirected to schools outside of the area with available capacity, and that students may be transported as governed by the Board Transportation Policy.”

This condition has been addressed through the inclusion of Condition (f) in the Recommendation of this report.

Hamilton Municipal Parking System

The Hamilton Municipal Parking System has provided the following comments with regards to the proposed Common Elements Condominium:

“The applicant should ensure that all existing and future parking requirements are met on-site. The applicant should also ensure that on-site parking spaces are suitably dimensioned, and that driveways are aligned in such a way that will maximize the availability of on-street parking.

Past experience with high density types of housing has shown that a significant percentage of residences have multiple vehicles, some of which will park in the garage/driveway, and some that overflow onto the roadway. It is our experience that the existence of reduced-proportioned garages often makes them unsuitable for parking vehicles. As a result, there is a significant increase in demand for on-street parking, which is limited due to the lack of suitable curb space within this type of intensified housing. Where applicable, the developer should disclose any under-dimensioned garages to potential homeowners, and raise awareness of an imminent parking shortage within the neighbourhood.”
The applicant has met all provisions of the zoning as part of the approval of Site Plan Application DA-05-177. No variances for the interior garage spaces were required. Therefore, these comments have been adequately addressed, as there will be no reduced-proportion garages within this development.

**PUBLIC CONSULTATION:**

Ontario Regulation 544/06, which implements changes respecting Plans of Subdivision within Bill 51, introduced Public Notice and Meeting requirements for Vacant Land and Common Element Condominiums. Therefore, consistent with the Planning Act and Council’s Public Participation Policy, 45 notices of Complete Application and Preliminary Circulation were mailed to all property owners within 120 metres of the subject property on April 25, 2008, requesting comments or support for the application. The property was also the subject of Draft Plan of Subdivision, Official Plan Amendment, Zoning By-law Amendment and Minor Variance applications, which were public processes. To date, no comments have been received from any members of the public in response to the Draft Plan of Condominium circulation.

Further, a Public Notice sign was posted on the property on May 6, 2008. Notice of the Public Meeting of the Economic Development and Planning Committee was given in accordance with the provisions of the Planning Act.

**CITY STRATEGIC COMMITMENT:**

By evaluating the “*Triple Bottom Line*”, (community, environment, economic implications) we can make choices that create value across all three bottom lines, moving us closer to our vision for a sustainable community, and Provincial interests.

- **Community Well-Being is enhanced.** ☑ Yes ☐ No
  Meets the intent of the future development of the area.

- **Environmental Well-Being is enhanced.** ☑ Yes ☐ No
  Applying the principles of intensification and best use of available land.

- **Economic Well-Being is enhanced.** ☑ Yes ☐ No
  Investment in Hamilton is enhance and supported.

Does the option you are recommending create value across all three bottom lines? ☑ Yes ☐ No

Do the options you are recommending make Hamilton a City of choice for high performance public servants? ☐ Yes ☑ No

:MP
Attachs. (5)
Location Map

File Name/Number:
25CDM-200804/PLC-08-007

Date:
March 17, 2008

Appendix "A"

Scale:
N.T.S.

Planner/Technician:
ML/NB

Subject Property

Block 29, Registered Plan 62M-1109

Ward 11 Key Map

N.T.S.
COMMITTEE OF ADJUSTMENT
DECISION OF THE COMMITTEE

APPLICATION NO. SC/A-08:73
SUBMISSION NO. A-73/08

IN THE MATTER OF The Planning Act, R.S.O., 1990, c.P. 13, as amended and of the Zoning By-Law No. 3692-92, of the City of Hamilton (formerly Stoney Creek), Sections 6.10 and 4.19.

AND IN THE MATTER OF the Premises known as Municipal number 1340 Baseline Road, formerly in the City of Stoney Creek, now in the City of Hamilton and in an “RM3” (Multiple Residential) zone;

AND IN THE MATTER OF AN APPLICATION, AS AMENDED, by the agent A.J. Clarke and Associates Ltd. (Stephen Fraser) on behalf of the owner A. DeSantis Developments Ltd. (Tony DeSantis and/or Anthony DeSantis, Jr.), for relief from the provisions of the Zoning By-Law No. 3692-92, under Section 45 of The Planning Act, R.S.O. 1990, c. P. 13, so as to permit the development of seventy-three (73) townhouse units notwithstanding that:

1) A private condominium road shall be considered a street for the purpose of lot frontage;

2) Townhouse dwellings fronting on a private condominium road shall be considered a block townhouse development; and,

3) For the purpose of the regulations contained within Sections 6.10 and 4.19 the boundary of Block 29, “Marina Point on Baseline” shall be deemed to be the lot lines for this purpose and the regulations of the “RM3” zone including but not limited to: lot frontage, lot area, lot coverage, density, building setbacks, separation distance, floor area, height, landscaping, amenity areas, and parking, and not the individual property boundaries.

Note:

No survey submitted showing actual conditions.

Encroachments onto the common elements will not be permitted.

THE DECISION OF THE COMMITTEE IS:

That the said application IS GRANTED for the following reasons:

1. The Committee having regard to the evidence is of the opinion that the relief granted is of a minor nature.

2. The relief granted is desirable for the appropriate development of the land and building and is not inconsistent with the general intent and purpose of the By-law and the Official Plan as referred to in Section 45 of The Planning Act, 1990.

3. The Committee having regard to the evidence is satisfied that there will be no adverse impact on any of the neighbouring lands.

4. The development is being reviewed for the purpose of required site plan control.

DATED AT HAMILTON this 3rd day of April, 2008.

M. Dujzic (Chairman)
NOTE: THE LAST DATE ON WHICH AN APPEAL TO THE ONTARIO MUNICIPAL BOARD MAY BE FILED IS April 23rd, 2008.

NOTE: This decision is not final and binding unless otherwise noted.