



Corporate Report

Report from Planning and Development Services, Planning Services

Date of Report: June 18, 2013

Date of Meeting: July 8, 2013

Report Number: PDS-182-2013

File: 60.46.375 Vol. 2

Subject: Application for Draft Plan of Condominium (Vacant Land) Approval at 77 Avery Crescent; Applicant: Brickyard Development Limited (Terri Johns); Agent: MB1 Development Consulting (Michael Barton)

Recommendation

That Council refer the report from Planning and Development Services, Planning Services, dated June 18, 2013, regarding an application for draft plan of condominium (vacant land) approval, for lands known municipally as 77 Avery Crescent to Council for consideration after the public meeting scheduled for July 22, 2013.

Staff Recommendation

That the application for draft plan of condominium (vacant land) for the lands described as Block 13, Plan 30M-382, municipally known as 77 Avery Crescent, for 26 single detached dwelling units and a common private road, be approved, as outlined in Appendix "2", subject to the conditions of draft plan of condominium approval outlined in Appendix "3" of this report; and

That staff be directed to process the Notice of Decision required by the Planning Act, R.S.O. 1990, c.P. 13, as amended; and

That after notice of Council's decision has been given, the City Clerk be authorized to endorse the plan as "draft approved" on the day after the appeal period has expired, in accordance with the Planning Act, provided that no appeals have been lodged; and

That upon expiration of the appeal period, staff be directed to forward an application to the Ontario Municipal Board for approval of the draft plan of condominium, if any appeals are received; and

Further, that the City Clerk be directed to make the necessary notifications.
FORTHWITH

Summary

The purpose of the application is to request approval of a draft plan of condominium (vacant land) for twenty-six (26) single detached dwellings (Appendices "2" and "4"). Application for site plan control was made concurrently, and will address such matters

as landscaping, fencing, building elevations, servicing, grading and lighting. Staff recommends that the draft plan of condominium (vacant land) application be approved to facilitate condominium tenure.

Background

The subject lands are included as Block 13 within the Heritage Point subdivision, which was registered in August 2008 (Appendix “5”). The zoning for the subject lands, which permits the proposed planned unit development, was approved by By-law 2005-178 as amended by By-law 2007-312. There are no land use changes proposed by the current application.

Report

Site Analysis

a) Location

The subject land is located on the south side of Avery Crescent, at the south end of Woodburn Avenue (Appendix “1”).

b) Existing Land Use

- i. Site: The property is irregularly shaped with a lot area of 1.25 hectares (3.08 acres), with 48.77 metres (160.01 feet) of frontage on the south side of Avery Crescent. The property is vacant.
- ii. Neighbourhood:
 - North: Townhouses
 - South: Garden City Gold Course
 - East: Former CN Rail Line
 - West: Vacant land (zoned to permit apartments, a retirement dwelling, a long term care facility or a planned unit development as part of the Heritage Point subdivision)

c) Garden City Plan

The property is designed Medium Density Residential by the Garden City Plan (GCP) (Schedule E9- East Planning District). The Medium Density Residential designation permits detached, semi-detached, duplex, multiple attached, triplex and apartment dwellings at a density range generally between 25 and 99 units per hectare. The proposed vacant land condominium of 26 single detached dwellings is permitted by the GCP. Compliance with the policies in the GCP, including density calculations, is addressed in the Planning Considerations section of this report.

d) Zoning By-law

The property is zoned Mixed Density Residential (R5) by Zoning By-law 62-86 as amended (Zone 7). The R5 zone permits a variety of residential uses, including the proposed 26 single detached dwellings, subject to the provisions of the zoning by-law. An amendment to the zoning by-law is not required.

Circulation Comments

The application was circulated to all applicable City department and agencies for their comments and/or requirements. No objections were received. The following detailed comments were offered:

- Recreation and Community Services has advised that one shade tree will be required for each unit along the private street in accordance with the Urban Design Guidelines for Townhouses on Private Streets. The applicant should ensure that there is sufficient space in the common element between the unit lot line and the curb to accommodate these trees. The applicant has confirmed that there will be sufficient space to accommodate the tree, and species selection and location will be addressed through the concurrent site plan agreement process.
- The Development Division of Planning and Development Services has advised that all common services must be located within the common element area on the draft plan of condominium. The agent has been working with the Development Division, and revisions to the draft plan have been made accordingly (Appendix "2").
- The Niagara Peninsula Conservation Authority (NPCA) has advised that the proposed major overland flow route occupies the majority of amenity area behind units 23, 24 and 25. Installation of any works within these areas will negatively impact the major overland flow route. As such, the NPCA requires that clauses be included in the site plan agreement and condominium assumption agreement specifically excluding structure or site alterations to be erected or undertaken within the major overland flow route easement. The easement is also registered on title, and erection of buildings or structures is excluded under the terms of the easement. Staff recommends that the requirement for a clause(s) in the site plan agreement and condominium assumption agreement be included as a condition of draft plan approval (Appendix "3").
- The Region of Niagara has requested various clauses in the site plan agreement and condominium assumption agreement relating to waste collection, noise attenuation and proximity to the Trillium rail line. The clauses regarding noise attenuation and the Trillium rail line stem from the requirements in the Subdivision Agreement registered for the Heritage Point subdivision. These requirements resulted from the approved Noise Impact Study for the subdivision, prepared by HGC Engineering and dated September 12, 2007. The clause regarding waste collection is a standard requirement from the Region to ensure that waste collection on private property conforms to the Region's policies. Staff recommends that the requirement for clauses within the agreements be included as condition of draft plan approval (Appendix "3").

Public Open House

A public open house was hosted by staff on June 3, 2013. The purpose of the open house was to present the applicant's proposal and to allow an opportunity for questions to be asked and comments to be received by City staff before Council makes a decision.

Three residents and the agent attended the open house. Concerns centred on weeds and storm water concerns for an adjacent vacant block of land (Block 14, Appendix "5")

within the Heritage Point subdivision, municipally known as 40 Woodburn Avenue. Although the concerns do not relate to the subject application, the agent has relayed the concerns to the developer.

Planning Considerations

Provincial Policies

The Provincial Policy Statement (PPS) and Places to Grow Plan for the Greater Golden Horseshoe (Growth Plan) contain policies that direct growth to settlement areas where appropriate levels of services and infrastructure exist. Growth management policies also direct a significant portion of new growth to the built-up areas through intensification. Land use patterns shall be based on densities and a mix of land uses that efficiently use land, resources, infrastructure, and public service facilities which are planned or available. The proposal is in conformity with Provincial policies.

Regional Policy Plan

The property is within the City's Urban Area Boundary, as defined by the Regional Policy Plan (RPP). A full range of residential, commercial and industrial uses are permitted generally within the Urban Area. The RPP promotes the use of land for infilling, intensification and redevelopment to promote a more compact urban form of development. Regional staff has confirmed that the proposal complies with Regional policies.

Garden City Plan

The lands are designed as Medium Density Residential, which permit a range of residential uses at a density range between 25 and 99 units per hectare. The proposed development of 26 single detached dwellings provides a density of 20.8 units per hectare. However, density has been calculated over the entire Heritage Point subdivision. In order to meet the minimum density requirements, 115 units must be provided within the boundaries of the subdivision (Appendix "5"). Sixty-three (63) units have been approved to date, in addition to the proposed 26 units, which provide 89 units total on 3.208 hectares of land. This yields a density of 27.7 units per hectare, which meets the density requirements in the GCP.

Zoning By-law

The property is zoned Mixed Density Residential (R5) (Zone 7). The proposed development complies with all provisions of the Zoning By-law.

Draft Plan of Condominium

The draft plan of condominium (vacant land) proposes ownership tenure for 26 single detached units, together with common element area including a private road. Storm and sanitary sewers, watermains, fencing and waste collection pads are also included in the common element areas. Upon assumption, the condominium corporation will be responsible for the ongoing maintenance of all items within the common element area.

Section 50.1(24) of the Planning Act guides staff in assessing applications for draft plan of condominium approval and staff are satisfied that the proposal fulfills these criteria. The lands can be serviced with municipal services.

Site Plan Agreement and Condominium Assumption Agreement

Site plan control applies to all residential development with five or more dwelling units, including the proposed development. Elevation drawings for all building facades will be required, as will plans and details for all landscaping, fencing, lighting, parking layout and design, stormwater management, servicing, garbage pick-up, and similar site details. The applicant will be required to enter into a site plan agreement with the City and to post securities for approved site engineering and landscaping works. This site plan review and agreement process is the principal tool through which Staff will implement design considerations to maximize compatibility with the surrounding neighbourhood and to ensure long term functionality. An application for a site plan agreement has been submitted and is currently under review.

To bind the future condominium corporation to the terms of the site plan amendment agreement, the applicant will also be required to enter into a condominium assumption agreement with the City.

Staff recommends that the requirement to enter into a site plan agreement and condominium assumption agreement be included as conditions of draft plan of condominium approval (Appendix “3”).

Second Planning Opinion Advisory

Should Council consider not supporting the Staff Recommendation, Council is advised to defer its decision until such time as a second planning opinion from an outside consultant can be obtained. In the event the second planning opinion is supported by Council, and Council makes a decision based on that second planning opinion, and if and when the matter should be heard before the Ontario Municipal Board, then the planner who has provided the second opinion shall be retained for the purpose of a hearing before the Ontario Municipal Board.

Notice

In accordance with established procedures the date for the public meeting is provided in the recommendation and notices for the public meeting have been circulated.

Financial Implications

Not Applicable.

Conclusion

The proposed draft plan of condominium (vacant land) is consistent with Provincial, Regional and local planning policies, including the Garden City Plan and Zoning By-law. Staff recommends that the application be approved, subject to the conditions outlined in Appendix “3”.

Notification

It is in order to notify Brickyard Development Ltd. c/o Terri Johns, 200 Garth Street, Unit 201, Hamilton, ON L9B0C1 and MB1 Development Consulting c/o Michael Barton, 377 Parkridge Crescent, Oakville, ON L6M1A8.

Submitted by:

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Prepared by:

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Approved by:

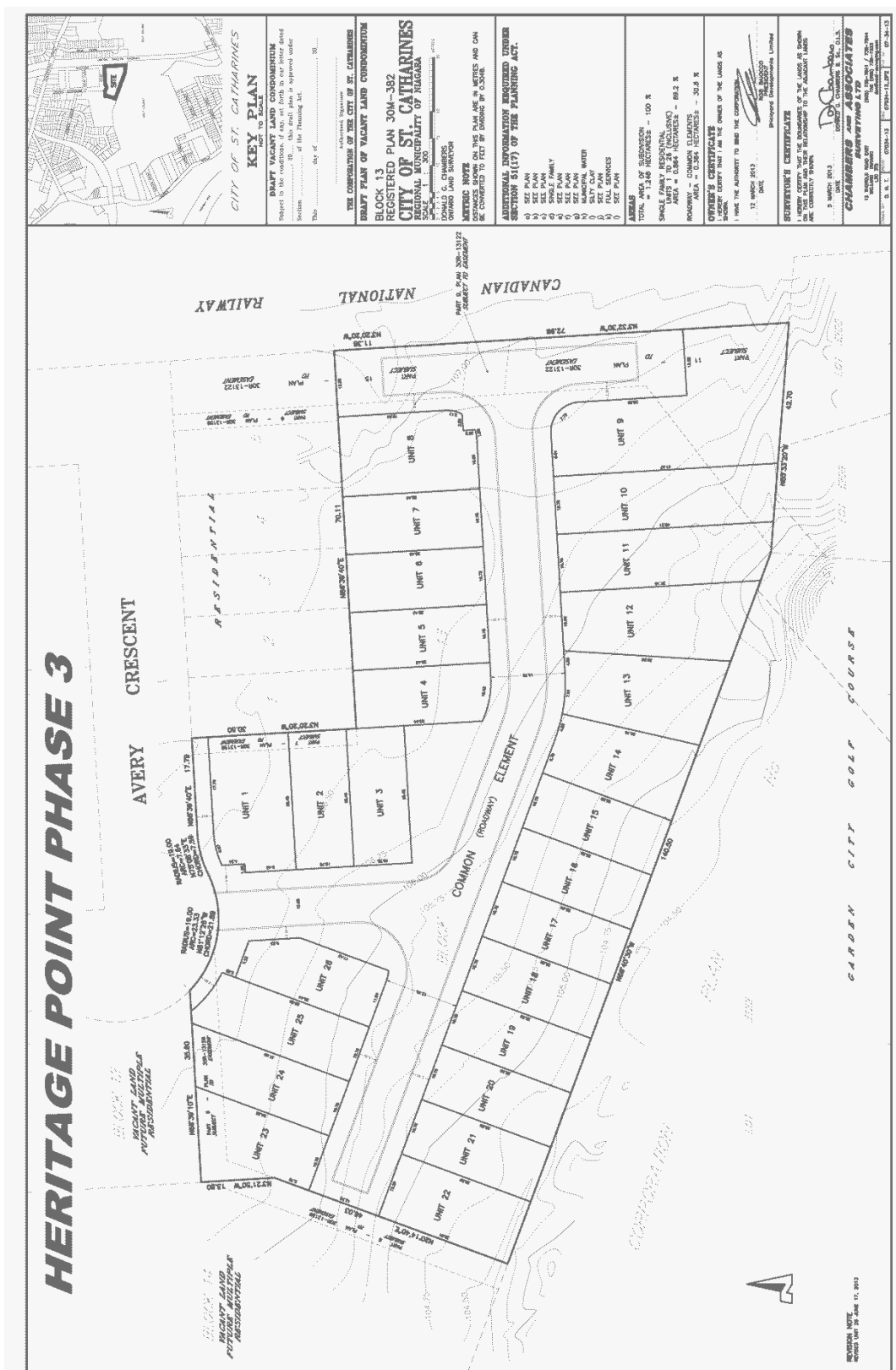
James N. Riddell, MPI, MCIP, RPP
Director of Planning and Development Services

Appendix 1- Location Map



SUBJECT LANDS KNOWN AS
77 AVERY CRESCENT
FILE: 60.46.375 Vol. 2

Appendix 2- Draft Plan of Condominium



Appendix 3- Draft Plan Conditions

**Conditions of Draft Plan of Condominium Approval
77 Avery Crescent
File No. 60.46.375 Vol. 2
Submission No. 26CD-10-08007**

General Approval

1. That this approval applies to lands known as Block 13, Registered Plan 30M-382, known municipally as 77 Avery Crescent, for 26 single detached dwellings and a common private road, prepared by Chambers and Associates Surveying Ltd., dated March 5, 2013.

Site Plan Agreement

2. That prior to final registration of the plan of condominium, the owner enter into a Site Plan Agreement with the City of St. Catharines, to be registered against the lands, including the following matters:

(City of St. Catharines)

- a. That the Site Plan Agreement include a clause specifically excluding structure or site alterations to be erected or undertaken within the major overland flow route easement behind Units 23, 24 and 25.

(Niagara Peninsula Conservation Authority)

- b. That the Site Plan Agreement include a clause requiring that the exterior walls of the dwellings within Units 8 and 9, which are exposed to the Trillium Railway Line, consist of brick veneer in accordance with the approved Noise Impact Study for the Heritage Point Subdivision, prepared by HGC Engineering and dated September 12, 2007:

(Regional Municipality of Niagara)

- c. That the Site Plan Agreement include a clause requiring that a Professional Engineer qualified to perform acoustical engineering services in the Province of Ontario review the building plans for the dwellings on Units 8 and 9 and confirm that the dwellings are constructed in accordance with the noise mitigations measures outlined in the Noise Impact Study prepared by HGC Engineering and dated September 12, 2007.

(Regional Municipality of Niagara)

- d. That the Site Plan Agreement include the following warning clause and that the Owner agree in the Site Plan Agreement to include the warning clause in any Offers and Agreements of Purchase and Sale or Lease for Units 8 and 9:

“Warning: Trillium Railway Co. Ltd. or its assigns or successors in interest has or have a rights-of-way within 300 metres from the land subject hereof. There may be alterations to or expansions of the railway facilities on such rights-of-way in the future including the possibility that the railway or its assigns or successors as aforesaid may expand its operations, which expansions may affect the living environment of the residents in the vicinity, notwithstanding the inclusion of any noise and vibration attenuating measures in the design of the development and individual dwellings. TRCL will not be responsible for any complaints or claims arising from use of such facilities and/or operations on, over, or under the aforesaid rights-of-way.”

“Purchasers/tenants are advised that due to the proximity of this dwelling to the nearby railway tracks, noise and vibration from rail passbys may occasionally be perceptible within the unit.”

(Regional Municipality of Niagara)

- e. That the owner shall agree in the Site Plan Agreement to enter into an Indemnity Agreement with the Regional Municipality of Niagara regarding the provision of garbage/waste/recycling collection service in accordance with Regional policy C3.C17, Collection of Material By Way of Entry on Private Property and by-laws relating to the curbside collection of waste and that the following clause be included in the Site Plan Agreement and inserted in all Offers and Agreements of Purchase and Sale or Lease:

“To be eligible for the provision of collection service by way of entry on private property, the private roadways must be designed to meet the requirements of Regional Municipality of Niagara policy C3.C17, Collection of Material By Way of Entry on Private Property and by-laws relating to the curbside collection of waste (i.e. providing through passage, minimum roadway width/curb radius, private roadways must be designed to permit unobstructed access to the location of the material to be collected, etc.) so that collection vehicles can access collection locations without the need to reverse. Developments unable to meet these requirements will not be eligible for Regional collection service by way of entry on private property and will, therefore, be required to obtain private waste collection services.”

“As Units 19 to 26 inclusive are not accessible by waste collection vehicles, dedicated collection pads have been provided adjacent to Units 3 and 26 in order to facilitate Regional collection of waste by way of entry on private property. Units 19 to 26 inclusive must place waste, organics and recycling material on the designated collection pad individually labelled or embossed with the unit number.”

(Regional Municipality of Niagara)

Condominium Assumption Agreement

3. That the owner enter into a Condominium Assumption Agreement with the City of St. Catharines, to be registered together with the registration of the final plan of condominium.

(City of St. Catharines)

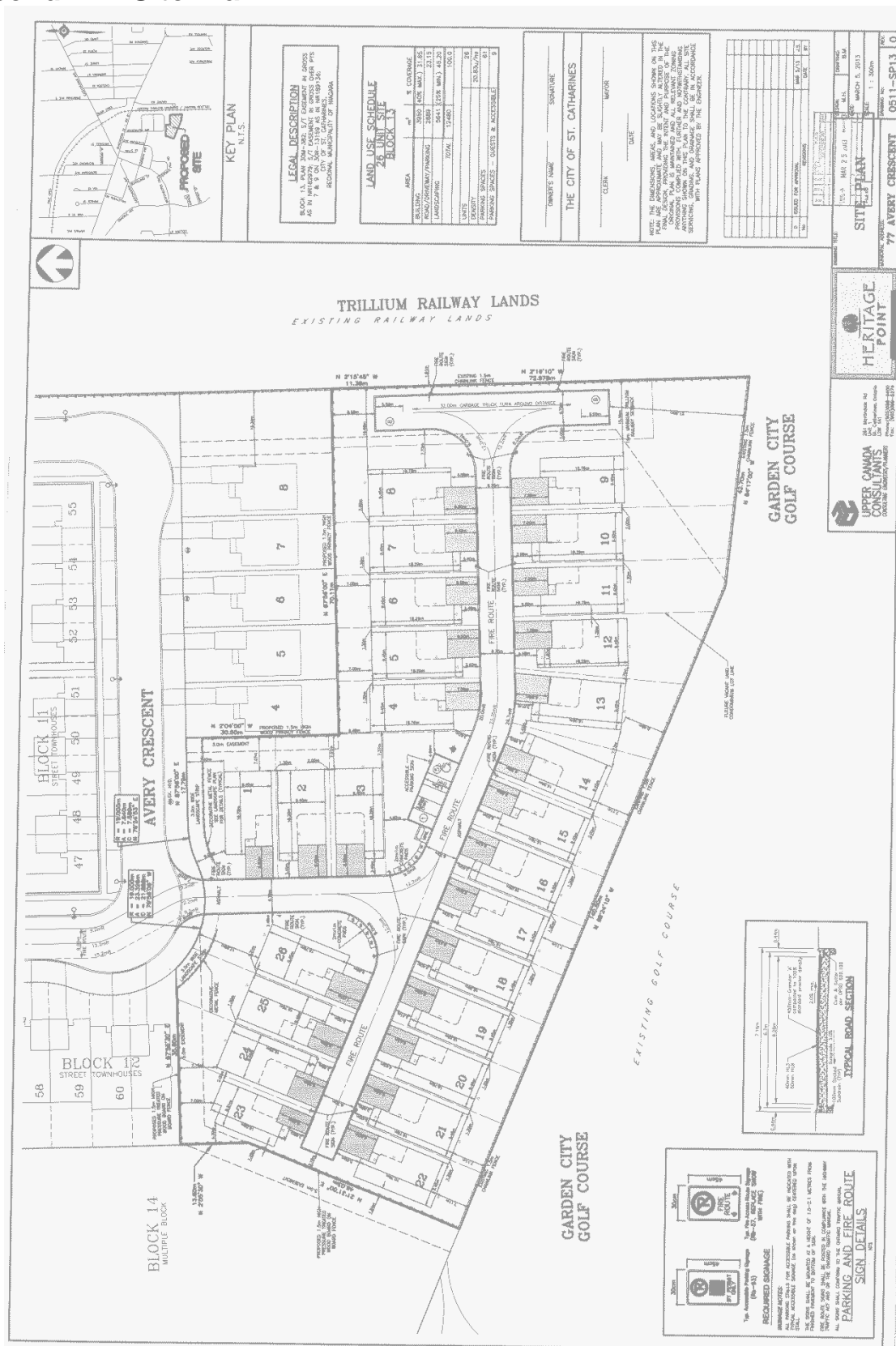
Administration

4. That if final approval is not given to this plan within three years of the approval date and no extension has been granted, draft approval shall lapse. If the owner wished to request an extension to the draft approval period, a written explanation with reasons why the extension is required must be received by the City prior to lapsing date. An updated review and revision to the conditions of approval may be necessary at that time.

(City of St. Catharines)

Prior to granting approval to the final plan of condominium, the City of St. Catharines shall be satisfied that all conditions have been met satisfactorily.

Appendix 4- Site Plan



Appendix 5- Heritage Point Subdivision

