SUBJECT: City Initiative for a Change in Zoning for Lands Located at the Northwest Corner of Garth Street and Twenty Road (Glanbrook) (PED08092) (Ward 11)

RECOMMENDATION:

That approval be given to City Initiative CI-08-E, for an amendment to Glanbrook Zoning By-law No. 464, to further modify the Neighbourhood Commercial - Holding “H-C1-196” Zone in order to increase the permitted maximum lot area and to delete the maximum total gross leasable floor area requirement, for lands located at the northwest corner of Garth Street and Twenty Road, as shown on Appendix “A” to Report PED08092, on the following basis:

(i) That the draft By-law, attached as Appendix “B” to Report PED08092, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council.

(ii) That the proposed modification in zoning is in conformity with the Hamilton-Wentworth Official Plan and the Official Plan for the Township of Glanbrook.

EXECUTIVE SUMMARY:

The purpose of the City Initiative is to re-establish site-specific zoning provisions for the subject property, which were inadvertently omitted in the implementing By-law Amendment for a rezoning application in 2004. The specific provisions were no maximum total gross leasable floor area instead of a maximum of 750 square metres,
and a maximum lot area of 0.83 hectares instead of 0.8 hectares. The former provision was originally approved through By-law No. 01-154 (see Section 1. d) - Appendix “C”), and reconfirmed through By-law No. 03-160 (see Section 4 - Appendix “D”). The latter was approved through By-law No. 03-160 (see Section 4 - Appendix “D”). Both By-laws were subject to Public Meetings and were duly approved without any appeals. As a result, the proposal has merit and can be supported.

**BACKGROUND:**

**Development Applications:**

**Site Plan Application (DA-08-022)**

This application was submitted on February 28, 2008, and was considered by the Development Review Committee on March 26, 2008. The application is to permit the development of a 2-storey office/retail building and free-standing restaurant with a drive-thru (see Appendix “E”). The application was conditionally approved with finalization of this housekeeping amendment/City Initiative to the By-law being one of the conditions of approval.

**Official Plan and Zoning By-law Amendment Application (OPA-04-11 & ZAC-04-50)**

On November 10, 2004, Council adopted Amendment No. 47 to the Glanbrook Official Plan and By-law No. 04-283 to amend Glanbrook Zoning By-law No. 464, to permit a broader range of commercial uses (Medical Centres; Retail Stores, including postal outlets; Commercial Schools and Restaurants (Standard, Take-Out and Fast Food)), to delete the requirement for the maximum gross leasable floor area of 250 square metres for each individual establishment, and to increase the minimum landscaped area abutting a street from 3 metres to 4.5 metres. A “Holding” provision was included to prevent the establishment of the drive-thru restaurant until the completion of the necessary road improvements to ensure safe traffic and pedestrian movements, to the satisfaction of the Director of Development Engineering.

**Zoning By-law Amendment Application (ZAR-03-18)**

On June 25, 2003, Council passed By-law No. 03-160, which further amended the zoning of the subject property by increasing the commercially zoned lands from 0.8 ha to 0.83 ha. Also, the “Holding” provision that was placed on the subject lands by By-law No. 01-154 was removed as the requisite conditions for the removal of the ‘H’ Holding symbol were satisfied.

**Zoning By-law Amendment Application (464-74-01)**

zoning established the “C1” zoning standards with the exception that the maximum total gross leasable floor area shall not apply, and the maximum lot area shall be 0.8 hectares (2 acres). This By-law also applied the ‘H’ Holding symbol until such time as the design of the Garth Street Extension was completed, to the satisfaction of the City, and draft approval was received for the plan of subdivision (25T-200104).

**Draft Plan of Subdivision (25T-200104)**

The plan of subdivision known as “Garth Trails” was draft approved on June 7, 2001. Phase 1 was registered on June 26, 2003, as Plan 62M-984. Phase 2, which includes the subject lands (Block 3), was registered on May 21, 2004, as Plan 62M-1005.

**Details of Submitted Application**

<table>
<thead>
<tr>
<th>Owner:</th>
<th>Garth Trails Limited (Ward Campbell)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Applicant:</td>
<td>City of Hamilton</td>
</tr>
<tr>
<td>Property Size:</td>
<td></td>
</tr>
<tr>
<td>Frontage:</td>
<td>59.9m (194 feet)</td>
</tr>
<tr>
<td>Depth:</td>
<td>91.53m (300 feet)</td>
</tr>
<tr>
<td>Area:</td>
<td>0.83 ha (2.05 acres)</td>
</tr>
</tbody>
</table>

**EXISTING LAND USE AND ZONING**

<table>
<thead>
<tr>
<th>Subject Lands:</th>
<th>Existing Land Use</th>
<th>Existing Zoning</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Vacant</td>
<td>Neighbourhood Commercial - Holding “H-C1-196” Zone</td>
</tr>
<tr>
<td>Surrounding Lands:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>North</td>
<td>Single Detached Dwellings</td>
<td>Residential “R3” and “R4-169” Zones</td>
</tr>
<tr>
<td>East</td>
<td>Woodlot</td>
<td>Public Open Space “OS2-162” Zone</td>
</tr>
<tr>
<td>South</td>
<td>Agriculture</td>
<td>General Agricultural “A1” Zone</td>
</tr>
<tr>
<td>West</td>
<td>Single Detached Dwellings</td>
<td>Existing Residential “ER” Zone</td>
</tr>
</tbody>
</table>

**ANALYSIS/RATIONALE:**

1. The City Initiative for a Zoning By-law Amendment has merit and can be supported for the following reason:

   (i) It re-establishes site-specific zoning provisions on the subject property, which inadvertently were not carried forward by staff in the implementing By-law Amendment for a rezoning application in 2004 (ZAC-04-50).
2. The site-specific provision for no maximum gross leasable floor area instead of the maximum of 750 square metres (8,070 square feet) was originally approved in By-law No. 01-154 (see Section 1.d) - Appendix "C"), and reconfirmed through By-law No. 03-160 (see Section 4 - Appendix “D”). The size of the commercial development will be sufficiently regulated by the size of the building that can be built, given the maximum permitted 30% lot coverage and parking and landscaping requirements.

The site-specific provision for increased lot size was originally increased from 3,000 square metres to 0.8 hectares through the approval of By-law No. 01-154 (see Section 1. d) – Appendix “C”); and further increased to 0.83 hectares through the approval of By-law No. 03-160 (see Section 4 – Appendix “D”).

**ALTERNATIVES FOR CONSIDERATION:**

Should the application be denied, then the lands could not be developed in accordance with the current zone provisions since the property is larger than the maximum lot size permitted, and the site would be underutilized due to a cap on the maximum floor space permitted.

**FINANCIAL/STAFFING/LEGAL IMPLICATIONS:**

Financial: N/A.

Staffing: N/A.

Legal: As required by the Planning Act, Council shall hold at least one (1) Public Meeting to consider an application for a Zoning By-law Amendment.

**POLICIES AFFECTING PROPOSAL:**

**Provincial Policy Statement**

This application has been reviewed with respect to the Provincial Policy Statement (PPS). Staff recognizes that the application is consistent with the PPS with respect to accommodating an appropriate range and mix of uses, to meet long term needs (1.1.1b)), and focusing growth in urban areas (1.1.3.1).

**Hamilton-Wentworth Official Plan**

The subject property is designated as “Urban Area” in the Hamilton-Wentworth Official Plan. Policy 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. Therefore, as the nature of the application is to modify the existing Zoning By-law to recognize previously approved site-specific zoning provisions, the proposal conforms with the Hamilton-Wentworth Official Plan.
Township of Glanbrook Official Plan/North-West Glanbrook Secondary Plan

The lands are designated “Residential” on Schedule “A” General Land Use Plan and “Commercial” on Schedule “G” North-West Glanbrook Planning Area Land Use Plan in the Glanbrook Official Plan.

Through Official Plan Amendment No. 47, the policies for the North-West Glanbrook Planning Area, in particular Subsection B.2.1.25.1 (c) that permits only “neighbourhood commercial” uses in the Official Plan, was amended by deleting the references to “neighbourhood” and adding “medical centres, commercial schools, restaurants” as permitted uses. The subject application conforms with the Glanbrook Official Plan and North-West Glanbrook Secondary Plan.

RELEVANT CONSULTATION:

No consultation was undertaken since it is a housekeeping amendment.

PUBLIC CONSULTATION:

In accordance with the Public Participation Policy that was approved by Council, preliminary circulation of the application is not required where, in the opinion of the City’s Manager of Development Planning, in consultation with the Ward Councillor, preliminary circulation of the application is seen to have minimum purpose and benefit. In addition, as indicated earlier, the proposed modifications were the subject of two previous Public Meetings, in which the implementing By-laws were not appealed. A Public Notice sign was erected on the property in March 2008, and notice of the Public Meeting was given in accordance with the requirements 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
The public are involved in the definition and development of local solutions.

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
The economic base is diversified.

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

:PD/Attachs. (5)
CITY OF HAMILTON

BY-LAW NO. __________

To Amend Zoning By-law No. 464 (Glanbrook)
Respecting Lands located at the Northwest Corner of Twenty Road
and Garth Street

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 Township of Glanbrook" 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. 464 (Glanbrook) was enacted on the 16th day of March, 1992, and approved by the Ontario Municipal Board on the 31st day of May, 1993;

AND WHEREAS the Council of the City of Hamilton, in adopting Section _____ of Report 08-____ of the Economic Development and Planning Committee at its meeting held on the _____ day of _____, 2008, recommended that Zoning By-law No. 464 (Glanbrook), 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 Township of Glanbrook);

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

1. That Section 44, "Exceptions to the Provisions of this By-law", of Zoning By-law No. 464, be amended by further modifying the "H-C1-196" Zone, to include the following:
Notwithstanding the regulations of **SECTION 23: NEIGHBOURHOOD COMMERCIAL “C1” ZONE.** Subsection 23.2 – **REGULATIONS FOR PERMITTED USES IN SUBSECTION 23.1,** Clauses (d) and (f), the following regulations shall apply for the lands zoned “H-C1-196”:

(d) Maximum Lot Area 0.83 hectares

(f) No Maximum Total Gross Leasable Floor Area shall apply.

2. 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 Neighbourhood Commercial “C1-196” Zone provisions.

3. 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 [date] day of [year], 2008.

_____________________________  ______________________________
Fred Eisenberger               Kevin C. Christenson
MAYOR                         CLERK

CI-08-E
Schedule "A"

Map Forming Part of By-Law No. 08-______
to Amend By-law No.464

Subject Property

Further Modification to the Neighbourhood Commercial - Holding "H-C1-195" Zone
Appendix “C” to Report PED08092
Page 1 of 5

Authority: Item 2, Hearings Sub-Committee
Report 01-009 (PD01081)
CM: May 1, 2001
Bill No. 154

City of Hamilton

BY-LAW NO. 01-154

To Amend:

Zoning By-law No. 464 (Glanbrook)
As amended by By-law No. 464-71-00

Respecting:

ELDERBERRYESTATES
(former Township of Glanbrook)

WHEREAS the City of Hamilton Act, 1999, Statutes of Ontario, 1999 Chap.14, Sch. C. did incorporate, as of January 1, 2001, the municipality “City of Hamilton”;

AND WHEREAS the City of Hamilton is the successor to certain area municipalities, including the former municipality known as the “The Corporation of the Township of Glanbrook” 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 and Official Plans of the former area municipalities and the Official Plan of the former regional municipality 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. 464 (Glanbrook) was enacted on the 16th day of March 1992 and approved by the Ontario Municipal Board on the 31st day of May 1993;

AND WHEREAS the City of Hamilton Official Plan, (formerly the Official Plan of the Region of Hamilton-Wentworth) designates the lands subject to this By-law as URBAN, which permits residential uses;

AND WHEREAS the City of Hamilton Official Plan, (formerly the Township of Glanbrook Official Plan) designates the lands subject to this By-law as RESIDENTIAL, and within the URBAN AREA;

AND WHEREAS Schedule G - North-West Glanbrook Planning Area Land Use Plan of the City of Hamilton Official Plan (formerly the Township of Glanbrook Official Plan) designates the lands subject to this By-law as “Low, Medium and High Density Residential, Parkland, Commercial and Stormwater Management Facilities”;


AND WHEREAS the City of Hamilton deems it desirable and expedient to amend Zoning By-law No. 464 (Glanbrook) as hereinafter provided:

AND WHEREAS this By-law is in conformity with the Official Plan of the City of Hamilton (formerly the Official Plan of the Township of Glanbrook).

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

1. SCHEDULE "E" of Zoning By-law No. 464 (Glanbrook), is hereby amended by adding the following provisions (Schedule "A" - Blocks 1, 2, 3, 4 and 5 of this by-law):

   a) Block 1 - change from H-R3-162 to H-R3-168;

   b) Block 2 - change from H-R3-162 to H-R4-169 to establish zoning standards as per the Residential "R4" zoning category (Section 16 - By-law No. 464 (Glanbrook)) with the exception that no buildings, structures or swimming pools, except for a fence, shall be located less than 10.0 metres from the northerly limits of the block abutting the Hydro corridor;

   c) Block 3 - change from H-R3-162 to H-R4-170 to establish zoning standards as per the Residential "R4" zoning category (Section 16 - By-law No. 464 (Glanbrook)) with the exception that all dwellings shall be setback a minimum distance of 33.0 metres from the centre line of the Garth Street right of way;

   d) Block 4 - change from H-Cl-162 to H-Cl-H 71 to establish zoning standards as per the Neighbourhood Commercial "C1" zoning category (Section 23 - By-law No. 464 (Glanbrook), with the following exceptions: the maximum total gross leasable floor area as contained in Section 23.2 (f) of By-law No. 464 (Glanbrook) shall not apply; and a maximum lot area of 0.8 hectares (2 acres) shall be permitted for the lands zoned H-Cl-171;

   e) Block 5 - amend the H-RM3-162 provisions as follows:

      (i) That the following clause "(g)" be added to Paragraph 2 of Exception Number H-RM3-162 (and By-law No. 464-71-00 (Glanbrook)):

         "(g) That no buildings, structures or swimming pools, except for a fence shall be located less than 10.0 metres from the northerly limits of this block."
(ii) Notwithstanding any other provisions to the contrary, Paragraph 3.3(e)(iii) of Exception Number H-RM3-162 (and By-law No. 464-71-00 (Glanbrook)), respecting the minimum distance between blocks of townhouse dwelling units, is deleted in its entirety and replaced with the following:

“(iii) Minimum distance between blocks of townhouse dwelling units:

A. 3.0 metres between two (2) end walls; and,
B. 7.5 metres between an end wall which contains no window(s) to a habitable room and a face wall; and,
C. 9.0 metres between an end wall which contains at least one (1) window to a habitable room and a face wall; and,
D. 15.0 metres between two (2) face walls; and,
E. for the purposes of this Section, a face wall shall consist of the main front wall or main rear wall of a townhouse dwelling unit. All other walls shall be considered end walls.”

2. **SECTION 44: EXCEPTIONS TO THE PROVISIONS OF THIS BY-LAW** of Zoning By-law No. 464 (Glanbrook) shall be amended to include Exception Numbers H-R3-168, H-R4-769, H-R4-170 and H-C1-171, in accordance with Paragraph 1 of this By-law and the specific provisions established by this By-law.

3. **SECTION 44: EXCEPTIONS TO THE PROVISIONS OF THIS BY-LAW** of Zoning By-law No. 464 (Glanbrook) shall be amended by deleting Exception Number H-C1-162 and its associated regulations, in their entirety.

4. The first paragraph of Exception Number H-R3-162/H-C1-162 of **SECTION 44: EXCEPTIONS TO THE PROVISIONS OF THIS BY-LAW** of Zoning By-law No. 464 (Glanbrook) shall be amended to read as follows:

   **H-R3-162** “The removal of the holding symbol “H” by By-law for the lands zoned modified *Holding Residential“H-R3-162“, Holding Residential“H-R3-168“, Holding Residential“H-R4- 1 69“, Holding Residential“H-R4- 1 70“, and *Holding Neighbourhood Commercial“H-C1-171“, as shown on the attached Schedule A of this By-law, shall be subject to the following:”

5. The metric numerical figures contained within this By-law shall be the actual requirements of this By-law. The imperial figures are approximate and are provided for information purposes only.
6. The City 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 10th day of July, 2001.

Mayor

City Clerk

Thomas Roy Berry and Margaret Berry (Owners)
E-1-183
CITY OF HAMILTON

BY-LAW NO. 03-160

To Amend Zoning By-law No. 464 (Glanbrook), as amended by By-laws 464-071-00, and 01-154.
Respecting Lands located at the northwest corner of Twenty Road West and Garth Street (Part of Lot 3, Concession 1).

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 Township of Glanbrook” 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. 464 (Glanbrook) was enacted on the 16th day of March, 1992, and approved by the Ontario Municipal Board on the 31st day of May, 1993;

AND WHEREAS it is intended to change the zoning of the lands hereinafter referred to, and to amend certain exemptions under Section 44 of By-law No. 464 (Glanbrook), passed on the 16th day of March, 1992 and approved by the Ontario Municipal Board by Order dated the 31st day of May, 1993.

AND WHEREAS this by-law is in conformity with the Official Plan of the City of Hamilton (the Official Plan of the former Township of Glanbrook);

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

1. The “H” (Holding) symbol affixed by By-law No. 01-154, passed on the 10th day of July 2001, to the Neighbourhood Commercial (Holding) “H-C1-171” Zone, respecting the lands the extent and boundaries of which are shown on a plan, annexed as Schedule “A” to By-law No. 01-154 and forming part thereof, is hereby removed, and the development of the lands may proceed in accordance with the Neighbourhood Commercial “C1-171” Zone provisions of Zoning By-law No. 464.
2. Schedule "E", appended to and forming part of By-law No. 464 (Glanbrook) is amended by changing from the Residential "R4-169" Zone to the site-specific Neighbourhood Commercial "C1-171" Zone, the land comprised of Block 1, the extent and boundaries of which are shown on a plan hereto annexed as Schedule "A" and forming part of this By-law.

3. Schedule "E", appended to and forming part of By-law No. 464 (Glanbrook) is amended by changing from the "H-C1-171" Zone to the "C1-171" Zone, the land comprised in Block 2, the extent and boundaries of which are shown on a plan hereto annexed as Schedule "A" and forming part of this By-law.

4. That Section 44, "Exceptions to the Provisions of this By-law", of Zoning By-law No. 464, be amended by deleting special provision of "H-C1-171", and replacing it with the following provision:

"C1-171 Establishes zoning standards as per the Neighbourhood Commercial "C1" zoning category (Section 23 of By-law No. 464), with the following exceptions: the maximum total gross leasable floor area as contained in Section 23.2(f) of By-law No. 464 shall not apply; and a maximum lot area of 0.83 hectares (2.05 acres) shall be permitted for the lands zoned C1-171."

5. The City 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 25th day of June, 2003.

[Signatures]

MAYOR

CLERK