TO: Chair and Members  
Economic Development and Planning Committee  
WARD(S) AFFECTED: WARD 11

COMMITTEE DATE: September 7, 2010

SUBJECT/REPORT NO: Application for Approval of a Draft Plan of Condominium (Common Elements), by 162215 Ontario Inc., for Lands Known as 10 Pumpkin Pass (Glanbrook) (PED10185) (Ward 11)

PREPARED BY: Melanie Pham  
(905) 546-2424, Ext. 6685

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

SIGNATURE:

RECOMMENDATION

That approval be given to Condominium Application 25CDM-201008, by 162215 Ontario Inc. (Branthaven Homes), Owner, to establish a draft plan of condominium (Common Elements Condominium) to create a condominium road, visitor parking areas, amenity and landscaped areas, for 38 freehold block townhouse dwellings, on lands located at 10 Pumpkin Pass (Glanbrook), known legally as Part of Block 110, Registered Plan 62M-1128 (Fairgrounds East), as shown on the attached location map marked as Appendix “A” to Report PED10185, 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 June 1, 2010, showing a common element road, visitor parking areas, amenity and landscaped areas, attached as Appendix “B” to Report PED10185.

(b) That the Final Plan of Condominium shall comply with all of the applicable provisions of Zoning By-law No. 464.

(c) That the final plan of condominium shall comply, in all respects, with the approved Site Plan (DA-09-116), to the satisfaction of the Director of Planning.
(d) That the owner shall receive final approval of Part Lot Control Application PLC-10-020, 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 enter into a Development Agreement to ensure that the tenure of each of the proposed 38 freehold units has legal interest, in common, to the Common Elements Condominium, to the satisfaction of the City Solicitor.

(f) 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.”

(g) That the owner shall agree to include on all offers of purchase and sale, a statement that advises the purchaser:

(i) That the home/business mail delivery will be from a designated Centralized Mail Box; and,

(ii) That the developers/owners will be responsible for officially notifying the purchasers of the exact Centralized Mail Box locations prior to the closing of any home sales.

(h) That the owner shall agree 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; and,

(iv) Determine the location of all centralized mail receiving facilities in cooperation with Canada Post, and to indicate the location of 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.

(i) That the owner shall provide 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.

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

**EXECUTIVE SUMMARY**

The purpose of the application is to establish a draft plan of condominium (Common Elements Condominium) for a 38 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 Official Plan and the Township of Glanbrook Official Plan, complies with Zoning By-law No. 464, and implements the approved plan of subdivision and Site Plan Application DA-09-116.

 Alternatives for Consideration - See Page 11.

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

Financial: N/A.

Staffing: N/A.

Legal: As required under 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).

**HISTORICAL BACKGROUND (Chronology of events)**

**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; visitor parking areas; and, amenity and landscaped area for 38 townhouse
dwellings, as shown on the attached plan marked as Appendix “B”. The condominium road would provide access to Pumpkin Pass in one location. The 38 lots, with associated easements, and the elements in common would be created through Part Lot Control Application PLC-10-020.

**Part Lot Control Application PLC-10-020**

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”):

- 38 lots for street townhouses (Parts 1-39, 41-77, and 79-96, inclusive);
- A Common Elements Condominium Corporation (Part 40) comprised of a condominium road, visitor parking areas, amenity and landscaped areas;
- Maintenance/Utility/Servicing easements for the townhouses in favour of the condominium (Parts 39, and 41-77, inclusive);
- Maintenance easements for the townhouses (Parts 79-96, inclusive); and,
- A future development block (Part 78).

**Committee of Adjustment Application GL/A-10:16**

Application GL/A-10:16 was approved by the Committee of Adjustment on February 18, 2010 (see Appendix “D”), and became final and binding on March 11, 2010. The purpose of this application was to obtain relief from the provisions of Zoning By-law No. 464 to allow townhouse dwellings fronting on a private condominium road to be considered a block townhouse development, to allow the boundary of Block 110 on Plan 62M-1128 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, landscaped area, planting strips/fencing, amenity areas, and parking, to allow a minimum landscaped area of 40%, to allow a minimum of one barrier-free parking space, to allow a minimum 1.4m planting strip between visitor parking areas and abutting residential zones, to recognize yard setbacks to the proposed common element condominium, and to remove the requirement for individual privacy screens for the rear yard spaces.

**Site Plan Application DA-09-116**

Site Plan Application DA-09-116, for the construction of a 38 unit block townhouse development, was approved, with conditions, on January 13, 2010 (see Appendix “E”).

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
The applicant has fulfilled all of the conditions of approval and the Site Plan Application was given final approval on April 15, 2010.

**Subdivision Application 25T200615 - “Fairgrounds East”**

The plan of subdivision known as “Fairgrounds East” was draft approved on April 15, 2009. The subdivision was registered on September 1, 2009, as Plan 62M-1128. Block 110 of the subdivision is intended for the block townhouse dwellings and the Common Elements Condominium Corporation.

**Official Plan Amendment Application OPA-06-21**

On July 11, 2007, Council approved OPA No. 60 (By-law No. 07-216) to change the layout of the road pattern within the “Fairgrounds East” draft plan of subdivision, and to redesignate portions of the “Fairgrounds East” draft plan area for various uses. The designation of the subject lands was not changed through these amendments, and was maintained as “Medium Density Residential” in the Binbrook Village Secondary Plan.

**Zoning Application ZAC-06-075**

On July 11, 2007, Council approved By-law No. 07-217 to rezone the subject lands from the Residential Multiple “RM2-161” Zone and the Residential Multiple “RM3-161” Zone to the Residential Multiple “RM3-223” Zone as part of the implementation of the “Fairgrounds East” draft plan of subdivision.

**Details of Submitted Application**

- **Location:** Part of Block 110, Registered Plan 62M-1128 (See Appendix “A”)
- **Owner:** 162215 Ontario Inc.
- **Applicant:** Branthaven Development Corporation
- **Property Description:**
  - Total Lot Area: 10,200m²
  - Total Lot Frontage: Approximately 56.25 metres.
  - Lot Depth: Approximately 93.42 metres.
- **Servicing:** Full Municipal Servicing
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 - To be developed as Block Townhouses</td>
<td>Residential Multiple “RM3-223” Zone</td>
</tr>
</tbody>
</table>

Surrounding Lands:

<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>South</td>
<td>Vacant - To be developed as Street Townhouses and School Site</td>
</tr>
<tr>
<td>East</td>
<td>Street Townhouses</td>
</tr>
<tr>
<td>West</td>
<td>Agricultural - To be developed as Single-Detached Residential</td>
</tr>
</tbody>
</table>

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 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.
The subject property is designated “Urban Area” in the Hamilton-Wentworth Official Plan. Policy 3.1 outlines that a wide range of uses, defined through Area Municipal Official Plans and based on full municipal services, will be concentrated in the Urban Areas. Urban Areas are intended to accommodate approximately 96% of new residential housing units in the Region to the year 2020. The proposal conforms to the policies of the Hamilton-Wentworth Official Plan.

**Township of Glanbrook Official Plan**

The subject lands are designated “Residential” on Schedule “A” - Land Use Plan, and as “Medium Density Residential” on Schedule “B” - Binbrook Village Secondary Plan.

The proposed freehold, townhouse units conform to the Residential and Medium Density Residential policies of the Township of Glanbrook Official Plan. Therefore, the proposed plan of condominium to establish a common element roadway and associated visitor parking areas, amenity areas, and landscaping conforms to the Township of Glanbrook Official Plan.

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

The new Urban Hamilton Official Plan was adopted by Council on July 9, 2009. The Plan has been forwarded to the Province for approval, but is not yet in effect. The subject lands are designated as “Neighbourhoods” on Schedule E, Urban Structure Plan, and Schedule E-1, Urban Land Use Designations. The property is also designated as “Low Density Residential 2h” in the Binbrook Village Secondary Plan. The “Low Density Residential 2h” designation permits street, block, and stacked townhouses in densities of 26-40 units per hectare. The proposed freehold, townhouse units conform to the new Urban Hamilton Official Plan.

**RELEVANT CONSULTATION**

The following Departments and Agencies had no comments or objections:

- Taxation Division, Corporate Services Department.
- Capital Budgets Section, Corporate Services Department.
- Traffic Engineering and Operations Section, Public Works Department.
- Health Protection Division, Public Health Services Department.
- Communications Section, Hamilton Emergency Services.
- Hamilton Police Services.
- Hydro One.
- Union Gas.
The following Departments and Agencies submitted comments:

Canada Post

This draft plan of condominium will receive mail service to centralized mail facilities provided through our Community Mailbox program. The owner shall, 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; and,

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; and,

iv) Determine the location of all centralized mail receiving facilities in cooperation with Canada Post, and to indicate the location of 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.
c) Canada Post’s multi-unit policy, which requires that the owner/developer provide the centralized mail facility, at their own expense, will be in effect for buildings and complexes with a common lobby, common indoor, or sheltered space.

The proposed condominium will not have a common lobby or indoor area, therefore, Condition (c) is not applicable. The requested Conditions (a) and (b) have been addressed through the inclusion of Conditions (g) and (h) in the Recommendation section of this Report.

**Forestry and Horticulture Section, Public Works Department**, has advised that there are no Urban Forestry tree conflicts. There are currently no Municipal Tree Assets located on the road allowance of the proposed development, and the Forestry and Horticulture Section does not oppose this application.

**Infrastructure and Source Water Planning Section, Public Works Department**, has advised that the servicing can simulate the extension of the existing 300mm stub on Pumpkin Pass westerly. Static pressures at the street lines are unknown, and the developer should perform two hydrant flow tests, using hydrants GF12H005 and GF12H006. The proponent should provide a water servicing layout based on field information and hydraulic model. A loop network is strongly recommended using road allowance/easement.

Public Works has advised that the above information is provided as information regarding requirements which must be addressed later in the development process, at the stage of the construction and installation of servicing. The above mentioned hydrant tests and water servicing layout have not been completed at this time. Public Works has confirmed that these requirements do not need to be included as a condition of the condominium application, but should be provided to the owner as information. A servicing plan for the site was approved as a condition of the related Site Plan Application DA-09-116. All proposed servicing will require standard permits, and will be installed in the development in the normal manner.

**Niagara Peninsula Conservation Authority** has advised that there are no concerns with the application for draft plan of condominium, but that the stormwater management of the site should be consistent with the overall Stormwater Master Plan approved for the “Fairgrounds” subdivision.

**Public Consultation**

In accordance with the new provisions of the Planning Act and Council’s Public Participation Policy, 125 Notices of Complete Application and Preliminary Circulation were sent to property owners within 120 metres of the subject property on June 30, 2010, requesting comments or support for the application.
To date, no letters have been received from members of the public. Additionally, a Public Notice Sign was posted on the property on July 8, 2010, 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 Growth Plan for the Greater Golden Horseshoe.

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

   (iii) It conforms to the “Residential” and “Medium Density Residential” policies of the Township of Glanbrook Official Plan.

   (iv) The proposal implements the Binbrook Village Secondary Plan.

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

2. The proposed draft plan of condominium (Common Elements Condominium) would be comprised of the following condominium elements: an internal road accessing Pumpkin Pass; 19 visitor parking spaces; and, amenity and landscaped area. The condominium driveways are 6 metres wide and would provide legal vehicular access to the 38 townhouse dwellings. The amenity area and landscaped area will provide aesthetics and will be maintained by the Condominium Corporation.

3. The land proposed for the common elements condominium and the 38 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-10-020 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 future development block, shown on Appendices “B”, “C”, and “E”, and included in the Part Lot Control Application as Part 78, is intended to be developed as part of the proposed “Binbrook Heights Addition” subdivision to the north. The land will complete the lot fabric directly behind the block containing the proposed condominium, allowing for the anticipated lotting pattern for the
lands to the north to be established, in accordance with street layout shown in
the Binbrook Village Secondary Plan. The future development block was
originally intended to be a separate block in the subdivision plan, but was
inadvertently included as part of the block, which includes the proposed
condominium development, when the subdivision plan was registered. The
related Part Lot Control application will subdivide the block, as originally
intended.

5. 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 (e)).

6. The proposed condominium road 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 (f)):

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

**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 applicant/owner could only operate the development as a standard block
condominium development. An application for standard condominium would be
required.

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

Focus Areas: 1. Skilled, Innovative and Respectful Organization, 2. Financial Sustainability,
3. Intergovernmental Relationships, 4. Growing Our Economy, 5. Social Development,
6. Environmental Stewardship, 7. Healthy Community

*Financial Sustainability*

- Effective and sustainable Growth Management.
**Social Development**
- Everyone has a home they can afford that is well maintained and safe.

**Environmental Stewardship**
- Natural resources are protected and enhanced.
- Aspiring to the highest environmental standards.

**Healthy Community**
- Plan and manage the built environment.
- Adequate access to food, water, shelter and income, safety, work, recreation and support for all (Human Services).

## APPENDICES / SCHEDULES

- Appendix “A”: Location Map
- Appendix “B”: Proposed Draft Plan of Condominium
- Appendix “C”: Draft Reference Plan for Part Lot Control Application
- Appendix “D”: GL/A-10:16 Committee of Adjustment Decision
- Appendix “E”: Site Plan Application DA-09-116

:MP
Attachs. (5)
IN THE MATTER OF The Planning Act, R.S.O., 1990, c.P. 13, as amended and of the Zoning By-Law No. 464, of the City of Hamilton (formerly Glenbrook), Sections 7, 19 and 44.

AND IN THE MATTER OF the Premises known as Municipal number 10 Pumpkin Pass, formerly in the Township of Glenbrook, now in the City of Hamilton and in an "RM3-223" (Residential Multiple RM3 Zone) (Amending By-law 07-217) district;

AND IN THE MATTER OF AN APPLICATION, AS AMENDED, by the owner Branthaven Homes 2000 Inc., for relief from the provisions of the Zoning By-Law No. 464, under Section 45 of The Planning Act, R.S.O. 1990, c. P. 13, so as to permit development of the lot for a thirty-eight (38) unit block townhouse dwellings on a private condominium road notwithstanding that:

1) Townhouse dwellings fronting on a private condominium road shall be considered a block townhouse development notwithstanding townhouses which front on a street are considered street townhouses;

2) For the purposes of the regulations contained in Section 7, 19 and 44 of the Zoning By-law, the boundary of Block 110, Regisitec. Plan 82M-1128 shall be deemed to be lot lines for this purpose and the regulations of the "RM3-223" zone with respect to lot frontage; lot area; landscaped area; planting strips/fencing; amenity area and parking and not the individual property boundaries of the townhouse dwellings;

3) A minimum landscaped area of 40% shall be provided instead of the minimum required landscaped of 50%;

4) One (1) parking space for the physically handicapped (barrier free) shall be provided instead of the minimum required (2) parking spaces for the physically handicapped (barrier free);

5) A minimum 1.4m wide landscaped area consisting of a planting strip and fencing shall be provided between the visitor parking area abutting residential zones/uses instead of the minimum required 3.0m wide landscaped area consisting of a planting strip and fencing;

6) A minimum side yard of 1.4m, with further eave projection, shall be provided for side yard abutting a flankage street for Units 14 and 30 instead of the minimum required side yard of 2.4 where a side yard abuts a flankage street;

7) A minimum front yard of 2.5m, with further eave projection, shall be provided for Units 7, 26 and 31 instead of the minimum required front yard of 4.5m;

GL/A-10:16
Page 2

9) A minimum rear yard of 5.6m, with further eave projection, shall be provided for Unit 35 instead of the minimum required front yard of 7.0m; and,

10) No privacy screens shall be provided for privacy areas instead of the minimum required privacy screens on two sides of each privacy area.