TO: Chair and Members Planning Committee
WARD(S) AFFECTED: WARD 9

COMMITTEE DATE: November 19, 2013

SUBJECT/REPORT NO:
Application for an Amendment to City of Stoney Creek Zoning By-law No. 3692-92 for Lands Located at 22 Green Mountain Road West (Stoney Creek) (PED13181) (Ward 9)

SUBMITTED BY:
Joe-Anne Priel
Acting General Manager Planning and Economic Development Department

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

SIGNATURE:

RECOMMENDATION:

That approval be given to Zoning Application ZAR-13-025, by Empire Communities, for a change in zoning to permit the development of two temporary model homes within the Multiple Residential (Holding) “RM3-38(H)” Zone (Temporary Use By-law), for the lands described as Part of Lot 25, Concession 5 (formerly in the City of Stoney Creek), now in the City of Hamilton, and municipally known as 22 Green Mountain Road West (Stoney Creek), as shown on Appendix “A” to Report PED13181, on the following basis:

(a) That the draft By-law, attached as Appendix “B” to Report PED13181, which has been prepared in a form satisfactory to the City Solicitor, be adopted by City Council.

(b) That the amending By-law be added to Schedule “A”, Map No. 11, of Zoning By-law No. 3692-92.

(c) That the proposed change in zoning conforms to the Urban Hamilton Official Plan.
EXECUTIVE SUMMARY

The application is to allow for the development of two temporary model homes on the subject lands, for a maximum of three years, in conjunction with the existing Sales Pavilion to promote the sale of units within the draft approved Plan of Subdivision at 22 Green Mountain Road West (Stoney Creek), known as “Empire Nash” (now “Victory Ridge”). The applicant has requested a Temporary Use By-law for the proposed model homes (see Appendix “B”).

Pursuant to Section 39 of the Planning Act, the Council of a local municipality may pass a Temporary Use By-law for a maximum of three years from the day of the passing of the By-law. The temporary use could be further extended by Council for an additional three years, if required.

The proposal has merit and can be supported, as it is consistent with the Provincial Policy Statement, and conforms to the Grow Plan for the Greater Golden Horseshoe and the Urban Hamilton Official Plan.

Alternatives for Consideration - See Page 8.

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

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 approval of a Zoning By-law Amendment.

HISTORICAL BACKGROUND (Chronology of events)

Proposal:

The purpose of the application is to rezone the subject lands, which front onto Green Mountain Road, just west of Upper Centennial Parkway (see Appendix “A”). The rezoning will permit the temporary use of the lands for two model homes to aid in the marketing and sales for the dwelling units in the draft approved Plan of Subdivision known as “Empire Nash” (now “Victory Ridge”) (25T-200803), as identified in the preliminary site plan (see Appendix “C”). Minor modifications will be required to City of Stoney Creek Zoning By-law No. 3692-92, which are discussed in detail in the Analysis/Rationale for Recommendation section of this Report. The proposed By-law is a temporary measure, and will be in effect for a maximum of three years.
Previous Applications (File Nos. ZAC-08-026 and 25T-200803):

The subject lands are part of a larger draft approved Plan of Subdivision comprised of approximately 423 dwelling units. The applications for this development included a change in zoning and a draft Plan of Subdivision. The applications went before Planning Committee on October 20, 2009, at which time the Committee tabled the matter, and were subsequently appealed by the applicant due to the City’s failure to make a decision on the applications within the prescribed timeframe under the Planning Act. The neighbouring land owner was also a party at the Ontario Municipal Board (OMB) hearing. The dispute was settled between the parties at the OMB. The OMB issued their decision on December 9, 2010, and the Board allowed the proposed residential subdivision, known as “Empire Nash” (now “Victory Ridge”).

Chronology:


July 23, 2013: Application ZAC-13-025 circulated to the relevant Departments and Agencies.

July 23, 2013: Notice of Complete Application and Preliminary Circulation is mailed to all residents within 120m of the subject lands.

October 23, 2013: Public Notice Sign on the subject lands updated to provide notice of Planning Committee.

November 1, 2013: Notice of Public Meeting is mailed to all residents within 120m of the subject lands.

Details of Submitted Application:

Location: 22 Green Mountain Road West (see Appendix “A”)

Owner: Empire Communities (Stoney Creek) Ltd.

Property Description:
Frontage: ±159m (along Green Mountain Road West)

Depth: ±361m (on Upper Centennial Parkway)

Lot Area: ±23.35 ha (57.7 acres)
EXISTING LAND USE AND ZONING:

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<th>Subject Lands:</th>
<th>Existing Land Use</th>
<th>Existing Zoning</th>
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<td>Sales Pavilion/Centre</td>
<td>Multiple Residential (Holding) “RM3-38(H)” Zone</td>
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POLICY IMPLICATIONS

Provincial Policy Statement:

The application has been reviewed with respect to the Provincial Policy Statement (PPS). Policy 1.1.1 d) specifies that healthy, liveable, and safe communities are sustained by promoting efficient development and land use patterns. Staff recognizes that the application is consistent with the policies that focus growth in Settlement Areas, Policy 1.1.3.1.

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

The Growth Plan for the Greater Golden Horseshoe was prepared and approved under the Places to Grow Act, 2005, by the Province of Ontario. The Plan’s main objective is to provide direction in developing communities with a better mix of housing, jobs, shops, and services in close proximity to each other.
The subject lands are located outside of the Built Boundary and, therefore, considered to be Greenfield development. The Plan states that designated Greenfield areas will be planned, designated, and zoned in a manner that contributes to creating complete communities. The Plan further identifies that density targets of not less than 50 residents and jobs combined per hectare should be a goal for all municipalities. The Plan also includes policies about building complete communities where residents can live, work, and play; and it provides direction with respect to sustainable living that is environmentally friendly. Since this proposal is a temporary use, it generally meets the overall intent of the above mention policies, as it will not negatively impact the density targets proposed in the original draft Plan of Subdivision.

Based on the foregoing, the proposal conforms to the Growth Plan for the Greater Golden Horseshoe.

**Urban Hamilton Official Plan:**

The proposal has been evaluated against the policies of the new Urban Hamilton Official Plan (UHOP), which was adopted by Council on July 9, 2009. The Minister of Municipal Affairs and Housing issued its approval on March 10, 2011. The UHOP was subsequently appealed, and the OMB approved the UHOP, in part, on August 16, 2013. At this time, the majority of the policies in the Urban Hamilton Official Plan are now in effect.

The property is designated “Neighbourhoods” on Schedule E-1 - Urban Land Use Designations. Neighbourhoods in Hamilton are diverse, ranging from old, historic areas to newly developed subdivisions. One of the policy goals in the Plan is to provide a range of housing types and densities. The designation allows for residential dwellings comprised of a range of low, medium, and high densities. The subject lands are designated “Low Density Residential 2h” on Land Use Plan Map B.7.5-1 Nash Neighbourhood Secondary Plan, which permits multiple dwellings such as street and block townhouses, duplexes, triplexes, and quadraplexes. This designation also permits a limited number of detached and semi-detached dwellings, provided that the density falls within the range of 30 to 49 units per net residential ha. In this regard, the two proposed temporary single detached model homes would be a permitted use and, with respect to the density range, the overall intent is still being maintained as the parent “RM3-38(H)” Zone permits uses that would achieve the density range of the designation.

Chapter F identifies policies related to implementation of the Plan. More specifically, Section 1.11 of the Plan contains policies regarding Temporary Use By-laws:
“1.11 Temporary Use By-laws

At times it is in the public interest to permit lands to be used for a particular use on a temporary basis even though it may not conform to the Zoning By-law. The Planning Act authorizes a municipality to pass a Temporary Use By-law, which defines the area and duration of the use.

1.11.1 Council may adopt Temporary Use By-laws provided the use complies with the permitted uses in Section E - Urban Systems and Designations, to permit the temporary use of land, buildings, or structures for a purpose that is prohibited by the Zoning By-law.

1.11.2 A Temporary Use By-law may allow a use that is temporary in nature. Any new buildings or structures associated with the proposed temporary use shall be constructed so that it can be easily removed after the expiry date of the Temporary Use By-law.

1.11.3 The proposed temporary use shall:

a) Be compatible with uses on adjacent and nearby properties; have no adverse impact on the traffic, transportation, or parking facilities in the area;

b) Comply with the Minimum Distance Separation requirements established by the Province; and,

c) Have sufficient services such as roads, stormwater drainage, water supply and sanitary sewage systems to accommodate the proposed temporary use.

1.11.4 A Temporary Use By-law may be permitted for a period of time which shall not exceed three years, except for garden suites, which shall not exceed ten years. However, Council may, by By-law, extend such period of time for further periods of time not exceeding three years each, during which the temporary use is authorized.

1.11.5 Upon expiration of the Temporary Use By-law, uses which may have been permitted by that Temporary Use By-law shall cease to exist, shall not be considered as legal non-conforming uses and, therefore, shall be removed.”

The proposed temporary model homes will be constructed in a fashion that can be easily transported and relocated to another area in the subdivision once the Temporary Use By-law lapses. The proposed model homes will not be serviced, and are accessory to the Sales Pavilion currently located on the subject lands.
Based on the above, the proposal would have no adverse impact on neighbouring lands and is compatible with adjacent uses. Staff is satisfied that the proposed Temporary Use By-law conforms to the Urban Hamilton Official Plan.

**RELEVANT CONSULTATION**

The following Departments and Agencies had no comments or objections:

- Hamilton Municipal Parking System Section, Parking and By-law Services Division.
- Recreation Division, Community and Emergency Services Department.
- Corridor Management Division, Public Works Department.
- Corporate Assets and Strategic Planning Division, Public Works Development.
- Horizon Utilities Corporation.

**PUBLIC CONSULTATION:**

In accordance with the new provisions of the Planning Act and the Council-approved Public Participation Policy, Notice of Complete Application and Preliminary Circulation was sent to 16 property owners within 120m of the subject lands on July 26, 2013, and a Public Notice sign was posted on the property on August 7, 2013. A neighbouring property owner sent in a written comment in support of the proposed temporary use. The Notice of Public Meeting was also circulated in accordance with the provisions 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) The proposal is consistent with the Provincial Policy Statement and conforms with Places to Grow Plan.

   (ii) The proposal conforms with the “Neighbourhoods” policies of the Urban Hamilton Official Plan.

   (iii) The proposal conforms to the “Low Density Residential 2h” designation of the Nash Neighbourhood Secondary Plan.

   (iv) The proposal is temporary in nature and will only be required for a period of three years.
2. As mentioned in the Policy Implementation section of the Urban Hamilton Official Plan, Policy F.1.11 provides for Temporary Use By-laws and the implementation and extension of said By-laws. The temporary model homes will assist and facilitate in the marketing and sale of similar home layouts in the remainder of the draft approved Plan of Subdivision. The use will only be permitted for a period of three years. In this regard, the proposed temporary model homes would be in keeping with the Urban Hamilton Official Plan since the two homes will be constructed in a temporary fashion and not connected to municipal servicing.

3. The proposed model homes would not meet the definition of “Model Home” in Zoning By-law No. 3692-92, as the subject lands have been draft approved, but not registered for this phase of development. Further, with respect to Section 4.20 “Model Homes in Draft Plans of Subdivisions” of the By-law, the proposed dwelling unit(s) must be permitted in the Zone in which the dwellings are to be located. In this regard, the proposed model homes would not be permitted under the current Zone. Therefore, the Temporary Use By-law is required.

The Temporary Use By-law (see Appendix “B”) has been drafted to allow two temporary single detached model homes for a period of three years. The temporary development of these two homes is accessory to the existing Sales Pavilion already established on the subject lands. Their intended use is to assist homebuyers in conceptualizing building layouts and plans to further assist the marketing and sale of homes in the draft approved Plan of Subdivision known as “Empire Nash” (now “Victory Ridge”).

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

Should the application be denied, the lands could only be developed in accordance with the current Multiple Residential (Holding) “RM-38(H)” Zone provisions, which permits maisonettes, street townhouses, townhouses, apartment dwellings, dwelling groups and home occupations and uses, buildings, or structures accessory to a permitted use, once the Holding (H) provision is lifted.

**ALIGNMENT TO THE 2012 – 2015 STRATEGIC PLAN:**

**Strategic Priority #1:**
A Prosperous & Healthy Community

*WE enhance our image, economy and well-being by demonstrating that Hamilton is a great place to live, work, play and learn.*
Strategic Objective:

1.5 Support the development and implementation of neighbourhood and City wide strategies that will improve the health and well-being of residents.

APPENDICES / SCHEDULES

- Appendix “A”: Location Map
- Appendix “B”: Draft Implementing Zoning By-law
- Appendix “C”: Concept Plan

:JM
Attachs. (3)
CITY OF HAMILTON

BY-LAW NO.

To Amend Zoning By-law No. 3692-92 (Stoney Creek) Respecting the Property Located at 22 Green Mountain Road West

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 City of Stoney Creek" 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. 3692-92 (Stoney Creek) was enacted on the 8th day of December, 1992, and approved by the Ontario Municipal Board on the 31st day of May, 1994;

AND WHEREAS the Planning Act, R.S.O. 1990, provides for Temporary Use By-laws pursuant to Section 39 of the Act;

AND WHEREAS the Council of the City of Hamilton, in adopting Item of Report 13- of the Planning Committee, at its meeting held on the day of , 2013, recommended that Zoning By-law No. 3692-92 (Stoney Creek) be amended as hereinafter provided;

AND WHEREAS this By-law is in conformity with the Urban Hamilton Official Plan, approved by the Minister under the Planning Act on March 16, 2011;
NOW THEREFORE the Council of the City of Hamilton enacts as follows:

1. That Map No. 11 of Schedule “A”, appended to and forming part of By-law No. 3692-92 (Stoney Creek), is amended as follows:

   (a) by changing the zoning from the Multiple Residential (Holding) “RM3-38(H)” Zone to the Multiple Residential (Holding) (Temporary) “RM3-38(H)(T)” Zone;

   on the lands, the extent and boundaries of which are shown on a plan hereto annexed as Schedule “A”.

2. That Sub-section 6.10.7, “Special Exemptions”, of Section 6.10 Multiple Residential “RM3” Zone, of Zoning By-law No. 3692-92 (Stoney Creek), be amended by adding a new Special Exemption, “RM3-38(H)(T)”, as follows:

   **“RM3-38(H)(T)” 22 Green Mountain Road West, Schedule “A”, Map No. 11**

   Notwithstanding the provisions of the Multiple Residential (Holding) “RM3-38(H)” Zone, the temporary use for two single detached model homes, in accordance with Section 39 of the Planning Act, shall also be permitted without a Holding (H) removal on these lands, for a period not exceeding three years from the day of the passing of this By-law, being the ______ day of ______, 2013;

3. That 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 Multiple Residential “RM3-38(H)” Zone, subject to the special requirements referred to in Section 2.

4. That 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 ______ day of ______, 2013.

______________________________  ________________________________
R. Bratina                        R. Caterini
Mayor                             Clerk

ZAR-13-025
Appendix “B” to Report PED13181 (Page 3 of 3)

This is Schedule "A" to By-law No. 13-
Passed the ............. day of ......................, 2013

Mayor

Clerk

Schedule "A"

Map Forming Part of
By-law No. 13-_____

to Amend By-law No. 3692-92

Subject Property

Change in Zoning from the Multiple Residential (Holding) "RM3-38(H)" Zone to the Multiple Residential (Holding) (Temporary) "RM3-38(H)(T)" Zone

Scale: N.T.S.
File Name/Number: ZAR-13-025
Date: Sept. 20, 2013
Planner/Technician: JMW/AL

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT