SUBJECT: Application for Approval of a Draft Plan of Condominium (Common Elements Condominium) for Lands Located at 191 Pinehill Drive, (Glanbrook) (PED08065) (Ward 11)

RECOMMENDATION:

That approval be given to **Condominium Application 25CDM200717 by Multi-Area Developments Inc., Owner**, to establish a draft plan of condominium (Common Elements Condominium) to create a condominium road, visitor parking area, landscaped amenity area, and fencing for 175 street townhouse dwellings on lands located at 191 Pinehill Drive (Glanbrook), as shown on the attached map marked as Appendix “A” to Report PED08065, subject to the following conditions:

(a) That this approval applies to the plan prepared by A.J. Clarke and Associates Ltd., dated November 28, 2007, showing the following condominium elements: a road, 58 visitor parking spaces, an amenity area, landscaped areas and fencing, attached as Appendix “B” to Report PED08065.

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

(c) That the Owner shall enter into a Development Agreement to ensure that the tenure of each of the proposed 175 freehold units have 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-07-041, 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, all Purchase and Sale Agreements, and any rental or lease
agreements required for occupancy for Units 67 to 72 (inclusive) and Units 28 to 30 (inclusive):

(i) Purchasers are advised that garbage pick up for Units 67 to 71 will be on the turf stone between Units 71 and 72; and,

(ii) Purchasers are advised that garbage pick up for Units 29 to 30 will be located on the common driveway located adjacent to Unit 28.

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

(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 Centralized Mail Box location, prior to the closing of any home sale.

(g) That the owner shall 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. The pads are to be shown on the engineering servicing drawings. The pads are to be poured at the time of the sidewalk and/or curb installation. The location of all centralized mail facilities shall be determined in cooperation with Canada Post, and these locations shall be posted on appropriate maps, information boards and plans.

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

(i) That the City of Hamilton will not be providing maintenance or snow removal service for the private condominium road.

(l) 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.

(j) That the Owner shall satisfy any conditions, financial or otherwise, of the City of Hamilton.
That the final plan of condominium complies, in all respects, with the approved Site Plan (DA-07-074), to the satisfaction of the Director of Planning, Planning and Economic Development Department.

Tim McCabe
General Manager
Planning and Economic Development Department

**EXECUTIVE SUMMARY:**

The application is to establish a draft plan of condominium (Common Elements Condominium). The application can be supported since it is consistent with the Provincial Policy Statement, conforms to the Hamilton-Wentworth and Glanbrook Official Plans, and is considered to be compatible with the planned development in the immediate area.

**BACKGROUND:**

The applicant has applied to establish a draft plan of condominium (Common Elements Condominium) to create the following condominium elements: a road, 58 visitor parking spaces, an amenity area, landscaped areas and fencing for 175 townhouse dwellings, as shown on the attached plan marked as Appendix “B”. The condominium road would provide access to Pinehill Drive in two locations. The 175 lots, condominium elements, and maintenance easements will be created through Part Lot Control Application PLC-07-041.

**Part Lot Control Application PLC-07-041**

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”):

- 175 lots for street townhouses.
- A private (condominium) road.
- 58 private (condominium) visitor parking spaces.
- An amenity area.
- Landscaped areas.
- Fencing and entrance features.
- Maintenance easements.
The purpose of this application was to obtain relief from the following:

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

- Townhouse dwellings fronting onto a private condominium road shall be considered a block townhouse development;

- For the purpose of the regulations contained within Section 19 and 44, the boundary of Part 1, Block 5, Registered Plan 62R-17757, shall be deemed to be the lot lines for this purpose and the regulations of the RM3-173 (A) 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;

- To allow each dwelling unit on a separate lot having a minimum lot frontage of 5.5m and a minimum lot area of 125.0m² instead of the minimum 45.0m lot frontage and the minimum 4,000.0m² lot area requested;

- A minimum front yard of 4.2m shall be permitted instead of the minimum 4.5m front yard required;

- A minimum easterly side yard setback of 5.5m shall be provided instead of the minimum 7.0m side yard setback required;

- No south-westerly side yard setback shall be provided (adjoining the lands proposed for future multi-residential development) instead of the minimum 7.0m side yard setback required;

- A minimum 37% landscaped area shall be provided instead of the minimum 50% landscaped area required; and,

- Parking spaces and areas shall be located a minimum 0.0m setback from the street lot line (along Pinehill), and 0.0m from the private road instead of the minimum 6.0m setback required from the street line.

The Committee of Adjustment approved the application on August 30, 2007. The variances were final and binding on September 20, 2007 (see Appendix “D”).

Site Plan Application DA-07-074

Site Plan Application DA-07-074 was approved, with conditions, on June 13, 2007. The applicant has fulfilled all of the conditions of approval, including two special conditions. The first condition relates to the above noted minor variances, and the second was for
the registration of Block 241. The latter condition required Block 241 to be registered as a separate phase of the original draft plan of subdivision, Summit Park, 25T-200207, which was done on January 17, 2008, as Registered Plan 62M-1103. The Site Plan application received final approval on February 4, 2008.

Location: 191 Pinehill Drive, Glanbrook
Owner: Multi-Area Developments Inc.
Applicant: A.J. Clarke and Associates
Lot Size: Area: 4.7 hectares (11.69 acres)
          Frontage: 157 metres
Servicing: Municipal Servicing

LAND USE AND ZONING:

<table>
<thead>
<tr>
<th>Subject Lands</th>
<th>Existing Land Use</th>
<th>Existing Zoning</th>
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<tr>
<td>Vacant</td>
<td>Residential Multiple “RM3-173 (A)” Zone</td>
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<tr>
<th>Surrounding Land Uses</th>
<th>Existing Land Use</th>
<th>Existing Zoning</th>
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</thead>
<tbody>
<tr>
<td>North</td>
<td>Single Detached Dwellings</td>
<td>Residential Multiple “R4-173 (A)” Zone</td>
</tr>
<tr>
<td>West</td>
<td>Vacant</td>
<td>General Agriculture “A1” Zone</td>
</tr>
<tr>
<td>South</td>
<td>Hydro Corridor</td>
<td>General Agriculture “A1” Zone</td>
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<tr>
<td>East</td>
<td>Street Townhouse Dwellings</td>
<td>Residential “R4-173 (C)” Zone</td>
</tr>
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<td></td>
<td>Single Detached Dwellings</td>
<td>Residential “R4-173 (B)” Zone</td>
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ANALYSIS/RATIONALE:

1. The proposal has merit and can be supported for the following reasons:
   
   (i) It is consistent with the Provincial Policy Statement.
   
   (ii) It conforms to the Hamilton-Wentworth Official Plan.
   
   (iii) It conforms with the Glanbrook Official Plan, and the Rymal Road Secondary Plan.
(vi) The proposed development is considered to be compatible with the planned development in the immediate area.

2. The proposed draft plan of condominium (Common Elements Condominium) would be comprised of the following condominium elements: a road, 58 visitor parking spaces, an amenity area, landscaped areas and fencing. The condominium driveway is 6.0 metres wide for two-way traffic, and 4.5 metres wide for one-way traffic, and would provide vehicular access to the 175 street townhouse dwellings. The amenity area, landscaped areas and fencing will provide aesthetics and be maintained by the Condominium Corporation.

3. The lands proposed for the condominium road, amenity area, landscaped areas, fencing and the 175 street townhouse dwellings 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-07-041 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 as a condition of draft plan approval, to the satisfaction of the City Solicitor (Recommendation (c)). 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 driveways have been registered as a common element under the Condominium Act.

5. The proposed condominium roads will be privately owned and maintained. As a condition of approval (Recommendation (h)), the applicant must include a warning clause in the Development Agreement and the Purchase and Sale Agreements to advise perspective purchasers the following:

“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:**

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:**

| Financial | N/A. |
| Staffing  | N/A. |
SUBJECT: Application for Approval of a Draft Plan of Condominium (Common Elements Condominium) for Lands Located at 191 Pinehill Drive, (Glanbrook) (PED08065) (Ward 11) - Page 7 of 10

Legal - Due to recent changes to the Planning Act under Bill 51, Council is required to hold at least one (1) Public Meeting to consider an application for a Draft Plan of Condominium (e.g. Common Elements Condominium).

**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**


**Township of Glanbrook Official Plan**

The subject property is designated “Residential” on Schedule ‘A’ – Land Use Plan and “Low to Medium Density Residential” on Schedule ”I” – Rymal Road Secondary Plan Land Use Plan, in the Township of Glanbrook Official Plan.

The proposal conforms to the Township of Glanbrook Official Plan, since 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:

- Public Works Department (Traffic Engineering and Operations Section).
- Corporate Services Department (Budgets Section).
Hydro One has advised that they have no objection to the application; however, they have made the following recommendations:

Condition 1  “Prior to final approval, a copy of the lot grading and drainage plan, showing existing and final grades, must be submitted to HONI in triplicate for review and approval. Drainage must be controlled and directed away from ORC/HONI transmission corridor.”

Condition 2  “Temporary fencing must be installed along the edge of the transmission corridor prior to the start of construction, at the developer's expense.”

Condition 3  “Permanent fencing must be installed after construction is complete along ORC/HONI transmission corridor, at the developer's expense.”

Condition 4  “ORC/HONI transmission corridor is not to be used without the express written permission of Hydro One Networks Inc., on behalf of ORC. During construction, there will be no storage of materials or mounding of earth or other debris on the transmission corridor. The proponent will be responsible for restoration of any damage to the transmission corridor or HONI facilities thereon resulting from construction of the subdivision.”

Condition 5  “The costs of any relocations or revisions to HONI facilities that are necessary to accommodate this subdivision will be borne by the developer.”

Condition 6  “The transmission lines abutting this subdivision operate at 500,000, 230,000 or 115,000 volts. Section 186 – Proximity – of the regulations for Constructions Projects in the Occupational Health and Safety Act, requires that no object be brought closer than 6 metres (20 feet) to an energized 500 kV conductor. The distance for 230 kV is 4.5 metres (15 feet), and for 155 kV conductors it is 3 metres (10 feet). It is the proponent’s responsibility to be aware, and to make all personnel on site aware, that all equipment and personnel must come no closer than the distance specified in the Act. They should also be aware that the conductors can raise and lower without warning, depending on the electrical demand placed on the line”.

Conditions 1 to 5 were addressed through the Subdivision (25T200207), and cleared on July 25, 2007. Condition 6 has been forwarded to the owner.
Canada Post requested that the following conditions be added for Canada Post purposes:

**Condition 1**
That the Owner shall include the following warning clauses in the Development Agreement, all Purchase and Sale Agreements, and any rental or lease agreements required for occupancy:

“That the home/business mail delivery will be from a designated Centralized Mail Box”; and,

“That the developers/owners be responsible for officially notifying the purchasers of the Centralized Mail Box location prior to the closing of any home sale”.

**Condition 2**
That the owner shall install a concrete pad in accordance with the requirements of, and in a location to be approved by, Canada Post, to facilitate the placement of Community Mail Boxes. The pads are to be shown on the above engineering servicing drawings. The pads are to be poured at the time of the sidewalk and/or curb installation. The location of all centralized mail facilities shall be determined in cooperation with Canada Post and these locations shall be posted on appropriate maps, information boards and plans.

Conditions 1 and 2 will be addressed in the required Development Agreement (see Recommendations (f) and (g)).

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, 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 easements that may be required for telecommunication services. Easements may be required subject to final servicing decisions. In the event of any conflict with existing Bell Canada facilities or easements, the
owner/developer shall be responsible for the relocation of such facilities or easements.

Staff has addressed Bell’s concerns (outlined above) through the inclusion of Condition (i) in the Recommendation of this report.

PUBLIC CONSULTATION:

Ontario Regulation 544/06, which implements changes respecting Plans of Subdivision under Bill 51, introduced Public Notice and Meeting requirements for Vacant Land and Common Element Condominiums. Therefore, consistent with the Public Participation Policy that was approved by Council, 173 pre-circulation notices were mailed to all property owners within 120 metres of the subject property requesting comments or support for the application. The properties were also subject of a Zoning By-law Amendment application and a minor variance application, which are public processes. To date, no comments have been received from any members of the public in response to the Draft Plan of Condominium circulation.

A Public Notice sign was posted on the property 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
Infrastructure and compact, mixed use development minimize land consumption and servicing costs.

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

:DF
Attachs. (4)
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 Glanbrook), Sections 19 and 44.

AND IN THE MATTER OF the Premises known as Municipal number 191 Pinehill Drive, formerly in the Township of Glanbrook, now in the City of Hamilton and in an "RM3-173(A)" (Residential Multiple) district;

AND IN THE MATTER OF AN APPLICATION by the agent A.J. Clarke & Associates Ltd. (Stephen Fraser) on behalf of the owner Multi-Area Developments Inc. (Steve Spicer), 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 the development of one hundred and seventy-five (175) block 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;

3) For the purpose of the regulations contained within Section 19 and 44, the boundary of Part 1, Block 5, Registered Plan 62R-17757 shall be deemed to be the lot lines for this purpose and the regulations of the RM3-173 (A) 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;

4) To allow each dwelling unit on a separate lot having a minimum lot frontage of 5.5m and a minimum lot area of 125.0m² instead of the minimum 45.0m lot frontage and the minimum 4000.0m² lot area requested;

5) A minimum front yard of 4.2m shall be permitted instead of the minimum 4.5m front yard required;

6) A minimum easterly side yard setback of 5.5m shall be provided instead of the minimum 7.0m side yard setback required;

7) No south westerly side yard setback shall be provided (adjoining the lands proposed for future multi-residential development) instead of the minimum 7.0m side yard setback required;

8) A minimum 37% landscaped area shall be provided instead of the minimum 50% landscaped area required;

9) Parking spaces and areas shall be located a minimum 0.0m setback from the street lot line (along Pinehill) and 0.0m from the private road instead of the minimum 6.0m setback required from the street line; and,
10) A landscaped strip ranging from 0.5m to 3.0m shall be provided along the street lot line facing building No. 19 instead of the minimum 3.0m wide landscape strip required.

Note: The applicant applied for a variance to reduce the south westerly side yard. While this variance is currently not required it was included as part of this application in the event that a rezoning of the adjoining lands occurs between now and the issuance of a building permit as this would result in the requirement of a variance.

No survey submitted showing actual conditions.

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.

DATED AT HAMILTON this 30th day of August, 2007

__________________________________________
M. Dudzic (Chairman)

__________________________________________
L. Tew

__________________________________________
D. Drury

__________________________________________
C. Lewis

__________________________________________
L. Gaddye

__________________________________________
D. Smith

__________________________________________
V. Abraham

NOTE: THE LAST DATE ON WHICH AN APPEAL TO THE ONTARIO MUNICIPAL BOARD MAY BE FILED IS September 19th, 2007.

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

Note: (TO BE INCLUDED IN DECISION)
1. Staff reminds the owner/applicant that the subject lands Block 241 must be registered as a separate phase of the Draft Plan of Subdivision, Summit Park, 2ST-200007.

2. Staff would also like to note that a Draft Plan of Condominium will be required to facilitate the proposed development.