SUBJECT: Application for Approval of a Draft Plan of Condominium (Common Elements Condominium) for Lands Located at the Southwest Corner of Binbrook Road and Bradley Avenue (Block 244, Registered Plan 62M-1061) (Glanbrook) (PED08155) (Ward 11)

RECOMMENDATION:

That approval be given to Condominium Application 25CDM-200805, by Empire Communities, Owner, to establish a draft plan of condominium (Common Elements Condominium) to create a condominium road, 20 visitor parking spaces, and a landscaped amenity area with walkways for a 46 unit townhouse development on lands located at the southwest corner of Binbrook Road and Bradley Avenue (Block 244, Registered Plan 62M-1061) (Glanbrook), as shown on the attached map marked as Appendix “A” to Report PED08155, subject to the following conditions:

(a) That this approval applies to the plan prepared by Bryan Jacobs, Ontario Land Surveyor, dated March 26, 2008, showing the following condominium elements: a road, 20 visitor parking spaces, and a landscaped amenity area with walkways, attached as Appendix “B” to Report PED08155.

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

(c) That the Owner enters into a Development Agreement to ensure that the tenure of each of the proposed 46 freehold units has legal interest, in common, to the Common Elements Condominium, to the satisfaction of the City Solicitor.

(d) That the Owner receives final approval of Part Lot Control Application PLC-08-009, 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 includes the following warning clauses in the Development Agreement, 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”; and,

“Students from this development are likely to be redirected to schools outside of the area with available capacity and that students may be transported as governed by the Board Transportation Policy”.

(f) 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.

(g) That the owner satisfies any conditions, financial or otherwise, of the City of Hamilton.

(h) That the final plan of condominium complies, in all respects, with the approved Site Plan (DA-07-052), 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 planned development in the immediate area.
SUBJECT: Application for Approval of a Draft Plan of Condominium (Common Elements Condominium) for Lands Located at the Southwest Corner of Binbrook Road and Bradley Avenue (Block 244, Registered Plan 62M-1061), (Glanbrook) (PED08155) (Ward 11) - Page 3 of 10

BACKGROUND:

The applicant has applied to establish a draft plan of condominium (Common Elements Condominium) to create the following condominium elements: a road, 20 visitor parking spaces, and an amenity landscaped area with walkways for 46 townhouse dwellings, as shown on the attached plan marked as Appendix “B”. The condominium road would provide access for 27 units to Bradley Avenue. The remaining 19 units front onto Gowland Drive. The 46 lots and condominium elements will be created through Part Lot Control Application PLC-08-009.

Part Lot Control Application PLC-08-009

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”):

- 46 lots for street townhouses.
- A private (condominium) road.
- 20 private (condominium) parking spaces.
- An amenity landscaped area with walkways.

Committee of Adjustment Application GL/A-07:105

The purpose of this application was to obtain relief from Glanbrook Zoning By-law No. 464 (as outlined in Appendix “D”) to:

- Vary the definition of a street to include a private condominium road.
- Vary the definition of a street townhouse to include townhouse dwellings fronting on a private condominium road.
- Deem the boundary of Block 244 of Registered Plan 62M-1061 to be the lot lines for the purpose of zoning regulations.
- To increase the maximum density from 42 to 46 dwelling units.
- To reduce the minimum rear yard setback from 7.0m to 2.2m.
- To reduce the minimum distance between Blocks 2 and 3 from 15m to 12.07m.
- To reduce the minimum distance between Blocks 5 and 6 from 15m to 12.1m.
- To reduce the minimum distance between Blocks 6 and 7 from 15m to 7.0m.
• To reduce the minimum distance between Blocks 7 and 8 from 15m to 3.1m.

• To reduce the minimum distance between Blocks 8 and 9 from 15m to 12.1m.

• To reduce the minimum landscaped area from 50% to 42.6%.

• To permit direct driveway access from Blocks 6, 7 and 8 to Gowland Drive.

• To reduce the minimum visitor parking from 23 to 20 spaces.

• To reduce the minimum northerly side yard setback from 7.5m to 0.5m.

The Committee of Adjustment approved the variances on June 20, 2007, and the decision became final and binding on July 10, 2007.

Site Plan Application DA-07-052

Site Plan Application DA-07-052 was approved with conditions on May 9, 2007. The applicant has fulfilled all of the conditions of approval and, therefore, received final approval on September 12, 2007.

Subdivision Application 25T200411 “Summerlea”

The draft plan of subdivision, known as “Summerlea”, was draft approved on February 17, 2005, and is being developed in phases. The subject lands are situated within “Summerlea - Phase 2”, which was registered on June 12, 2006, as Plan 62M-1061. The subject lands, known as Block 244 of Registered Plan 62M-1061, is intended for street townhouse dwellings.

Zoning Application ZAC-04-68

Council for the City of Hamilton approved By-law No. 04-336 to rezone lands to implement the “Summerlea” draft plan of subdivision, including the subject lands.

Location: Block 244, Registered Plan 62M-1061
Owner/Applicant: Empire Communities
Agent: Armstrong Hunter and Associates (Paul Moore)
Lot Size: Area: 1.21 hectare
Frontage: 207.4 metres
Servicing: Municipal Servicing
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>Residential Multiple “RM3-195”</td>
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<tr>
<td></td>
<td>(Future Street Townhouse Dwellings)</td>
<td>Zone</td>
</tr>
</tbody>
</table>

Surrounding Land Uses

| North                 | Vacant                   | Public Open Space “OS2” Zone    |
|                       | (Future Community Park)  |                                  |
| East                  | Single Detached Dwelling and Street Townhouse Dwellings | Existing Residential “ER” Zone and Residential Multiple “RM2-194” Zone |
| South                 | Single Detached Dwellings | Residential “R4-193” Zone       |
| West                  | Single Detached Dwellings | Existing Residential “ER” Zone and Restricted Agricultural “A2” Zone |

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 general intent of the Glanbrook Official Plan, and the Binbrook Village 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, 20 visitor parking spaces, and an amenity landscaped area with walkways. The condominium driveway is 6.0 metres wide and would provide vehicular access to 27 street townhouse dwellings. The remaining 19 street townhouse dwellings will have direct driveway access to Gowland Drive, while the amenity landscaped areas will provide aesthetics and be maintained by the Condominium Corporation.
3. The lands proposed for the condominium road, amenity landscaped area with walkways, 20 visitor parking spaces and the 46 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-08-009 is approved and the By-law removing the lands from Part Lot Control has been passed (see Recommendation (d)).

4. The applicant must also enter into a Development Agreement with the City of Hamilton as a condition of draft plan approval (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. The proposed condominium road will be privately owned and maintained. Also, the Hamilton-Wentworth District School Board has advised that schools within the surrounding area are at or exceed current enrolment capacity.

As a condition of approval (Recommendation (e)), the applicant must include warning clauses in the Development Agreement, all Purchase and Sale Agreements, and any rental or lease agreement required for occupancy, to advise perspective purchasers, leasers or renters of 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”; and,

“Students from this development are likely to be redirected to schools outside of the area with available capacity and that students may be transported as governed by the Board Transportation Policy.”

**ALTERNATIVES FOR CONSIDERATION:**

In the event Council does not approve the proposed draft plan of condominium (Common Elements Condominium) application, the proposed 46 street townhouse dwellings would require individual frontage on Gowland Drive, Bradley Avenue, or Binbrook Road, or the project could only proceed as a standard block condominium development.

**FINANCIAL/STAFFING/LEGAL IMPLICATIONS:**

<table>
<thead>
<tr>
<th>Financial</th>
<th>Staffing</th>
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<tbody>
<tr>
<td>-</td>
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</table>
SUBJECT: Application for Approval of a Draft Plan of Condominium (Common Elements Condominium) for Lands Located at the Southwest Corner of Binbrook Road and Bradley Avenue (Block 244, Registered Plan 62M-1061), (Glanbrook) (PED08155) (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

The subject land is designated “Urban” in the Hamilton-Wentworth Official Plan. Policy C-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. 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 proposal maintains the general intent of 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).
- Public Works Department (Forestry and Horticulture Section).
- Corporate Services Department (Budgets Section).
- Corporate Services Department (Taxation Section).
- Hamilton Police Service.
- Emergency Services.
- Niagara Peninsula Conservation Authority.
- Canada Post.
- Mountain Cable Vision.
- Union Gas.
- Hydro One.
- French Public School Board.
- French Catholic School Board.

The Hamilton-Wentworth District School Board has advised that they have no objection to the application, however; the Board makes the following recommendations:

“Schools within the surrounding area are at or exceed current enrolment capacity. As a result, should the City of Hamilton proceed with such a development, the Hamilton-Wentworth District School Board requires that the developer agree to having included as conditions of draft approval:

Condition 1 The Developer, at their expense, place adequate signage on the site, based on Board specifications, advising that “Students from this development are likely to be directed to schools outside of the area with available capacity, and that students may be transported as governed by the Board Transportation Policy.”

Condition 2 The sub-agreement requires the developer to include in all agreements of purchase and sale notice to purchasers advising that “Students from this development are likely to be redirected to schools outside of the area with available capacity, and that students may be transported as governed by the Board Transportation Policy.”

Condition 3 Any rental or lease agreement required for occupancy include, in all agreements to renters or leasers, a clause advising that “Students from this development are likely to be redirected to schools outside of the area with available capacity, and the students may be transported as governed by the Board Transportation Policy.”
Condition 1 was addressed at the subdivision application stage (62M-1061), and Conditions 2 and 3 will be addressed in the required Development Agreement (see Recommendation (e)).

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.

Condition 1 has been addressed through the inclusion of Condition (f) in the Recommendation portion of this report, and Condition 2 was addressed at the subdivision application stage (62M-1061).

PUBLIC CONSULTATION:

In accordance with the Planning Act and Council’s Public Participation Policy, notice of complete application and preliminary circulation of this application was pre-circulated to 55 property owners/tenants within 120 metres of the subject lands on April 24, 2008. To date, no submissions have been received. In addition, a Public Notice sign was posted on the property on April 24, 2008. Notice of the Public Meeting of the Economic Development and Planning Committee has been given in accordance with the requirements of the Planning Act.
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
Attachment. (4)
Committee of Adjustment
City Hall
7th Floor, 71 Main Street West
Hamilton, ON L8P 4Y0
Telephone (905) 546-2424, ext. 4221
Fax (905) 546-4202

Hamilton

COMMITTEE OF ADJUSTMENT

DECISION OF THE COMMITTEE

APPLICATION NO. GL/A-07:105
SUBMISSION NO. A-105/07

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 7, 19 and 44.

AND IN THE MATTER OF the Premises known as Block 244, 62M-1061, formerly in the Township of Glanbrook, now in the City of Hamilton and in a "RM3-195" (Residential Multiple RM3 further amended by By-law 04-330) district;

AND IN THE MATTER OF AN APPLICATION, AS AMENDED, by the agent Stephen Armstrong on behalf of the owner Empire Communities, 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 a nine (9) block townhouse development, containing a total of forty-six (46) dwelling units, notwithstanding that:

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

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

3) For the purpose of the regulations contained within Section 19.2, the boundary of Block 244, Registered Plan 62M-1061 shall be deemed to be the lot lines for this purpose and the regulations of the RM3-195 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) A maximum density of forty-six (46) dwelling units shall be provided instead of the maximum permitted forty-two (42) dwelling units;

5) A minimum westerly rear yard setback of 2.2m shall be provided instead of the minimum required 7.0m;

6) A minimum setback of 12.07m shall be provided between Blocks 2 and 3 instead of the minimum required 15.0m;

7) A minimum setback of 12.1m shall be provided between Blocks 5 and 6 instead of the minimum required 15.0m;

8) A minimum setback of 7.0m shall be provided between Blocks 6 and 7 instead of the minimum required 15.0m;

9) A minimum setback of 3.1m shall be provided between Blocks 7 and 8 instead of the minimum required 15.0m;

10) A minimum setback of 12.1m shall be provided between Blocks 8 and 9 instead of the minimum required 15.0m;

11) A minimum landscaped area of 42.6% shall be provided instead of the minimum required 50% landscaped area;

12) The driveway parking spaces for Blocks 6, 7, and 8 shall be located 0.0m from the streetline (Gowland Drive) instead of the minimum required 6.0m;

....J/2
13) Twenty (20) visitor parking spaces shall be provided instead of the minimum required twenty-three (23) visitor parking spaces; and,

14) A minimum northerly side yard setback of 0.5m shall be provided for the roofed-over garbage collection areas instead of the minimum required 7.5m.

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 20th day of June, 2007

M. Dudzic (Chairman)
V. Abraham
C. Lewis

D. Drury
D. Serwatuk

NOTE: THE LAST DATE ON WHICH AN APPEAL TO THE ONTARIO MUNICIPAL BOARD MAY BE FILED IS July 10th, 2007.

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