SUBJECT: Applications for Approval of a Draft Plan of Subdivision "Dewitt Orchard", Amendments to the Stone Creek Official Plan and Zoning By-law No. 3692-92, and Approval of a Draft Plan of Condominium for Lands Located at 568 Highway No. 8, Stone Creek (PED09078) (Ward 10)

RECOMMENDATION:

(a) That approval be given to Draft Plan of Subdivision Application 25T-200805, by Marz Homes (Highland) Inc., Owner, to establish a draft plan of subdivision known as “Dewitt Orchard”, on lands located at 568 Highway No. 8, (Stone Creek), as shown on Appendix “A” to Report PED09078, subject to the following conditions:

(i) That this approval apply to “Dewitt Orchard”, 25T-200805, prepared by A.J. Clarke and Associates Ltd., and certified by B.J. Clarke, O.L.S., dated June 2, 2008, as red-lined revised, showing 1 block for a condominium road (Block 1) and 1 block for 10 street townhouse dwellings (Block 2), attached as Appendix “B” to Report PED09078, subject to the Owner entering into a Standard Form Subdivision Agreement, as approved by City Council, and with the Special Conditions attached as Appendix “E” to Report PED09078;

(ii) Acknowledgement that there will be no City share for any municipal works associated with this development; and,
(iii) That payment of Cash-in-Lieu of Parkland will be required, pursuant to Section 51 of the Planning Act, and will be calculated in accordance with the City’s Parkland Dedication By-law currently at a rate of 1 hectare for each 300 dwelling units proposed, and shall be based on the value of the lands on the day prior to the issuance of the first building permit;

all in accordance with the Financial Policies for Development and the City’s Parkland Dedication By-law, as approved by Council.

(b) That approval be given to **Official Plan Amendment Application OPA-08-011, by Marz Homes (Highland) Inc., Owner**, for Official Plan Amendment No.  to amend Schedule “A1”, Secondary Plan - Western Development Area, from “Low Density Residential” to “Medium Density Residential” of the Stoney Creek Official Plan, for lands located at 568 Highway No. 8 (Stoney Creek), as shown on Appendix “A” to Report PED09078, on the following basis:

(i) That the draft Official Plan Amendment, attached as Appendix “C” to Report PED09078, be adopted by City Council.

(ii) That the proposed Official Plan Amendment is consistent with the Provincial Policy Statement and conforms to the Hamilton-Wentworth Official Plan.

(c) That approval be given to **Zoning Amendment Application ZAC-08-047, by Marz Homes (Highland) Inc., Owner**, for a change in zoning from the Single Residential “R1” Zone to the Multiple Residential “RM2-17” Zone to permit the development of 10 street townhouse dwellings, for lands located at 568 Highway No. 8, as shown on Appendix “A” to Report PED09078, on the following basis:

(i) That the draft By-law, attached as Appendix “D” to Report PED09078, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council.

(ii) That the amending By-law be added to Schedule “A”, Map No. 7 of Zoning By-law No. 3692-92.

(iii) That the proposed change in zoning is in conformity with the Hamilton-Wentworth Official Plan, and will be in conformity with the City of Stoney Creek Official Plan upon finalization of Official Plan Amendment No.  .
That approval be given to Condominium Application 25CDM-200808, by Marz Homes (Highland) Inc., Owner, to establish a draft plan of condominium (Common Elements Condominium) to create a condominium road for a 10 unit street townhouse development, on lands located at 568 Highway No. 8 (Stoney Creek), as shown on Appendix “A” to Report PED09078, subject to the following conditions:

(i) That this approval applies to the plan prepared by A.J. Clarke and Associates Ltd., and certified by B.J. Clarke, O.L.S., dated June 2, 2008, as red-lined revised, showing the condominium road (Block 1), attached as Appendix “B” to Report PED09078.

(ii) That the Final Plan of Condominium complies with all the applicable provisions of Zoning By-law No. 3692-92.

(iii) That the Owner enters into a Development Agreement to ensure that the tenure of each of the proposed 10 freehold units has legal interest, in common, to the Common Elements Condominium, to the satisfaction of the City Solicitor.

(iv) That the Owner receives final approval of a Part Lot Control Application, and the implementing By-law, to the satisfaction of the Director of Planning.

(v) That the Owner includes the following warning clause 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”.

(vi) That the Owner provides the Director of Development Engineering with evidence that satisfactory arrangements, financial or 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.

(vii) That the Owner satisfies any conditions, financial or otherwise, of the City of Hamilton.
(e) That upon finalization of Official Plan Amendment No. [insert number], and the implementing Zoning By-law, the approved Dewitt Neighbourhood Plan be amended to reflect the change in designation from “Low Density Residential” to “Medium Density Residential”.

EXECUTIVE SUMMARY:

The purpose of these applications is to amend the Stoney Creek Official Plan and Zoning By-law, for approval of a draft plan of subdivision known as “Dewitt Orchard”, and for approval of a draft plan of condominium (see Appendix “B”), to permit the development of the subject lands for 10 street townhouse dwellings fronting on a condominium window road (see Appendix “F”).

The proposal has merit and can be supported since the applications are consistent with the Provincial Policy Statement, and conform to the Hamilton-Wentworth Official Plan. The proposed development is considered to be compatible with and complementary to the existing and planned development in the immediate area. The proposed development also represents good planning by, among other things, providing for the intensification of an under utilized parcel of land and an efficient use of existing services.

BACKGROUND:

History

The subject lands are located on the south side of Highway No. 8, east of Dewitt Road and west of Envoy Boulevard, in the City of Stoney Creek (see Appendix “A”). A single detached dwelling was previously located on the property, however, a demolition permit was issued in August, 2008 to remove the dwelling.

Previous Consent Applications – SC/B-04:22 & SC/B-04:23

Consent Applications SC/B-04:22 and SC.B-04:23 were conditionally approved by the Committee of Adjustment on March 24, 2004, and deemed final and binding on April 21, 2004. The purpose of the applications was for the creation of two new lots from the rear
of the subject lands for single detached residential purposes fronting onto Vision Place. The new lots have been developed as 11 and 12 Vision Place (see Appendix “A”).

Proposal

The applicant has submitted draft plan of subdivision and draft plan of condominium applications, together with applications to amend the Stoney Creek Official Plan and Zoning By-law, in order to permit the development of 10 freehold street townhouse dwellings fronting on a condominium window road.

The proposed plan of subdivision (see Appendix “B”) is intended to create one block for a condominium road (Block 1) and one block for a maximum of 10 freehold street townhouse dwellings (Block 2). The proposed draft plan of condominium (Common Elements Condominium) is intended to create a condominium road to provide vehicular access for the 10 street townhouse dwellings, as shown on the attached plan marked as Appendix “F”. The condominium road would provide a single access location to Highway No. 8, and the applicant will be required to prepare and implement a landscape plan and tree planting plan for the common element condominium road and Highway No. 8 boulevard as a condition of Draft Plan approval (Condition 10 - Appendix “E”).

The proposed Official Plan Amendment application seeks to redesignate the subject lands from “Low Density Residential” to “Medium Density Residential”, while the proposed Zoning By-law Amendment application seeks to change the subject lands from the Single Residential “R1” Zone to the Multiple Residential “RM2” Zone. A number of site-specific modifications are also proposed, including modifications to the definition of a street townhouse dwelling; reductions to lot area and lot frontage requirements, reductions to the front and side yard requirements with further encroachments, and requirements for landscaping along Highway No. 8.

Details of Submitted Applications:

<table>
<thead>
<tr>
<th>Location:</th>
<th>568 Highway No. 8, Stoney Creek</th>
</tr>
</thead>
<tbody>
<tr>
<td>Owners:</td>
<td>Marz Homes (Highland) Inc</td>
</tr>
<tr>
<td>Agent:</td>
<td>A.J. Clarke and Associates (Steve Fraser)</td>
</tr>
<tr>
<td>Property Size</td>
<td></td>
</tr>
<tr>
<td>Area:</td>
<td>Approximately 2,700 square metres</td>
</tr>
<tr>
<td>Frontage:</td>
<td>76.10 metres</td>
</tr>
<tr>
<td>Depth:</td>
<td>35.49 metres along easterly lot line</td>
</tr>
<tr>
<td></td>
<td>35.45 metres along westerly lot line</td>
</tr>
</tbody>
</table>
**SUBJECT:** Application for Approval of a Draft Plan of Subdivision "Dewitt Orchard", Amendments to the Stoney Creek Official Plan and Zoning By-law No. 3692-92, and Approval of a Draft Plan of Condominium for Lands Located at 568 Highway No. 8, Stoney Creek (PED09078) (Ward 10) - Page 6 of 20

**Servicing:** Full Municipal Services, with storm drainage via the major swale (Watercourse No. 4) along the westerly property line

**Existing Land Use and Zoning:**

<table>
<thead>
<tr>
<th></th>
<th>Existing Land Use</th>
<th>Existing Zoning</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Subject Lands</strong></td>
<td>Residential</td>
<td>Single Residential “R1” Zone</td>
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<tr>
<td><strong>Surrounding Lands</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>North</td>
<td>Block Townhouse Dwellings</td>
<td>Multiple Residential “RM3” Zone</td>
</tr>
<tr>
<td>South</td>
<td>Single Detached Dwellings</td>
<td>Single Residential “R3-20” Zone</td>
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<tr>
<td>East</td>
<td>Commercial Plaza</td>
<td>Local Commercial “LC” Zone</td>
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<tr>
<td>West</td>
<td>Block Townhouse Dwellings</td>
<td>Multiple Residential “RM3” Zone</td>
</tr>
</tbody>
</table>

**ANALYSIS/RATIONALE:**

1. The proposed applications have merit and can be supported for the following reasons:

   (i) They are consistent with the Provincial Policy Statement and the Growth Plan for the Greater Golden Horseshoe (Places to Grow).

   (ii) They conform to the policies of the Hamilton-Wentworth Official Plan.

   (iii) The proposed development is considered to be compatible with the existing and planned development in the immediate area.

   (iv) The proposed development represents good planning by providing for the intensification of an under utilized parcel of land and an efficient use of existing services.

2. The applicant has applied for an amendment to the Stoney Creek Official Plan to redesignate the subject lands from “Low Density Residential” to “Medium Density Residential” on Schedule “A1” - Western Development Area Secondary Plan. The amendment is required to permit the development of 10 street townhouse dwellings on the subject lands. The proposed development provides a net residential density of 37 units per hectare, which falls within the "Medium Density Residential" range, as such an amendment to the Official Plan is required.
The Official Plan policies provide guidance for evaluating proposals for multiple family residential developments and infill development, which include: ensuring there are adequate school and commercial facilities; that the proposed built form does not conflict with existing or planned development; that appropriate off-street parking, landscaping and protection of abutting residential uses is accommodated; and, that access to the property will minimize traffic hazards. The proposed redevelopment of the site meets the objectives of the Official Plan as the proposed built form is compatible with the existing development in the area, and the increase in density assists in achieving a compact urban form where amenities are located in close proximity. Existing townhouse developments are located immediately west of the subject lands, as well as to the north across Highway No. 8. There are also adequate school, commercial and recreational amenities in the area, and the subject development is located along a transit route. A local commercial development is located immediately east of the proposed development, and a wider range of commercial uses are located further along Highway No. 8 to the west. A neighbourhood park (Sherwood Meadows Park) and a community park (Sherwood Park) are located within close proximity to the subject lands and easily accessible from Royalwood Court to the north. The subject lands are also located on a transit route which runs regularly along Highway No. 8. Based on the above, staff supports the proposed amendment to the Stoney Creek Official Plan.

3. The proposed subdivision will consist of two blocks; one block for the proposed condominium road (Appendix "B" - Block 1), and one block for 10 freehold street townhouse dwellings (Appendix "B" - Block 2). According to the applicant’s Functional Servicing Report, the subject lands will be serviced by the existing 400mm watermain and 300mm sanitary sewer located along the entire frontage of Highway No. 8. The stormwater from the site will be directed to the major swale (Watercourse No. 4) located along the westerly lot line. Staff is satisfied that the proposed servicing design can be accommodated by the existing sanitary sewer, watermain and swale, which drains into a 1.5 metre x 3.0 metre culvert to the north of the subject lands.

Staff has had consideration for the criteria contained in Subsection 51(24) of the Planning Act to assess the appropriateness of the proposed subdivision. Staff advises that:

(a) It is consistent with the Provincial Policy Statement.

(b) It is not premature and is in the public interest.

(c) It conforms/will conform with the policies of the Official Plan.
(d) The lands can appropriately be used for a private condominium road and 10 freehold street townhouse dwellings.

(e) The proposed private condominium road will provide adequate access and connection to the established road system.

(f) The dimensions and shape of the proposed lots are appropriate.

(g) Restrictions on the subject lands are in the form of a 6.0 metre wide easement along the westerly property line in favour of the City of Hamilton for storm drainage purposes.

(h) Staff and the Conservation Authority have no concerns with regards to the proposed development adjacent to the major swale (Watercourse No. 4), and flood control will be addressed through stormwater management plans that will be required as a standard condition of draft plan approval.

(i) Adequate municipal services are available, the particulars of which will be determined as part of the standard conditions of draft plan approval and Subdivision Agreement.

(j) School Boards did not have any concerns with the proposed development.

(k) No land will be dedicated to the City of Hamilton for public purposes, but the Owner will be required to pay Cash-in-Lieu of Parkland at a rate of 1 hectare for each 300 dwelling units proposed (Recommendation (a)(iii)).

(l) The east-west orientation of the building lots provides an opportunity for passive solar energy gain.

(m) The massing, character, and external design of the proposed building was considered as part of the review, and landscaping design will be addressed through the conditions of draft plan approval (Condition 10 - Appendix “E”).

4. The applicant has submitted a concept plan (Appendix “F”), and has requested a number of modifications to the Stoney Creek Zoning By-law No. 3692-92 in order to implement the development of the subject lands for 10 street townhouse dwellings. The proposed modifications are as follows:

- Amend the definition of “Dwelling - Street Townhouse” to permit the dwelling units to have frontage on a private condominium road instead of a public street;
• Reduce the minimum lot area for an interior unit from the required 180 square metres to a minimum 165 square metres;

• Reduce the minimum lot area for an end unit from the required 240 square metres to a minimum 200 square metres;

• Reduce the minimum lot frontage for an end unit from the required 8 metres to a minimum 7.5 metres;

• Reduce the minimum front yard from the required 6 metres to a minimum 4.5 metres to the face of a dwelling and a minimum 5.8 meters to the face of a garage;

• Reduce the minimum side yard for an end unit from the required 2 metres to a minimum 1.2 metres;

• Permit an alcove to project into any required rear yard and/or side yard of an end unit, a distance of not more than 0.5 metres;

• Require a landscape strip having a minimum width of 2.5 metres to be provided and maintained along the entire frontage of Highway No. 8, except for points of ingress or egress; and,

• Permit ornamental/decorative entry features to be located within the required landscape strip.

Definition of Street Townhouse Dwelling

Since the proposed street townhouse dwellings are fronting on a private condominium road and not on a public street, an amendment to the definition of “Dwelling - Street Townhouse” is required. The proposed condominium road is necessary to limit the number of entrances along Highway No. 8 as it is an arterial road and, therefore, staff supports the amendment to the definition.

Minimum Lot Area and Minimum Lot Frontage

The applicant is requesting to reduce the minimum lot area for an interior unit from 180 square metres to a minimum 165 square metres, and reduce the minimum lot area for an end unit from 240 square metres to a minimum 200 square metres. The applicant is also requesting to reduce the minimum lot frontage for an end unit from 8 metres to a minimum 7.5 metres. The general intent and purpose is to ensure an appropriate building envelope and setbacks can be provided. Staff is of the opinion that the proposed reductions are minor
and still provide for a compatible form of development where appropriate building envelopes and setbacks will be provided.

Minimum Front Yard and Minimum Side Yard Setbacks

The applicant is requesting to reduce the minimum front yard from 6 metres to a minimum 4.5 metres to the face of the dwelling and a minimum 5.8 metres to the garage. The general intent and purpose of the By-law is to require a minimum front yard setback to ensure dwelling units maintain a consistent setback and provide sufficient space for on-site parking and landscaping. The Zoning By-law requires a minimum parking space length of 5.8 metres. Staff notes that the concept plan and elevation plans submitted with the application do not propose the face of the dwelling to extend beyond the garage. However, the agent has asked for this modification to provide flexibility in the design of the units. Therefore, staff supports the reduction since there is sufficient space for parking and landscaping, and it provides flexibility in the building setback. Staff also notes that balconies, unenclosed porches, and decks are permitted to further encroach into the required front yard 1.5 metres as of right.

The applicant is requesting to reduce the minimum side yard for an end unit from 2 metres to a minimum 1.2 metres. The general intent and purpose is to ensure that side yard widths are adequate for access, drainage, privacy, and maintenance purposes. Staff supports the proposed side yard reduction since adequate setback is still being provided, and it is not anticipated that the reduction will create any negative impacts for the above-mentioned purposes.

Yard Encroachments

The applicant is requesting to permit an alcove to project into any required rear yard and/or side yard of an end unit, a distance of not more than 0.5 metres. Staff notes that the Zoning By-law currently permits bay windows and chimney breasts to project 0.5 metres into any required yard, and since an alcove is similar to bay windows and chimney breasts, staff supports the proposed modification. It should be noted that the Multiple Residential “RM2” Zone requires a minimum rear yard setback of 7.5 metres and that no variances to this requirement have been requested or proposed.

Landscape Requirements

The Zoning By-law will also be amended to require a landscape strip having a minimum width of 2.5 metres to be provided and maintained along the entire frontage of Highway No. 8. The purpose of the landscape strip is to provide a buffer between the private condominium road and the public street. The
applicant originally proposed a 2 metre landscape strip, however, the Council approved Site Plan Guidelines indicates that a 3 metre landscape strip should be provided adjacent to the public street. In order to achieve the 3 metre landscape strip, the concept plan would have to be modified to reduce the rear yard setback. The existing single detached dwellings to the south of the subject lands are situated close to the rear lot line, as this is their side yard. Staff is of the opinion that it is more appropriate to maintain the rear yard setback to provide adequate separation between the existing single detached dwellings and the proposed townhouse dwellings. As a result, a 2.5 metre wide landscape strip can be accommodated, and staff is of the opinion that this is sufficient width to accommodate mature plantings. Staff also notes that a sodded boulevard, approximately 6.0 metres wide, is located between the northerly property line of the subject lands and the municipal sidewalk, therefore, adequate buffering will be provided between the private condominium road and paved portion of Highway No. 8.

The applicant is also proposing to permit ornamental/decorative entry features to be located within the required landscape strip. As per the definition, a “Landscaped Strip” means an area of land devoted solely to the growing of grass, ornamental shrubs or trees, and may include fences and berms. Accordingly, an exception to this definition is required in order to permit ornamental entry features within the landscape strip. Staff supports the proposed modification and notes that any signage will have to meet the requirements of Sign By-law No. 06-243.

5. The proposed draft plan of condominium (Common Elements Condominium) would be comprised of one 6.7 metre wide condominium road that would provide vehicular access from Highway No. 8 to the proposed 10 street townhouse dwellings.

As previously mentioned, the condominium road will be created through the draft plan of subdivision, however, the 10 street townhouse dwellings will have to 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 a Part Lot Control application is submitted and approved and the By-law removing the lands from part lot control have been passed (see Recommendation (d)(iv)).

The applicant must also enter into a Development Agreement with the City of Hamilton as a condition of draft plan approval. This Agreement is required to 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 road has been registered as a common element under the Condominium Act (see Recommendation (d)(iii)).

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 (see Recommendation (d)(v)):

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

6. In accordance with the City’s Parkland Dedication and Cash-in-Lieu of Parkland By-law, the proposal is subject to parkland dedication or Cash-in-Lieu requirements. As no parkland is being dedicated, the proposed development is subject to a Cash-in-Lieu of parkland dedication payment. Payment for Cash-in-Lieu of Parkland will be calculated at a rate of 1 hectare for each 300 dwelling units proposed, and shall be based on the value of the lands on the day prior to the issuance of a building permit. This requirement is included in Recommendation (a)(iii). It is noted that revisions to the Parkland Dedication By-law are currently being considered by Committee and Council. Dedication/Cash-in-Lieu requirements for this application will be in accordance with By-law requirements in effect at time of building permit application.

7. The applicant has undertaken an archaeological assessment of the subject lands and it has been determined that there are no archaeological resources present within the subject lands. The recommendations of this assessment advise that no further assessment is necessary. This report was cleared by the Ontario Ministry of Culture, and the Director of Planning, City of Hamilton, on December 16, 2008.

8. The applicant has undertaken an Environmental Noise Impact Study, which concluded that with noise control measures to mitigate against road traffic noise sources, the proposed plan of subdivision will satisfy the noise guidelines of the Ministry of the Environment and the City of Hamilton. Such noise control measures will require the inclusion of Type “B” and Type “D” noise warning clauses in all agreements of purchase and sale. This has been included as a condition of draft plan approval (Condition 8 of Appendix “E”).

9. Staff received one letter of objection (see Appendix “G”) in response to the preliminary circulation of the application from the property owner directly south of the subject lands. The main concerns raised in the letter were related to construction nuisances, suitability of development and devaluation of their property, inadequate storm sewer service, and loitering.
The letter expressed concerns related to construction nuisances such as dust, noise and pollution. These concerns are addressed in the Standard Form Subdivision Agreement, which provides requirements for: prohibition against debris on the subject lands; street cleaning, deficiencies in work; state of site; stop work; maintenance of works; inspection, testing and emergency repairs; and liability of the Owner.

The letter also expressed views that single detached homes would be a more suitable fit with the present layout of the area, and that the proposed townhouse development would devalue their home. Staff notes that the neighbourhood currently contains a mix of single detached and townhouse developments. The proposed infill development on the subject lands is a suitable form of residential intensification, and is compatible with the existing block townhouse developments to the north and to the west, with the commercial plaza to the east and the single detached dwellings to the south. In addition, staff is not aware of any data that would support the opinion that the proposed townhouse development will directly affect the value of existing homes in the area.

The letter also expressed concerns over inadequate storm sewer service in the area. As previously mentioned (Comment #3, Page 7), storm water will be accommodated via the major swale (Watercourse No. 4) along the western boundary of the subject lands. Staff has reviewed the Functional Servicing Report and is satisfied that the existing swale can support the development proposed on the subject lands. Also, the Hamilton Conservation Authority had no concerns with the proposed development.

The letter also expressed concerns that a townhouse complex would encourage loitering of troublesome youths. In response to this concern, staff notes that the Zoning By-law cannot zone for property users. Staff also notes that the proposed development is compatible with existing residential development in the neighbourhood.

Based on the foregoing, staff is satisfied that all of the concerns outlined above have been addressed.

**ALTERNATIVES FOR CONSIDERATION:**

If the applications are denied, the lands could be developed in accordance with the current Single Residential “R1” Zone, which permits single detached dwellings, uses, buildings or structures accessory to a permitted use, and a home occupation.
FINANCIAL/STAFFING/LEGAL IMPLICATIONS:

Financial – N/A.

Staffing – N/A.

Legal – As required by the Planning Act, Council shall hold at least one (1) Public Meeting to consider applications for Amendments to the Official Plan and Zoning By-law, and for approval of a draft plan of subdivision and draft plan of condominium (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. These applications are consistent with Policy 1.1.3.1 of the Provincial Policy Statement, which focuses growth in settlement areas.

Policy 2.6.2 outlines that development and site alteration may be permitted on lands containing archaeological resources or areas of archaeological potential if significant archaeological resources have been conserved by removal and documentation, or preservation on site. Where significant archaeological resources must be preserved on site, development and site alteration which maintains the heritage integrity of the site may be permitted. The applicant prepared a Stage 1-2 archaeological assessment in June 2008. The archaeological assessment was cleared by the Ministry of Culture, and Director of Planning, City of Hamilton, on December 16, 2008.

Policy 1.7.1(e) outlines that long term economic prosperity will be supported by planning so that major facilities (such as airports, transportation corridors, sewage treatment facilities, waste management systems, industries and aggregate activities) and sensitive lands uses are appropriately designed, buffered and separated from each other to prevent adverse effects from odour, noise and other contaminants, and minimize the risk to public health and safety. The applicant prepared an Environmental Noise Impact study in June 2008. The recommendations of the study indicate that night time noise levels exceed Ministry of Environment requirements. Staff has cleared the noise study based on the condition that Type “B” and Type “D” noise warning clauses are included in all agreements of purchase and sale. This has been included as a condition of draft plan approval (Condition 8 of Appendix “E”). Based on the foregoing, the proposal is consistent with the Provincial Policy Statement.
Growth Plan for the Greater Golden Horseshoe (Places to Grow)

Section 1.2.2 of the Growth Plan for the Greater Golden Horseshoe 2006 provides guiding principles to achieve the vision of the Plan. These guiding principles seek to “build compact, vibrant and complete communities”, and to “optimize the use of existing and new infrastructure to support growth in a compact efficient form”. The applications are consistent with these principles, as they propose to build a more compact community by proposing a development which will intensify the development potential on an underutilized parcel of land. The application also proposes to increase residential density in an area where adequate commercial, recreational, and transportation opportunities are available.

Niagara Escarpment Plan Area

The subject lands are designated as “Escarpment Urban Area” in the Niagara Escarpment Plan Area (NEPA), however, are located outside of the Development Control Area. The “Urban Area” policies permit the proposed development and staff notes that the Niagara Escarpment Commission had no objection to the proposed applications.

Hamilton-Wentworth Official Plan

The subject property is designed “Urban Area” in the Hamilton-Wentworth Official Plan. The subject property is also located within the “Escarpment Urban Area” and Policy C-1.5.2a) permits a range of uses consistent with Policy C-3.1 of the 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. As the nature of the application is to permit intensified residential development of the property, the proposal conforms to the policies of the Hamilton-Wentworth Official Plan.

Policy B-9.2 states that the City shall consider the protection and preservation of regionally significant historical and cultural resources, including recognized archaeological sites, in the review of proposals for development and redevelopment. Where possible, these attributes will be incorporated into the overall design in a manner which minimizes adverse impacts and encourages maintenance and protection. As outlined earlier, the applicant prepared a Stage 1-2 archaeological assessment in June 2008. The archaeological assessment was cleared by the Ministry of Culture, and Director of Planning, City of Hamilton, on December 16, 2008.
City of Stoney Creek Official Plan

The subject property is designated “Residential” on Schedule “A” - General Land Use Plan, and “Low Density Residential” on Schedule “A1” - Secondary Plan Western Development Area, in the City of Stoney Creek Official Plan. The applicant is proposing to redesignate the subject lands from “Low Density Residential” to “Medium Density Residential” to permit the development of 10 street townhouse dwellings.

The following policies of the City of Stoney Creek Official Plan, among others, are applicable to the proposed development:

“A.1.2.9 Council shall encourage the provision of a full range of housing types and prices throughout the municipality, and where appropriate, residential intensification will be encouraged subject to Policies A.1.2.18, A.1.2.20, A.1.2.21 and A.1.2.22, and other policies of the Plan.

A.1.2.12 The Residential Densities within the respective Residential land use designations identified by the SECONDARY PLANS shall be as follows:

b) MEDIUM DENSITY - approximately 30 to 49 units per Net Residential Hectare. This designation permits predominantly townhouse dwellings and walk-up apartments. Generally, these types of dwellings are to be located at the periphery of the Residential Neighbourhoods adjacent to arterial roads and/or collector roads.

A.1.2.17 In the evaluation of any proposal for multiple family residential development (triplex, fourplex, sixplex, attached housing and apartment dwellings), the relevant Secondary Plan policies of this Plan shall apply. In addition, Council shall be satisfied that:

a) Schools and neighbourhood commercial facilities will be adequate for the increased residential density resulting from the proposal;

b) The height, bulk and arrangement of buildings and structures will achieve harmonious design and will not conflict with the existing and/or expected development of the surrounding area. In this regard, Council may require the developer to submit evidence that wind and shadows will not have a harmful effect upon adjacent areas;

c) Appropriate off-street parking, landscaped areas, protection for abutting residential uses where warranted, and other accepted site
planning features can be satisfactorily accommodated on the proposed site; and,

d) Ingress and egress to the property will be so designed as to minimize traffic hazards and congestion on surrounding streets.

A.1.2.19 In the development of new residential areas, and as far as practical in the infilling or redevelopment of established areas, Council may undertake or require the following in order to achieve high standards of residential amenity:

a) Provision and maintenance of adequate off-street parking;

b) Provision, improvement and/or maintenance of on-site landscaping; and,

c) The provision and maintenance of adequate separation distances and the placement of buffering features between residential uses of differing densities as well as other land uses.

In addition, residential development and/or infilling within developed neighbourhoods shall not be on a scale so as to create a land use conflict with surrounding uses."

The proposal falls within the “Medium Density Residential” density range and meets the criteria since the subject lands are located on Highway No. 8, an arterial road. The proposed redevelopment is in close proximity to commercial facilities located adjacent to the subject lands to the east and a wider range of commercial facilities are available along Highway No. 8 to the west. Both elementary and secondary schools are located within close proximity to the proposed development and neither School Board expressed concern with the proposal. The proposal is also compatible with existing and proposed development in the surrounding area in terms of the height, bulk, and arrangement of buildings as there are existing two storey townhouse developments located to the north and the west of the subject lands, and the proposal represents a gradation of densities from Highway No. 8. The proposal provides adequate off-street parking as each unit will have two parking spaces, which meets the minimum requirements of the Zoning By-law. Appropriate landscaping is provided, and the submission of a landscape and street tree planting plan will be required as a condition of draft plan approval (Condition 10 - Appendix “E”). The proposal also maintains adequate setbacks from the single detached dwellings to the south, as the minimum rear yard setbacks are being met. Finally, the private condominium road will be designed with one access point to Highway No. 8, which will minimize traffic hazards.
Finally, the proposal represents a form of development which is compatible with, and complementary to, the established development pattern in the neighbourhood, and makes efficient use of the existing infrastructure.

**Neighbourhood Plan**

The subject lands are designated “Low Density Residential” on the approved Dewitt Neighbourhood Plan. Following the adoption of the Official Plan and zoning changes, an amendment to the neighbourhood plan will be required to reflect the revised designation.

**RELEVANT CONSULTATION:**

The following Departments and Agencies had no comments or objections:

- Environmental Planning Section, Public Works Department
- Traffic Engineering and Operations Section, Public Works Department
- Taxation Division, Corporate Services Department
- Niagara Escarpment Commission
- Hamilton Conservation Authority
- Hamilton-Wentworth District School Board
- Horizon Utilities

The *Forestry and Horticulture Section (Public Works Department)* has identified that there are Municipal Forestry concerns, and that there are three Municipal Tree Assets found to be in good condition in the Highway No. 8 road allowance. To address this concern, a condition will be included as a condition of draft plan approval (Condition 9 of Appendix “E”).

The *Water and Wastewater Division (Public Works Department)* has indicated that the proposed street townhouse dwellings can be adequately serviced for water from the existing watermain on Highway No. 8. The division also commented that static pressures at the street line are on average in the range of 50-56 psi, and that fire flow capacity is sufficient (based on two-hydrant flow tests) and hydrant coverage is adequate for the proposed buildings. An adequate sanitary sewer system is available on Highway 8 across the entire frontage of the property and can be readily serviced by permits. Alternatively, but not recommended, a City sewer could be extended through the Common Element roadway (Block 1) with an easement to reduce the length of private drains.
The Water and Wastewater Division also commented, for information purposes, that the City of Hamilton, in conjunction with local Conservation Authorities and adjacent Municipalities, are undertaking an exercise to identify protection zones for municipal drinking water intakes along the shores of Lake Ontario. The subject property is within draft preliminary intake protection zone 2 (IPZ-2). However, as the area is yet to be finalized, there are no conditions concerning land use, but the proponent should be advised that conditions may be attached to future development proposals.

The **Open Space and Park Planning Section (Public Works Department)** has commented that parkland dedication, with payment in the form of Cash-in-Lieu, is required for the proposed development as no parkland is shown to be dedicated on the draft plan of subdivision. This requirement is included in the Standard Form Subdivision Agreement (Section 1.6) and as Recommendation (a)(iii).

The **Health Protection Division (Public Health Services)** requires confirmation from Trow Consulting Engineering Ltd. that proper abandonment of the well, septic system and oil furnace, as identified in the Phase I Environmental Site Assessment, has been completed. This requirement is included as a condition of draft plan approval (Conditions 5, 6 and 7, respectively, on Appendix “E”).

The **Strategic Planning Section (Public Works Department)** has commented that the Hamilton Transportation Master Plan (TMP) proposed improvements including road widening, two-way left turn lanes, and bike lanes for this portion of Highway No. 8. Highway No. 8 is also identified as a transit priority corridor and the ROW requirement may exceed 36.58 metres if dedicated lanes are provided for Rapid Transit. This is not known at this time. The proponent must also be aware of the Stormwater Quality Management Strategy City of Stoney Creek Master Plan and ensure that the Storm Drainage Policy and Criteria and Guidelines for Stormwater Infrastructure are followed. Development Engineering will review storm water management details as part of the draft plan approval.

**Bell Canada** has requested the standard conditions of approval which are included in the Standard Form Subdivision Agreement (Section 1.21(c)).

The **Waste Management Division, Public Works Department** has indicated that the proposed townhouse units will receive curbside service in front of each unit on Highway No. 8 for garbage, green cart organics, recycling, and leaf and yard waste. However, it should be noted that a single pile is not permitted, and each unit would need to keep their waste separate which will create 10 separate stops at 568 Highway No. 8.
Public Consultation

In accordance with the new provisions of the Planning Act and Council’s Public Participation Policy, Notice of Complete Application and Preliminary Circulation was circulated to 353 property owners within 120 metres of the subject property on September 15, 2008. To date, one formal response has been received (see Appendix “G”). The issues raised in this letter are discussed under the Analysis/Rationale section of the report.

Further, a Public Notice sign was posted on the property on September 19, 2008, and Notice of the Public Meeting was given in accordance with the requirements of the Planning Act.

**CITY STRATEGIC COMMITMENT:**

By evaluating the “Triple Bottom Line”, (community, environment, economic implications) we can make choices that create value across all three bottom lines, moving us closer to our vision for a sustainable community, and Provincial interests.

Community Well-Being is enhanced. ☑ Yes  ☐ No  
The proposed development promotes community well-being as it provides compact residential development in close proximity to adequate commercial, recreational, and transportation opportunities.

Environmental Well-Being is enhanced. ☑ Yes  ☐ No  
The proposed development applies the principles of intensification and best use of available land since the development provides for the creation of 10 new residential dwellings on a currently under-utilized site.

Economic Well-Being is enhanced. ☑ Yes  ☐ No  
Investment in Hamilton is enhanced and supported since the proposal provides for increased tax revenues.

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
Appendix "A" to Report PED09078

Location Map

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

File Name/Number: ZAC-08-047 / OPA-08-11
Date: August 28, 2008

Appendix "A" Scale: N.T.S. Planner/Technician: JD / NH

Subject Property

568 Highway No. 8

Change in Designation from "Low Density Residential" to "Medium Density Residential"

Change in Zoning from Single Residential "R1" Zone to Multiple Residential "RM2-17" Zone.

Ward 10 Key Map N.T.S.
Amendment No. 1 to the

Official Plan for the former City of Stoney Creek

The following text together with Schedule “A”, Schedule “A” - General Land Use Plan and Schedule “B”, Schedule “A1” - Secondary Plan - Western Development Area, of the Official Plan of the former City of Stoney Creek, attached hereto, constitute Official Plan Amendment No. 1.

Purpose:
The purpose of this Amendment is to redesignate the subject lands from “Low Density Residential” to “Medium Density Residential” on Schedule “A1” Secondary Plan - Western Development Area, to permit the subject land to be developed for street townhouses.

Location:
The lands affected by this Amendment are municipally known as 568 Highway No. 8, within the Western Development Area, former City of Stoney Creek.

Basis:

• The proposed Amendment is consistent with the Provincial Policy Statement and Growth Plan for the Greater Golden Horseshoe.

• It conforms with and implements the “Urban Area” designation of the Hamilton-Wentworth Official Plan.

• It conforms with and implements the “Residential” intensification policies of Subsection A.1.2.9 of the City of Stoney Creek Official Plan, which also supports the provision of a full range of housing types and prices.

• The proposed townhouses are an example of an infill residential development supporting the principles of intensification.

• The use is compatible with the residential character of the surrounding land uses.
Actual Changes:

1. Schedule “A”, General Land Use Plan, be revised by identifying the subject lands as OPA No. [redacted], as shown on the attached Schedule “A” to this Amendment.

2. Schedule “A1” Secondary Plan - Western Development Area, be revised by redesignating the subject lands from “Low Density Residential” to “Medium Density Residential”, and by identifying the subject lands as OPA No. [redacted], as shown on the attached Schedule “B” to this Amendment.

Implementation:

An implementing Zoning By-law Amendment, Plan of Subdivision, and Plan of Condominium will give effect to this Amendment.

This is Schedule "1" to By-law No. [redacted], passed on the [redacted] day of [redacted], 2009.

The

City of Hamilton

_______________________  ________________________
Fred Eisenberger    Kevin C. Christenson
Mayor               Clerk
Appendix “D” to Report PED09078
(Page 1 of 4)

Authority: Item [blank], Economic Development and Planning Committee
Report: 09- [blank] (PED09078)
CM: [blank]

Bill No.

CITY OF HAMILTON

BY-LAW NO. [blank]

To Amend Zoning By-law No. 3692-92 (Stoney Creek) Respecting the Lands Located at 568 Highway No. 8, Stoney Creek

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 Council of the City of Hamilton, in adopting Item [blank] of Report 09- [blank] of the Economic Development and Planning Committee at its meeting held on the day of [blank], 2009, 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 Official Plan of the City of Hamilton (formerly the City of Stoney Creek Official Plan), approved by the Minister under the Planning Act on May 12, 1986;
NOW THEREFORE the Council of the City of Hamilton enacts as follows:

1. That Map No. 7 of Schedule “A”, appended to and forming part of By-law No. 3692-92 (Stoney Creek), is amended by changing the zoning from the Single Residential “R1” Zone to the Multiple Residential “RM2-17” Zone on the lands, the extent and boundaries of which are shown on a plan hereto annexed as Schedule “A”.

2. That Subsection 6.9.6, “Special Exemptions”, of Section 6.9 Multiple Residential “RM2” Zone, of Zoning By-law No. 3692-92 (Stoney Creek), be amended by adding a new special exemption, “RM2-17”, as follows

“RM2-17” - 568 Highway No. 8, Schedule “A”, Map No. 7

For the purposes of this by-law, a common element condominium road shall be deemed to be a street.

Notwithstanding the provisions of Paragraphs (a), (b), (c) and (d) of Section 6.9.3 “Zone Regulations” of Zoning By-law No. 3692-92, on those lands zoned “RM2-17” by this by-law, the following shall apply:

(a) Minimum Lot Area
   Interior Unit - 165 square metres
   End Unit - 200 square metres

(b) Minimum Lot Frontage
   End Unit - 7.5 metres

(c) Minimum Front Yard - 4.5 metres, except 5.8 metres to an attached garage or carport

(d) Minimum Side Yard
   End Unit - 1.2 metres

In addition to the regulations of Section 4.19 “Yard Encroachments”, alcoves may project into any required rear yard and/or side yard of an end unit, a distance of not more than 0.5 metres.

In addition to the regulations of Section 6.9.3 “Zone Regulations”, a landscape strip having a minimum width of 2.5 metres shall be provided and thereafter be maintained along the entire frontage of Highway No. 8, except for points of ingress and egress. An ornamental/decorative entry feature(s) may also be permitted within the required landscape strip.
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 “RM2” Zone provisions, 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 [____], 2009.

_________________________       __________________________
FRED EISENBERGER                  KEVIN C. CHRISTENSON
MAYOR                             CLERK

ZAC-08-047
Schedule "A"

Map Forming Part of By-Law No. 09-____
to Amend By-law No. 3692-92

Subject Property
568 Highway No. 8

Change in Zoning from Single Residential "R1" Zone to Multiple Residential "RM2-17" Zone.

This is Schedule "A" to By-Law No. 09-
Passed the ............ day of ....................., 2009

Clerk

Mayor

Scale:
N.T.S.

File Name/Number:
ZAC-08-047 / OPA-08-11

Date:
August 28, 2008

Planner/Technician:
JD / NH

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Special Conditions of Draft Plan of Subdivision Approval for “Dewitt Orchard”

1. That, prior to registration of the draft plan, sanitary sewers, storm sewers, watermains and roadway access shall be available to service the lands of the draft plan, all to the satisfaction of the Director of Development Engineering.

2. That, prior to registration of the draft plan, the Owner pays their proportionate share for the future urbanization of Highway No. 8 adjacent to Block 1 in accordance with the City’s “New Roads Servicing Rate” in effect at the time of payment, to the satisfaction of the Director of Development Engineering.

3. That, prior to servicing, the Owner prepares a geotechnical report and implements the report’s recommendations, to the satisfaction of the Director of Development Engineering.

4. That, prior to registration of the draft plan, the Owner agrees to identify and implement all the necessary Stormwater Quantity and Quality Control measures, including erosion control at the outlet, to the satisfaction of the Director of Development Engineering.

5. That, prior to registration of the draft plan, the oil furnace tank be removed, to the satisfaction of the Medical Officer of Health, Public Health Services, City of Hamilton.

6. That, prior to registration of the draft plan, any existing septic tank be pumped out by a licensed contractor, collapsed and/or refilled with suitable material to prevent it from caving in, to the satisfaction of the Medical Officer of Health, Public Health Services, City of Hamilton.

7. That, prior to registration of the draft plan, any existing abandoned water wells are plugged in accordance with Ontario Regulation 903/90 under the Ontario Water Resource Act (Environment Ontario’s Fact Sheet entitled: “Water Wells and Groundwater Supplies Recommended Methods of Plugging Water Wells” are available from the Ministry of Environment), to the satisfaction of the Medical Officer of Health, Public Health Services, City of Hamilton.

8. That, the Owner agrees, in writing, to include the following noise warning clauses in all agreements of purchase and sale:

   **TYPE B:**

   “Purchasers/tenants are advised that despite the inclusion of noise control features in the development and within the building units, sound levels due to increasing road traffic may on occasions interfere with some activities of the dwelling occupants as the sound levels exceed the Municipality’s and the Ministry of the Environment’s noise criteria.”
TYPE D:

“This dwelling unit has been supplied with a central air conditioning system which will allow windows and exterior doors to remain closed, thereby ensuring that the interior sound levels are within the Municipality’s and the Ministry of the Environment’s noise criteria.”

9. That, prior to preliminary grading or servicing, the Owner submits a tree preservation study and plan, prepared by a certified arborist or landscape architect, for review and approval by the Director of Planning, and provides written certification from the Owner’s landscape architect/arborist to the Director of Planning that all measures for the protection of isolated trees, tree clusters and woodlands, in accordance with the Detailed Tree Preservation Plan approved by the Director, have been implemented and inspected, prior to any clearing or grubbing of the lands within the draft plan.

10. That, prior to registration of the draft plan, the Owner submits a landscaped plan and street tree planting plan, for review and approval by the Director of Planning.
Friday, October 17, 2008

Attention:
City Of Hamilton
Planning and Economic Development Department
Planning Division-Development Planning-East Section

To whom it may concern:

We are writing this letter in response to the proposed Zoning By-law Amendment Application and Official Plan Amendment Application. The file numbers are listed here: ZAC-08-047, OPA-08-011, 25T-200805 and 25CDM-200808. Our residence backs onto the properties in question for these applications.

We would like to voice our strong objections to these applications. We are not willing to have our family exposed to the excess dust, noise, and pollution that would result from the construction of the proposed townhouse units and future residents of this complex. A complex of this nature will directly affect the value of our home. It is our belief that two single homes would be a more suitable fit with the present layout of the area.

It is our understanding that Stoney Creek has inadequate storm sewer service. A townhouse complex would further stress this service. Changes to this service could potentially increase taxes and interfere with present storm sewer service. We object to paying tax increases for this purpose.

A townhouse complex would encourage loitering of troublesome youths that are already present behind the Avondale store on a regular basis. It would put our children's safety in jeopardy. We are concerned about the long and short term effects stemming from potential approval of these applications on our family. We hope our stated objections will be considered in the review process. Thank you for your time.

Sincerely,

Lise and Lorenzo Pontillo