SUBJECT: Application for Approval of a Draft Plan of Condominium (Common Elements Condominium) for a Portion of Lands Located on Viking Drive, Block 132, Registered Plan 62M-1062, (Glanbrook) (PED08077) (Ward 11)

RECOMMENDATION:

That approval be given to Condominium Application 25CDM200706, “Courtyards”, by Losani Homes, owner, to establish a draft plan of condominium (Common Elements Condominium) to create a condominium road, visitor parking areas, amenity and landscaped areas, and fencing for 74 street townhouse dwellings for lands located on Viking Drive, Block 132, Registered Plan 62M-1062 (Glanbrook), as shown on the attached map marked as Appendix “A” to Report PED08077, subject to the following conditions:

(a) That this approval applies to the plan prepared by A.T. McLaren Limited, dated June 15, 2007, showing the following condominium elements: a road, 23 visitor parking spaces, amenity area, landscaped areas and fencing, attached as Appendix “B” to Report PED08077.

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

(c) That the Owner shall enter into a Development Agreement to ensure that each of the proposed 74 street townhouse dwellings have tied parcels to the plan of condominium and to address any other requirements of the City of Hamilton, to the satisfaction of the City Solicitor.

(d) That the Owner shall receive final approval of Part Lot Control Application PLC-08-002, including the enactment and registration on title of the Part Lot Control By-law to the satisfaction of the Director of Planning, Planning and Economic Development Department.
(e) That the Owner shall include the following warning clause in the Development Agreement and all Purchase and Sale Agreements:

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

(f) That the final plan of condominium complies, in all respects, with the approved Site Plan (DA-06-157), to the satisfaction of the Director of Planning, Planning and Economic Development Department.

(g) That the Owner shall satisfy any conditions, financial or otherwise, of the City of Hamilton.

Tim McCabe
General Manager
Planning and Economic Development Department

**EXECUTIVE SUMMARY:**

The purpose of the application is to establish a draft plan of condominium (Common Elements Condominium). The proposed draft plan of condominium has merit and can be supported as it implements the plan of subdivision and approved zoning, and it conforms to the Glanbrook Official Plan.

**BACKGROUND:**

The application is to establish a draft plan of condominium (Common Elements Condominium) to create the following condominium elements: a road, 23 visitor parking spaces, amenity area, landscaped areas and fencing for 74 street townhouse dwellings, as shown on the attached plan marked as Appendix “B”. The condominium road would provide access to Viking Drive in two locations. The 74 lots and elements in common would be created through Part Lot Control Application PLC-08-002.

**Part Lot Control Application PLC-08-002**

The applicants have 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”):
SUBJECT: Application for Approval of a Draft Plan of Condominium (Common Elements Condominium) for a Portion of Lands Located on Viking Drive, Block 132, Registered Plan 62M-1062, Glanbrook (PED08077) (Ward 11) - Page 3 of 7

- 74 lots for street townhouses (Parts1-74, inclusive).
- A private (condominium) road (Part 155).
- Amenity area (Part 155).
- 23 visitor parking spaces (Part 155).
- Maintenance easements (Parts 75-154).

Committee of Adjustment Application GL/A-06:226

An application for minor variance was received in order to address deficiencies for minimum front yard, minimum parking stall size, minimum barrier free parking stall size, minimum requirement for loading spaces and visitor parking spaces. The minor variance application also addressed the private condominium road, tandem parking, density of development and encroachment into required yards. The minor variance application was approved by the Committee of Adjustment on July 11, 2007, and became final and binding on July 31, 2007 (see Appendix “D”).

Site Plan Application DA-06-157

Site Plan Application DA-06-157 was approved, with conditions, on May 2, 2007. The applicant has fulfilled all of the conditions of approval, including three special conditions. The first condition relates to the above noted minor variances. The second was for the preparation of a reference plan illustrating the required lands to be transferred to the City for stormwater management purposes, and a 9m wide storm sewer easement over the existing 600mm storm sewer, which is located on the owner’s lands, to the satisfaction of the Manager of Development Engineering. The third condition was for the transfer of the required lands and easements to the City, as per Condition 2, to the satisfaction of the Manager of Design and Construction. The Site Plan application received final approval on January 15, 2008.

Subdivision Application 25T200111 “Elizabeth Gardens”

The draft plan of subdivision known as “Elizabeth Gardens” was draft approved on September 23, 2004, and is being developed in phases. The subject lands are situated within “Elizabeth Gardens – Phase 3”, which was registered on July 4, 2006, as Plan 62M-1062. The subject lands (Block 132, Plan 62M-1062) are intended for townhouse dwellings.

Official Plan Amendment Application OPA-04-039

On August 10, 2005, Council approved By-law No. 05-232 to redesignate the subject land from “Community Core” and “Medium Density Residential” to “High Density Residential” to implement the “Elizabeth Gardens – Phase 3” draft plan of subdivision.
On August 10, 2005, Council approved By-law No. 05-233, to rezone lands to implement the “Elizabeth Gardens – Phase 3” draft plan of subdivision, including the subject land.

Details of Submitted Application

Location: Viking Drive (Binbrook Village, Glanbrook)
Owner: Losani Homes Ltd.
Applicant: Armstrong Hunter and Associates

Lot Size: Area: 0.34 hectares (0.85 acres)
Width: 6.0 metres (roadway)

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>(future street townhouses)</td>
<td>Vacant</td>
<td>Residential Multiple “RM4-203” Zone</td>
</tr>
</tbody>
</table>

Surrounding Land Uses

<table>
<thead>
<tr>
<th>North</th>
<th>Street Townhouse Dwellings</th>
<th>Residential Multiple “RM2-201” Zone</th>
</tr>
</thead>
<tbody>
<tr>
<td>East</td>
<td>Single Detached Dwellings</td>
<td>Existing Residential “ER” Zone</td>
</tr>
<tr>
<td></td>
<td>Vacant</td>
<td>General Commercial “C3” Zone</td>
</tr>
<tr>
<td>South</td>
<td>Storm Water Management Pond</td>
<td>Public Open Space “OS2” Zone</td>
</tr>
<tr>
<td>West</td>
<td>Single Detached Dwellings</td>
<td>Single Residential “R4-200” Zone</td>
</tr>
</tbody>
</table>

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 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, 23 visitor parking spaces, an amenity area, landscaped areas and fencing (see Appendix “B”). The condominium driveway is 6.0 metres wide and would provide vehicular access to the 74 street townhouse dwellings. The amenity area, landscaped areas and fencing will provide aesthetics and be maintained by the condominium corporation.

3. The land proposed for the common elements condominium and the 74 street townhouse dwellings will be created through the removal of 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-08-002 is approved and the By-law removing the lands from Part Lot Control has been passed (Recommendation (d)).

4. The applicant must also enter into a Development Agreement with the City of Hamilton as a condition of draft plan approval. This agreement will ensure that the tenure of all the subject residential parcels become “tied” to the proposed draft plan of condominium (Common Elements Condominium). This will have the effect of ensuring that individual townhouse lots are not sold until the condominium has been registered as a Common Elements Condominium under the Condominium Act (Recommendation (c)).

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

“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 form condominium development.
FINANCIAL/STAFFING/LEGAL IMPLICATIONS:

Financial - N/A.

Staffing - N/A.

Legal - As required under the Bill 51 version of the Planning Act, Council shall hold at least (1) Public Meeting to consider an application for a 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. 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 “Binbrook Village” on Schedule ‘A’ – Land Use Plan and “High Density Residential” on Schedule ‘B’ – Binbrook Village Secondary Plan, Land Use Plan in the Township of Glanbrook Official Plan. The proposed townhouses and condominium road conform to the Township of Glanbrook Official Plan, in that the Official Plan encourages a full range of housing types and prices through 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).

PUBLIC CONSULTATION:

Ontario Regulation 544/06, which implements changes respecting Plans of Subdivision within 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, 133 pre-circulation notices were mailed to all property owners within 120 metres of the subject property, requesting comments or support for the application. The property was also subject of Draft Plan of Subdivision, Official Plan Amendment and Zoning By-law Amendment applications, which were public processes. To date, no comments have been received from any members of the public in response to the Draft Plan of Condominium circulation.

Further, a Public Notice sign was posted on the property in July, 2007. Notice of the Public Meeting of the Economic Development and Planning Committee was given in accordance with the provisions 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
Meets the intent of the future development of the area.

Environmental Well-Being is enhanced. ☑ Yes ☐ No
Applies the principles of intensification and best use of available land.

Economic Well-Being is enhanced. ☑ Yes ☐ No
Investment in Hamilton is enhanced and supported.

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

:SH
Attahcs. (4)
Location Map

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

File Name/Number: 25CDM200706
Date: June 26, 2007

Appendix "A"
Scale: N.T.S.
Planner/Technician: SH/IF

Subject Property
- Block 132 Plan 62M-1062

Ward 11 Key Map N.T.S.
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, 20 and 44.

AND IN THE MATTER OF the Premises known as lands located on the south side of Viking Drive, and being composed of Block 132, Elizabeth Gardens, Phase 3, Registered Plan 62M-1062, formerly in the Township of Glanbrook, now in the City of Hamilton and in an “RM4-203” (Residential Multiple) district;

AND IN THE MATTER OF AN APPLICATION, AS AMENDED, by the agent Armstrong Hunter and Associates (Stephen Armstrong) on behalf of the owner Losani Homes Ltd., 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 eleven apartment buildings (as defined in amending By-law 05-233) containing a total of seventy-four (74) units notwithstanding that:

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

2) Apartment dwellings fronting on a private condominium road shall be considered an apartment development;

3) For the purpose of the regulations contained within Section 20 and 44, the boundary of Block 132, Registered Plan 62M-1062 shall be deemed to be the lot lines for this purpose and the regulations of the RM4-203 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) No loading spaces shall be provided whereas the By-law requires a minimum of one (1) loading space to be provided;

5) Tandem parking shall be permitted for the apartment dwellings whereas the By-law prohibits tandem parking for apartments;

6) Minimum 2.6m x 5.5m parking space sizes shall be provided instead of the minimum 3.0m x 6.0m parking space size required;

7) A minimum 3.9m x 5.5m barrier free parking space size shall be provided instead of the minimum 3.9m x 6.0m barrier free parking spaces requires;

8) A minimum of twenty-three (23) visitor parking spaces shall be provided instead of the minimum thirty-seven (37) visitor parking spaces required;

9) A minimum 2.6m x 5.5m parking space size shall be provided for the visitor parking spaces instead of the minimum required 3.0m x 6.0m parking spaces sizes;

10) Parking spaces shall be located within 6.0m of the street line whereas the By-law requires parking spaces to be located 6.0m setback from the street line;

11) A maximum 29.74% lot coverage shall be provided instead of the maximum 25% lot coverage permitted;
12) A maximum density of sixty-two (62) units per hectare shall be permitted instead of the maximum sixty (60) units per hectare permitted;

13) A minimum front yard of 4.55m shall be permitted instead of the minimum 6.0m front yard required;

14) No landscaped area shall be provided along the street line abutting the parking spaces instead of the minimum required 3.0m wide landscaped area;

15) Three (3) risers (steps) will encroach into the parking space located within the garage whereas the By-law does not permit stairs to encroach into a required parking space;

16) Balconies may project a maximum 1.5m into the minimum side yard instead of the maximum permitted 0.5m projection into a minimum side yard; and,

17) A porch may project into the required front yard a maximum of 2.0m instead of the maximum 1.5m permitted.

Note: The applicant applied for a variance for the garbage enclosure to provide a 1.2m setback from the rear lot line. Please note that the By-law permits the garbage enclosure (accessory buildings) to be located 1.0m from the rear lot line, and as such, this variance is not required.

The variance requested for the stairs is not required as the stairs are considered part of the porch.

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 11th day of July, 2007

[Signatures]

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 31st, 2007.

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