TO: Chair and Members  
Economic Development and Planning Committee  
WARD(S) AFFECTED: WARD 11  
COMMITTEE DATE: July 5, 2010  
SUBJECT/REPORT NO:  
Application for a Draft Plan of Condominium (Common Elements Condominium) for the Lands Located at 45 Seabreeze Crescent, Part of Block 11, Registered Plan 62M-1129 (Stoney Creek) (PED10141) (Ward 11)  
SUBMITTED BY:  
Tim McCabe  
General Manager  
Planning and Economic Development Department  
PREPARED BY:  
Joe Muto  
(905) 546-2424, Ext 7859  
SIGNATURE:  
RECOMMENDATION:  
That approval be given to Condominium Application 25CDM-201003, by 15288148 Ontario Inc., c/o Tony Silvestri (Owner), to establish a draft plan of condominium (Common Elements Condominium), “Seabreeze Gardens”, comprised of a condominium road, easements for utilities/servicing, access and maintenance, noise barriers, landscaping, and 11 visitor parking spaces for 24 townhouse units located at 45 Seabreeze Crescent (Stoney Creek), known legally as Part of Block 11, Registered Plan 62M-1129, as shown on the attached location map marked as Appendix “A” to Report PED10141, subject to the following conditions:  
(a) That this approval shall apply to the plan, prepared by A. J. Clarke and Associates Ltd. and certified by B. J. Clarke, O.L.S., certified March 31, 2010, showing the following condominium elements: a road, easements for utilities servicing, access and maintenance, noise barriers, landscaping, and 11 visitor parking spaces, attached as Appendix “B” to Report PED10141.
(b) That the Final Plan of Condominium shall comply with all of the applicable provisions of Zoning By-law No. 3692-92.

(c) That the owner shall enter into a Development Agreement to ensure that the tenure of each of the proposed 24 freehold units has legal interest, in common, to the Common Elements Condominium, to the satisfaction of the City Solicitor.

(d) That the owner shall receive final approval of Part Lot Control Application PLC-10-013, including the enactment and registration on title of the Part Lot Control Exemption By-law, to the satisfaction of the Manager of Development Planning.

(e) That the owner shall include the following warning clause in the Development Agreement and 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."

(f) That the owner shall provide 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 shall enter into, and register on title, the Condominium Agreement incorporating the approved plan of condominium and related conditions:

(i) That the owner (being the future Condominium Corporation) shall agree to maintain, repair, or replace the acoustic walls as installed and shown with the final approved Site Plan (File No. DA-06-109). Any maintenance, repair, or replacement shall be with the same material and standards as the original.

(ii) That the owner shall include on all offers of purchase and sale, a statement that advises the prospective purchaser:

(1) That the home/business mail delivery will be from a designated Centralized Mail Box.
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(2) That the developers/owners be responsible for officially notifying the purchasers of the exact Centralized Mail Box locations prior to the closing of any home sales.

(h) That the final plan of condominium shall comply, in all respects, with the approved Site Plan (DA-06-109), to the satisfaction of the Director of Planning.

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

EXECUTIVE SUMMARY

The “Seabreeze” (formerly “Trillium Estates”) Draft Plan of Subdivision, 25T-200015(R), (Stoney Creek) received draft approval on February 24, 2006, which included a townhouse block identified as Block 11 (see Appendix “C”). The current application is to establish a plan of condominium on Block 11 for a common elements condominium to create twenty-four parts for the townhouse units, twenty-four parts for utility/servicing easements, a common element roadway, and to also recognize common elements for the future Condominium Corporation (i.e. noise walls, visitor parking, and landscaping) (see Appendix “B”).

Alternatives for Consideration - Page 10.

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

Financial: N/A.

Staffing: N/A.

Legal: As required by the Planning Act, Council shall hold at least one (1) Public Meeting to consider an application for approval of a Draft Plan of Condominium (Common Elements Condominium).

HISTORICAL BACKGROUND (Chronology of events)

25T-200015 and ZAC-03-52 “Seabreeze Estates” (formerly “Trillium Estates”)

The original subdivision application submitted to the City was for an area of 6.9 hectares of vacant land. The rezoning application was concurrently submitted in order to implement the draft plan of subdivision then known as “Trillium Estates”. This proposal included 59 lots for single detached dwellings, 10 blocks for street townhouses, one
block for a single condominium development, all contained in two phases of development.

**25T-200015(R), ZAC-05-21, and OPA-05-03 “Seabreeze Estates - Phase 2” (formerly “Trillium Estates”)**

These applications were submitted for the western portion of the original “Trillium Estates” draft plan of subdivision in order to permit the development of single detached dwellings along the north side of Whitefish Crescent, a block for future development, and a block for park purposes, whereas the original draft approved plan contained one block for park purposes and one block for a 0.3 metre reserve on the north side of Whitefish Crescent. The rezoning application proposed to rezone the lands from the Multiple Residential “RM2-8(H)” Zone and Neighbourhood Development “ND” Zone to the Single Residential “R3” Zone. An Official Plan Amendment application was concurrently submitted with respect to a change in designation from “Neighbourhood Park” to “Low Density Residential”. The redlined revision to the draft approved subdivision plan was approved on March 8, 2005. These items went before the Planning and Economic Development Committee on May 17, 2005. The related Zoning and Official Plan Amendments were adopted by Council on July 13, 2005.

**“Seabreeze” (formerly “Trillium Estates”) Draft Plan of Subdivision 25T-200015(R), OPA-05-10, and ZAC-05-61**

The purpose of these applications was for an Official Plan Amendment for a change in designation from “Low Density Residential” to “Medium Density Residential” to facilitate the development of the townhouse units, as well as changes in zoning to permit the development of the lands for ten single detached dwelling lots and twenty-four street townhouse units within Block 11 of the Draft Plan of Subdivision known as “Seabreeze”.

**Site Plan Control Application DA-06-109 (see Appendix “D”)**

Once the applications for Zoning, Official Plan Amendments, and Draft Plan of Subdivision for “Seabreeze” were finalized, the applicant submitted a Site Plan Control application to develop the townhouse units. The Site Plan was conditionally approved on July 12, 2006. Conditional approval was subsequently extended as one of the special conditions of site plan was that the draft plan of subdivision (25T-200015(R)) be registered. This special condition and requisite list of standard conditions for Site Plan Control are now satisfied, and were subsequently finalized on February 17, 2010. Construction of the townhouses is currently underway. The proposed Draft Plan of Condominium, in conjunction with the recently submitted Part Lot Control Application, will establish the tenure of the twenty-four units and associated common elements.
Part Lot Control Application (PLC) (PLC-10-013)

The PLC application was deemed completed on April 23, 2010, by the City. The purpose of the application is to create 24 individual parcels of land for freehold townhouse units, together with utility/servicing easements, and one parcel for a common elements Condominium Corporation.

Minor Variance Application (SC/A-10:119)

The minor variance application was deemed complete on May 14, 2010. The application was made in conjunction with draft plan condominium to further facilitate the development of the townhouse units. The applicant is seeking relief for the following variances:

(i) A private condominium road shall be considered a street for purposes of lot frontage for creation of individual townhouse units;

(ii) Townhouse dwellings fronting onto a private condominium road and/or public road (Seabreeze Crescent) shall be considered a block townhouse for the purposes of development; and,

(iii) The boundaries of Block 11, according to Plan 62M-1129, being the boundaries of the “RM3-28” Zone, shall be deemed to be the lot lines of the entire development, and the townhouse regulations of the “RM3-28” Zone shall be applied to the lot, including but not limited to lot area, lot frontage, building setbacks, distances between buildings, density, building height, privacy areas, landscaping and parking shall be from the boundaries of the entire block and not the individual property boundaries of each individual townhouse unit.

Planning staff is in support of the variances. This application went before the Committee of Adjustment on June 10, 2010; the Committee approved the variances; no residents attended the meeting.

Details of Submitted Application

**Location:** Block 11, Registered Plan 62M-1129 (see Appendix “A”)

**Applicant/Owner(s):** 1528148 Ontario Inc. (c/o Tony Silvestri)

**Agent:** A.J. Clarke and Associates Ltd. (c/o Stephen Fraser)
Vision: To be the best place in Canada to raise a child, promote innovation, engage citizens and provide diverse economic opportunities.

Values: Honest, Accountability, Innovation, Leadership, Respect, Excellence, Teamwork

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Property Description:

Lot Area: 1.03 hectares (10300m²)
Lot Frontage: Approx. 24.50 metres
Lot Depth: Approx. 120.68 metres

EXISTING LAND USE AND ZONING:

<table>
<thead>
<tr>
<th>Subject Lands</th>
<th>Existing Land Use</th>
<th>Existing Zoning</th>
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<tbody>
<tr>
<td>Vacant/Under Construction</td>
<td>Multiple Residential “RM3-28” Zone</td>
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Surrounding Lands

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<thead>
<tr>
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<tbody>
<tr>
<td>North Service Road</td>
<td>Neighbourhood Development “ND” Zone</td>
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</tr>
<tr>
<td>West</td>
<td>Single Detached Dwellings and Watercourse</td>
<td>Rural Residential “RR” and Neighbourhood Development “ND” Zones</td>
</tr>
</tbody>
</table>

POLICY IMPLICATIONS

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

The application has been reviewed with respect to the Provincial Growth Plan for the Greater Golden Horseshoe (Places to Grow). The application is consistent with policies that direct new growth to the built up areas, as per the Policies contained in Sections 2.2.2 and 2.2.3 of the Places to Grow Plan. The proposal maintains the intent to develop and create complete communities which provide for housing opportunities.

Therefore, the application conforms with the Places to Grow Growth Plan for the Greater Golden Horseshoe.
Provincial Policy Statement:

The application has been reviewed with respect to the Provincial Policy Statement (PPS). Staff recognizes that the application is consistent with the policies that focus growth in Settlement Areas 1.1.3.1.

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 land uses are appropriately designed, buffered, and separated from each other to prevent adverse effects from odour, noise and other contaminants, and minimize risk to public health and safety. The subject lands are intended to be developed for residential purposes and are located adjacent to the Queen Elizabeth Way. The proximity of the proposed sensitive land use to a road noise source triggers the requirement for a noise study. A noise study was previously prepared for the subject lands, and the required noise mitigation measures (i.e. noise barriers, building components, and warning clauses) have been reflected within Site Plan Application DA-06-109, as well as the registered Subdivision Agreement, Instrument # WE646716. However, as identified in the Recommendation section above, the fulfilment of Condition (g)(i) will satisfy the remaining noise concerns as it relates to the long-term maintenance of the noise attenuation measures.

Hamilton-Wentworth Official Plan:

The subject property is designated as “Urban Area” in the Hamilton-Wentworth Regional 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. These areas are intended to accommodate approximately 96% of new residential housing units in the Region to the year 2020. The proposed Draft Plan of Condominium conforms to the Regional Plan.

City of Stoney Creek Official Plan:

The subject lands are designated “Residential” on Schedule “A” - General Land Use Plan, and as “Medium Density Residential” on Schedule “A4” - Secondary Plan Urban Lakeshore Area, as amended by Official Plan Amendment No. 121 to the City of Stoney Creek Official Plan.

The proposed freehold, townhouse units conform to the “Residential” and “Medium Density Residential” policies of the City of Stoney Creek Official Plan. Therefore, the proposed Draft Plan of Condominium to create twenty-four parts for the freehold townhouse units, twenty-four parts for utility/servicing easements, a common element
roadway, and to also recognize common elements for the future corporation (i.e. noise walls and landscaping) conforms to the City of Stoney Creek Official Plan.

**New Urban Hamilton Official Plan (Council Adopted):**

The New Urban Hamilton Official Plan was adopted by Council on July 9, 2009. The Plan has been forwarded to the Province for approval, but is not yet in effect. The subject lands are identified with the “Neighbourhoods” designation in the new plan and as “Low Density Residential 3c” designation in the Urban Lakeshore Area Secondary Plan. The proposed freehold townhouse units would, therefore, conform to the New Urban Hamilton Official Plan.

**RELEVANT CONSULTATION**

The following Departments and Agencies had no comments or objections:

- Public Works Department, Traffic Engineering Section.
- Corporate Services Department, Capital Budgets Section.
- Hydro One.

**Canada Post**

Canada Post has requested that their standard conditions, which have already been addressed via the subdivision application, and warning clauses for a centralized mail facility through the community mailbox program, be included. The latter has been addressed through Condition (g)(ii).

**Ministry of Transportation (MTO)**

MTO has advised that their concerns have been addressed through finalization of the Site Plan application.

**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 were sent to 67 property owners within 120 metres of the subject property on April 19, 2010, requesting comments or support for the application.

To date, no letters have been received from members of the public. Additionally, a Public Notice Sign was posted on the property, and Notice of the Public Meeting was given in accordance with the requirements of the Planning Act.
ANALYSIS / RATIONALE FOR RECOMMENDATION

(include Performance Measurement/Benchmarking Data, if applicable)

1. The proposal has merit and can be supported for the following reasons:

   (i) It is consistent with the Provincial Policy Statement and conforms to the Places to Grow Plan.

   (ii) It conforms with and implements the “Urban” designation of the Hamilton-Wentworth Regional Official Plan.

   (iii) It conforms to the “Residential” and “Medium Density Residential” policies of the City of Stoney Creek Official Plan.

   (iv) The proposal implements the Urban Lakeshore Secondary Plan, as amended.

   (v) The proposal is consistent with the approved Site Plan Control Application No. DA-06-109 (see Appendix “D”).

2. The purpose of the Draft Plan of Condominium (Common Element) is to establish the proposed common elements for an internal road and associated utility easements, including landscaping and visitor parking that will facilitate the tenure of the proposed 24 freehold townhouse units.

3. Through the processing of the various planning applications mentioned in the Historical Background section of this report, it was identified that noise mitigation for the proposed residential development would be a requirement given the proximity to the Queen Elizabeth Way (QEW). As a result, a noise study was previously prepared identifying required noise mitigation measures which included noise barriers, building components, and warning clauses. These measures were reflected through both the Site Plan approval and the Draft Plan of Subdivision approval (via the registered Subdivision Agreement). It is also a City standard that the noise mitigation measures are further addressed through the maintenance, repair, or replacement of the acoustical walls. This will be achieved by Draft Plan of Condominium Condition (g)(i) in the Recommendation section.

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

Should the Plan of Condominium not be approved, the applicant/owner may proceed to develop the lands for block townhouse units, as permitted by the Multiple Residential “RM3-28” Zone, however, the tenure of the units would not be freehold.

CORPORATE STRATEGIC PLAN (Linkage to Desired End Results)

Focus Areas: 1. Skilled, Innovative and Respectful Organization, 2. Financial Sustainability,
3. Intergovernmental Relationships, 4. Growing Our Economy, 5. Social Development,
6. Environmental Stewardship, 7. Healthy Community

Financial Sustainability
• Effective and sustainable Growth Management.
• Generate assessment growth/non-tax revenues.

Social Development
• Everyone has a home they can afford that is well maintained and safe.
• The proposal for freehold townhouses is one of the various housing types that will be available within the registered Plan of Subdivision.

Healthy Community
• Plan and manage the built environment.

APPENDICES / SCHEDULES

• Appendix “A”: Location Map.
• Appendix “B”: Proposed Draft Plan of Condominium (“Seabreeze Gardens”).
• Appendix “C”: Draft Approved Plan of Subdivision (“Seabreeze”).
• Appendix “D”: Final Site Plan.

:JM
Attachs. (4)