

CITY OF HAMILTON

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT Planning Division

TO: Chair and Members Planning Committee	WARD(S) AFFECTED: WARD 9		
COMMITTEE DATE: July 10, 2012			
SUBJECT/REPORT NO: Application for Approval of a Draft Plan of Condominium (Common Elements) by Carriage Gate Homes (Mountain Garden) Inc. for Lands Known as 70 Highgate Drive (Stoney Creek) (PED12127) (Ward 9)			
SUBMITTED BY: Tim McCabe General Manager Planning and Economic Development Department	PREPARED BY: Alvin Chan (905) 546-2424 Ext. 1334		
SIGNATURE:			

RECOMMENDATION

That approval be given to <u>Draft Plan of Condominium Application 25CDM-201113</u>, <u>by Carriage Gate Homes (Mountain Garden) Inc., Owner</u>, to establish a draft plan of condominium (Common Elements Condominium) to create a condominium road and sidewalk, visitor parking areas, and landscaped areas, for 46 freehold townhouse dwelling units, on lands located at 70 Highgate Drive (Stoney Creek), known legally as Block 65, Registered Plan 62M-1141 (Mountain Garden), as shown on the attached location map marked as Appendix "A" to Report PED12127, subject to the following conditions:

- (i) That this approval shall apply to the plan, prepared by A.T. McLaren Limited and certified by S.D. McLaren, O.L.S., dated April 16, 2012, showing the common elements, attached as Appendix "B" to Report PED12127.
- (ii) That the Final Plan of Condominium shall comply with all of the applicable provisions of Zoning By-law No. 3692-92.

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- (iii) That the final plan of condominium shall comply, in all respects, with the approved Site Plan (DA-11-077), to the satisfaction of the Director of Planning.
- (iv) That the owner shall receive final approval of a Part Lot Control Application, including the enactment and registration on title of the Part Lot Control Exemption By-law, to the satisfaction of the Director of Planning.
- (v) That the owner shall enter into a Development Agreement to ensure that the tenure of each of the proposed 46 freehold units has legal interest, in common, to the Common Elements Condominium, to the satisfaction of the City Solicitor.
- (vi) That the owner shall include the following warning clauses in the Development Agreement and all Purchase and Sale Agreements, and any rental or lease agreements required for occupancy:
 - (a) "Purchasers are advised that the City of Hamilton will not be providing maintenance or snow removal service for the private condominium road and sidewalk."
 - (b) "That the home/business mail delivery will be from a designated Centralized Mail Box."
 - (c) "That the developers/owners will be responsible for officially notifying the purchasers of the exact Centralized Mail Box locations prior to the closing of any home sales."
 - (d) "On-street, public parking in the surrounding neighbourhood is limited and cannot be guaranteed in perpetuity. Garage space for this unit is provided and intended for the purposes of parking a vehicle. It is the owner's responsibility to ensure that their parking needs can be accommodated."
- (vii) That the owner shall agree to:
 - (a) Work with Canada Post to determine and provide temporary suitable Centralized Mail Box locations, which may be utilized by Canada Post, until the curbs, boulevards, and sidewalks are in place in the remainder of the subdivision.
 - (b) Install a concrete pad in accordance with the requirements of, and in locations to be approved by, the Senior Director of Growth Management and Canada Post, to facilitate the placement of Community Mail Boxes.

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 - (c) Identify the pads above on the engineering servicing drawings. Said pads are to be poured at the time of the sidewalk and/or curb installation within each phase.
 - (d) Determine the location of all centralized mail receiving facilities in cooperation with the Senior Director of Growth Management and Canada Post, and indicate the location of centralized mail facilities on appropriate maps, information boards, and plans. Maps are also to be prominently displayed in the sales office(s) showing specific Centralized Mail Facility locations.
- (viii) That prior to occupancy, the owner shall agree to register an easement for drainage purposes over Block 65 of Registered Plan of Subdivision, 62M-1141, in favour of the future Condominium Corporation, to the satisfaction of the Senior Director of Growth Management.
- (ix) 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.
- (x) That the owner/developer shall provide to Union Gas Limited the necessary easements and/or agreements required by Union Gas Limited for the provision of gas services for this project, in a form satisfactory to Union Gas Limited.
- (xi) That the owner shall satisfy all conditions, financial or otherwise, of the City of Hamilton.

EXECUTIVE SUMMARY

The purpose of the application is to establish a draft plan of condominium (Common Elements Condominium) for a 46 unit, freehold townhouse development (see Appendix "B"). The proposed draft plan of condominium has merit and can be supported, since it is consistent with the Provincial Policy Statement, conforms to the Hamilton-Wentworth Official Plan and the City of Stoney Creek Official Plan, complies with Zoning By-law No. 3692-92, and implements the Registered Plan of Subdivision 62M-1141 (see Appendix "C") and Site Plan Control application DA-11-077 (see Appendix "D").

Alternatives for Consideration - See Page 12.

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

- Financial: N/A.
- Staffing: N/A.
- Legal: As required under the <u>Planning Act</u>, Council shall hold at least one (1) Public Meeting to consider an application for a Draft Plan of Condominium (Common Elements Condominium).

HISTORICAL BACKGROUND (Chronology of events)

<u>Chronology</u>

- <u>September 19, 2011</u>: Submission of Draft Plan of Condominium Application 25CDM-201113 by IBI Group on behalf of the owner, Carriage Gate Homes Inc.
- October 18, 2011: Application 25CDM-201113 deemed incomplete.
- October 27, 2011: Application 25CDM-201113 deemed complete.
- <u>November 4, 2011</u>: Circulation of Notice of Complete Application and Preliminary Circulation for Application 25CDM-201113 to all residents within 120 metres of the subject lands.
- November 10, 2011: Public Notice sign posted on the subject lands.
- <u>June 22, 2012</u>: Circulation of Notice of Public Meeting to all residents within 120 metres of the subject lands and all residents who provided written comments.

<u>Proposal</u>

The purpose of the application is to establish a draft plan of condominium (Common Elements Condominium) to create the following common elements: a condominium road and sidewalk; a 19 space visitor parking area; and, landscaped areas for 46 freehold townhouse dwelling units, as shown on the attached plan marked as Appendix "B". The condominium road will provide access to Highgate Drive. The 46 lots, with associated easements, will be created through a future Part Lot Control Application.

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Previous Applications

Site Plan Control Application DA-11-077:

Site Plan Control Application DA-11-077 was conditionally approved on October 5, 2011. The application was final approved on April 12, 2012 (see Appendix "D").

Draft Plan of Subdivision Application 25T-200722 "Mountain Garden":

The plan of subdivision known as "Mountain Garden" was draft approved on February 11, 2009. The subdivision was registered on June 25, 2010, as Registered Plan 62M-1141, as shown on Appendix "C". The subject lands, Block 65, were approved for a medium density block for townhouses.

Official Plan Amendment Application OPA-07-032:

On December 10, 2008, Council approved OPA No. 143 to the City of Stoney Creek Official Plan to redesignate the lands from "Elementary School" to "Medium Density Residential" to permit the development of townhouse dwelling units.

Zoning By-law Amendment Application ZAC-07-10:

On December 10, 2008, Council approved By-law No. 08-293 to rezone the lands contained within the limits of the Draft Plan of Subdivision to permit single detached and townhouse dwelling units. The subject lands were rezoned from Neighbourhood Development "ND" Zone to a site-specific Multiple Residential "RM3-35" Zone to permit the development of townhouse dwelling units.

Details of Submitted Application

Location:	70 Highgate Drive (see Appendix "A") Block 65, Registered Plan 62M-1141	
Owner/Applicant:	Carriage Gate Homes (Mountain Garden) Inc. (N. Carnicelli)	
<u>Agent</u> :	IBI Group (J. Ariens)	
Property Description:	Lot Frontage:	12.8 metres
	Lot Area:	1.12 hectares
	Servicing:	Full Municipal Services

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EXISTING LAND USE AND ZONING:

	Existing Land Use	Existing Zoning	
Subject Lands:	Vacant	Multiple Residential "RM3-35" Zone	
Surrounding Land Uses:			
North	Neighbourhood Park (Cline Park)	Neighbourhood Park (P1) Zone	
South	Street Townhouse Dwellings	Multiple Residential "RM2-16" Zone	
East	Cline Cemetery	Open Space (P4) Zone	
	Street Townhouse Dwellings	Multiple Residential "RM2-22" Zone	
West	Single Detached Dwellings	Residential "R4-23" Zone	

POLICY IMPLICATIONS

Provincial Policy Statement

The Provincial Policy Statement (PPS) provides policy direction of provincial interest related to land use planning and development. The <u>Planning Act</u> 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 policies that focus growth in Settlement Areas (Policy 1.1.3.1).

Policy 1.7.1(e) outlines that long term economic prosperity will be supported by planning so the major facilities (such as transportation corridors) 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.

Staff notes that a noise study, titled "Mountain Garden Acoustical Study", prepared by IBI Group and dated October, 2009, was prepared for the Mountain Garden Subdivision (25T-200722). The noise study was reviewed and approved by City staff, whereby it was concluded that there were no concerns related to noise for the subject lands (Block 65).

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Based on the foregoing, the application is consistent with the policies of the Provincial Policy Statement.

Hamilton-Wentworth Official Plan

The subject property is designated "Urban Area" in the Hamilton-Wentworth Official Plan. Policy C-3.1 outlines that a wide range of uses, defined through Area Municipal Official Plans and based on full municipal services, will be concentrated in the Urban Areas. Urban Areas are intended to accommodate approximately 96% of new residential housing units in the Region to the year 2020.

The proposal conforms to the policies of the Hamilton-Wentworth Official Plan, as it proposes residential development located within the "Urban Area" and will be on full municipal services.

City of Stoney Creek Official Plan

The subject lands are designated "Residential" on Schedule "A" - General Land Use Plan and "Medium Density Residential" on Schedule "A3" - Secondary Plan West Mountain Planning District (Heritage Green).

The proposed freehold townhouse units conform to the "Residential" and "Medium Density Residential" policies of the Stoney Creek Official Plan. Therefore, the proposed Draft Plan of Condominium to establish a common element road and sidewalk, visitor parking area, and landscaped area conforms to the policies of the Official Plan.

Highland Neighbourhood Plan

The subject lands are identified as "Medium Density Residential". The proposed condominium implements this designation and, therefore, conforms to the Highland Neighbourhood Plan.

Urban Hamilton Official Plan

The Urban Hamilton Official Plan was adopted by Council on July 9, 2009, and was approved, with modifications, by the Ministry of Municipal Affairs and Housing on March 16, 2011. A number of appeals have been filed with the Ontario Municipal Board (OMB); therefore, the plan is not yet in effect. It is prudent and part of natural justice to identify any changes to the Urban Hamilton Official Plan as part of the public notice in the staff report and notice of adoption.

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The subject lands are designated "Neighbourhoods" on Schedule "E" - Urban Structure and Schedule "E-1" - Urban Land Use Designations, and "Institutional - Elementary School" on Map B.7.6-1 - West Mountain Area (Heritage Green) Secondary Plan Land Use Plan.

It is noted that when the Urban Hamilton Official Plan was adopted by Council in July 2009, the land use changes approved in January 2009, under Stoney Creek Official Plan Amendment No. 143, were not carried forward to the Urban Hamilton Official Plan. Accordingly, this error will be corrected in the future through additional amendments to the Urban Hamilton Official Plan.

RELEVANT CONSULTATION

The following Departments and Agencies had no comments or objections:

- Traffic Engineering Section, Public Works Department.
- Niagara Peninsula Conservation Authority.
- Hydro One Networks Inc.

The following Departments and Agencies submitted comments:

Hamilton Municipal Parking System (HMPS) provided comments at the Site Plan Control stage that expressed concerns related to the reduction in visitor parking spaces granted by Minor Variance Application SC/A-10:303. HMPS requested that the following warning clause be included in both the Undertaking on the Site Plan and in the Condominium Agreement:

"On-street, public parking in the surrounding neighbourhood is limited and cannot be guaranteed in perpetuity. Garage space for this unit is provided and intended for the purposes of parking a vehicle. It is the owner's responsibility to ensure that their parking needs can be accommodated."

Accordingly, staff has included the above as Condition (vi)(d) of the recommendation.

<u>Canada Post</u> has advised that this development will receive mail service to centralized mail facilities provided through their Community Mailbox Program. Canada Post requires that the owner shall complete, to the satisfaction of the City's Director of Engineering and Canada Post:

a) Include on all offers of purchase and sale, a statement that advises the prospective purchaser:

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 - (i) That the home mail delivery will be from a designated Centralized Mail Box.
 - (ii) 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.
- b) The owner further agrees to:
 - (i) Work with Canada Post to determine and provide temporary suitable Centralized Mail Box locations, which may be utilized by Canada Post, until the curbs, boulevards, and sidewalks are in place in the remainder of the subdivision.
 - (ii) Install a concrete pad in accordance with the requirements of, and in locations to be approved by, Canada Post, to facilitate the placement of Community Mail Boxes.
 - (iii) Identify the pads above on the engineering servicing drawings. Said pads are to be poured at the time of the sidewalk and/or curb installation.
 - (iv) Determine the location of all centralized mail receiving facilities in co-operation with Canada Post, and to indicate the location of the centralized mail facilities on appropriate maps, information boards, and plans. Maps are also to be prominently displayed in the sales office(s) showing specific Centralized Mail Facility locations.

The conditions requested by Canada Post are included in Conditions (vi)(b), (vi)(c) and (vii) of the recommendation.

<u>Union Gas Limited</u> requested that the owner/developer provide to Union Gas, the necessary easements and/or agreements required for the provision of gas services for this project, in a form satisfactory to Union Gas Limited.

Accordingly, staff has included the above condition as Condition (x) of the recommendation.

Bell Canada has advised that a detailed review of the Draft Plan of Condominium has been completed, and has requested that the owner shall agree in the Agreement, in words satisfactory to Bell Canada, to grant to Bell Canada any easements that may be required for telecommunication services. Easements may be required subject to final servicing decisions. In the event of any conflict with existing Bell Canada facilities or

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easements, the owner/developer shall be responsible for the relocation of such facilities or easements.

Accordingly, staff has included the above standard condition with respect to Telecommunications as Condition (ix) of the recommendation.

Public Consultation

In accordance with the new provisions of the <u>Planning Act</u> and Council's Public Participation Policy, 140 Notices of Complete Application and Preliminary Circulation were sent to property owners within 120 metres of the subject property on November 4, 2011. Furthermore, a Public Notice Sign was posted on the property on November 10, 2011.

Finally, Notice of the Public Meeting was given in accordance with the requirements of the <u>Planning Act</u>. To date, no public comments have been received pertaining to the proposed Draft Plan of Condominium.

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 policies of the Provincial Policy Statement.
 - (ii) It conforms with the "Urban Area" designation of the Hamilton-Wentworth Official Plan.
 - (iii) It conforms with the "Residential" designation of the City of Stoney Creek Official Plan and the "Medium Density Residential" designation of the Secondary Plan West Mountain Planning District (Heritage Green).
 - (iv) It is consistent with and implements the designations and design of the Highland Neighbourhood Plan.
 - (v) The proposal is consistent with the "Neighbourhoods" designation of the new Urban Hamilton Official Plan. It is noted that when the Urban Hamilton Official Plan was adopted by Council in July 2009, the land use changes approved in January 2009, in Stoney Creek OPA 143, were not carried forward. This error will be corrected in the future through additional amendments to the Urban Hamilton Official Plan and,

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accordingly, the proposal is, in principle, consistent with the policies of the West Mountain Area (Heritage Green) Secondary Plan.

- (vi) The proposed Draft Plan of Condominium complies with the site-specific Multiple Residential "RM3-35" Zone, which permits the development of these lands for townhouse dwelling units, as established through City of Hamilton Zoning By-law No. 08-293.
- 2. The proposed Draft Plan of Condominium has been subject to a comprehensive review through the "Mountain Garden" Subdivision, Registered Plan 62M-1141; Zoning and Official Plan Amendment Files ZAC-07-106 and OPA-07-032; and, through Site Plan Control Application DA-11-077. The land use has, therefore, been established and, accordingly, the technical requirements have been addressed through the Site Plan Application and the respective conditions.
- 3. Development Engineering has reviewed the subject application and advises the applicant of the required minor "redline" to clearly label the easement to be registered in favour of the condominium over the freehold townhouse lots for future maintenance, access, and construction.

In addition, they have also commented with respect to inclusion of the required Special Condition for the associated Site Plan Application DA-11-077. The requested condition was included in the letter of approval for DA-11-077, as approved by the Manager of Development Planning on October 5, 2011.

- 4. Recreation services commented with respect to including pedestrian connections to Cline Park. Due to grading and construction constraints, there was limited opportunity for a sidewalk. However, staff has secured sidewalks on the south and east sides of the interior condominium block providing for a general connection to Highgate Drive and Cline Park, as shown on the final approved Site Plan (see Appendix "D").
- 5. Hamilton Street Railway has similarly requested pedestrian connections to Highgate Drive. As mentioned above, due to constraints, there was limited opportunity for sidewalk connections. However, staff has secured a general connection to Highgate Drive through the sidewalks along the interior condominium block, as shown on the approved Site Plan (see Appendix "D").

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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 (Common Elements Condominium) not be approved, the applicant/owner could only operate the development as a standard block condominium development. It is noted that an application for a standard condominium would be required to facilitate the above alternative.

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.

Social Development

• Everyone has a home they can afford that is well maintained and safe.

Environmental Stewardship

• Natural resources are protected and enhanced.

Healthy Community

- Plan and manage the built environment.
- Adequate access to food, water, shelter and income, safety, work, recreation and support for all (Human Services).

APPENDICES / SCHEDULES

- Appendix "A": Location Map
- Appendix "B": Proposed Draft Plan of Condominium
- Appendix "C": Registered Plan of Subdivision, 62M-1141
- Appendix "D": Final Approved Site Plan Control Application DA-11-077

:AC Attachs. (4)

Appendix "A" to Report PED12127 (Page 1 of 1)



Appendix "B" to Report PED12127 (Page 1 of 1)



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