

**Recommended Conditions of Draft Plan of Condominium Approval**

That this approval for the **Draft Plan of Condominium Application 25CDM-201706, by A.J. Clarke & Associates, on behalf of Marz Homes (Garner) Inc., Owner,** to establish a Draft Plan of Condominium (Common Element) to create a condominium road network, sidewalks and pedestrian pathway, landscaped areas, 56 visitor parking spaces, and centralized mailboxes, on lands located at 961 to 989 Garner Road East (Ancaster), be received and endorsed by City Council with the following special conditions:

1. That the final Plan of Condominium shall comply with all of the applicable provisions of the Town of Ancaster Zoning By-law No. 87-57, as amended by By-law No. 16-068, or in the event the City of Hamilton has repealed and replaced the Town of Ancaster Zoning By-law No. 87-57 with By-law No. 05-200, the final Plan of Condominium shall comply with all of the applicable provisions of the Zoning By-law in force and effect at the time of registration of the Draft Plan of Condominium.
2. That the subject lands be developed in accordance with the approved Site Plan Control Application DA-16-129 and that the final Plan of Condominium complies with the approved Site Plan, to the satisfaction of the Director of Planning and Chief Planner.
3. That the owner shall receive final approval of Part Lot Control Application PLC-18-014, including the enactment and registration on title of the associated Part Lot Control Exemption By-law, to the satisfaction of the Director of Planning and Chief Planner.
4. That the owner shall enter into a Development Agreement to ensure that the tenure of each of the proposed maisonette and townhouse dwellings having frontage on the condominium road has legal interest, in common, to the common elements condominium, to the satisfaction of the City Solicitor.
5. That the owner shall agree to include the following in all Purchase and Sale Agreements and Rental or Lease Agreements and in the Development Agreement, to the satisfaction of the Senior Director of Growth Management:
  - (i) Purchasers are advised that the City of Hamilton will not be providing maintenance or snow removal service for the private condominium road. In addition, City Waste Management services may not be available to residents and that the provision of such services may require agreements with private contractors.
  - (ii) Garages are provided for the purpose of parking a vehicle. It is the responsibility of the owner / tenant to ensure that their parking needs (including those of visitors) can be accommodated onsite. On-street, overflow parking may not be available and cannot be guaranteed in perpetuity.

- (iii) Block 1 shall accept emergency overland flow from Block 4 (freehold townhouses) to the north which front onto Beasley Grove.
  - (iv) Block 1 shall accept the external drainage from the adjacent property to the west including the overland flow route through the condominium roads.
  - (v) The Condo Corporation is responsible for the maintenance of all infrastructures, noise walls, overland flow route, including services within the 12m easement between part 20 and the western property limit.
  - (vi) The home mail delivery will be from a Community Mail Box.
6. That the owner will be responsible for officially notifying the purchasers of the exact Community Mail Box locations, to the satisfaction of Senior Director of Growth Management and Canada Post prior to the closing of any home sales.
  7. That the owner work with Canada Post to determine and provide temporary suitable Community 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, to the satisfaction of the Senior Director of Growth Management.
  8. That the owner 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.
  9. That the owner identify the concrete pads for the Community Mail Boxes on the engineering / servicing drawings. Said pads are to be poured at the time of the sidewalk and / or curb installation within each phase, to the satisfaction of the Senior Director of Growth Management.
  10. That the owner determine the location of all mail receiving facilities in co-operation with the Senior Director of Growth Management and Canada Post, and to indicate the location of mail facilities on appropriate maps, information boards, and plans. Maps are also to be prominently displayed in the sales office(s), showing specific mail facility locations.
  11. That the owner shall agree to include the following in all Purchase and Sale Agreements and Rental or Lease Agreements and in the Condominium Declaration, as described in the report titled "Noise Feasibility Study, Garner Estate, Hamilton, Ontario, prepared for Marz Homes (Garner) Inc." dated July 24, 2014, and addendum noise impact study titled "Addendum Letter – Noise Feasibility Study, Marz Homes, Cortland, Garner Road East, Hamilton, Ontario" dated November 26, 2015 to the satisfaction of the Director of Planning and Chief Planning:

(i) Buildings 6 and 17:

*Warning Clause "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 occasion interfere with some activities of the dwelling occupants as the sound levels exceed the City of Hamilton's and the Ministry of the Environment and Climate Change."

*Warning Clause "C"*

"This dwelling unit has been designed with the provision for adding central air conditioning at the occupant's discretion. Installation of central air conditioning by the occupant in low and medium density developments will allow windows and exterior doors to remain closed, thereby ensuring that the indoor sound levels are within the sound level limits of the Municipality and the Ministry of the Environment and Climate Change."

*Warning Clause "E"*

"Purchasers / tenants are advised that due to the proximity of the adjacent commercial retail facilities, noise from the facilities may at time be audible."

(ii) Buildings 18 and 19

*Warning Clause "A":*

"Purchasers / tenants are advised that sound levels due to increasing road traffic may occasionally interfere with some activities of the dwelling occupants as the sound levels exceed the sound level limits of the Municipality's and the Ministry of the Environment and Climate Change."

*Warning Clause "C"*

"This dwelling unit has been designed with the provision for adding central air conditioning at the occupant's discretion. Installation of central air conditioning by the occupant in low and medium density developments will allow windows and exterior doors to remain closed, thereby ensuring that the indoor sound levels are within the sound level limits of the Municipality and the Ministry of the Environment and Climate Change."

*Warning Clause "E"*

"Purchasers / tenants are advised that due to the proximity of the adjacent commercial retail facilities, noise from the facilities may at time be audible."

12. That the owner / developer ensure the following wording is included in the associated Condominium Declaration to the satisfaction of the Senior Director of Growth Management:
  - (i) The Corporation shall maintain and repair the Common Elements at its own expense. The Corporation shall also maintain and repair all utilities (including without limitation, water mains, storm and sanitary sewers, catch basins, and fire hydrants) which services more than one Parcel of Tied Land (POTL), whether located within the Common Elements or wholly or partly within the POTL and the Corporation and its designated agents shall have full access to a POTL to carry out its obligation pursuant to this paragraph. If the Corporation is required to maintain or repair any utility or service on a POTL, the Corporation shall only be responsible to return the POTL to its original stage and shall not be responsible to repair or replace, or to correct any upgrade or improvement performed or added to the POTL by the POTL owner.
13. That Blocks 6 and 11 on the future 62M Plan of the Cortland Plan of Subdivision (application 25T-201502 (being the Cortland Plan of Subdivision), which has been dedicated to the City of Hamilton for the purposes of a temporary turning circle, be transferred to the future Common Elements Condominium Corporation as a freehold parcel for the purchase price of \$1.00 (and the future Common Element Condominium Corporation shall be required to purchase said Blocks 6 and 11 on these terms) when the temporary turning circle is no longer required and Beasley Grove can be extended westerly, to the satisfaction of the Senior Director of Growth Management.
14. That the owner shall satisfy all conditions, financial or otherwise, of the City of Hamilton.

#### NOTES TO DRAFT PLAN APPROVAL

- 1) Pursuant to Section 51(32) of the *Planning Act*, draft approval shall lapse if the plan is not given final approval within three years. However, extensions will be considered if a written request is received before the draft approval lapses.