



CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Planning Division

TO:	Chair and Members Planning Committee
COMMITTEE DATE:	September 4, 2018
SUBJECT/REPORT NO:	Application for Approval of a Draft Plan of Condominium (Common Element) for Lands Located at 961 and 989 Garner Road East (Ancaster) (PED18189) (Ward 12)
WARD(S) AFFECTED:	Ward 12
PREPARED BY:	Melanie Schneider (905) 546 - 2424 Ext. 1224
SUBMITTED BY:	Steve Robichaud Director, Planning and Chief Planner Planning and Economic Development Department
SIGNATURE:	

RECOMMENDATION

That **Draft Plan of Condominium Application 25CDM-201706, by A.J. Clarke & Associates Inc., 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 and 989 Garner Road East (Ancaster), as shown on Appendix "A", attached to Report PED18189, be **APPROVED** subject to the following conditions:

- (a) That the approval for Draft Plan of Condominium (Common Element) Application 25CDM-201706 applies to the plan prepared by A.J. Clarke & Associates, Ltd., certified by B. J. Clarke, and dated October 13, 2017, consisting of a condominium road network, sidewalks and pedestrian pathway, landscaped areas, 56 visitor parking spaces, and centralized mailboxes, in favour of 38 maisonette and 73 townhouse dwelling units, attached as Appendix "B" to Report PED18189;
- (b) That the conditions of Draft Plan of Condominium Approval 25CDM-201706, attached as Appendix "C" to Report PED18189, be received and endorsed by City Council.

EXECUTIVE SUMMARY

The purpose of the application is to establish a Draft Plan of Condominium (Common Element) to create the following common elements: a private condominium road network, sidewalks and pedestrian pathway, landscaped areas, 56 visitor parking spaces, and centralized mailboxes in favour of 38 maisonettes and 73 townhouse dwelling units, as approved under conditionally approved Site Plan Control Application DA-16-129. The condominium road will provide access to Garner Road East. The subject lands are to be developed as maisonette and townhouse units fronting onto a private condominium road network, by way of Part Lot Control Application PLC-18-014, currently being processed.

The proposed Draft Plan of Condominium conforms to the Town of Ancaster Zoning By-law No. 87-57, as amended by By-laws No. 16-068 and Minor Variance Application AN/A-17:78. Further, it is consistent with and will implement the final approved Site Plan Control Application DA-16-129.

The proposed Draft Plan of Condominium has merit and can be supported as it is consistent with the Provincial Policy Statement (PPS), conforms to the Growth Plan for the Greater Golden Horseshoe, and complies with the Urban Hamilton Official Plan (UHOP).

Alternatives for Consideration – See Page 10

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: N/A

Staffing: N/A

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

HISTORICAL BACKGROUND

Proposal:

The purpose of the application is to establish a Draft Plan of Condominium (Common Element) to create the following common elements: a private condominium road network, sidewalks and pedestrian pathway, landscaped areas, 56 visitor parking spaces, and centralized mailboxes in favour of 38 maisonettes and 73 townhouse dwelling units, as approved under conditionally approved Site Plan Control Application

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DA-16-129, attached as Appendix "B" to Report PED18189. The condominium road will provide access to Garner Road East.

Chronology:

June 5, 2017: Condominium Application 25CDM-201706 is deemed complete.

June 20, 2017: Circulation of Notice of Complete Application and Preliminary Circulation for Condominium Application 25CDM-201706 sent to 25 property owners within 120 m of the subject lands.

June 26, 2017: Public Notice Sign placed on the subject lands.

August 8, 2018: Public Notice Sign updated to indicate Public Meeting date.

August 17, 2018: Notice of Public Meeting circulated to 25 property owners within 120 m of the subject lands.

Details of Submitted Application:

Location: 961 and 989 Garner Road East (Ancaster)
(See Location Map attached as Appendix "A" to Report PED18189)

Owner / Applicant: Marz Homes (Garner) Inc.

Agent: A.J. Clarke & Associates Ltd., c/o Stephen Fraser

Property Description: Lot Frontage: 145.78 m (Garner Road East)

Lot Depth: 183.06 m

Lot Area: 2.33 ha

Servicing: Full Municipal Services

EXISTING LAND USE AND ZONING

	<u>Existing Land Use</u>	<u>Existing Zoning</u>
<u>Subject Lands:</u>	Vacant	Residential Multiple “RM2-670” Zone, Modified and Residential Multiple “RM2-669” Zone, Modified
<u>Surrounding Lands:</u>		
North	Street townhouse dwellings and vacant lands	Residential Multiple “RM2-615” Zone, Modified and Agricultural “A” Zone
South	Landscape Business and a single detached dwelling	Rural (A2, 280) Zone and Rural (A2) Zone
East	Vacant	Residential Multiple “RM5-668” Zone, Modified and Residential Multiple “RM2-667” Zone, Modified
West	Agriculture	Agricultural “A” Zone

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

Provincial Policy Statement (PPS 2014):

The Provincial planning policy framework is established through the *Planning Act* (Section 3), Provincial Policy Statement (PPS 2014), and the Growth Plan for the Greater Golden Horseshoe (2017). The *Planning Act* requires that all municipal land use decisions affecting planning matters be consistent with the PPS.

The mechanism for the implementation of the Provincial plans and policies is through the Official Plan. Through the preparation, adoption and subsequent Ontario Municipal Board approval of the City of Hamilton Official Plans, the City of Hamilton has established the local policy framework for the implementation of the Provincial planning policy framework.

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As the application for a Draft Plan of Condominium complies with the UHOP and based on a review of the proposal, it is staff's opinion that the application is:

- consistent with Section 3 of the *Planning Act*,
- consistent with the Provincial Policy Statement (2014); and,
- conforms to the Growth Plan for the Greater Golden Horseshoe (2017).

Urban Hamilton Official Plan (UHOP):

The subject lands are designated "Neighbourhoods" on Schedule "E-1" – Urban Land Use Designations and as "Low Density Residential 3b" on Map B.2.6-1 – Meadowlands Neighbourhood IV Secondary Plan. A small portion of the lands are designated "Low Density Residential 2b" and "Site Specific Policy – Area I". The following policies, amongst others, apply to the application.

"B.3.6.3.1 Development of noise sensitive land uses, in the vicinity of provincial highways, parkways, minor or major arterial roads, collector roads, truck routes, railway lines, railway yards, airports, or other uses considered to be noise generators shall comply with all applicable provincial and municipal guidelines and standards."

The subject lands are adjacent to Garner Road East, which is identified as a Major Arterial Road on Schedule "C" – Functional Road Classification of the UHOP. Accordingly, the applicants have submitted a noise impact study and addendum, titled "Noise Feasibility Study, Garner Estate, Hamilton, Ontario, prepared for Marz Homes (Garner) Inc." dated July 24, 2014, and "Addendum Letter – Noise Feasibility Study, Marz Homes, Cortland, Garner Road East, Hamilton, Ontario" dated November 26, 2015 in support of the application. Condition No. 11 in Appendix "C" to Report PED18189 has been included in order to implement the recommendations for noise warning clauses.

Based on the foregoing and subject to the proposed conditions of Draft Plan Approval, the proposal complies with Volume 1 of the Urban Hamilton Official Plan.

Meadowlands IV Neighbourhood Secondary Plan

The subject lands are designated "Low Density Residential 3b" in the Meadowlands Neighbourhood IV Secondary Plan. In addition, a small portion of the lands are designated "Low Density Residential 2b" and "Site Specific Policy – Area I" in the Meadowlands Neighbourhood IV Secondary Plan. The following policies, amongst others, apply.

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“B.2.6.1.4 Notwithstanding Section E.3.4.3 and E.3.4.4 of Volume 1, the following policies shall apply to the Low Density Residential designations identified on Map B.2.6-1 – Meadowlands Neighbourhood IV – Land Use Plan:

- a) In the Low Density Residential 2b designation:
 - i) the density shall be approximately 1 to 30 units per net residential hectare;
 - ii) predominantly single detached dwellings, duplex and semi-detached dwellings shall be permitted; and,
 - iii) generally located at the interior of residential neighbourhoods adjacent to local and/or collector roads.
- b) In the Low Density Residential 3b designation:
 - i) the density shall be a maximum of 50 units per net residential hectare;
 - ii) predominantly town house dwellings and innovative attached housing dwelling forms shall be permitted; and,
 - iii) generally located at the periphery of residential neighbourhoods adjacent to or close to arterial and/or collector roads.

B.2.6.8.9 For the lands located at 961 – 989 Garner Road East, and identified on Map B.2.6-1 – Meadow Lands Neighbourhood IV – Land Use Plan as Site Specific Policy – Area I, the following shall apply:

- a) For those lands designated as “Low Density Residential 2b”:
 - i) Street townhouse units shall be permitted; and,
 - ii) The maximum density shall be 50 units per net residential hectare.”

The proposed Draft Plan of Condominium proposes to establish common elements in favour of 38 maisonette and 73 townhouse dwelling units, providing for a density of 46.25 units per hectare on the subject lands, including the proposed walkway connection at the northwest corner of the lands.

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Based on the foregoing, the proposal complies with the Meadowlands Neighbourhood IV Secondary Plan.

Ancaster Zoning By-law No. 87-57

The subject lands are zoned Residential Multiple “RM2-669” Zone, Modified and Residential Multiple “RM2-670” Zone, Modified, in the Town of Ancaster Zoning By-law No. 87-57, as amended by By-law No. 16-068 and varied by Minor Variance Application AN/A-17:78.

By-law No. 16-068 permits multi-plex dwellings and block townhouses within the “RM2-670” Zone, Modified and street townhouses within the “RM2-669” Zone, Modified. The portion of lands subject to the “RM2-669” Zone, Modified does not contain any units, but proposes a walkway connection to the public right of way for Beasley Grove.

Minor Variance Application AN/A-17:78 permitted a reduction of front yard setback from 4.5 metres to 3.0 metres, deemed street townhouse dwellings fronting onto a private road to be block townhouse dwellings, deemed private roads to be public streets for the purposes of the Zoning By-law, permitted driveway parking spaces appurtenant to a multi-plex dwelling, and deemed the limits of the whole development as lot lines instead of individual properties fronting onto a private road.

Since the proposal is to establish common elements in favour of block townhouses and maisonette dwelling units, the proposal conforms to the Ancaster Zoning By-law No. 87-57, as amended by By-law No. 16-068 and varied by Minor Variance Application AN/A-17:78.

Site Plan Control Application DA-16-129 was granted Conditional Approval on September 12, 2016 and received an approval extension up to September 18, 2018. Condition Nos. 1 and 2 of Appendix “C” to Report PED18189 have been included to ensure the proposal is developed in accordance with these approvals.

RELEVANT CONSULTATION

The following departments and agencies had no comments or objections:

- Forestry and Horticulture Section, Public Works Department;
- HSR;
- Hydro One Inc.; and,
- Strategic Planning Division, Public Works Department.

Canada Post Corporation noted that mail delivery services will be provided to the condominium through centralized mail facilities (Lock Bock Assembly) to be installed

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within the common element at the developer's expense. Canada Post requests updates if the project description changes in order to assess if there are any impacts. If the application is approved Canada Post requires notification of the civic address as soon as possible. The centralized mail box location has been determined through the approved Site Plan Control Application DA-16-129. Further, the requested conditions have been addressed through Condition Nos. 5 (vi), and 6 to 10, inclusive in Appendix "C" to Report PED18189.

Transportation Planning Section, Planning and Economic Development Department have advised that details including driveway access design, pavement markings, turn lane design, External Works Agreement, roadway widths, and sidewalk designs need to be resolved prior to approval. Staff note that these comments are addressed through Site Plan Control Application DA-16-129 and Draft Plan of Subdivision Application 25T-201502.

Recreation Section, Recreation and Community Services Department have reviewed the application and recommended that a public pedestrian connection be provided from the development to nearby neighbourhood facilities, including the Ancaster Meadows Neighbourhood Park and the public school next door. Staff note that a pedestrian pathway is proposed at the north westerly portion of the lands and forms part of the common element. Details regarding the pathway design are addressed through Site Plan Control Application DA-16-129.

PUBLIC CONSULTATION

In accordance with the provisions of the *Planning Act* and Council's Public Participation Policy, Notices of Complete Application and Preliminary Circulation were sent to 25 property owners within 120 m of the subject property on June 20, 2017, requesting comments on the application.

Furthermore, a Public Notice Sign was posted on the property on June 26, 2017 and updated on August 8, 2018 with the Public Meeting date. Finally, Notice of the Public Meeting was given on August 17, 2018, in accordance with the requirements of the *Planning Act*. To date, no submissions from the public have been received.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

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 Growth Plan for the Greater Golden Horseshoe (Places to Grow);
 - (ii) It complies with the policies of the Urban Hamilton Official Plan; and,

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- (iii) The proposal establishes condominium tenure for a form of development permitted under the Town of Ancaster Zoning By-law No. 87-57 as amended by By-law No. 16-068 and varied by Minor Variance Application AN/A-17:78. It will implement the approved Site Plan Control Application DA-16-129, which provides for a form of development that is compatible with surrounding land uses.
2. The proposed Draft Plan of Condominium (Common Element) is comprised of the following common elements: a condominium road network, sidewalks and pedestrian pathway, landscaped areas, 56 parking spaces, and centralized mailboxes, as shown on the attached plan, marked as Appendix “B” to Report PED18189. The private condominium road will provide access to Garner Road East. Thirty-eight (38) maisonette and 73 block townhouse dwelling units will have access from the private condominium road network and will hold an interest in the Common Element Condominium Corporation.
3. The applicant must ensure that the final Plan of Condominium complies with the final approved Site Plan Control Application DA-16-129, conditionally approved on September 12, 2016, to the satisfaction of the Director of Planning and Chief Planner (Condition No. 2 of Appendix “C” to Report PED18189).
4. The land proposed for the common element condominium and the lots for all of the dwelling units will be created through Part Lot Control Application PLC-18-014. In this regard, final approval and registration of the common element condominium cannot occur until such time as the future Part Lot Control Application is approved and the By-law removing the lands from Part Lot Control has been passed by Council (Condition No. 3 of Appendix “C” to Report PED18189). Part Lot Control Application PLC-18-014 is currently under review.
5. The applicant must also enter into a Development Agreement with the City of Hamilton as a condition of Draft Plan of Condominium approval. This Agreement will ensure that the tenure of the proposed common elements (as shown on the Draft Plan of Condominium included in Appendix “B” to Report PED18189) becomes “tied” to the proposed Draft Plan of Condominium. This will have the effect of ensuring that individual townhouse and maisonette lots are not sold until the condominium has been registered as a Common Elements Condominium under the Condominium Act (Condition No. 4 of Appendix “C” to Report PED18189).
6. The proposed condominium road will be privately owned and maintained. As a condition of approval, the applicant must include warning clauses in the Development Agreement and all purchase and sale agreements and rental or lease agreements to advise perspective purchasers that the City of Hamilton will

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not provide maintenance or snow removal and that the provided garages are for parking (including that on-street, overflow parking may not be available and cannot be guaranteed in perpetuity) (Condition Nos. 5 (i) and (ii) of Appendix "C" to Report PED18189).

7. Development Engineering has advised that all issues pertaining to the grading, drainage and servicing have been reviewed as per conditionally approved Site Plan Control Application DA-16-129 and are subject to the terms and conditions therein. Furthermore, Development Engineering has advised that the subject lands will accept emergency overland stormwater flow from the townhouse units fronting onto Beasley Grove and from the lands to the south, through the private road network. In addition, the Condominium Corporation will be required to maintain the Common Elements, including all utilities and noise walls, at their own expense. The above comments have been included as Condition Nos. 5 (iii) to (v), and 12 of Appendix "C" to Report PED18189.
8. A portion of the subject lands is identified as a temporary turning circle for Beasley Grove under the associated Draft Plan of Subdivision under application 25T-201502. Accordingly, in order for the Draft Plan of Condominium to move forward as proposed, the turning circle must be decommissioned and the right of way extended westerly. Staff have included Condition No. 13 of Appendix "C" to Report PED18189 to ensure the right of way is extended prior to finalization of the Condominium.
9. Growth Management staff have advised that the following note be added to the Draft Plan of Condominium Conditions as Note 1 (see Appendix "C" to Report PED18189):

"NOTE: 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."
10. The owner shall satisfy all conditions, financial or otherwise, of the City of Hamilton (Condition No.14 in Appendix "C" to Report PED18189).

ALTERNATIVES FOR CONSIDERATION

Should the proposed Plan of Condominium (Common Element) not be approved, the applicant / owner could develop the lands as a standard block condominium development or as a rental development. A change in tenure from the proposed common element condominium to a standard form condominium would require a new Draft Plan of Condominium application.

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ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN

Community Engagement & Participation

Hamilton has an open, transparent and accessible approach to City government that engages with and empowers all citizens to be involved in their community.

Healthy and Safe Communities

Hamilton is a safe and supportive city where people are active, healthy, and have a high quality of life.

Our People and Performance

Hamiltonians have a high level of trust and confidence in their City government.

APPENDICES AND SCHEDULES ATTACHED

Appendix “A” – Location Map

Appendix “B” – Proposed Draft Plan of Condominium

Appendix “C” – Recommended Conditions of Approval

Appendix “D” – Conditionally Approved Site Plan Control Application DA-16-129

MS:mo