



15 August 2013

Sent via E-mail (clerk@hamilton.ca)

City Council,
City of Hamilton
71 Main Street West, 1st Floor,
Hamilton, ON L8P 4Y5

Attention: Clerk's Office

Dear Mayor and Members of Council:

**Re: Heritage Highlands Corporation - Applications for Official Plan Amendment and Zoning By-law Amendment for Lands Located at 512 Highland Road West (Stoney Creek) (PED13131)
Submission to 16 August 2013 Council Meeting
Item 6.3 (Planning Committee Report)**

We are the solicitors for Dakota Shopping Centres Ltd and SmartCentres Inc. ("SmartCentres"), the owner and developer of a 4.8 hectare neighbourhood commercial site at the southeast corner of Rymal Road East and Dakota Boulevard (the "Dakota Site" or the "Dakota Centre"). The Dakota Site has retail permissions, including a supermarket use of up to 4,650 square metres (approximately 50,000 square feet). The Dakota Site is in close proximity to the property that is the subject of the above-noted applications (the "Heritage Highlands Site").

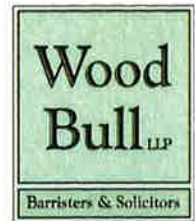
SmartCentres is also the owner and/or developer of numerous other properties in the City of Hamilton (the "City"). Specifically in the Stoney Creek/Glanbrook market areas, in addition to its interest in the Dakota Site, SmartCentres is the development and leasing agent for the Walmart anchored centre at Rymal Road East and Upper Centennial Parkway (the "Hamilton (SE) Walmart Centre"). The Hamilton (SE) Walmart Centre, like the Dakota Centre, is located in close proximity to the Heritage Highlands Site.

We understand that on 16 August 2013, City Council is scheduled to consider Planning Committee's recommendations that the above-noted applications be approved to permit a shopping centre on the Heritage Highlands Site.

Insufficient Notification of Applications

Our clients had understood that the original applications for the Heritage Highlands Site were held in abeyance and had requested City Staff to notify them of any applications and activity with respect to the

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Heritage Highlands Site. Notwithstanding this request, our clients were not provided with notice regarding the above-noted applications and only became aware of the applications late last week.

Our clients have also advised us that, over the past year, they have routinely monitored the City's webpage on Complete Application and Public Meeting Notices for any materials related to the Heritage Highlands Site. They were not aware of any materials on this webpage until this week.

Our clients only learned about the applications last week, and only received the supporting studies for the applications yesterday. Accordingly, our clients and their consultants have not had sufficient time to review the supporting studies and consider the implications of the applications on the Dakota Site and on other sites owned and/or developed by SmartCentres.

Proposed Development of the Heritage Highlands Site

Heritage Highlands Corporation is seeking to develop a commercial shopping centre on the Heritage Highlands Site. The applications propose a shopping centre with a wide range of retail and service commercial uses, including a supermarket. The draft zoning by-law would permit a shopping centre of 19,500 square metres (approximately 210,000 square feet), with a supermarket use of up to 4,000 square metres (approximately 43,000 square feet).

Our clients are concerned that the proposed uses on the Heritage Highlands Site could have a detrimental impact on the planned function of existing and planned commercial centres and designations in the City, including lands owned and/or developed by SmartCentres.

Our clients' Dakota Site is undeveloped to date and is planned for and anticipated to be developed as a neighbourhood commercial centre of approximately 11,000 square metres (approximately 118,000 square feet), including a supermarket use. The Hamilton (SE) Walmart Centre is only partially developed, with over 8,000 square metres (approximately 85,000 square feet) remaining to be developed. Our clients' understanding is that the area is not growing as expected, as a result of insufficient servicing capacity for the planned residential development. This has impacted the ability of the Dakota Centre and the Hamilton (SE) Walmart Centre to develop as planned.

Permitting the Heritage Highlands Site to be developed at this time could further impede the development of the Dakota Site and the Hamilton (SE) Walmart Centre and impact the ability of these two centres to meet their planned function.

It is our clients' submission that the applications to develop a shopping centre on the Heritage Highlands Site requires further consideration both from a planning and market context, particularly with respect to the impact that the proposal could have on the ability of other planned commercial centres to meet their planned function. With over 200,000 square feet of designated, but undeveloped planned commercial space in the Stoney Creek/Glanbrook market areas, our client questions the need at this time to approve



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in excess of another 200,000 square feet of commercial space without further study in consultation with other land owners.

Request of Council

Our clients request that Council defer consideration of the above-noted applications. This would allow our clients and their consultants time to review the applications, consider the implications of the applications on our clients' planned commercial centres, and meet with City staff to discuss their concerns.

Our clients also request notice of any future meetings of Committee and/or Council and any decisions of Committee and/or Council regarding the above-noted applications and any other applications relating to the Heritage Highlands Site.

Should you have any questions or require any further information regarding these submissions, please do not hesitate to contact the writer.

Yours very truly,

Wood Bull LLP

A handwritten signature in black ink, appearing to read "S. Mahadevan".

Sharmini Mahadevan

c. clients