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**BLG**  
 Borden Ladner Gervais

**File No. 028133/000017**

April 11, 2014

**Delivered by Email**

Chair and Members of Planning Committee  
 Clerks Department  
 City of Hamilton  
 71 Main Street West, First Floor  
 Hamilton, ON L8P 4Y5

Attention: Vanessa Robicheau, Legislative Coordinator

Dear Chair and Members of Planning Committee:

**Re: Horizon Utilities Corporation  
 Fruitland-Winona Secondary Plan  
 Planning Committee Meeting April 15, 2014**

As you may be aware, we act for Horizon Utilities Corporation ("Horizon") and have participated in the approval of the Fruitland-Winona Secondary Plan ("Secondary Plan") process. Horizon owns property at 703 Highway No. 8 in Stoney Creek ("Subject Property").

Our client has reviewed the latest staff report dated April 15, 2014, the latest draft Fruitland-Winona Secondary Plan and Official Plan Amendment, attached as Appendix B to Report PED13099(b). Upon review of these documents, our comments and concerns raised in our November 15, 2013 to Planning Committee remain the same. Attached is a copy of our letter for ease of reference.

In addition to comments raised in our November 15, 2013 letter, our client would like further clarification and information on the new proposed policy to be added to sections 7.4.17 and 7.4.14.1(j), (xii), relating to the Air Drainage Analysis Brief. Our client believes this policy is too broad and requires more description in the policies detailing what the scope of the report entails, who prepares such a report and how City staff will evaluate such a report.

In light of the above and to protect our client's property rights, our client is again requesting that Planning Committee consider approving what was before Planning Committee on June 4<sup>th</sup>, 2013 with respect to the Subject Property. Specifically, allowing a maximum height of 6 storeys in the Medium Density Residential 2 Designation and permitting "transportation yards" and "waste



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management facilities" in the "Utilities" designation. In addition, our client would like further clarity and guidance on the requirements of an Air Drainage Analysis Brief.

Thank you again for allowing our client another opportunity to comment on the draft Fruitland-Winona Secondary Plan and Official Plan Amendment. Should you have any questions, do not hesitate to contact the undersigned.

Best regards,

A handwritten signature in black ink, appearing to be 'May Luong', written over a horizontal line.

May Luong, MCIP, RPP

cc: Alissa Mahood, City of Hamilton, Planning & Economic Development  
Joseph Almeida, Horizon Utilities Corp.

TOR01: 5554448: v1

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**File No. 028133/000017**

November 15, 2013

**Delivered by Email**

Chair and Members of Planning Committee  
Clerks Department  
City of Hamilton  
71 Main Street West, First Floor  
Hamilton, ON L8P 4Y5

Attention: Vanessa Robicheau

Dear Chair and Members of Planning Committee:

**Re: Horizon Utilities Corporation  
Fruitland-Winona Secondary Plan  
Statutory Public Meeting November 19, 2013**

As you may be aware, we act for Horizon Utilities Corporation ("Horizon") and have participated in the approval of the Fruitland-Winona Secondary Plan ("Secondary Plan") process. Horizon owns property at 703 Highway No. 8 in Stoney Creek ("Subject Property").

**HISTORY**

As stated above, our client and Borden Ladner Gervais LLP ("BLG") have been participating in the Secondary Plan approval process in an extensive manner with the City of Hamilton Planning staff. Numerous discussions and informal emails have been exchanged between the client and City staff as well as between BLG and City staff with respect to the drafting of the Secondary Plan policies, prior to Council adoption of the Secondary Plan on June 26, 2013. In addition, formal letters were exchanged between BLG and City staff, specifically dated, December 13, 2011 (BLG to City staff); February 28 2012 (response from City staff); April 17, 2012 (BLG meeting with City staff); May 15, 2012 (BLG to City staff); and July 6, 2012 (response from City staff).

On June 4, 2013, the recommendation by Planning staff to Planning Committee was to recommend to Council to approve the Secondary Plan, which was an amendment to both the Regional Municipality of Hamilton-Wentworth Official Plan and the former City of Stoney Creek

Official Plan. The Secondary Plan was approved, with modifications, by Council on June 26, 2013.

Furthermore, on June 4<sup>th</sup>, the Planning report recommended that Council receive the draft Secondary Plan (Official Plan Amendment) to the Urban Hamilton Official Plan ("UHOP") and be held in abeyance until such time as the relevant sections of the UHOP come into force and effect, and at which time, Planning and Economic Development staff be directed and authorized to hold a Statutory Public Meeting to consider the proposed Secondary Plan (Official Plan Amendment) to the UHOP. The UHOP at that time was before the Ontario Municipal Board.

We understand that the UHOP was approved by the Ontario Municipal Board recently and it replaced the Stoney Creek Official Plan, including the Official Amendment for the Fruitland-Winona Secondary Plan that was adopted by Council on June 26<sup>th</sup>. As such, the adopted Secondary Plan has no effect and must be before a new Statutory Public Meeting to bring the Official Plan Amendment into the UHOP.

## REQUEST

We have reviewed the latest draft Secondary Plan which provides some modifications to the June 4<sup>th</sup> draft to Planning Committee and Council's adoption on June 26<sup>th</sup>. At this time, our client continues to support the version that was presented to Planning Committee on June 4<sup>th</sup>, without Council's modifications.

Planning staff's June 4, 2013 version allows for the following permissions at the Subject Property:

- The Subject Property was designated Utilities with Special Policy Area B.
- Utilities designation permits:
  - major facilities, corridors, easements and rights-of-way for utilities and services, such as electric power, natural gas and oil pipelines, telecommunication, storm water management, solid waste management outside Employment Areas, water and wastewater service;
  - municipal works yards outside Employment Areas;
  - parking lots in conjunction with adjacent uses;
  - open space uses such as trails and community gardens;
  - transportation yards;
  - heavy rail corridors and main lines; and,
  - waste management facilities.
- Special Policy Area B permits: In addition to Utilities uses and any use considered as part of the essential operations of a utility, Medium Density Residential 2 designation in accordance with the associated policies and subject to:
  - A Zoning By-law amendment to permit the residential use; and
  - A record of site conditions is submitted prior to or at the time of application.
- The maximum height is 6 storeys.

In the current draft to Planning Committee on November 19, 2013:


- The Subject Property is designated Utilities with Special Policy Area B.
- Utilities designation permits:
  - all the same uses listed in the June 4<sup>th</sup> version, except that transportation yards and waste management facilities are not permitted.
- Special Policy Area B permits: In addition to Utilities uses and any use considered as part of the essential operations of a utility, Medium Density Residential 2 designation in accordance with the associated policies and subject to:
  - A Zoning By-law amendment to permit the residential use; and
  - A record of site conditions is submitted prior to or at the time of application.
- The maximum height is 4 storeys.

In light of the above and to protect our client's property rights, our client is requesting that Planning Committee consider approving what was before Planning Committee on June 4<sup>th</sup> of this year with respect to the Subject Property. Specifically, allowing a maximum height of 6 storeys in the Medium Density Residential 2 Designation and permitting "transportation yards" and "waste management facilities" in the "Utilities" designation.

Furthermore, we kindly ask to be placed on the circulation list to receive any future public/Committee/Council meeting notices regarding this matter, as well as, Committee/Council decisions relating to same.

We thank Planning Committee in advance for your consideration of this request. Should you have any questions, do not hesitate to contact the undersigned.

Best regards,



May Luong, MCIP, RPP

cc: Alissa Mahood, City of Hamilton, Planning & Economic Development  
Joseph Almeida, Horizon Utilities Corp.

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