

July 10, 2015

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VIA EMAIL [clerk@hamilton.ca](mailto:clerk@hamilton.ca)

The City of Hamilton  
Hamilton City Hall  
71 Main Street West  
Hamilton, ON L8P 4W5

**Attention: Rose Caterini**

Dear Ms Caterini:

**Re: Proposed Hamilton Rural Zoning By-law  
57 12 Concession Road East, Freelon, Ontario LOR 1K0 (Fern Brook)**

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We are the solicitors for Fern Brook Resort Inc., the owner and operator of Fern Brook Resort located at 57 12 Concession Road East, Freelon, Ontario (the "Property"). The Property has complex zoning in place with a number of site specific zoning provisions which were implemented through By-law 14-097.

We have reviewed the various draft versions of the proposed Hamilton Rural Zoning By-law, including Appendix B to Report PED13167(c) and are writing to provide comments expressing our client's concern and to seek a resolution to the following issue with the proposed Hamilton Rural Zoning By-law.

Special Exception 248 in Appendix B to Report PED13167(c) lists a number of permitted uses and then subjects those permitted uses to a Holding Provision. It states:

In addition to Section 12.2.1 and Section 12.2.2 and notwithstanding Section 5, on those lands zoned Rural (A2) Zone, identified on Map 16 of Schedule "A" — Zoning Maps and described as part of 57 12th Concession Road East, the following special provisions shall apply:

- a) The following uses shall also be permitted:
  - i) **mobile home park;**
  - ii) clubhouse, accessory to the mobile home park, which may include as ancillary uses to the park, administrative offices, a convenience store, a hotel consisting of

20 suites, a restaurant and tavern, a dining area, games room , fitness and leisure facilities including a pool, hot tub, sauna, showers, and fitness room.

- iii) One manager's suite and two staff apartments, adjacent to the existing clubhouse;
- iv) Maintenance, utility and storage buildings; and,
- v) Facilities for outdoor sports and leisure, including art outdoor pool, hot tub, children's play area, volleyball and tennis courts, and picnic areas.

- b) The use permitted in a) i) above, shall be subject to the removal of Holding Provisions "H9" and "H10". **(Emphasis Mine)**

...

The above clause only subjects the mobile home park use in a) i) to the Holding Provision. This is inconsistent with Holding Provision "H9" found on subsection 249, which applies the Holding Provision to all of the aforementioned uses. This section states:

249. Notwithstanding Section 12.2 and Special Exception No. 248 of this By-law, on those lands zoned Rural (A2) Zone, identified on Map 16 of Schedule "A" —Zoning Maps and described as part of 57 12th Concession Road East, the development of up to 50 permanent mobile home sites (units) as well as the following uses:

Clubhouse, accessory to the Manufactured and Mobile Home Park, which may include as ancillary uses to the park, administrative offices, a convenience store, a hotel consisting of 20 suites, a restaurant and tavern, a dining area, games room, fitness and leisure facilities including a pool, hot tub, sauna, showers, and fitness room;

One Manager's suite and two staff apartments, adjacent to the existing clubhouse;

Maintenance, utility and storage buildings; and,

Facilities for outdoor sports and leisure, including an outdoor pool, hot tub, children's play area, volleyball and tennis courts, and picnic areas

**Shall not be permitted until such time as:**

and then Special Exemption 248 goes on to list the 3 conditions for lifting the Holding Provision being, the entering into a Site Plan agreement, the entering into of a Municipal Responsibility Agreement and satisfying Conservation Halton.

The application of H9 to all of the uses is not only inconsistent with the language in Special Exemption No. 248, it doesn't make any sense given that all of the other uses over and above the 50 permanent mobile home sites already exist on the site.

We believe that this problem is a transcription one based on where staff have included the phrase "Shall not be permitted until such time as:". To accurately reflect Special Exception No. 248, we believe subsection 249 should be amended to read:

249. Notwithstanding Section 12.2 and Special Exception No. 248 of this By-law, on those lands zoned Rural (A2) Zone, identified on Map 16 of Schedule "A" —Zoning Maps and described as part of 57 12th Concession Road East, the development of up to 50 permanent mobile home sites (units) as well as the following uses:

~~Clubhouse, accessory to the Manufactured and Mobile Home Park, which may include as ancillary uses to the park, administrative offices, a convenience store, a hotel consisting of 20 suites, a restaurant and tavern, a dining area, games room, fitness and leisure facilities including a pool, hot tub, sauna, showers, and fitness room;~~

~~One Manager's suite and two staff apartments, adjacent to the existing clubhouse;~~  
~~Maintenance, utility and storage buildings; and,~~

~~Facilities for outdoor sports and leisure, including an outdoor pool, hot tub, children's play area, volleyball and tennis courts, and picnic areas~~

~~Shall not be permitted until such time as:~~

(i) Site Plan Agreement

The Owner shall enter into a Site Plan Agreement with the City and register it on title, for Block "1"- North Lands to address required improvements and upgrades to the servicing, infrastructure, and layout of the mobile home park in a multi-phase plan to be developed through the Site Plan approval process, through which the

required financial securities for the construction of works identified through Site Plan approval process will be specified by the City and posted by the Owner prior to Site Plan approval of each phase;

(ii) Municipal Responsibility Agreement

The Owner shall register the signed Municipal Responsibility Agreement and associate Trust Agreement on title. Prior to registration, the Owner shall post the financial securities required thereunder to the satisfaction of Senior Director of Growth Management, the Director of Hamilton Water, Public Works, and the Director of Planning; and,

(iii) Conservation Halton

- (a) A Flood Emergency Plan to the satisfaction of Conservation Halton is required to ensure a safe evacuation of residents during a flood emergency; and,
- (b) The completion of fill placement/grading and pedestrian bridge upgrades as recommended in the March 6, 2008, Stantec letter report, is required to ensure safe ingress/egress during Regulatory Storm Events to the satisfaction of Conservation Halton.

Until such time as the holding provision is lifted, those lands zoned Rural (A2) Zone, identified on Map 16 of Schedule "A" —Zoning Maps and described as part of 57 12th Concession Road East the Property shall only be permitted to be used for legally existing uses, buildings and structures, which include:

Clubhouse, accessory to the Manufactured and Mobile Home Park, which may include as ancillary uses to the park, administrative offices, a convenience store, a hotel consisting of 20 suites, a restaurant and tavern, a dining area, games room, fitness and leisure facilities including a pool, hot tub, sauna, showers, and fitness room;

One Manager's suite and two staff apartments, adjacent to the existing clubhouse; Maintenance, utility and storage buildings; and

Facilities for outdoor sports and leisure, including an outdoor pool, hot tub, children's play area, volleyball and tennis courts, and picnic areas.

As such, we request that provision 249 be amended in accordance with the above to properly reflect Special Exception No. 248 and what is actually on the ground on the Property.

Should you have any questions or concerns, please do not hesitate to contact me.

Yours truly,

**WeirFoulds LLP**

A handwritten signature in black ink, appearing to read "DBaker", with a stylized flourish at the end.

Denise Baker

DB/mce  
c: client  
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