

April 1, 2016

City of Hamilton Council
C/o Office of the City Clerk
71 Main Street West, 1st floor
Hamilton, Ontario
L8P 4Y6

**RE: April 5, 2016 Planning Committee Meeting
Item 6.4 – Report PED16084
Applications for Official Plan and Zoning By-Law Amendment
288 Glover Road, City of Hamilton**

We are the owners of the above-noted lands for which Official Plan and Zoning By-law amendment applications to permit a 77-unit condominium townhouse development have been submitted. We are writing regarding the Planning and Economic Development Department report regarding these applications that is scheduled for the April 5, 2016, Planning Committee Meeting. City staff recommend denial. They say our applications are premature pending the OMB approval of the Fruitland-Winona Secondary Plan (“Secondary Plan”) and your approval of the Block Servicing Strategy. We respectfully disagree. Our applications are not premature. Our proposed development is consistent with the City Council approved Secondary Plan vision and processing of our applications will in no way prejudice the Block Servicing Strategy outcome. Any technical issues can and should be appropriately dealt with as part of the review of our proposal.

History

We have been patiently working with the City regarding these lands since 2010. We acquired these lands in March of 2010 but the first formal consultation actually took place in June 2009 with the Vendor. Subsequent to our acquisition of the property, it was suggested by City staff that rather than looking to process the necessary Official Plan Amendments required to proceed, we wait until the Secondary Plan was approved. We acknowledged City staff’s recommendation and participated in the Secondary Plan process. After nearly two years had passed with little progress on the Secondary Plan, we submitted a Request for Formal Consultation for a proposed 92-unit condominium townhouse development on December 21, 2012. At that time, we were advised by City staff that the Secondary Plan was imminent and that we should wait for its approval to avoid the requirement for an OPA as the proposed land use was consistent with our proposal. We complied with City staff’s direction. Submission of the applications was withheld to allow City staff time to advance the Secondary Plan. The Secondary Plan processing, however, took much longer than City staff had anticipated.

The Secondary Plan was approved by City Council on May 14, 2014. We submitted our application to amend the Zoning By-law on May 28, 2014. The City Council approved Secondary Plan was appealed by other appellants to the Ontario Municipal Board on June 12, 2014. We applied for and obtained Party Status before the OMB. We have supported the City on all matters before the OMB in support of the Secondary Plan as approved by Council. The subject lands and their designation are not in dispute before the OMB.

On December 3, 2014, in response to City staff's request, we withdrew our applications as a sign of our willingness to continue to work with staff and allow more time for the Secondary Plan appeal and Block Servicing Strategy to be advanced. We had all agreed that we could reapply in early 2015 to allow City staff six more months to process our application as staff anticipated that the Block Servicing Strategy would be sufficiently advanced to a point that would allow our application to proceed by June of 2015.

New applications to permit a 77-unit condominium townhouse development were submitted to the City on January 8, 2015. We were again advised that the Secondary Plan appeal and Block Servicing Strategy had to be sufficiently advanced before the application could be considered. On-going follow-ups and meetings with City staff regarding the status of those initiatives continued from February to November 2015.

A meeting was convened with City staff in November 2015 to review the processing of the applications. City staff agreed to process revised Official Plan and Zoning By-law amendment applications requesting an exemption from the Block Servicing Strategy. This would allow the development to proceed in advance of the OMB approval of the Secondary Plan. City staff also agreed to expedite the completion of the Block Servicing Strategy by June/July 2016 to avoid application of the Official Plan amendment at the time of the zoning by-law approval. These revised applications were submitted on December 17, 2015, and were deemed complete on January 22, 2016. The following studies were submitted in support of the applications:

- A Functional Servicing and Stormwater Management Report prepared by Urbantech dated December 2015;
- A Planning Justification Report prepared by Glen Schnarr & Associates Inc. dated December 2015;
- A Noise Feasibility Study prepared by HGC Engineering dated December 9, 2013;
- An Urban Design Brief prepared by Adesso Design Inc. dated January 6, 2016;
- A Traffic Impact Study prepared by Paradigm Transportation Solutions Ltd. dated November 2013; and
- An Archaeological Assessment prepared by Amick Consultants Limited dated April 27, 2010

These applications are the subject of the Planning Staff report.

The Fruitland-Winona Secondary Plan and Block Servicing Strategy

We have been working with the City for over 6 years now on this site. The history outlined above reveals unreasonable delay in the processing of our applications. We believe that our applications are not premature and should be processed further. The applications before you were a direct result of City staff's direction in November 2015.

Council's vision in the City Council approved Secondary Plan that is before the OMB for the subject lands is "Low Density Residential 3". This designation permits all forms of townhouse dwellings with a residential density of between 40 and 60 units per hectare (between 16 and 24 units per acre) and existing places of worship. The principle of townhouse development at this location is not opposed by City staff and complies with the City Council approved Secondary Plan. Again, the area of the Secondary Plan where the subject lands are located is not in dispute at the Ontario Municipal Board.

In spite of this, we recognize that the City Council approved Secondary Plan is not in effect. That is why we have submitted an Official Plan amendment. This will allow the principle of development to be approved while the Secondary Plan appeal continues.

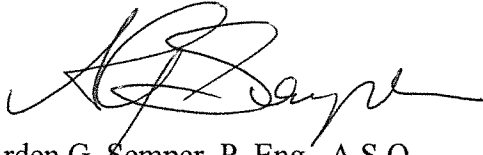
With regard to the Block Servicing Strategy, we have completed the necessary engineering analysis and demonstrated to City Engineering staff, as confirmed in their February 24, 2016 comment letter, that there are no engineering concerns from a servicing perspective. City staff also confirmed that the engineering details pertaining to our applications can be addressed through the site plan approval process. This is the appropriate tool to address prematurity concerns since the proposed townhouse development cannot occur without site plan approval. The subject lands are therefore not dependent on the completion and final conclusions of the Block Servicing Strategy and can be serviced without prejudicing the results. It is also our understanding that the conservation authority has not yet been able to review the hydraulic modeling prepared by the City's consultant. We are confident that their review of this material will satisfy any concerns that they have. Again, the Site Plan approval process is the appropriate process to address any issues identified.

We respectfully disagree with the recommendation contained in the Staff report that you deny our applications. We request that City staff be directed to continue processing the Official Plan Amendment and Zoning By-law Amendment applications. We have worked cooperatively and responded to the City's directions for over 6 years. We continue as a City ally before the OMB on the Secondary Plan appeal. Regrettably, if this cooperation stops with a denial of our applications, we will have no choice but to appeal the applications to the OMB. That process is resource intense for all involved including City Staff. We would much prefer to focus our resources moving forward on our cooperative efforts to advance the applications.

Please distribute a copy of this letter to the Members of Planning Committee and Council prior to the April 5, 2016, Planning Committee meeting. We would also appreciate being notified of the decision of the Planning Committee on this item.

Sincerely,

BRANTHAVEN HOMES FRUITLAND INC.

A handwritten signature in black ink, appearing to read 'A. Semper', written in a cursive style.

Arden G. Semper, P. Eng., A.S.O.

cc: S. Robichaud, Director of Planning, Chief Planner
Y. Rybensky, Senior Project Manager – Suburban
D. McPhail, Planner II