

4 October 2016

Sent via E-mail

City of Hamilton  
General Issues Committee  
71 Main Street West  
Hamilton ON L8P 4Y5

Attention: Stephanie Paparella, Legislative Co-ordinator

Dear Committee Members:

**Re: Corporate Strategic Growth Initiatives (CM16063) (City Wide)**  
**(Item 7.2, Moved from Item 8.2)**  
**GRIDS II/ Municipal Comprehensive Review**  
**Book Road West Lands**

We were recently retained to represent the Book Road West Landowners Group (“BRWLG”) in connection with the Co-ordinated Provincial Plan Review, including the review of the Province’s Proposed Greenbelt Plan dated May 2016. BRWLG is a group of over 120 landowners, with an accumulative land holding of approximately 1400 acres located in south-central Hamilton. The Book Road West lands are generally bounded by Garner Road West to the north, Concession 1 south of Book Road to the south, Fiddler’s Green Road to the east and Shaver Road to the west.

We understand that at its meeting on 5 October 2016, the Committee will be considering matters related to the City’s Strategic Growth Related Projects, which include the Growth Related Integrated Development Strategy (GRIDS) II 2031-2041, and Municipal Comprehensive Review, among others.

We write to request that the Committee recommend to Council that, notwithstanding their present inclusion as Protected Countryside in the Proposed Greenbelt Plan, the Book Road West lands not be excluded in the consideration and study of growth options for the City that will occur through the various Strategic Growth Related Projects identified in Report CM16063. In particular, the Book Road West lands should be included in the consideration and study of any growth options in connection with GRIDS II 2031-2041 and Municipal Comprehensive Review.

#### **Background - The Co-ordinated Provincial Plan Review**

As you may know, BRWLG has been actively involved with the City’s review of the Greenbelt Plan, which forms one part of the larger Co-ordinated Provincial Plan Review. In addition to the Greenbelt

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Plan, the Growth Plan for the Greater Golden Horseshoe (the “Growth Plan”) and the Niagara Escarpment Plan are also being reviewed. Throughout its involvement in this process, BRWLG has been supported by a professional land use services firm, Corbett Land Strategies (“CLS”).

The newly proposed Provincial plans include several key updates, including stronger policy linkages between the Growth Plan and the Greenbelt Plan to better recognize the inter-relationship between managing growth and protecting agricultural and natural heritage resources. The importance of this inter-relationship is clearly expressed in the following new policies of the Proposed Growth Plan:

*This Plan builds on other key government initiatives including: the Greenbelt Plan, Planning Act reform and the Provincial Policy Statement, 2005 (PPS, 2005). This Plan does not replace municipal official plans, but works within the existing planning framework to provide growth management policy direction for the GGH. (Section 1.2)*

*This Plan should also be read in conjunction with relevant provincial plans, including the Greenbelt, Niagara Escarpment, and Oak Ridges Moraine Conservation Plans. These plans apply to parts of the GGH and provide specific policy on certain matters. This Plan, in conjunction with these other plans and the PPS, 2005, expresses the Government of Ontario's interests and directions with regard to growth management in the GGH. (Section 1.2.3)*

## **The Greenbelt Plan Review**

In the current Greenbelt Plan, the Book Road West lands fall outside of the Protected Countryside portion of the Greenbelt Plan.

Prior to the release of the Proposed Greenbelt Plan in May 2016, the appropriateness of adding the Book Road West lands into the Greenbelt boundary (designating the lands Protected Countryside) was considered by the City in the context of the Co-ordinated Provincial Plan Review. In this regard, in December 2015, City Council adopted the following recommendations, which apart from two minor modifications that are unrelated to the Book Road West lands, would defer any decisions on adjusting the Greenbelt boundary until the completion of the City’s Municipal Comprehensive Review:

*...(b) That the City of Hamilton requests the Province:*

*(i) to revise the applicable Greenbelt Plan policies in order to allow municipalities to request changes to Greenbelt Plan designations and boundaries at the conclusion of a municipal comprehensive review,...*

*(ii) to defer any decisions on potential changes to the Greenbelt Plan boundaries in the City of Hamilton to allow the City to complete a municipal comprehensive review which will*

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*include a full assessment of the opportunities and constraints:*

*(1) to determine the amount and location of land (both non-employment and employment) required to meet the 2031 to 2041 Growth Plan forecasts;*

*(2) to identify appropriate lands to add to the Whitebelt area, in the event that additional land is required for an urban boundary expansion to meet targets and based on the principles of cost effective, complete and healthy communities; and,*

*(3) to identify appropriate lands to be added to the Greenbelt Plan area;*

*(c) That upon completion of the municipal comprehensive review, City Council request the Province to revise the Greenbelt Plan boundaries prior to the City adopting the Official Plan Amendment relating to Growth Plan conformity and implementation of the Municipal Comprehensive Review.*

*(d) That notwithstanding Recommendations (b) and (c), as part of the current Coordinated Provincial Plan Review, the City of Hamilton requests the Province to give consideration to the following modifications to Greenbelt Plan Protected Countryside area as follows:*

*(i) remove the Lower Stoney Creek lands (104 ha) and the lands north of Parkside Drive, east of Centre Road in Waterdown (28 ha) from the Greenbelt Plan...*

*(ii) add the lands between Twenty Mile Creek and Airport Road, west and east of Nebo Road (231 ha) to the Greenbelt Plan ...*

*... (g) That the City Clerk be directed to forward Report PED15078(a) to the Ministry of Municipal Affairs and Housing and that the recommendations of this Report are to be considered the City of Hamilton's formal supplementary comments on the Coordinated Provincial Plan Review. (Staff Report PED10578(a), Planning Committee, 3 December 2015) (underline added)*

The above recommendations were informed by a report prepared by Dillon Consulting Limited ("Dillon"), which was commissioned by the City assist in the evaluation of possible adjustments to the Greenbelt boundary. In the Executive Summary of Dillon's *Greenbelt Boundary Review Report*, dated November 2015 (the "Dillon Report"), Dillon highlights the growth management issues driving its evaluations, touching specifically on the growth targets set out in the Proposed Growth Plan:

*The Greenbelt has a significant effect on opportunities to grow in Hamilton. The Greenbelt covers 91% of rural Hamilton leaving only 6,178 ha of land potentially available for future greenfield urban development. The amount of future growth is defined by the Growth Plan (2013) and indicates that Hamilton will grow to 778,000 residents and 350,000 jobs to 2041. Some growth will occur within the urban area and the remaining growth will be captured through greenfield development which will*

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*take place within the “Whitebelt”. Whitebelt is an informal term used to describe those lands available for urban expansion – i.e., lands both outside of the current urban boundary and the existing Greenbelt. ...*

*At first glance, this seems like a substantial amount of land available in the Whitebelt to accommodate future greenfield growth. However, 63% of the 2,448 gross ha are constrained by noise from the airport (Noise Exposure Forecast 28), meaning that these lands are only suitable for employment uses thereby restricting the land available for future greenfield residential use.* (underline added)

The Dillon Report set out five options for proceeding, set out as follows in Report PED10578(a):

*This report sets out five options for Council’s consideration regarding the Greenbelt Plan boundaries:*

- *Option 1: Status Quo, No Change to the Greenbelt Plan Boundary;*
- *Option 2: Minor Revisions to the Greenbelt Plan Boundary;*
- *Option 3: Major Revisions to the Greenbelt Plan Boundary;*
- *Option 4: Defer Greenbelt Plan Boundary Revision until Completion Municipal Comprehensive Review; and,*
- *Option 5: Grow the Greenbelt.*

*The recommended option is a combination of Options 2 and 4: that the City request some minor modifications to the Greenbelt boundaries now (Option 2); and, that any further potential revisions be deferred until the completion of a municipal comprehensive review (Option 4).* (underline added)

Neither Option 2 or 4 includes the addition of the Book Road West lands into the Greenbelt boundary.

On 6 September 2016, Planning Committee had Report PED 15078 before it. This report did not recommend that the Book Road West Lands be added to the Greenbelt Plan. Despite the absence of any planning or technical advice from staff on the matter, Planning Committee added a recommendation that the City support the addition of lands in the vicinity of Book Road to the Greenbelt as shown in the May 2016 draft Greenbelt Plan.

On 14 September 2016, Council approved the recommendations of the Planning Committee, notwithstanding Council’s formal recommendation to the Province in December 2015/January 2016 that major adjustments to the Greenbelt boundary be deferred until after the City has completed its Municipal Comprehensive Review.

By letter dated 8 September 2016, CLS, on behalf of BRWLG, requested that Council not approve the Planning Committee recommendation to support the addition of the Book Road West lands within the Greenbelt boundary, citing lack of procedural fairness, technical support for the inclusion of the lands,



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and planning implications of removing the lands prior to completing a longer term growth assessment (Municipal Comprehensive Review). This letter is noted as being received by Council; however, Council did not act on any of its concerns. .

For ease of reference, and to provide the Committee with further background information respecting the nature of the BRWLG and the timeline leading to the 6 September 2016 motion at the Planning Committee, we attach a copy of CLS's 8 September 2016 letter.

### **City's Long Term Growth Strategy (Municipal Comprehensive Review)**

From a long term planning perspective, CLS is persuasive that the Book Road West lands are needed as a candidate site for growth/intensification, given the growth targets established in the Proposed Growth Plan. As detailed in the Dillon Report, factors that make the Book Road West lands a strong candidate for growth are: they are partially contiguous to the existing urban boundary and future urban area, and therefore possible areas for residential and employment growth, there are no identified cultural heritage resources, conservation areas, or City classified parks in the area, and the area is well served by transportation making it suitable for development. Additional technical study carried out on behalf of our clients strengthens the case of the Book Road lands being considered as a candidate site.

We suggest that further consideration of these factors, and others, ought to be made prior to determining whether it is appropriate to add the lands to the Greenbelt. In this respect, the preferred approach is found in the recommendations adopted by the City to recommend to the Province, on two separate occasions, that any major adjustments to the Greenbelt boundary be deferred until such time that the City has completed its Municipal Comprehensive Review.

All circumstances considered, supporting the inclusion of the Book Road West within the Greenbelt boundary at this time not only prejudices the ability of the City to plan for its own long term growth with a full set of alternatives on the table, but also directly contradicts Council's recommendation to the Province to defer the issue of boundary adjustments until the completion of the City's Municipal Comprehensive Review.

We note that pursuant to the *Greenbelt Act* and the new policy 5.7.1.4, the City is free to make recommendations to add lands to the Protected Countryside ("Grow the Greenbelt") outside of the ten-year review. Given this underlying regulatory and policy regime, there appears to be even less reason to support the addition of the Book Road West lands in the Greenbelt at this time.

### **Request of Committee**

It continues to be our client's position that there is little merit to supporting the addition of the Book Road West lands in the Greenbelt boundary at this time. BRWLG will continue to engage this matter,



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and other matters related to the appropriateness, from a planning and procedural fairness perspective, of adding the Book Road West lands to the Greenbelt boundary through this review process, with the appropriate City staff members, the City and the Province.

Notwithstanding these ongoing discussions regarding the appropriateness of including the Book Road West lands in the Greenbelt at this time, it remains open to the City, from a study perspective, to include the lands for possible growth for the 2041 planning horizon. It is our recommendation that, in the circumstances, it would be appropriate to do so.

For the foregoing reasons, on behalf of BRWLG, we hereby request that the Committee recommend to Council that the Book Road West lands be included in the consideration of any growth options in connection with GRIDS II 2031-2041, and the City's Municipal Comprehensive Review.

Our client welcomes any opportunity to further discuss these matters with the City.

Yours very truly,

**Wood Bull LLP**

A handwritten signature in black ink, appearing to read "Dennis H. Wood", is written over a light blue horizontal line.

*pr:* Dennis H. Wood

DHW/jrs

Thursday, September 08, 2016

City of Hamilton – City Council  
71 Main Street West  
Hamilton, ON – L8P 4Y5

Attn: Mayor and Members of City Council  
Re: September 6<sup>th</sup>, 2016 Planning Committee Item 8.4 '***Coordinated Provincial Plan Review (Growth Plan for the Greater Golden Horseshoe, Greenbelt Plan, Niagara Escarpment Plan) – City of Hamilton Comments on May 2016 Draft Plans (PED15078(b))(City Wide)***'

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**Mayor and Members of City Council:**

Corbett Land Strategies (CLS) represents the Book Road West Landowners Group. This is an organized community group representing approximately 1,400 acres of land in south-west Hamilton (refer to Map 1). There are over 120 landowners within this area, and they have been active in protecting their land use planning interests over the past 10 years. During the City of Hamilton (City) Planning Committee meeting of September 6<sup>th</sup>, 2016, a recommendation was passed to place their Book Road West lands into the Greenbelt Plan.

**OUR REQUEST**

We respectfully request that City Council reconsider the Planning Committee minutes and recommendation of September 6<sup>th</sup>, 2016 and offer the following two options:

1. **THAT** the Book Road West lands are not to be considered in the draft Greenbelt plan and staff report PED16176 be amended as such and for City Council to support staff's position and allow the Municipal Comprehensive Review;

or, alternatively:

2. **THAT** the minutes of the September 6<sup>th</sup>, 2016 Planning Committee be deferred to the next meeting of Planning Committee (Tuesday, September 20<sup>th</sup>) to allow for a full review of all the facts by the Committee and public representation to allow for a fair and transparent vote on the matter to occur.

The recommendation at Planning Committee was passed precipitously in direct contradiction to the previous position of City Council (December 2015) and the City staff report recommendations as presented on September 6<sup>th</sup>, 2016. The impact of this decision on the Book Road Community will be grievous if City Council does not reconsider this matter and change this Planning Committee recommendation. The land ownership of the Book Road Community *is not developer based*. In fact, the affected landowners are largely generational Hamiltonians that will have their livelihoods seriously compromised if this recommendation is ratified by City Council.

It appears that the residents of the Book Road Community were denied their rights to natural justice on September 6<sup>th</sup>, 2016 by virtue of the precipitous decision making process that ensued at the City's Planning Committee last Tuesday. To be clear, an ultimate Council recommendation to the Province on Greenbelt designations will have an enormous impact on property rights, land use permissions and valuations. As such, thorough consideration of scientific fact (agricultural/environmental) and planning justification must be made (through a statutory Municipal Comprehensive Review process) prior to rendering such a recommendation. In this regard, the discussion and ultimate recommendation of Planning Committee on September 6<sup>th</sup>, 2016 was absent of such consideration.

### **BASIS FOR OUR CONCERNS**

We believe that City Council should pursue either of these two aforementioned options based on the following circumstances:

1. The decision of Planning Committee of September 6<sup>th</sup>, 2016 is contrary to previous decisions made by Council on this very issue (December 2015 PED15078(a)):
  - i. In June 2015, The City of Hamilton provided comments to the Province, which did not include recommended changes to the Greenbelt Plan;
  - ii. The City delayed formal recommendations on the Greenbelt Plan to allow for a public consultation process on proposed boundary changes;
  - iii. During this public consultation period, the Book Road West lands were considered as an option for the Greenbelt as were other lands;
  - iv. The City commissioned Dillon Consulting to provide the technical background for City Council's consideration of Greenbelt related issues. The Dillon report did not recommend the Book Road lands for inclusion in the Greenbelt;
  - v. This process was concluded in the fall of 2015 and City staff prepared a report (PED15078) for Planning Committee which did not recommend the Book Road West lands for consideration in the Greenbelt;



- vi. This report and the minutes from Planning Committee of December 3<sup>th</sup>, 2015 were subsequently ratified and approved at the Council meeting of December 9<sup>th</sup>, 2015; and,
  - vii. There were several motions related to Greenbelt boundary changes that were voted on December 9<sup>th</sup>, 2015, one of which specifically considered all lands in question to be included in the Greenbelt (including Book Road), which was denied on a 2-6 vote by City Council.
2. The Planning Committee decision of September 6<sup>th</sup>, 2016 is contrary to the associated City staff report and its recommendations;
  3. As a direct consequence of Greenbelt designation, expansions of existing business and agricultural operations will be impeded based on related statutory regulations under Greenbelt designation;
  4. As a consequence of Greenbelt designation, residents must endure overly restrictive development controls over their land holdings, impeding their right to the quiet enjoyment of their properties;
  5. City Council will lose planning jurisdiction and control over the Book Road West Lands to Provincial land use policy and regulations;
  6. The City will experience significant financial impact if the real estate valuation of the Book Road West land area is diminished through Greenbelt designation;
  7. The viability of existing retail centres (specifically the SmartCentre and Trinity Centre shopping facilities at Wilson Street West and Garner Road West) may be impacted by reduced growth potential of this area as a consequence of Greenbelt designation;
  8. The recommendation ignores staff's primary recommendation to finalize the Municipal Comprehensive Review that will provide the basis for future land use decisions prior to making any decisions on Greenbelt matters. In this regard, the public interest would best be protected by reserving all land use allocation decisions until the Municipal Comprehensive Review is completed;
  9. The recommendation may conflict with the implementation of the Provincial Growth Plan insofar as Hamilton will be challenged to accommodate forecasted growth targets to 2041 of 780,000 people and 350,000 jobs without the option of considering these lands for development in the long term. Also, removal of these lands from future development

consideration will force greater concentrations of intensification on other communities within Hamilton in order to satisfy Growth Plan requirements;

10. The Provincial Policy Statement requires that municipalities maintain a 10-year supply of designated land for urban purposes and a 3-year supply of zoned lands for residential development. In order to conform with this requirement, the Book Road West lands are needed as a candidate site to ensure that growth/intensification is not concentrated in other areas of the City; and,
11. There is no scientific fact or land use planning basis to support the designation of the Book Road West lands within the Greenbelt Plan. In this regard, the Book Road West Landowners Group have retained specialized engineering, environmental and agricultural impact consultants (HGC Engineering; Beacon Environmental and Colville Consulting) to assess the land use potential of the community. Study findings do not indicate any definitive technical basis for Greenbelt designation.

**CONCLUSION:**

We respectfully submit that the September 6<sup>th</sup>, 2016 recommendation of Planning Committee with respect to the inclusion of the Book Road West lands in the Greenbelt Plan is not defensible based on established technical justification and staff recommendations rendered to date. Council's ratification of this recommendation would unfairly compromise the future of the Book Road West residents and Hamilton as a whole. Such a decision would also have serious planning implications on a city wide basis in the absence of the finalization of the Municipal Comprehensive Review. We strongly urge Council to not ratify the Planning Committee recommendation with respect to this matter and pursue either of the two alternative courses of action set out in this report.

Respectfully submitted;



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John B. Corbett, M.C.I.P., R.P.P.  
**President**

**APPENDIX A**  
Map 1

# Appendix A – Map 1

