

June 16, 2017

VIA EMAIL

Lauri Leduc
Legislative Coordinator - Public Works
Office of the City Clerk
71 Main Street West, 1st Floor
Hamilton ON L8P 4YP

Denise Baker
Partner
T: 905-829-8600
dbaker@weirfoulds.com

Michael Connell
T: 416-947-5087
mconnell@weirfoulds.com

Dear Ms Leduc:

**Re: Delegation Request - Public Works Committee
Closure of Mountain Brow Road**

The purpose of this letter is to request an opportunity to present a delegation to the Public Works Committee on Monday, June 19, 2017 with respect to the proposal to permanently close a portion of Mountain Brow Road in the City of Hamilton.

We represent Emshih Development Inc., the owners of property municipally known as 398 Mountain Brow Road, Burlington (the "Subject Property"). The Subject Property is located within the City of Burlington, but is currently only accessible via the portion of Mountain Brow Road that is proposed to be closed. As explained below, closure of this portion of Mountain Brew Road will significantly prejudice our client.

The Subject Property contains a home built in 1833, which together with the surrounding property enjoys protection under the *Heritage Act*. As the Statement of Significance in the heritage designation by-law indicates, the historical designation relates to both the house, which was home to one of the first Senators of the Dominion of Canada, and the surrounding landscape context on the north portion of the Subject Property, which includes the access drive from Mountain Brow Road. Closure of the Road will inevitably diminish the historical value of the Subject Property.

Additionally, the southern portion of the Subject Property, which is currently vacant and zoned North Aldershot Development ("DNA") under the City of Burlington zoning by-law 2020, may be appropriate for future residential development. Closure of this portion of Mountain Brow Road could sterilize the Subject Lands for future development since any alternative access through the new Waterdown Bay subdivision to the north of Mountain Brow Road may not be able to accommodate the traffic associated with development.

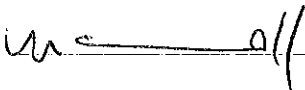
The proposal to close this portion of Mountain Brow Road has to date not taken into consideration our client's interests. In fact, the proposal appears to have been decided pursuant to a settlement of the Waterdown Bay subdivision developer's appeal to the Ontario Municipal Board (the "OMB"). Our client had no opportunity to participate in this hearing because they were not provided with notice. As such, their interests were not taken into consideration in the OMB's approval of the plan of subdivision which results in this request for closure. In fact a review of the decision in that hearing suggests that the Board did not hear evidence with respect to the road closure.

Our client has sought to work collaboratively with the City of Hamilton to devise an alternative to the closure which would not prejudice their interest, such as the originally proposed closure recommended in the East-West Corridor (Waterdown) Class EA-ESR in 2010. Unfortunately efforts beginning November 30, 2016, to arrange a meeting between our client, the City of Hamilton development staff and staff with the Halton Region Conservation Authority have been unsuccessful. While a request for tentative dates was circulated on March 14, 2017, follow-up emails from our client have not resulted in a scheduled meeting.

We believe that a solution which takes into consideration our client's needs is possible, but arriving at this solution will require collaboration between our client, City staff and Conservation Authority staff. On Monday we will be requesting that the committee direct City staff to work with our client to arrange a meeting with the relevant staff at the City and the Conservation Authority, and to defer any decision on the road closure until after such a meeting has taken place.

Yours truly,

WeirFoulds LLP



Michael Connell

mwc

10588800.1