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April 17, 2019

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Our File No. 064423

VIA EMAIL ONLY TO ANGELA.MCRAE@HAMILTON.CA

Angela McRae, Legislative Coordinator, Audit, Finance & Administration Committee
City Clerk's Office
Hamilton City Hall
71 Main Street West, 1st Floor
Hamilton, Ontario, L8P 4Y5

Dear Ms. McRae:

**Re: Written Submissions Regarding 2019 Development Charges Background Study
Audit, Finance and Administration Committee Meeting #: 19-006,
Date: Thursday, April 18, 2019 Item 8.1**

We are the solicitors for the Upper West Side Landowners Group, owners of lands south of Twenty Road between Upper James and Glancaster. Our clients' lands include lands within the Airport Employment Growth District ("AEGD"), as well as whitebelt lands south of Twenty Road and north of the AEGD. Our clients whitebelt lands are surrounded by Hamilton's urban area and are accordingly being planned for urbanization.

Having now had the opportunity to review the March 13, 2019 Development Charges Background Study ("DCBS"), we would like to submit to Council the following concerns:

- 1) We dispute the inclusion of capital costs related to Elfrida. Elfrida remains outside the urban boundary and has no legally recognized planning status as a growth area in the City. As has been identified in recent Planning Committee discussions, there are other potential growth areas in the City, including the Upper West Side block, that represents infill development and are more logical priorities for growth. Further, the inclusion of the capital costs associated with Elfrida are inappropriate and premature pending the selection of a preferred growth option as an outcome of the City's on-going Municipal Comprehensive Review Process (GRIDS 2). In addition, we believe that there is insufficient technical justification for the inclusion of these charges based on the Background Study and supporting Master Plans approved by the City.
- 2) If any part of Elfrida is ultimately approved for an urban boundary expansion, then such approval can be accommodated subject to an area specific development charge. This would ensure that more economical and efficient growth in the City is not required to shoulder the burden of urban sprawl development in Elfrida.

The DCBS indicates substantial capital items related to the proposed Elfrida growth area district as follows:

Page No. PDF/DBCS	Description of Development	Timing (Year)	Gross Capital Cost Estimate (2019\$)	Potential D.C. Recoverable Cost
77 of 630/5-15	Provision for Elfrida Park Developments (8 neighbourhood parks & 1 community park)	2023-2028	\$7,710,200	\$6,939,180
83 of 630/5-21	Elfrida Community Centre	2027-2036	\$27,500,000	\$4,950,000
88 of 630/5-26	Elfrida – New Library Branch	2030	\$7,000,000	\$0
91 of 630/5-29	Elfrida Urban Boundary Expansion & Secondary Plan – Service Administration Studies	2019-2021	\$1,577,500	\$1,419,750
111 of 630/5-49	Services Related to a Highway – Elfrida Boundary Expansion Projects	2023-2031	\$130,495,000	\$37,876,000
130 of 630/5-68	New Fire Station Elfrida/Upper Stoney Creek Growth Area	2025-2027	\$8,432,000	\$2,866,900
130 to 132 of 630/5-68 to 5-70	Fire Vehicles and Station Equipment for Elfrida Growth Area	2026-2027	\$1,944,000	\$1,159,000
364 of 630	Water – Elfrida Distribution Network		\$27,695,000	\$6,309,000
376 of 630	Wastewater – Elfrida Collection Network		\$27,695,000	\$6,309,000
427 of 630	Open Watercourses – Elfrida Secondary Plan major road crossings		\$4,740,000	\$4,740,000

Page No. PDF/DCBS	Description of Development	Timing (Year)	Gross Capital Cost Estimate (2019\$)	Potential D.C. Recoverable Cost
442 of 630	Culverts and Bridges for Elfrida Boundary Expansion Projects		\$590,100	\$590,100
444 of 630 to 445 of 630	GRIDS-Related Stormwater Management (Quality and or Quantity) Facilities		\$98,626,700	\$98,626,700
	TOTAL		\$343,005,500	\$171,785,630

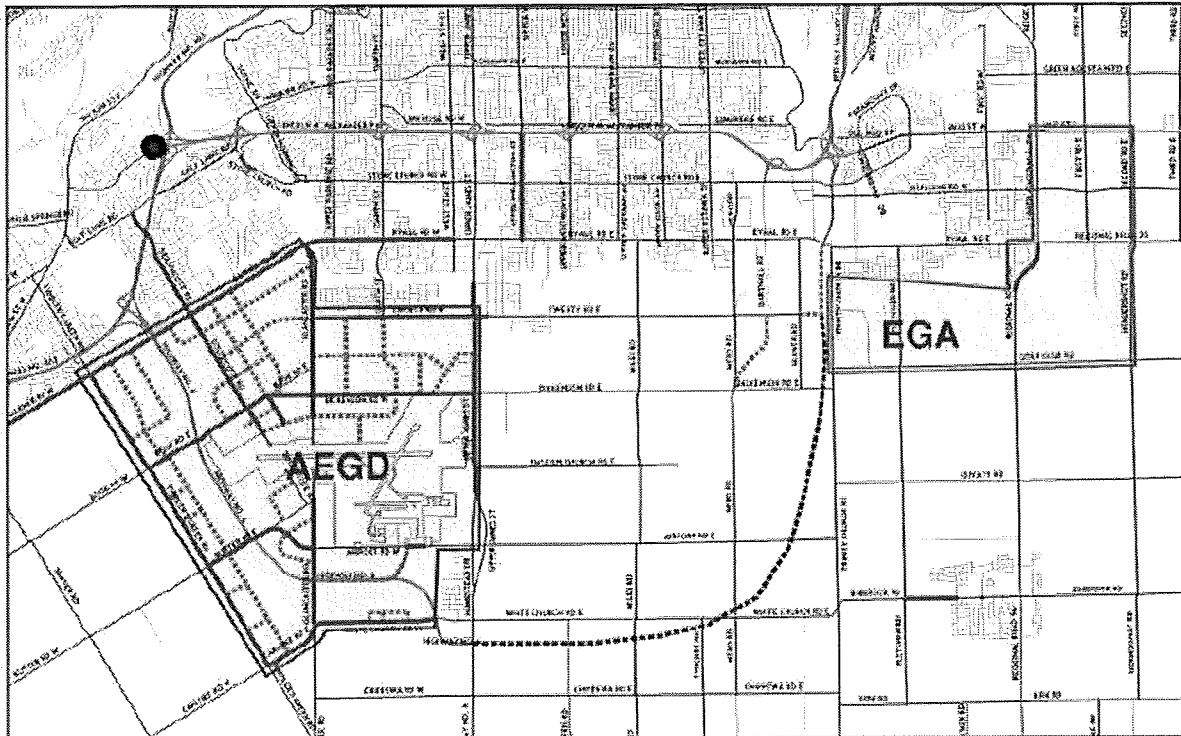
The proposed DC By-law requires that many hundreds of millions of dollars are going to be required to develop this fringe community in one of Hamilton's prime agricultural areas. Based on the DC policies proposed by staff and the City's consultants, the massive Elfrida growth costs would be apportioned to all development in Hamilton including in this DC By-law and subsequent DC By-laws for decades to follow.

From our perspective, it is critical for the City, the public and all the stakeholders, to understand the true impact of making smart growth including intensification and infill development in Hamilton, shoulder the financial burden for the Elfrida fringe development.

Accordingly, we reiterate our request that the implications of an Elfrida area specific development charge be considered and reported on. We note that the *Development Charges Act, 1997* subsection 10(2)(c.1) requires consideration of area specific development charges. Consideration of an Elfrida specific development charge is potentially warranted given the increased capital needs to develop this fringe community that currently lacks any planning status.

3) More specifically, \$130,495,000, with a potential DC recoverable cost of \$37,876,000, is provided as the gross capital cost estimate for services related to a highway for the Elfrida boundary expansion projects. However, the basis for this estimate is unclear and premised on highly uncertain assumptions which to our knowledge, no supporting studies have been completed for Elfrida. The City's *Transportation Master Plan Review and Update* did not identify the number of road improvements that has been assumed in the DCBS for Elfrida and no EA or planning approvals are in place to establish a preferred road network in Elfrida. The DCBS estimates these costs without any supporting infrastructure or planning approvals in place. It appears that the transportation network in Elfrida is being costed without any approved transportation plan and further, that collector roads in Elfrida are included as DC capital cost items whereas the same consideration has not been given to other areas such as the AEGD. There are also inconsistencies between Elfrida and other growth areas.

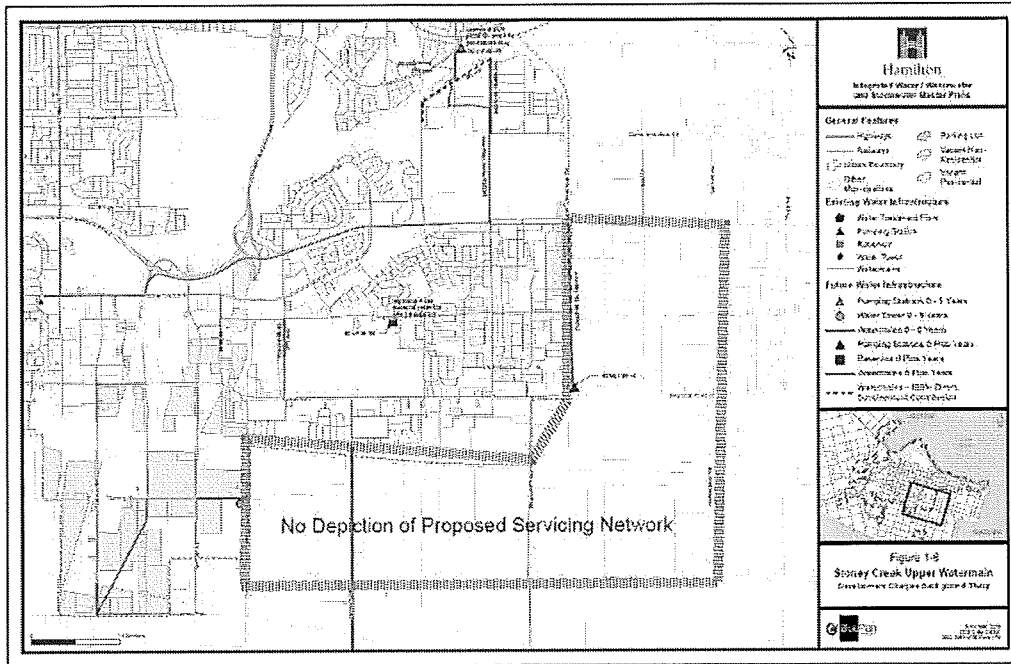
Below is a map prepared by our clients' transportation consultant that indicates and contrasts the road network improvements identified for AEGD and Elfrida in the City of Hamilton's Transportation Master Plan – Final Report. As evidenced by review of this map, Elfrida roads that have been included in infrastructure costs covered in the DC Calculation have never been approved by Council, nor appropriately planned for or justified.



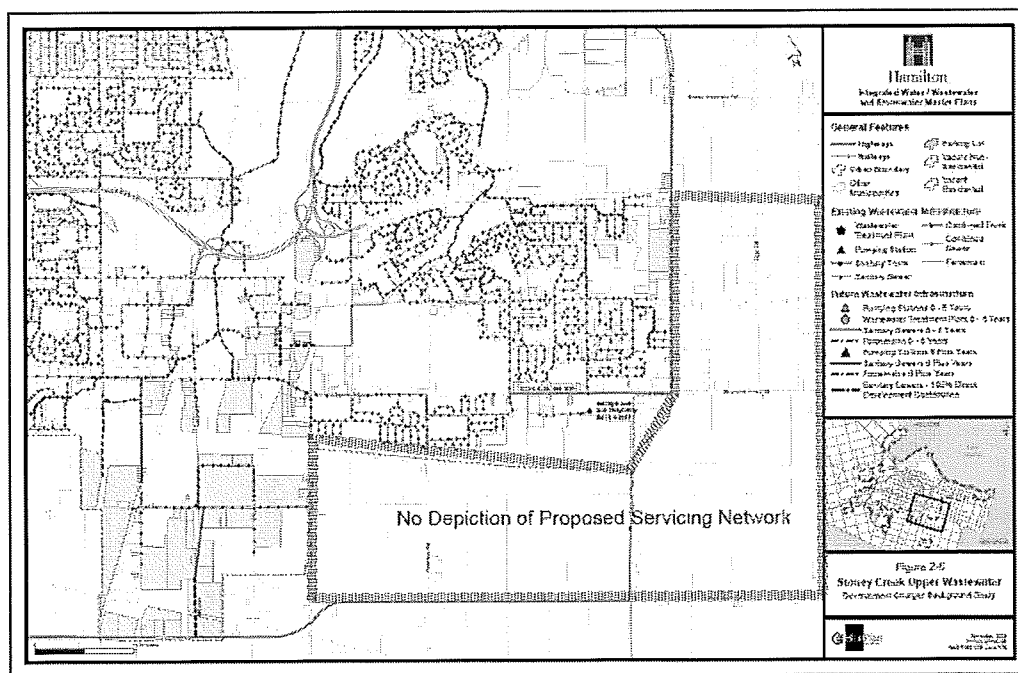
4) Storm water infrastructure for Elfrida, in the amount of \$98,626,697, has been identified as DC infrastructure, however, in the AEGD such infrastructure is identified as 100% direct developer responsibility. The City has identified the AEGD as a priority employment area and it would be counterproductive to burden development with the costs of storm water management. Our clients have submitted a draft plan of industrial subdivision and implementing zoning by-law to implement the employment objectives of the AEGD secondary planning area and the extension of Garth Street. We encourage Council to formulate a Development Charges regime that actually implements and supports City wide economic development goals rather than a premature greenfield residential community such as Elfrida.

5) Costed infrastructure for the Elfrida water and wastewater networks is not detailed in the DCBS and is therefore not justified. The DCBS includes capital costs related to water and wastewater distribution networks for Elfrida which have not been identified on the BluePlan Figures 1-6 and 2-6 yet the costs have been included in BluePlan Tables F-1 and F-3 as well as in DCBS Table 5-A.

Below is Figure 1-6 from the BluePlan report that is included as Appendix F in the DCBS. Note that there is no proposed water service network depicted for Elfrida.



Below is Figure 2-6 from the BluePlan report that is included as Appendix F in the DCBS. Note that there is no proposed wastewater service network depicted for Elfrida.



Our Clients have invested significant resources to implement a community plan for the Upper West Side district that implements the employment and infrastructure objectives of the AEGD Secondary Plan. Our Clients are seeking to facilitate minor infill residential development on their whitebelt lands which does not depend on major extensions of engineering and community services such as Elfrida appears to require. In fact, the Upper West Side development proposal is estimated to deliver the following financial benefits to the City.

- Building permit revenue of \$25.8 million
- Development Charge Revenue of \$257 million
- Annual Tax Revenue: \$35.9 million; and
- Delivery of Garth Street Extension \$8.7 million

We respectfully request that City Council not adopt the proposed Development Charges By-law as currently structured, until all of these infrastructure and financial impact issues have been fully addressed.

Yours truly,

FOGLER, RUBINOFF LLP

"Joel D. Farber"

Joel D. Farber*

*Services provided through a professional corporation

JDF/sz

cc: Clients, Mayor of the City of Hamilton and Members of City Council via email