



Fogler, Rubinoff LLP  
Lawyers

77 King Street West  
Suite 3000, PO Box 95  
TD Centre North Tower  
Toronto, ON M5K 1G8  
t: 416.864.9700 | f: 416.941.8852  
foglers.com

September 17, 2018

Reply To: Joel D. Farber  
Direct Dial: 416.365.3707  
E-mail: jfarber@foglers.com  
Our File No. 064423

**VIA EMAIL**

City of Hamilton Planning Committee  
71 Main St. West  
Hamilton, Ontario  
L8P 4Y5

Attention: Ida Bedioui,  
Legislative Coordinator

Dear Members:

**Re: Elfrida Growth Area Study Update (PED18182) – Item 5.3**

**And Re: GRIDS 2 and Municipal Comprehensive Review**

---

We are the solicitors for the Twenty Road West Landowners Group, owners of lands within the block bounded by Upper James, Glancaster, Twenty Road and Dickenson. As the Committee is aware, our clients have been active participants in the City's growth management exercise for many years including both with respect to the Elfrida Growth Area Study and GRIDS2.

We also note that our clients have completed, at their own cost and expense, the required planning studies for consideration of their "whitebelt" lands within GRIDS2/MCR for the proposed new "Upper West Side" mixed use community. This includes a complete plan of industrial subdivision application to enable the Garth Street extension from Twenty Road to Dickenson.

As noted by staff in its report, the purpose of GRIDS2 is to identify urban boundary expansion areas required to accommodate additional growth to 2041. The GRIDS2/MCR planning process, including all of the required public consultation and technical justification, is the basis upon which the City's growth management policies are to be informed and implemented.

We remind both City staff and City Council that there are no predetermined identified areas for urban boundary growth to 2041. That is the issue which GRIDS 2 is to study. To consider Elfrida or any other area as a predetermined or "preferred" place for growth is contrary to provincial law and policy, as confirmed by the Minister's refusal to approve the UHOP Elfrida policies.

It is also important for us to point out that there is no lawfully permitted 2031 urban boundary expansion. The requirements of the Growth Plan require the MCR process to plan for the 2041 time horizon. We therefore question the basis upon which the staff report continues to reference a 2031 planning horizon which is no longer relevant.

Practically, no development of Elfrida could even be realized until 2031 or close to that time frame so we do not understand how this time horizon can reasonably be applied to justify the Elfrida expansion notwithstanding the legal requirement of the 2041 time horizon.

We also do not understand the basis upon which the City continues to move forward with the Elfrida Growth Area study considering that the lands have been designated as a Prime Agricultural Area. In this respect the Provincial Policy Statement specifically states growth cannot be allocated to a prime agricultural area unless there are no reasonable alternatives on lower priority agricultural lands. In early 2018, the Province released detailed agricultural mapping as part of its 2017 Growth Plan implementation exercise. According to this mapping, Elfrida and other "whitebelt" growth areas have been designated "Prime Agricultural". The Twenty Road West lands are not encumbered by a Prime Agricultural designation and as an infill growth area surrounded by the urban area, prevailing Provincial Policy would direct growth to these lower priority agricultural lands through a properly conducted MCR process prior to consideration of prime agricultural lands.

We finally note that the staff report, which confirms that Elfrida can only proceed in the context of the 2041 MCR, suggests that there is some basis upon which the MCR process has any bearing on the outstanding UHOP appeals. We do not understand what staff means when it says:

*The updated LNA will provide input to address outstanding appeals to the OMB regarding the Elfrida policies in the Rural Hamilton Official Plan and the Urban Hamilton Official Plan, in addition to providing a City-wide detailed, comprehensive approach to residential intensification, urban land inventory and urban boundary expansion.*

We would appreciate further clarification of this statement. In the UHOP, the City attempted to identify Elfrida as a future urban growth area subject to a future urban boundary expansion and municipal comprehensive review, but that the Province rejected (and continues to oppose) that attempt. That is the issue in the UHOP appeal, so we have a great deal of difficulty trying to understand the cited statement in the staff report. There cannot be a 2031 MCR process or urban boundary expansion completed in the context of the UHOP appeals.

We trust that the City will proceed with GRIDS 2 and the municipal comprehensive review to consider urban expansion on the Twenty Road West block through an appropriate and principled planning process. The MCR must be completed in accordance with provincial policy using a 2041 planning horizon and consistent with the policies to protect prime agricultural areas. The MCR must also be completed on the basis of the Ministerial approved UHOP which eliminates any reference to Elfrida as a predetermined area for growth.

Based on this submission, we would ask the Committee to include in its resolution on this item, a direction to staff to report back on the status of other "whitebelt" lands in the City which can

accommodate future growth before consideration of prime agricultural areas. Without this important information, the City will not have the required information by which to make reasoned planning decisions on its future urban boundary expansions.

We are only just in the process of making our way through the attachments to the staff report, including the consultant report but have not been provided with sufficient opportunity to complete our review. Accordingly, we reserve the right to provide further submissions to staff and to Council/Committee on the matter.

Yours truly,

**FOGLER, RUBINOFF LLP**

*"Joel D. Farber"*

Joel D. Farber\*

\*Services provided through a professional corporation

JDF

cc: clients

K:\jfarber\WpData\Twenty Road Landowners Group\Letters\Letter to Hamilton Planning Committee (Elfrida) 20180917.docx