

October 1, 2020

The Chairman and Members of Planning Committee  
The Corporation of the City of Hamilton  
71 Main Street West  
Hamilton, Ontario  
L8P 4Y5

**RE: APPLICATION TO AMEND THE URBAN OFFICIAL PLAN  
UPPER WEST SIDE LAND OWNERS GROUP  
PUBLIC MEETING: OCTOBER 6<sup>TH</sup>, 2020**

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We are providing this submission to Planning Committee in response to the staff report with respect to the above referenced matter, which is to be considered at the statutory public meeting on October 6<sup>th</sup>, 2020. In this regard, we find that the staff report does not accurately portray the planning merits of our application and it contains several conflicting and unsubstantiated conclusions which we will address in this letter and our presentations to Planning Committee on October 6<sup>th</sup>.

The City of Hamilton is positioned in the Growth Plan to capture a significant amount of growth over the next several decades (residential population of 660,000 residents by 2031; 780,000 by 2041 and 820,000 by 2051). Our land use economist (Malone Given Parsons) has determined that at least 1,710 hectares (4,225 acres) will be required by the year 2041 to accommodate community land needs (after accommodating an intensification rate of 50% within the existing urban area). Since the original “GRIDS 1” planning exercise in 2006, the Upper West Side Lands (formerly known as Twenty Road West) has been considered a candidate growth area, amongst others, to meet Hamilton’s urban land needs as prescribed by the Provincial Growth Plan. The Committee is reminded that the proposed UWS community south of Twenty Road was identified in the Council approved GRIDS1 preferred growth option as a minor rounding out of the existing community. Our applications are the culmination of 15 years of planning since the approval of the UWS community in GRIDS1.

The staff report relies on the presumption that the City must fully complete its Municipal Comprehensive Review process before any decisions are made with respect to urban boundary expansions. We disagree with this assertion on the basis that:

- The report also cites provincial planning policy that priority should only be given to growth in non-prime agricultural lands. Provincial mapping and the staff report identifies that the Upper West Side area is the only growth area that is substantially within a non-prime agricultural area. To properly comply with provincial planning policy, the City must allocate growth to the UWS white belt area before it is permitted to look to any prime agricultural areas (including Elfrida and Twenty Road East) for growth; and,
- The staff report indicates that the Elfrida remains as the City's next area to accommodate growth despite no MCR having ever been completed to implement this direction. Accordingly, the principal purpose of the MCR/GRIDS2 is to implement an expansion in Elfrida. The MCR/GRIDS2 exercise is therefore being directed by staff as having a predetermined outcome. In fact, the City has advanced sub-watershed and secondary plan studies for Elfrida notwithstanding the fact that it is has no planning status in the City's official plan for urban uses. The scale of the proposed UWS community is modest and is infilling urbanization of lands that are already fully surrounded by the urban area and are in the process of being fully serviced. Accordingly, there is no good reason that consideration of the UWS expansion should not occur immediately and doing so will not undermine the City's consideration of the Elfrida urban boundary expansion being the main subject matter of the ongoing MCR/GRIDS2 process.

The Upper West Side Group has no objection to the consideration of other growth areas though an objective MCR process but all areas should be evaluated and considered fairly and objectively through current and most relevant provincial planning policy. The City now must plan for growth to the year 2051 under recent amendments to the Growth Plan, and there would appear to be sufficient land requirements to fairly consider and stage growth through all candidate areas. An allocation to the Upper West Side non-prime agricultural area would be the key to satisfy Provincial Planning Policy and allow the MCR to be completed with proper consideration to all other candidate growth areas.

There are several other areas of concern with respect to the staff report including:

- Prematurity of the application;
- Lack of consideration for municipal financial impact;

- Implications with respect to on-going Local Appeal Planning Tribunal (LPAT) matters regarding appeals to the 2006 Urban Official Plan;
- Status of related employment land conversion applications;
- Implications with respect to the minutes of settlement executed through the 2015 Urban Boundary Expansion Ontario Municipal Board proceedings;
- Servicing and infrastructure related to the Airport Employment Growth District including other current employment development applicants;
- Comments concerning noise impacts from the Hamilton International Airport; and,
- Land supply to meet housing needs.

**PREMATURITY OF THE APPLICATION:**

Staff contend that the application is premature pending the completion of the MCR. We disagree with this notion on the following basis:

- The City of Hamilton Official Plan has never been amended to fully comply with the 2006, 2017 and 2019 Growth Plans in terms of accommodating residential land supply. Housing affordability and attainability continues to be an urgent planning issue for Hamilton and the entire GTHA;
- The 2019 Growth Plan includes provisions to enable municipalities to process one or more applications under 40 hectares in area in advance of an MCR to unlock lands for housing supply on an immediate basis. In addition, the Ministry of Municipal Affairs has made it clear that to facilitate this objective, municipalities may approve any number of 40 hectare expansions. Any 40 hectare expansion application is to be accounted for in the land needs assessment in the next MCR process. The approval of this application will therefore not jeopardize or undermine the completion of the comprehensive MCR process, which is not expected to be completed until the year 2022; and,
- The residential land use allocations necessary to implement the Upper West Side community are very modest relative to the land requirements necessary to accommodate growth for the years 2031, 2041 and 2051.

Accordingly, there is no impact on the substantive long-range planning outcomes of the MCR process. In fact, the Upper West Side lands are situated in an infill context, fully surrounded by the urban area. It would be inefficient to not fully urbanize this area before looking to other areas to vastly expand the urban area.

**LACK OF CONSIDERATION FOR MUNICIPAL FINANCIAL IMPACT:**

Planning staff have required the submission of a municipal financial impact statement to support urban boundary expansion applications, yet the staff report indicates that this matter is “not applicable”. The Upper West Side Group has commissioned and submitted a comprehensive municipal financial impact study that has determined that the City will secure:

- Approximately \$200 million in development charge and building permit revenues;
- On-going revenues of approximately 60.0 million per year for a net positive financial impact of \$35 million. This has a current value of \$700 million (assuming a 5% cap rate).

The approval of the Upper West Side application would clearly have significant financial benefits that would help insulate the tax payers from current negative economic conditions.

**IMPLICATIONS WITH RESPECT TO ON-GOING LPAT APPEALS TO THE 2006 URBAN OFFICIAL PLAN:**

The staff report states that our applications could interfere with matters before LPAT. The key matter that remains before LPAT is if the Elfrida study area policies are supportable. The Elfrida study area was prematurely identified in the 2006 Urban Official Plan as a candidate area for growth and located on prime agricultural land. The Elfrida special policy area pre-judged the outcome of the MCR and consequently the then Minister of Municipal Affairs and Housing refused to approve that part of the plan. These policies remain unapproved and without any force or legal implications. Conversely, the Upper West Side lands are fully supported by the current planning mandate for minor urban boundary expansions as set out in the 2019 Growth Plan and 2020 Provincial Policy Statement and should be dealt with expediently, outside of the on-going LPAT appeal process, in accordance with in force provincial law and policy.

**STATUS OF EMPLOYMENT CONVERSION APPLICATIONS:**

The report notes that the Upper West Side Group has previously filed employment conversion applications with the City and should be considered through the MCR process. The employment conversion request filed with the City in 2017 involves a small amount of land to round out the community interface within the AEGD. The current application before Planning Committee and Council does not seek to include the employment conversion matter and we agree that it should be considered during the MCR process.

**IMPLICATIONS WITH RESPECT TO THE MINUTES OF SETTLEMENT EXECUTED THROUGH THE AEGD SECONDARY PLAN ONTARIO MUNICIPAL BOARD PROCEEDINGS:**

Staff contend that the applicants "...may be going after the priority status of both the Elfrida lands and the Twenty Road East lands as the first non-employment lands to be added to the urban boundary". In this regard, some of the Upper West Side land owners did sign minutes of settlement at the conclusion of the 2015 OMB hearing on the basis that:

- The Upper West Side lands were not needed for employment purposes; and,
- That the land use disposition of the area would immediately be considered as part of the MCR process (now not scheduled to be completed until at least 2022).

It will be some 7 years between the conclusion of the AEGD Secondary Plan and the finalization of the MCR process according to staff's current estimate. The subject applications are now being filed under the current mandate of the Provincial Growth Plan to enable minor urban boundary expansion outside of an MCR process and do not offend the minutes of settlement. In fact, neither the in-force policies of the Hamilton Official Plan or the Minutes of Settlement assigns "priority status" to either the Elfrida or Twenty Road East lands. As has been repeatedly communicated, this provision in the Minutes of Settlement constituted a re-statement of the 2015 Council position. Notably, the inclusion by 2015 Council of Twenty Road East was done without any planning justification, rationale or due public process. As such, neither Twenty Road East nor Elfrida have any legal planning status.

**SERVICING AND INFRASTRUCTURE DEVELOPMENT RELATED TO THE AEGD:**

The approval of the Upper West Side community will deliver key infrastructure for the AEGD in terms of:

- The completion of the Garth Street extension from Twenty Road West to Dickenson Road which provides a key transportation link between the AEGD and the Lincoln Alexander Expressway and will be needed to support recently announced developments by the Broccolini and Panattoni groups;
- The implementation of a robust Natural Heritage System within the AEGD which will facilitate environmentally sensitive storm drainage and enhance sub-watershed protection in this area;
- The development of a road network to support AEGD and the Upper West Side Community. In this regard, the land owners are funding an Integrated Environmental Assessment in conjunction with our planning applications to define and implement this transportation system;
- The Upper West Side Group together with Broccolini and Panattoni are working together to deliver time efficient and cost effective interim and long term sanitary servicing solutions for the AEGD. Further, the Upper West Side group have delivered a comprehensive servicing strategy prepared by Urban Tech Group and peer reviewed by Scott Lewellyn and Associates, which demonstrates that there is sufficient interim servicing capacity to support Upper West Side area.

The Upper West Side group will be implementing a cost sharing agreement to facilitate the implementation of infrastructure associated with the Upper West Side Community which will ensure early and cost efficient delivery and will consider front-end financing arrangements with other development interests in the area.

**COMMENTS REGARDING NOISE IMPACTS FROM THE HAMILTON INTERNATIONAL AIRPORT:**

The Provincial Policy Statement states that the “infilling of residential uses”. in areas above the 30 NEF contour can be permitted if it can be demonstrated that there will be no negative long-term impact on the operations of the airport. In this regard, the Upper West Side Community is an infill residential area and would therefore comply with Provincial Policy. Appendix “D” to the Rural Official Plan indicates that the 30 NEF contour actually falls south of our residential development lands. However, mapping that forecasts noise contours to the year 2025 shows the migration of the contour further south of the subject lands. If the urban boundary applications are approved, the Airport requires that noise mitigation measures be implemented including appropriate warning clauses. A noise study has been completed by HGC Consulting which considers noise impacts from airport operations and recommends comprehensive noise mitigation measures. We will continue to work with the Airport to address any further concerns.

**LAND SUPPLY TO MEET HOUSING NEEDS:**

As noted previously, housing affordability and attainability are key issues in Hamilton. Staff rely on “preliminary MCR estimates’ to suggest that the City has a 15 - year supply of land/intensification opportunities to accommodate growth of approximately 60,000 units. Our extensive research into this matter concludes that it is highly unlikely that the City can achieve these targets. Current housing trends are decidedly moving towards ground related housing in response to the COVID –19 pandemic. The Upper West Side lands have the immediate potential to accommodate 5,700 people and 6,120 employees supported by development driven infrastructure investments with a positive net financial impact to the City as noted previously.

**CONCLUSIONS AND RECOMMENDATIONS:**

It is our submission that the approval of the subject application:

- Enables implementation of provincially directed policy for the consideration of a modest infill development that will provide an effective land use buffer between the industrial development in the AEGD and the existing residential area north of Twenty Road West;

- Fully conforms to the Provincial Growth Plan and Policy Statement and will contemporize the City's Official Plan to reflect the current mandate to facilitate minor urban boundary expansions in advance of a MCR process;
- Will not compromise the City's intent to finalize and implement an effective MCR process within the scheduled time frame that will fully consider all growth options available to meet development requirements to the year 2051;
- Assists the City in meeting its obligations under the Provincial Planning Policy to allocate growth to lands that are not designated prime agricultural. This initial allocation will unlock other candidate areas for consideration during the MCR process;
- Provides the City with an immediate and effective response to housing supply and affordability issues with a significant initial revenue stream and positive long-term financial impact; and,
- Provides for needed infrastructure development to support the AEGD by a development driven cost sharing agreement and potential front end financing agreements.

Therefore, it is recommended that Planning Committee consider the adoption of the following resolution and direction to staff:

**WHEREAS** the Upper West Side lands are the only growth option available to the City on non-prime agricultural lands;

**WHEREAS** the Upper West Side lands are fully surrounded by the urban boundary;

**WHEREAS** the Upper West Side lands are an infill development opportunity which will require only a minor allocation of community land to meet the City's total land needs to 2051;

**WHEREAS**, the approval of the application represents a significant immediate and long-term revenue source to the City of Hamilton;

**WHEREAS**, supporting infrastructure for the Upper West Side Community and the AEGD can be delivered through a development driven cost sharing agreement;



**WHEREAS**, the City must be responsive to current housing needs and supply on an immediate basis and the Growth Plan accommodates minor urban boundary expansions to address this need outside of a Municipal Comprehensive Review process,

Therefore, it is hereby resolved:

1. That Urban Hamilton Official Plan Amendment Application UHOPA-20-011 be APPROVED:
2. That staff be directed to expedite the approval process for the Urban Boundary Expansion applications for Council's consideration; and,
3. That staff be directed to continue the Municipal Comprehensive Review process with equal consideration to all potential growth options in accordance with the Growth Plan for the GTHA.

Respectfully submitted,



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**John B. Corbett, MCIP, RPP**

c.c. Mayor and Members of Council  
Joel Farber  
Clients