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November 9, 2020

City of Hamilton Mayor and Members of City Council  
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Dear Mayor & Members of City Council:

**Re: Application for Rural Hamilton Official Plan Amendment (“OPA”)  
 For lands located at 2069 Binbrook Road, Glanbrook  
 City File No. PED20146  
 Our File No. 13600**

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We are counsel to the Applicant, Paletta Livestock Ltd. (“Paletta”), in this matter. Paletta is part of the Agri-Services Division of the Paletta family. The Agri-Services Division owns and operates approximately 930 hectares (2,300 acres) of farmland in the City of Hamilton alone. Paletta manages the farm operations on all of its landholdings. The lands acquired for the Agri-Services Division, including this farm at 2069 Binbrook Road, are intended strictly for agricultural purposes and not as development lands.

Shortly after acquiring this farm at 2069 Binbrook Road, Paletta made application for a consent to sever the two, permanent residential dwellings on the property as surplus farm dwellings. The dwellings are not required by Paletta for its operations and Paletta has no interest in operating rural, residential rental accommodation. The property contains two (2) existing dwellings: the original farm house that was built in the 1940’s and a second dwelling that was built in 1989 for use by members of the family who assisted with the operation of the farm. This has been characterized as a farm “help house”, although more recent occupants have not been

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involved in the farm operations. The house was not built as a temporary structure but is in fact a brick home of substantial size with an inground swimming pool and other residential amenities. We are attaching photographs of this dwelling.

**LPAT Decision, December 20, 2019:**

As a result of the presence of two permanent dwellings on the farm, staff recommended against the consent and the Committee of Adjustment refused the application. Paletta appealed and LPAT approved the consent. The Tribunal concluded that:

“...the second residential building has been used as a single detached dwelling (and not as a farm help house) for multiple years in the past. It also notes that the condition requiring an official plan amendment to permit two single detached dwellings on the severed parcel was proposed by the City and two single detached dwellings presently exist on the subject property.”

[53] The Tribunal finds that the proposed Consent with the conditions in Attachment 1 to this Decision is consistent with the PPS, conforms with RHOP and the Greenbelt Plan, and has regard to the criteria set out in s. 51(24) of the *Planning Act*. It facilitates a farm surplus severance and farm consolidation that sustains farming operations in the area and protects both agricultural resources and the rural character of the area. It will not result in the erection of further residential dwellings in the area, it will protect existing housing stock, and it will not increase housing density in this agricultural area.”

It is important to note that while the City opposed the consent, it was the City that recommended the condition requiring an OPA to recognize the two existing permanent dwellings if the Tribunal saw fit to approve the consent. Obviously, the Tribunal saw fit to approve the consent and imposed the condition for the OPA based on the position taken by the City.

**Official Plan Amendment Application**

Pursuant to the Condition recommended by the City, Paletta applied for what is a highly technical Official Plan amendment to recognize that there will be two, existing permanent dwellings on the severed lot. City staff recommended approval of the OPA. The Planning Committee voted to refuse it.

We believe there may have been a misunderstanding about the source and intent of this OPA. The planning merits of severing a lot with two existing dwellings has already been determined by the Tribunal. There was no challenge or appeal of the Tribunal’s decision. The OPA does not invite a re-examination of the merits of that decision. Rather, the OPA is a

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technical matter required to implement a condition proposed by the City and accepted by the Tribunal. To reject the OPA as a means of frustrating the consent would be, respectfully, an abuse of process.

We respectfully request that Council refer this matter back to the Planning Committee to allow for a more fulsome discussion and consideration of this application in the context of the Tribunal's decision. Our client would be pleased to participate in that process.

Yours truly,



Scott Snider

SS:nd  
Att'd.  
13600/4

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TURKSTRA MAZZA ASSOCIATES, LAWYERS



