

December 11, 2020

Via E-mail (stephanie.paparella@hamilton.ca)

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File no. T968115

Dear Ms. Paparella:

**Re: GRIDS 2 and the Municipal Comprehensive Review – Land Needs Assessment and
Technical Background Reports (PED17010(h)) (City Wide)
Our Client: 1507565 Ontario Limited**

We are counsel to 1507565 Ontario Limited, otherwise known as the Frisina Group (“**Client**”), the owners of approximately 106 acres of land located within the Elfrida Community (“**Elfrida**”).

We write to provide our Client’s written submissions in response to the GRIDS 2 / Municipal Comprehensive Review (“**MCR**”) staff report, which contains a number of recommendations to be considered by City Council at their December 14, 2020 Special General Issues Committee (the “**Staff Report**”). The Lorus and Associates City of Hamilton Land Needs Assessment to 2051 (“**LNA**”) generally presents a balanced approach, both strongly supporting intensification and providing for urban expansions in a responsible and controlled way.

Prior Decisions Endorsed Elfrida as the City’s Preferred Location for Future Growth

Elfrida has long been the City’s preferred location to accommodate future residential growth. This status flows from the City’s long-standing comprehensive Growth Related Integrated Development Strategy (“**GRIDS**”) process dealing with growth to 2031. The GRIDS 2006 study selected Elfrida for very good reasons. The identification was the culmination of a robust 3-year municipal comprehensive review, involving significant public engagement and stakeholder consultation. In the end analysis, of the 5 geographically-based growth options considered, Option 5 being the three-pronged “Nodes and Corridors” option was selected as the best growth strategy for implementing the Provincial Growth Plan. This Option provided for proportionate growth being targeted to a combination of vacant lands within the urban boundary, residential intensification within the built-up area, and two future urban boundary expansion areas for employment and non-employment, being the AEGD and Elfrida respectively.

Appendix 1 to Mr. Thorne’s GRIDS and Elfrida Information Update Report to Council dated April 30, 2019 provides an exhaustive account of the evaluation, consultation, adoption and implementation process underpinning the selection of Option 5 and Elfrida which now forms the basis of the City’s urban structure in the Urban Hamilton Official Plan. As Mr. Thorne’s Report correctly points out, the employment and non-employment boundary expansions could have been formalized at the time, but a strategic decision was made to delay formal adoption of the two expansions thereby allowing for the

completion of the implementation of the secondary planning to ensure that the land use planning framework would be in place to guide development within the expansion areas.

In summary, as a preferred candidate area for future residential growth, the Elfrida lands have already been proven by:

- the secondary planning for Elfrida, which is effectively completed, including sub-watershed planning and environmental impact analysis;
- the financial planning underpinning the servicing infrastructure, supporting the Elfrida growth area which has been completed and fully entrenched in the City's 10-year capital budget and DC Bylaw;
- referencing Appendix "A" attached, the constructed water and wastewater services supporting the Elfrida growth area which are in the ground on Elfrida's doorstep; and,
- Given its location, there are no noise exposure issues.

Infrastructure Investments Implemented the GRIDS 1 Decisions

The City adopted policies within both its Urban Official Plan and Rural Official Plans identify Elfrida as the preferred location to accommodate future non-employment growth. Although these provisions have been under appeal for more than a decade (OMB Case Nos. PL110331 and PL090114) (the "**Expansion Appeals**"), in the intervening period, the City has notably continued to invest very substantial public funding in the future development of Elfrida.

The City has also invested many millions of dollars in public infrastructure relating to the future development of Elfrida, including the Upper Centennial Parkway Trunk Sewer and Dickenson Road Trunk Sewer. We have enclosed a list of the infrastructure projects relating to Elfrida for your reference at Appendix A to this letter.

AEGD

The City again reinforced Elfrida as its first priority for non-employment lands in its settlement of the Airport Employment Growth District ("**AEGD**") Secondary Plan hearing by way of Minutes of Settlement dated February 3, 2015 ("**AEGD Minutes**"). Within the AEGD Minutes the Parties agreed that it is the intent of the City of Hamilton that "The Elfrida lands are its first priority for non-employment lands" (See paragraph 14(b)). Paragraph 12 of the AEGD Minutes also bars the Parties from objecting "directly or indirectly to the recognition of the Elfrida area as identified in section B.2.2.1 of the Urban Hamilton Official Plan" as a future urban growth district. We specifically note that the members of the Upper West Side Landowners ("**UWS**") entered into those minutes and they are bound by those provisions.

Recommendation (b) – Do Not Pre-Judge the Process

The parties to the Expansion Appeals have already committed to participating in a mediation to explore if a resolution is possible to avoid a lengthy and expensive LPAT hearing process. Tentative dates are being worked out for such a mediation in late January or early February of 2021. In addition, the City process following the December 14 meeting contemplates a public consultation process in the first

quarter of 2021. Our client is of the view that to avoid any appearance that the City is prejudging the outcome of either process that it would be prudent for the City to defer the consideration of recommendation (b) for fear that some may misconstrue this recommendation. Should the mediation process not avoid a contested hearing of the Expansion Appeals, it is our position that Elfrida remains the preferred 2031 residential expansion area.

Upper West Side Proposed Amendment Contrary to the GRIDS Public Process

We would like to address the correspondence provided by Joel Farber on behalf of UWS and their proposed change to the language at number 4 of GRIDS 10 Directions (Appendix A to the Report) as follows,

4. Protect rural areas for a viable rural economy, agricultural resources, environmentally sensitive recreation and the enjoyment of the rural landscape *and avoid urbanization of prime agricultural areas.*

The Staff Report at page 9 summarizes the lengthy consultation process for the adoption of the Nine (now Ten) Directions to Guide Development. It is unfair and too late in the day to now unilaterally circumvent the public consultation process by the proposed amendment. As staff noted:

Through staff review and consultation with stakeholders and members of the public, it was determined the Directions are generally still relevant to guide future development decisions and align with the City's Our Future Hamilton vision. Comments from the public and stakeholders on the GRIDS Directions were summarized in the Round One and Two Public Consultation Summary Reports.

Moreover, the LNA clearly indicates that an expansion of the urban boundary, including onto prime agricultural lands, is required in order to address the 2051 growth requirement. Through GRIDS 1, the loss of prime agricultural lands was directly addressed, and was a key study consideration in leading to the choice of Option 5 (Nodes and Corridors) over Option 2 (Distributed Development). GRIDS 1 ensured the conversion of prime agricultural lands to accommodate 2031 forecasted growth will be kept to a minimum. Accordingly, Item 4 of the GRIDS 10 Directions as currently framed, accurately reflects the outcome of the 2031 growth structure exercise on this point and in our view appropriately protects for agricultural resources. It is important to emphasize that expansion onto prime agricultural lands to accommodate provincially directed growth is sanctioned by both the Provincial Policy Statement and the Growth Plan provided it can be justified. In our view, such justification was made plainly evident through GRIDS 1 and equally is made clear through the LNA which demonstrates that avoidance of prime agricultural lands is not possible without employing a totally unfeasible intensification target.

As a result of the foregoing, we urge the City not to amend the language at number 4 of GRIDS 10 Directions as requested by UWS.

We appreciate your careful consideration of this submission and our Client's delegation to the Committee.

Yours very truly,

Gowling WLG (Canada) LLP



John S. Doherty

JSD:hp

Encl.

cc: Patrick MacDonald - City of Hamilton
Paul Lowes – SGL Planning & Design Inc.
Jonathan Minnes – Gowling WLG (Canada) LLP
Client

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Appendix A

Major Capital Project Directly Related to the Elfrida Area

1) Upper Centennial Parkway Trunk Sewer - Phase I (Lower Centennial) \$14.5 M Total Cost - conservatively 20% is attributable to Elfrida = \$2.9 M. Phase II (Upper Centennial) \$51 M Total Cost - conservatively 50% is attributable to Elfrida = \$25.5 M for a Total of \$28.4 M

2) Dickenson Road Trunk Sewer (Miles Road to Golf Club to Highway #56) - \$44.2 M Total Cost - conservatively 60% is attributable to Elfrida = \$26.52 M

Sub-total = \$54.92.

Projects Approved by City Council and implemented through the current DC By-law

1) Wastewater Capital Program - \$30.1 M

2) Water Projects - \$51.4 M

3) Stormwater Management Projects - \$114.835 M

4) Road Projects - \$130.495 M

5) Portions of City-Wide Capital Programs Related to Elfrida

- Woodward WTP - \$35.8 M (10% of total attributable to Elfrida)

- Transit BLAST Network and new Transit Center - \$5 M (10% of total attributable to Elfrida)

- Other Soft Service Costs including parks, indoor recreation, library, administrative studies, paramedics, fire, police, waste diversion, LPAT tribunals, Secondary Plan, Watershed Plan and Staff time - Estimated \$30 M

Sub-total = \$397.63 M

GRAND TOTAL = \$452.55 M