

April 19, 2022

File No. 19070

Chair and Members  
General Issues Committee (GIC)  
71 Main Street West, 4th Floor  
Hamilton, ON L8P 4Y5

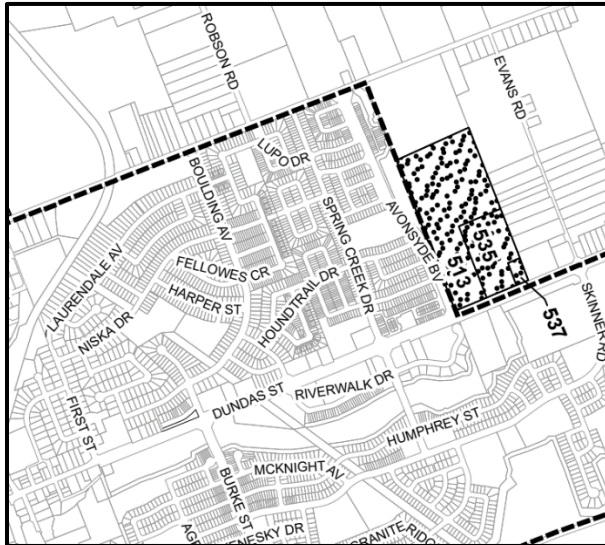
**Email Only:** Stephanie Paparella, Legislative Coordinator

Dear Chair and Members of the General Issues Committee:

Re: **Evaluation of Urban Boundary Expansion Requests – Waterdown  
PED17010(q) (Ward 15)  
513, 531 and 537 Dundas Street East**

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GSP Group represents the landowners (“Owners”) of 513, 531 and 537 Dundas Street East located on the north side of Dundas Street East immediately east of Avonsyde Blvd. (Subject Lands). The three (3) properties total 16.3 hectares in size. The west property line of 513 Dundas Street East is adjacent to the Waterdown Urban Area boundary (see extract below from Appendix “D” to Report PED17010(q)).



In this latest exercise, the Owners requested that their lands, or a portion thereof, be added to the Urban Area. This request followed over 30 years of navigating City of Hamilton, Provincial and Niagara Escarpment Commission (NEC) land-use planning procedures that ignored or side-stepped the inevitable land-use conflict, while the Owners tried to find a workable solution.

As in the past, these lands were not selected for the 5-hectare expansion to the Waterdown Urban Area boundary and were excluded from the Phase One process based on existing property size (rather than intention), and other assumptions that the City of Hamilton chose not to verify with the Owners.

## **Owners Request to the GIC**

There is a basic land use conflict between the existing and planned urban residential development, widened roads and new roads being constructed in Waterdown, and the continued ability to efficiently farm the Subject Lands. The existing poultry operation has already faced legal challenges for legitimate agricultural construction activities (manure sheds) as well as urban development proposals that failed to factor in Minimum Distance Separation requirements. To provide other examples of direct impact, the poultry operation lost access to groundwater (well water) in 2015 resulting in a dependence on trucked-in city water ever since. The farm at 513 Dundas Street has had access to its driveway impeded by the traffic light island created on Dundas Street East at the intersection with Avonsyde Boulevard making manoeuvrability dangerous.

The Owners have worked in good faith with all land-use decision-makers to try and overcome the ambiguous nature of Provincial Plan reviews, their relationship to Municipal Plan reviews and to try and address the fact that these processes do not align.

During the 2015 Co-ordinated Provincial Plan Review, the Owners made a request to remove their lands from the Niagara Escarpment Plan (NEP) such that they could become part of the Waterdown Urban Area. This request was met with refusal, but Provincial staff advised the Owners that the City should consider the Subject Lands as part of their Municipal Comprehensive Review (MCR). The City has done so, however, the City cannot add these lands to the Urban Area until a decision is made during a subsequent Provincial Plan Review. There does not appear to be clear direction on these types of requests and the two types of reviews do not align.

The Owners support the City staff's opinion that this circular process should be addressed.

**The Owners respectfully request that the GIC pass a motion to direct City of Hamilton staff to support the Owners in finding a workable solution (in coordination with the Province) to affect the necessary change regarding the Subject Lands to address the land-use conflict that is now before them.**

## **Concerns Regarding the Process**

In May 2021 the Owners submitted written comments on the draft Screening Criteria and Evaluation Tool. The Owners also asked to be included in any future consideration of a minor expansion. At that time the proposed maximum area for consideration was ten (10) hectares.

In November 2021, City Council decided to proceed with no major expansions to the Urban Area. Council did retain the ability to consider requests for a minor expansion to the Waterdown Urban Area, to a maximum of five (5) hectares. No communication or correspondence was received by the Owners to explain why the maximum area was changed and the Owners were neither

informed about how the evaluation would be completed nor offered the opportunity to contribute any additional information based on the new criteria.

The staff report states that five properties did not pass the initial screening test and only one (1) request passed both the Phase One and Phase Two evaluation criteria. The properties selected to be added to the Urban Area are 329 and 345 Parkside Drive, which contain an existing long-term care facility (institutional use).

The Owners identified the following concerns with the City's evaluation process which they wish to outline for the Committee.

Phase One of the review included the Growth Plan policies "with an added screening criteria requiring an expansion to address a need for a non-residential use." Phase Two criteria are said to represent local priorities. The staff report states: "an expansion will only be recommended if there is a need for a logical rounding out of the boundary or a recognition of existing uses."

The recognition of an existing use in the Rural Area became the key criterion for evaluating a minor urban expansion. The Growth Plan does not refer to existing uses but rather proposed uses.

Of further concern to the Owners is the statement in the staff report that the reduction in the size from ten (10) hectares to five (5) hectares resulted in all but two of the areas being eliminated for consideration in Phase One.

The Owners land area totals 16.3 hectares. There would be certain natural features that would be netted out of that total. When the total area to be brought into the Urban Area changed from 10 hectares to 5 hectares, the Owners were not given the opportunity to propose a reduced area on the Subject Lands.

The results of the City's evaluation suggests that the Owners should have identified a non-residential use in their request. The Owners contend that City staff should have clarified this criterion with them rather than using it against them. The Owners did not identify a specific use knowing that need etc. would be evaluated during a separate land use planning process.

The staff report states that only the selected site could meet the criteria because there was an existing non-residential use on the lands (long term care facility). The staff report also states that support for the selected lands "does not imply support for a specific future development proposal as no details of the future development have been provided." This was the case for the other sites as well.

The staff report states that three (3) of the requests are for lands immediately adjacent to the existing urban area, and are being impacted by the east-west corridor (planned by-pass). Yet the

report could also have mentioned that the Subject Lands have been impacted by road works and are also immediately adjacent to the existing urban area.

Minimum Distance Separation (MDS) between urban uses and the existing poultry livestock operation have not been met in recent development applications which is a unique situation. Also, the farm located at 513 Dundas Street East and its viability have been impacted by urban growth and new / widened transportation facilities.

As mentioned above, the staff report is sympathetic to the Owners' dilemma of being part of the Niagara Escarpment Plan (NEP) Greenbelt Area. We agree with City staff that the process should be addressed with the Province and decisions made to co-ordinate the reviews. Surely, after thirty years of constructive dialogue, the Owners have earned the right to a better outcome.

### **Conclusion**

In our opinion, other policies in the Growth Plan support the inclusion of the Subject Lands in the Urban Area, or a portion thereof, over the other sites. This is primarily due to the incompatibility of land uses caused by past decisions to expand the Waterdown Urban Area near existing farms, including a poultry farm, jeopardizing their continued viability.

We appreciate the opportunity to express our concerns, and we count on the support of the City of Hamilton and Provincial staff to resolve the land use conflict that now exists between agricultural and urban uses.

Yours truly,  
**GSP GROUP INC.**

A handwritten signature in cursive script that reads "Nancy Frieday".

Nancy Frieday, MCIP, RPP  
Senior Planner

Copy: Mayor Fred Eisenberger  
Councillor Judi Partridge, Ward 15  
S. Robichaud, Director of Planning and Chief Planner