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VIA EMAIL

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City of Hamilton – Planning Committee  
Planning and Economic Development  
71 Main Street West  
Hamilton, ON L8P 4Y5

Attention: Lisa Kelsey, Legislative Coordinator, [lisa.kelsey@hamilton.ca](mailto:lisa.kelsey@hamilton.ca)

**RE: Official Plan Amendment, Zoning By-law Amendment, Draft Plan of Subdivision Applications  
286 Lewis Road, City of Hamilton  
City File No. UHOPA-24-007, ZAC-24-022 and 25T-202402  
Planning Committee Agenda Item 10.2**

We are counsel for Lewis 286 Development Inc., a joint venture between Branthaven Development and Losani Homes (the “**Applicant**”) in respect of the property municipally known as 286 Lewis Road, within the City of Hamilton (“**Subject Lands**”). Our client’s planning consultant, GSAI, filed an Official Plan Amendment, Zoning By-law Amendment, and Draft Plan of Subdivision (the “**Applications**”) to facilitate a residential development, that would contribute to the build-out of the Fruitland-Winona community.

The Proposed Development consists of 309 units, including 92 freehold units and 217 condominium units. The units are a mix of street townhouse, back-to-back townhouse, and stacked townhouse built forms.

Since pre-consultation in November of 2023, a considerable amount of effort has gone toward coordination and fulfilment of many technical requirements to facilitate the Proposed Development. However, despite best efforts to work with City staff, Staff Report dated November 5, 2024, recommends refusal of the Applications on the basis that:

- *They are not consistent with the Provincial Planning Statement (2024) as they do not contribute to an appropriate range and mix of housing and transportation options, do not make efficient use of land, it does not support transit, do not address natural hazards, and do not support the creation of complete communities;*
- *They do not appropriately address the criteria set out in Sub-Section 51(24) of the Planning Act;*
- *It is not in the public interest nor an orderly development of land*
- *They have not demonstrated that they provide an appropriate mix of housing types;*
- *They do not comply to the Block 3 Servicing Strategy;*
- *They do not meet the intent of the urban design policies;*

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- *They do not meet the intent of the general residential policies nor the “Low Density Residential 3” and “Medium Density Residential 2” designations;*
- *They have not demonstrated that adequate infrastructure capacity is available;*
- *They have not demonstrated that there will not be any downstream flooding or erosion hazards;*
- *They have not demonstrated that areas of archaeological potential are sufficiently assessed;*
- *They have not demonstrated that they maintain the integrity of adjacent heritage resources;*
- *They have not demonstrated that trees have been sufficiently protected; and,*
- *They are not considered to be good planning as the height and density results in overdevelopment of the site.*

We offer the following comments in response to these overly generalized comments:

- *City staff's position is that the Application is not consistent with the Provincial Planning Statement (2024). We disagree. The Provincial Planning Statement recognizes a municipal official plan as the most important vehicle for implementation of the Provincial Planning Statement for achieving comprehensive, integrated and long-term planning*

Through OPA 167, City Council has taken the position that a City's urban boundary is firm and that all planned growth to 2051 shall be accommodated through the development of the City's existing designated greenfield areas, and intensification throughout the City's Urban Area. The Subject Lands are within the urban boundary and are part of the FWSP which provides general land use and other policy directions for land use. We appreciate that this policy direction needs to be balanced with the principles of complete communities and good planning. As such, it is important to consider the Proposed Development in the context of the broader neighbourhood and previous approvals.

At 1054 Barton Street (City File No. ZAC-20-043 and 25T-202009), just west of the Subject Lands, through a settlement at the Ontario Land Tribunal, a draft plan of subdivision for 551 units was approved. It consists of 157 single detached dwellings, 191 street townhouse dwellings, and two condominium blocks with approximately 203 units containing a mix of townhouses, back-to-back townhouses, and rearlane townhouses. The Proposed Development compliments these approvals and continues with similar infill and built forms by contributing to the mix of units and built forms existing and planned for the neighbourhood. The proposed increase in density is transit supportive as it makes for the efficient use of land and contributes to creating a complete community.

- *City staff provide that the Application does not appropriately address the criteria set out in Sub-Section 51(24) of the Planning Act and does not represent orderly development of land. We disagree. Section 51 (24) of the Planning Act provides municipalities with a tool to assess the orderly development of lands. The Planning Justification Report submitted with the Applications, coupled with the technical studies, confirms that the development of the Subject Lands represents an orderly succession of development and the extension of key infrastructure to support new communities. Any final and outstanding approval authority requirements can be addressed through draft plan of subdivision conditions of approval.*

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- *City staff conclude that the Proposed Development does not comply with the Block 3 Servicing Study.* It is important to note that the Block 3 Servicing Study is not a statutory planning document, such as an Official Plan or Secondary Plan. It is a tool the City of Hamilton has used to guide development. In support of the Applications, a Functional Servicing and Stormwater Management Report as well as a Transportation Study was prepared. Both documents consider the guiding principles of the Block 3 Servicing Study and confirm the Proposed Development is in accordance with the City's objectives.
- *It is City Staff's opinion that the Proposed Development does not meet the intent of the urban design guidelines or the general land residential policies for the applicable "Low Density Residential 3" and "Medium Density Residential 2" designations.* In support of the Applicant, a Planning Justification Report and Urban Design Brief were submitted. Both documents provide a thorough analysis of the applicable land use policies and urban design guidelines and policies.
- *With regard to some of the technical requirements, City staff state that the Applicant has not demonstrated adequate infrastructure capacity and management of downstream flooding or erosion hazards.* Both of these items have been assessed and demonstrated to be satisfactory in the Applicant's submission materials. Additionally, technical matters are reviewed and addressed through the subsequent detailed design exercise of the plan of subdivision/clearance of conditions of approval.
- *City staff note that the Applicant has not demonstrated that the areas of archaeological potential have been sufficiently addressed.* A Stage 1-3 Archaeological Assessment was submitted and accepted, and a Stage 4 report is being prepared by the Applicant. As such, archaeological concerns can be addressed through subdivision/clearance of conditions of approval.
- *City staff note that the Application has not demonstrated that they maintain the integrity of adjacent heritage resources.* City staff through the review of the Application advised that the Cultural Heritage Impact Assessment submitted with the application to be "comprehensive and mostly complete" with the exception of a few comments. Similar to the comments above, the approval of the Cultural Heritage Impact Assessment could be addressed as a condition of approval or through a Holding Provision.
- *City staff note that the Applicant has not demonstrated sufficient tree protection.* A Tree Protection Plan (TPP) has been prepared which meets the City's requirements. In our opinion, matters such as tree protection and plantings are typically addressed through the detailed design exercise of the plan of subdivision.
- *City staff note that the Applicant has not demonstrated that it protects the long-term viability of employment uses.* In our opinion, this is a non-issue. The Subject Lands have been designated for residential uses for several years and the City and Tribunal have approved residential development closer to existing employment areas than the Subject Lands.

To address density, various technical reports have been prepared in response to technical requirements which speak to matters of density such as servicing capacity and impact on the road network. With

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regards to height, an Urban Design Brief has been submitted which, along with the Planning Justification Report, demonstrates the overall project built form heights are appropriate for the Subject Lands.

Our client is disappointed with the lack of collaboration between GSAI and staff on the processing of these Applications and are concerned with staff's unsubstantiated, generic comments, rejecting the application outright. In our opinion, it would be in both the City's and the Applicants' interest to work together towards a mutually agreeable development that would assist in implementing the long-standing Secondary Plan applying to the Subject Lands.

On November 29, 2023, a Formal Consultation meeting was held with City Staff (FC-23-112). The proposal was presented, and comments were shared. Formal comments and a checklist were provided by City Planning shortly thereafter. On March 8, 2024, an in-person Community Information Meeting was hosted by the Applicant and GSAI to discuss this application with the community. Following the Community Information Meeting, the Applicant and its Project Team met with City Staff on multiple occasions to discuss the Proposed Development and the Applicant's next steps. A submission was made on June 14, 2024, and again on July 23, 2024 to address the City's 'completeness' review comments, and the Application was deemed complete on July 30, 2024. The submission responded to all formal comments and checklist requirements. Partial City and external agency comments were provided to the Applicant on September 19, 2024 and September 30, 2024. The City's Planning comments, as noted above, were provided to the Applicant on October 7, 2024.

The above timelines are important, as they demonstrate the Applicant's efforts to engage with City staff prior to and during the formal application submission process. It is important to note that during this time, City Planning staff did not advise the Applicant of any significant concerns with the Proposed Development. Open and ongoing communication is critical in order to work with Staff to resolve issues prior to bringing a Recommendation Report forward to the Planning Committee and Council. This necessary dialogue between the City and Applicant is crucial, but appears to have been contradicted by direction to City Staff to bring forward a Recommendation Report within the statutory timelines under the *Planning Act*. This has resulted in a challenge for both City staff and the Applicant.

We appreciate there may be matters concerning the Proposed Development that the Applicant and City Staff may not agree on, some of which can be addressed with continuing effort and dialogue. However, this Application, in our opinion, brings attention to the shortfalls in the City's current application in-take and review processes, which limited the Applicant's ability to review and respond to the City's comments, questions and concerns on the Application and to have meaningful discussions with City Staff. Our clients are disappointed with this outcome and are now forced to make difficult decisions on necessary next steps towards bringing about the development of the Subject Lands, which will likely have significant cost consequences for both the City and the Applicant, and will significantly delay the delivery of much-needed housing.

Yours truly,



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