



Mayor and Members of Council,  
C/O Office of the City Clerk  
71 Main St. West  
Hamilton, ON  
L8P 4Y5

February 8, 2011

**Re: Trinity East – Official Plan Amendment and Zoning By-Law Amendment PED07236(d) request from ORC for Council to defer any consideration of this matter until City staff meet with ORC and provincial officials to discuss ORC concerns.**

ORC has reviewed the Planning Committee Report 11-002 (dated February 1, 2011), which is to be presented to Hamilton City Council on February 9, 2011. With respect to Item 3: *Trinity East – Official Plan Amendment and Zoning By-law Amendment (PED07236(d))*, ORC requests that those items not be considered for approval until additional meetings between ORC and provincial ministries occur.

Staff Report PED07236(d), dated February 1, 2011, relates to the captioned matters. ORC considers it premature to re-designate to “Open Space” and rezone to “Conservation/Hazard Land” those lands east of the Eramosa Karst feeder creeks and we offer the following comments for Council’s consideration:

### **Context**

In April of 2003, the Ministry of Natural Resources received a report from Dr. Stephen Worthington, Dr. Derek Ford and Marcus Buck that provided the basis for designating the Eramosa Karst ANSI.

This report identified specific areas of the ANSI and provided recommendations for the protection of each of the component parts. Pertinent to the Provincial lands are:

ANSI Core Area - contains the highest density of significant karst features and was recommended to be protected from development.

ANSI Feeder Area –includes the watersheds that contribute flow to the significant karst systems in the Care Area. The 2003 ANSI Report does not prohibit development in the Feeder Area and sets out criteria for development in this area.

In 2006, the Province of Ontario transferred the ANSI Core Area, a 50 metre wide Core Area buffer (recommended in the 2003 ANSI Report) and Feeder Creek Areas to the Hamilton Conservation Authority to reflect these expert recommendations. In addition, to earlier studies ORC has undertaken extensive field work and examination of the lands in question from 2007 onwards partially in response to City infrastructure





proposals in this area that have now been put on hold. All of our studies have determined that a significant portion of the Provincial Lands in the Feeder Area of the ANSI can be developed subject to appropriate monitoring and mitigation measures. Recommended monitoring requested by the HCA is ongoing and mitigation will be implemented as part of land use planning approvals that would be sought for the developable portions of the land in accordance with the recommendations of the ANSI Report and the ORC Class EA completed in 2009 but which is currently being reviewed by the Ministry of Environment.

### **ORC's specific comments on items (a) through (d) of the staff report.**

Staff Report PED07236(d) states that the principle of development on the lands east of Karst has not been established. In our opinion, this statement is not supported by the findings of expert studies. To our knowledge no such studies have been undertaken by the City of Hamilton. In addition, ORC has requested but has not yet been provided a report procured by the Hamilton Conservation Authority for these lands.

In contrast, based on three years of intensive field work by the ORC project team - and following an independent peer review carried out by The Thomson Rosemount Group and Worthington Groundwater (one of the authors of the 2003 ANSI Report), in consultation with the Ministry of Natural Resources - ORC's technical studies have demonstrated that, subject to proper implementation of the identified mitigation measures, the Provincially owned lands in the Feeder Area can be developed without impacting the environmental integrity of the Area of Natural and Scientific Interest (ANSI) Core. This information is available in the Environmental Study Report produced by ORC and has been shared with the City, including the ESAIG committee and Conservation Authority staff. ORC is implementing recommended monitoring, which will lead into an appropriate implementation strategy to mitigate potential impacts to the ANSI Core. Lastly, the lands are in the City's urban area and have been designated for a residential community since the early 90's. The lands are surrounded on three sides by recently approved or existing urban development on privately owned land in addition to Rymal Road which is being upgraded shortly.

### **Prematurity of Open Space Designation**

It is premature to re-designate and rezone the lands as proposed given that the ORC/MOI Class Environmental Assessment for the Lands Adjacent to the Eramosa Karst is currently being reviewed by the Ministry of the Environment in respect to Part II Order requests. The Ministry's decision on whether those requests are valid will be a vital determinant on future study requirements and on future approaches to be considered for the disposition of the lands. As such, a re-designation and rezoning should not be made prior to such a decision from the MOE.

Furthermore, we are aware that the Ministry of Municipal Affairs has issued a draft decision that called for consistency in the application of policies with respect to the lands





in question. A decision by the City would pre-empt a decision from that Ministry with respect to the new Hamilton Official Plan.

ORC has committed to follow the direction outlined in its Class EA. This includes pursuing land use planning approvals supported by the monitoring, now well underway, as well as incorporating the findings of the Trinity Neighbourhood Collector Road EA.

ORC has already completed extensive monitoring as identified through input into the Class EA process. Monitoring to date suggests no need to revisit land use for the Trinity East area.

The City's Official Plan sets out land use planning designations to accommodate forecasted needs for the next 20 years. The completion and review of studies and land use planning applications is well within the time frames of the Official Plan and the approach recommended in the ORC Class EA is a responsible and reasonable approach to land use planning.

In the intervening time between now and MMAH review and approval of the adopted Urban Official Plan, there are already existing mechanisms to effectively control development of the site. The property is currently zoned "Neighbourhood Development" by the in-force Stoney Creek Zoning By-law. This zone allows for existing uses, agricultural uses (subject to restrictions) and one single detached dwelling. Any development of the Provincial Land would require complete land use planning applications, including the range of studies identified in the ORC Class EA study, as also noted on page 12 of the Staff Report. While many of these studies have been completed through the Class EA process, ORC is committed to the completion of the additional detailed studies which would direct the land use approvals, design measures and monitoring to ensure that the recommendations set out in the 2003 ANSI Report for the Feeder Area are implemented.

### **Consistency in Approach to Feeder Area Land**

The recommended re-designations and rezoning has been made to apply solely to one landowner – the province of Ontario represented by ORC. From our review these proposed designations apply only to ORC lands outside of the Eramosa Karst Earth Science ANSI. These proposed designations do not apply to other landowners within the ANSI or catchment area for Davis Creek. It appears that the designations are not being proposed based on the result of scientific studies or comprehensive planning principles, but rather on ownership patterns.

### **Conclusion**

The City of Hamilton's approach is not supported by scientific study and is inequitable. The recommendations of the scientific and planning studies undertaken by the Province in consultation with HCA and City stakeholders referenced in the 2009 ORC Class EA provide that development of the provincial land will not be commenced in advance of seeking land use planning approvals.





For the above reasons we request that Council defer any decision on this matter and direct staff to meet with ORC and report back on the content of this letter prior to considering this report.

Thank you for your consideration of this request.

Yours truly,  
**Ontario Realty Corporation**

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