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VIA EMAIL

August 21, 2020

Mayor Meed-Ward & Members of Council
City of Burlington
426 Brant Street
Burlington ON L7R 2G2

Dear Mayor Meed-Ward and Members of Council

RE: CORRECTION of MISINFORMATION

Community Planning, Regulations & Mobility Committee Meeting – August 11, 2020

Staff Report No. PL-48-20 Supplementary information and directions regarding subdivision agreement extension for Garden Trails Subdivision (Agenda Item No. XX)

We represent Garden Trail Developments Limited ("**Garden Trail**"). On August 11, 2020, the Community Planning, Regulations & Mobility Committee ("**Committee**") meeting received Staff Report No. PL-48-20 -- Supplementary information and directions regarding subdivision agreement extension for Garden Trails Subdivision ("**Staff Report**"). The Staff Report recommendation was to "refuse the request to extend Draft Plan Approval for the Garden Trails subdivision (24T099005/B) at Genista Drive, as recommended in community planning department report PL-31-20. Committee approved the recommendation with a 4-3 vote ("**Refusal to Extend**").

Committee heard from the Applicant's representative and a Conservation Halton ("**CH**") employee. The CH employee was not on the delegation list. In response to the Clerk's enquiries, she advised that she was asked that morning by the Mayor to speak to the Committee about the application history. Committee waived the delegation rules and heard from the CH employee.

Sound municipal decision-making must be fuelled by facts. I write to correct the record of misinformation shared at the Committee meeting.

NANCY SMITH PROFESSIONAL CORPORATION
TURKSTRA MAZZA ASSOCIATES, LAWYERS

1. Technical Submissions Since 2001

In speaking to the application's history, the CH employee told the Committee that Garden Trail had made no technical submissions since 2001 except in 2017 and 2020. The CH employee was mistaken.

Attached please find correspondence dated August 20, 2020 from Soil-Mat Engineers & Consultants Ltd ("Soil-Mat"). Soil Mat outlines the application's history and its dealings with CH since its retainer in 2010:

- **2010: Meeting with CH staff, City staff and design consultants resulting in an outline of the work required to move forward**
- **2010 – 2014: Multiple rounds of fieldwork and studies including site meetings with CH staff**
- **October 10, 2014: Geotechnical Report**
- **November 2014 – October 2016: ongoing consultation**
- **October 26, 2015: Geotechnical Report**
- **2017: ongoing consultation including meetings with CH staff and receiving formal CH comments (April 5, 2017 and December 8, 2017)**
- **2019 - 2020: formal responses to CH comments by way of various Addendums**

Most recently, Soil Mat states:

More recently CH staff provided updated comments in a letter dated June 24, 2020. A number of conference call/virtual meetings have been held to discuss these comments and how to best address them, along with a site visit review with CH staff on August 4, 2020. A primary item in these most recent comments from CH was that an updated geotechnical report be provided. Subsequent to these discussions and site meeting, our office has committed to CH staff to undertake to prepare a current consolidated geotechnical report. This process is underway with the formal report anticipated to be issued in the next couple weeks. [underlining added]

2. Legal Mechanism for Fees to Reflect Staff Time and Resources on a Specific File

A Committee Member told Committee that no mechanism exists for the City to impose fees to reflect staff time and resources on a specific file. The Committee Member was mistaken.

Attached please find By-law 52-2019 – a By-Law to Impose Rates and Fees. Section 5 states:

The fees and charges imposed by the City, as outlined in Schedule "A" to this bylaw may be increased, decreased or waived completely by the Director to whose department the fee or charge relates, subject to any approved corporate policy.

Section 6 states:

The fees and charges imposed by the City as outlined in Schedule "A" to this bylaw may be amended by Council by way of a motion to reconsider.

3. An Extension is the Most Efficient Use of City Resources

The project is draft plan approved under the *Planning Act*. Extending this draft plan approval and requiring a Resubmission is the most efficient use of City resources. Over the past 2-month period, consultation with the Region, the City and CH has resulted in a list of Resubmission requirements. An extension will allow Garden Trail to complete the following outstanding matters:

- **CH permit application approval for shoreline/creek rehabilitation, establishment of long-term stable top of slope and delineation of developable land**
- **Complete a scoped EIS and any additional updates to previously completed reports/studies as outlined in the Staff Report**
- **Satisfy all updated subdivision and draft plan approval conditions**

Contrast the City resources to implement a Resubmission to requiring a new application. Refusing to extend the draft plan approval will engage a full *Planning Act* process and all the municipal resources required of staff and Council to implement that process: pre-consultation, pre-submission, circulation, statutory public meeting and so on. This is not a reasonable process nor is it an efficient use of City resources to move forward with an approved draft plan.

The foregoing corrects the record at Committee. I respectfully request that you reflect on these corrections in deciding whether to accept the Committee's Refusal to Extend recommendation.

Yours truly,

A handwritten signature in black ink, appearing to read 'N. Smith', written in a cursive style.

Nancy Smith
ns/l

SOIL-MAT ENGINEERS & CONSULTANTS LTD.

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PROJECT No.: SM 103796-G

August 20 2020

EMSHIH DEVELOPMENTS INC.
895 Brant Street, Suite 7
Burlington, Ontario
L7R 2J6

Attention: Ms. Kristina Didiano, MES, BA

**GEOTECHNICAL COMMENTS
PROPOSED GARDEN TRAILS – PHASE II
GENISTA DRIVE, BURLINGTON, ONTARIO**

Dear Ms. Didiano,

Further to our recent correspondence and discussions, and your request, I take this opportunity to summarise the involvement of SOIL-MAT ENGINEERS & CONSULTANTS LTD. providing geotechnical assessment and consultations for the above noted project.

Soil-Mat Engineers was engaged on the project in 2010 to undertake geotechnical investigations on the subject site, specifically focusing on slope stability assessment. The purpose of this work has been to undertake:

- Detailed evaluation of the subsurface soil and bedrock conditions via the advancement of several boreholes across the site.
- Assessment, measurement and analysis of the existing slopes to Grindstone Creek, in order to establish the stability and factor of safety of the slopes, and the location of the long-term top of stable slope.
- Engage in discussion and consultation with the design team, Conservation Halton [CH], Halton Region and City of Burlington to assist in establishing appropriate engineering solutions to support permit approval for the development.

The start of our involvement in 2010 began with a meeting in 2010 at CH offices involving representatives of the design consultants, CH and City of Burlington staff. This discussion established an outline of the plan and approach going forward, in particular with respect to the necessary geotechnical investigation work required. This work was undertaken in multiple rounds of fieldwork and studies, along with site meetings with CH staff.

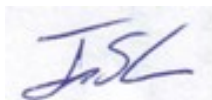
The summation of our site investigations and reporting was presented on our Geotechnical Investigation report, dated October 10, 2014. This report established the relative stability of the slopes, along with the location of the long-term top of stable slope. We had subsequently been engaged in discussion and consultation with respect to the slope stability requirements to achieve the lot grades, as well as the stability of the slope adjacent to the existing SWM pond areas. The results of this further consultation were presented in our report dated October 26, 2015. Additional consultations were undertaken in 2017, including meeting with CH and City staff, along with formal comments received from CH in two separate letters of April 5, 2017 and December 8, 2017. In 2019 our office undertook to prepare formal responses to the various relevant CH comments, with responses provided in a number of addendums to our original geotechnical report issued in late 2019 and early 2020.

More recently CH staff provided updated comments in a letter dated June 24, 2020. A number of conference call/virtual meetings have been held to discuss these comments and how to best address them, along with a site visit review with CH staff on August 4, 2020. A primary item in these most recent comments from CH was that an updated geotechnical report be provided. Subsequent to these discussions and site meeting, our office has committed to CH staff to undertake to prepare a current consolidated geotechnical report. This process is underway with the formal report anticipated to be issued in the next couple weeks.

Our assessments and recommendations to date are intended to establish the stability of the existing slopes, and provide appropriate solutions to maintain or improve the stability of the subject slope as part of the proposed development plan. This is a complex file, with a number of technical challenges, requiring ongoing discussions with CH staff, however clear and appropriate solutions are available and have been proposed to establish a stable and safe development plan, from a geotechnical point of view. We look forward to the completion of the process with CH staff to resolve any further technical comments or concerns, to achieve an approved development plan.

We trust that this brief letter is sufficient at present. Should there be any questions or additional information is required, please do not hesitate to contact the undersigned.

Yours very truly,
SOIL-MAT ENGINEERS & CONSULTANTS LTD.



Ian Shaw, P. Eng., QP_{ESA}
Senior Engineer

Distribution: Emshih Developments [pdf by email]

The Corporation of the City of Burlington

City of Burlington By-law 52-2019

A By-law to impose rates and fees

F-33-19

Whereas section 391 of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, provides that a municipality may pass by-laws imposing fees or charges on any class of persons; and

Whereas section 69 of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended, provides that Council may prescribe a tariff of fees for the processing of applications made in respect of planning matters;

Now therefore the Council of the Corporation of the City of Burlington hereby enacts as follows:

1. This by-law shall be known and cited as the “Rates and Fees By-Law”.
2. The Council hereby establishes the rates and fees as set out in Schedule “A” to this by-law for The Corporation of the City of Burlington.
3. The rates and fees as set forth in Schedule “A” shall come into effect January 1st, 2020 or as specified within the schedule.
4. The fees and charges will be subject to Harmonized Sales Tax (HST) and Retail Sales Tax (RST), where applicable.
5. The fees and charges imposed by the City, as outlined in Schedule “A” to this by-law may be increased, decreased or waived completely by the Director to whose department the fee or charge relates, subject to any approved corporate policy.
6. The fees and charges imposed by the City as outlined in Schedule “A” to this by-law may be amended by Council by way of a motion to reconsider.
7. The annual increases to fees and charges imposed by the City, as outlined in Schedule “A” to this by-law, may be rounded to result in whole dollar values.
8. Interest for unpaid accounts owing for fees and charges will be charged in accordance with any approved corporate policy.

9. If a court of competent jurisdiction should declare any section or part of a section of this by-law to be invalid, such section or part of a section shall not be construed as having persuaded or influenced Council to pass the remainder of this by-law and it is hereby declared that the remainder of this by-law shall be valid and shall remain in full force and effect.
10. Should this by-law conflict with any other by-law or resolution of Council, or any staff report approved by Council, in relation to fees and charges imposed under the *Municipal Act* and *Planning Act* or any other act, except the *Building Code Act*, 1992, S.O. 1992, c. 23, as amended, this by-law shall take precedence, unless specifically stated to the contrary.
11. That by-law 51-2018 is hereby repealed in its entirety.
12. This by-law shall come into effect January 1st, 2020.

Enacted and passed this 23rd day of September 2019.

Mayor Marianne Meed Ward _____

Deputy City Clerk Danielle Manton _____