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August 31, 2021

Guelph City Hall
c/o Stephen O'Brien, City Clerk
1 Carden Street
Guelph, Ontario
N1H 3A1

Attention: Mayor Cam Guthrie and Members of Council
Cc: Stacey Laughlin, Senior Policy Planner

Dear Mayor Guthrie and Members of Council:

**Re: Draft Clair-Maltby Secondary Plan and Comprehensive EIS Phase 3 Plan:
132 Clair Road West, Guelph
Herbert Neumann, Frank Cerniuk, Sieben Holdings Limited, H and J
Produce Limited and McEnery Industry Limited (the "Neumann Group")
Our File No. 13423**

We are counsel to Herbert Neumann, Frank Cerniuk, Sieben Holdings Limited, H and J Produce Limited and McEnery Industry Limited (the "Neumann Group"). Our clients own approximately 44 ha. (108 acres) of land near the southwest corner of Clair Road and Gordon Street (the "subject lands"). The subject lands, municipally known as 132 Clair Road West, are located in the northwest portion of the Clair-Maltby Secondary Plan ("CMSP") abutting the existing South End Community Park.

We previously represented the Neumann Group with respect to its appeal of Official Plan Amendment No. 42 ("OPA 42") with respect to this same property. OPA 42 established the Natural Heritage System ("NHS") in the City's Official Plan. The OPA 42 appeal resulted in a settlement for the subject lands following an extensive multi-year process that included comprehensive fieldwork to delineate the natural heritage features. The resulting Natural Heritage System with agreed upon modifications to implement mapping changes received approval by the

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TURKSTRA MAZZA ASSOCIATES, LAWYERS

then Ontario Municipal Board (“OMB”) in June 2014, in part, as the result of a settlement between the City and our client.

Despite the OPA 42 settlements on the NHS appeals, the Draft June 2021 Comprehensive EIS Phase 3 Impact Assessment and Management Plan (the “EIS Phase 3 Plan”), and the resulting draft CMSP, have proposed modifications to the Natural Heritage System. These modifications are proposed even though the EIS Phase 3 Plan recognizes that there would be compliance with the previous OPA 42 settlements before the OMB when it came to refinements of the NHS in the Secondary Plan. Respecting the OPA 42 settlements is in fact the appropriate approach.

A review of Map NH-14B makes clear that ‘refinements’ have been made to the properties within the CMSP area with NHS components and specifically, the subject lands. Statements in the EIS Phase 3 Plan that consistency with the OPA 42 settlements would be respected is inconsistent with the proposed mapping. Put simply, the OPA 42 settlement agreements with the City have not been respected.

An entirely new concept of a “moraine ribbon” has also been applied to the entire boundary of the NHS system, including properties that were subject to OPA 42 appeals. This is a further departure from the principles established in the OPA 42 settlements.

For our client’s property, considerable additions have been proposed to the NHS. This is apparent from a review of the mapping and has been confirmed by Natural Resources Solutions Inc. (“NRSI”) in their natural heritage comments.

Through this correspondence, we are requesting that the City respect the OPA 42 settlements and revise the mapping of the draft Secondary Plan, including any Schedule with NHS references, to properly reflect the OPA 42 settlements. We also request an opportunity for further review and comment in advance of the final draft CMSP being presented to Council for approval.

Thank you for consideration of these comments.

Yours truly,



Shelley Kaufman

cc: S. Laughlin
J. Neumann
S. Snider
A. Clos
NRSI

sk:ss
13423/20

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