

January 13, 2022

Via E-Mail clerks@guelph.ca & christopher.cooper@guelph.ca

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File no. H215787

Attention: Mayor Guthrie & Members of Council

c/o City Clerk's Office
City of Guelph
1 Carden Street
Guelph, ON N1H 3A1

c/o Christopher C. Cooper
City Solicitor
Corporation of the City of Guelph
Guelph City Hall
1 Carden Street
Guelph, ON N1H 3A1

Dear Mayor Guthrie & Members of Council:

**Re: Shaping Guelph: Growth Management Strategy and Land Needs Assessment
City of Guelph Council Meeting of January 17, 2022
Families for Rolling Hills Group**

We are the lawyers for the group known as Families for Rolling Hills and this letter is submitted by way of written comments for Council's consideration in connection with Staff Report 2022-04 re "Shaping Guelph: Growth Management Strategy and Land Needs Assessment", scheduled for Council's consideration at its Planning Meeting on Monday, January 17, 2022, 6:30 p.m.

Families for Rolling Hills is an association of homeowners within the Rolling Hills subdivision (Plan 732, registered July 3, 1986). We previously submitted comments on behalf of our clients in regard to the City's Proposed Urban Structure through correspondence to Council, dated June 9, 2021. A copy of our June 9, 2021 correspondence is enclosed herewith for your ease of reference. A key concern raised in our June 9, 2021 correspondence was *"any planning for Rolling Hills must respect and acknowledge the Building Scheme and the valid legal interests and expectations thereby protected"*.

We note that City Staff have provided Council with a table summarizing "General comments" and "Staff response". This table is included as Attachment 3 to the Staff Report. At item #35 of this table, a general comment is noted as follows: *"There are restrictive covenants in place that do not allow for development of Rolling Hills"*. The Staff response to item #35 is: *"Following a legal review of the restrictive covenants on title, it is understood that most of these covenants would begin to expire during the early 2030s"*.

To ensure that the record before City staff and Council is unequivocal, we wish to reiterate that our clients' position and submission in regard to the proposed land use re-designations within Rolling Hills is as follows:

1. the restrictive covenants applicable to the lots within Registered Plan 732 constitute an enforceable building scheme (the “**Building Scheme**”);
2. building schemes are interests in land and are not subject to expiration; and
3. City staff’s statement that “*these covenants would begin to expire during the early 2030s*” is in error.

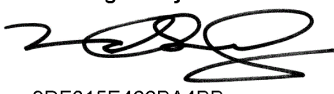
Once again, it would be contrary to the Building Scheme to contemplate any part of the Rolling Hills area for intensification through re-designations. In doing so, the City will be improperly incentivizing property owners to unlawfully violate the Building Scheme through attempted redevelopment of their lots. The City will be inviting litigation within the Rolling Hills community if it proceeds with the proposed re-designations.

Our clients reserve all rights pursuant to the Building Scheme, including the right to seek a declaration and/or injunction in the enforcement of same. Furthermore, our clients reserve all rights in regard to steps that may be taken by the City and/or any landowners within Registered Plan 732 that wilfully disregard and/or prejudice our clients’ interests in these lands under the Building Scheme, including without limitation the right to claim damages from the City for tortious interference with their protected property interests and/or Court costs incurred in asserting and protecting their rights.

Sincerely,

Gowling WLG (Canada) LLP

DocuSigned by:



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David Sunday

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cc Families for Rolling Hills

Mark L. Dorfman, Planner

June 9, 2021

Via E-Mail

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File no. H215787

Natalie Goss, Stacey Laughlin, and Krista Walkey
Senior Policy Planners & General Manager
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1 Carden Street
Guelph, ON N1H 3A1

Mayor Guthrie, Members of Council and City Clerk
Corporation of the City of Guelph
Guelph City Hall
1 Carden Street
Guelph, ON N1H 3A1

Dear Mayor Guthrie, Members of Council, Ms. Goss, Ms. Laughlin, and Ms. Walkey:

**Re: City of Guelph - Official Plan Review 2020 to 2022
Guelph Growth Management Strategy
Families for Rolling Hills Group
Concerns with Proposed Urban Structure**

We are the lawyers for the group known as Families for Rolling Hills. Families for Rolling Hills is an association of homeowners within the Rolling Hills subdivision (Plan 732, registered July 3, 1986).

Rolling Hills is a unique area within the City's built-up area having been developed by Armel Corporation in the mid-1980s. At the time of development, the Rolling Hills lands comprised part of the Township of Puslinch. It has been a remarkably stable community. Today, Rolling Hills remains characterized by large rural residential estate type lots (typically between 2 to 4 acres) with private services, integrated within a sensitive natural environment comprising part of the Paris Moraine and which includes extensive wetlands and wooded areas. All lots within Rolling Hills are subject to registered restrictions (the "**Building Scheme**") in favour of other lots within the subdivision. The Building Scheme stipulates minimum dwelling sizes, restricts uses to residential uses, expressly prohibits business uses, and also expressly prohibits further subdivision of the lots.

At the April 21, 2021 Guelph Council meeting, City staff and its external consultants (Dillon Consulting Limited and Watson & Associates) presented a Proposed Urban Structure, which included a Strategic Growth Area along Clair Road from Dallen Drive to Victoria Road (the "**Proposed Clair Road Growth Area**"). The Proposed Clair Road Growth Area, which includes significant portions of the Rolling Hills area, envisions the area as a new Corridor for Mixed Use Development. In addition, we understand that

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the City and its external consultants envision, as part of the Proposed Urban Structure, that the Rolling Hills area will accommodate much higher density development than today and that in excess of Six Thousand (6,000) new residents are proposed to be introduced into the Rolling Hills area (the “**Proposed Rolling Hills Intensification**”) through redevelopment.

Our clients are very concerned that the Proposed Urban Structure and the Proposed Rolling Hills Intensification both appear to contemplate the demolition and removal of the existing Rolling Hills development and its replacement with new higher density development. There is no justification for such a wholesale rejection of the existing Rolling Hills development. Rolling Hills is a stable residential community which provides a unique residential estate community within the City of Guelph. The Proposed Rolling Hills Intensification is neither wanted nor needed within this community.

Our clients object to the establishment of the proposed Clair Road Growth Area and the Proposed Rolling Hills Intensification for the following reasons:

1. Rolling Hills is a unique and sensitive area within the City’s built up area. Notwithstanding its inclusion within the built up area, the existing Rolling Hills community is comprised of large lot rural residential estate type development on private services.
2. The Proposed Clair Road Growth Area and the Proposed Rolling Hills Intensification is fundamentally incompatible with the existing Rolling Hills housing and the Building Scheme;
3. The Proposed Clair Road Growth Area is not interwoven into and does not have regard to the existing housing and sensitive natural areas within Rolling Hills;
4. It is premature and would be contrary to the Building Scheme to contemplate any part of the Rolling Hills area for intensification;
5. The Proposed Urban Structure is contrary to the Building Scheme and, by adopting a structure that assumes Rolling Hills will intensify, the City would be improperly incentivizing property owners to unlawfully violate the Building Scheme through redevelopment of their lots. The City will be inviting litigation within the Rolling Hills community; and
6. Planning for growth that is premised on the demolition and removal of an existing vibrant community is inappropriate and lacks any planning justification.

On behalf of our clients, we submit that no part of the Rolling Hills area should be contemplated for intensification. The City Proposed Urban Structure should show due regard for Rolling Hills existing built environment, the natural environment, the unique Rolling Hills landscape, as well as neighbourhood concerns. Furthermore, any planning for Rolling Hills must respect and acknowledge the Building Scheme and the valid legal interests and expectations thereby protected. Other areas of the City are better candidates and are much more appropriate for intensification than Rolling Hills.

We hereby request the City revise the proposed Urban Structure to remove the Proposed Clair Road Growth Area and to abandon the Proposed Rolling Hills Intensification. We further request that the City reject any Proposed Urban Structure that envisions and/or depends upon an intensification of the Rolling Hills area. Intensification of this area would be inappropriate and would constitute an intentional violation of the Building Scheme.

Should you have any further questions in regard to the foregoing, please do not hesitate to contact the undersigned.

Sincerely,

Gowling WLG (Canada) LLP



David Sunday

DS

cc Families for Rolling Hills

Mark L. Dorfman, Planner