April 26, 2013

VIA FACSIMILE AND DELIVERY

Hamilton City Council
City of Hamilton
71 Main Street West
Hamilton, ON L8P 4Y5

- and to -

Mr. Stephen Robichaud
Manager - Development Planning
City of Hamilton
Planning and Economic Development Dept.
West Section
71 Main Street West, 5th Floor
Hamilton, ON L8P 4Y5

Attention: Chris Bell

Dear Mayor and Members of Council and Mr. Robichaud:

Re: Statutory Public Meeting April 30, 2013
Sonoma Homes Inc. ("Sonoma") applications for
Zoning By-law Amendment, Draft Plan of Subdivision
and Draft Plan of Condominium
1155 West Fifth Street, Hamilton,
Hamilton File Nos. ZAC-12-005, 25T-201202 and 25CDM-201201

We are the solicitors for LPF Realty Retail Inc., the owner of lands known municipally as 1400
Upper James Street, which has been partially developed with a retail plaza (the “LPF Lands”). Our
client’s lands are located north of and within the same Mewburn Neighbourhood and watershed as
Sonoma Homes Inc.’s lands (the “Sonoma Lands”).

Background

The City of Hamilton engaged the landowners in the Mewburn and Sheldon neighbourhoods in a
Master Servicing Study process. Nine stormwater management alternatives were whittled down to
one preferred alternative: a watershed-wide integrated stormwater management scheme that uses
both existing natural ponds in O'Connnor Park and a new stormwater management pond to be located on the LPF Lands.

There is a Mewburn Neighbourhood Plan which sets out Council’s direction for the long-term development of this area. It contemplates specific densities, development patterns, road networks and the integrated watershed-wide stormwater management system the Master Servicing Study recommends. In fact, the Mewburn Neighbourhood Plan specifically designates portions of the LPF Lands “Civic and Institutional”.

Our client, through its agent Fengate Capital Management Ltd., has made three development applications for its lands to implement the existing land use regime, as set out in the Mewburn Neighbour Plan:

(a) an Official Plan Amendment application;
(b) an application to amend the zoning by-law to change the zoning from Protective Residential to P5-Conservation/Hazard Lands and HH-Restrictive Community Shopping and Commercial; and
(c) an application for consent to sever that portion of its lands which are to be rezoned P5-Conservation/Hazard Lands District.

We are writing as our client has significant concerns about the Sonoma applications being approved.

Concerns

The Sonoma applications do not comply with the Mewburn Neighbourhood Plan or the Master Servicing Study. They do not implement the Plan’s vision for the development of this neighbourhood.

Sonoma proposes temporary stormwater management pond(s) on its lands. However, there are no appropriate conditions or securities being sought as a condition of subdivision plan approval to ensure the Sonoma Lands will connect to the integrated stormwater management system for the Mewburn Neighbourhood or that the cost of establishing that larger system is shared equitably between other landowners and Sonoma. As a minimum, conditions to ensure that security is posted to pay for Sonoma’s share of the cost of acquiring and establishing the stormwater management pond and system on the LPF Lands and the transition from the temporary arrangement to that permanent arrangement would be required.

Alternatively, if it can be determined that it is appropriate for the Sonoma Lands to be permanently served by a stormwater detention pond in Blocks 2, 3, 4 and 5, then the conditions to draft plan approval and the zoning by-law would need to be amended. There are a number of non-trivial impediments which need to be overcome to permit Sonoma to handle stormwater entirely on its own lands. For example, that the future connector road (Block 4) is also used for that stormwater detention facility.

The rest of the Mewburn Neighbourhood cannot, given the incompleteness of Sonoma’s proposed plan and conditions, properly determine how their lands should be designated, zoned, used or
otherwise developed. Sonoma’s proposals run counter to the Mewburn Neighbourhood Plan in a number of other ways. For example, a road connection to the east, a fundamental part of the Neighbourhood Plan, is entirely missing from these applications. The density of development proposed by the Sonoma applications is not contemplated in the Master Servicing Plan or the Mewburn Neighbourhood Plan. It may be that servicing and transportation plans, including the size of the integrated stormwater management system, may not adequately support the proposed density.

As our client’s three development applications demonstrate, planning for this Neighbourhood has been directed by the Mewburn Neighbourhood Plan and the idea of an integrated stormwater management system for the entire watershed. Sonoma’s proposal puts that entire approach and the Mewburn Neighbourhood Plan into question.

Our client’s concerns as set out in its April 20, 2012 letter (attached) remain. It remains our client’s view that the Sonoma applications do not comply with Hamilton Official Plan, the new Urban Hamilton Official Plan or the Mewburn Neighbourhood Plan.

**Comprehensive Review of Neighbourhood Plan & Applications**

It is now clear that the Sonoma applications do not comply with the Mewburn Neighbourhood Plan. Recommendation (a)(iv) of the Planning and Economic Development Department’s report require “upon finalization of the implementing By-law, the Mewburn Neighbourhood Plan be amended to revise the road pattern...and change the designation of the westerly portion of the subject lands from “Single and Double Residential” to “Attached Housing”.

That, we respectfully suggest, “puts the cart before the horse”. The Neighbourhood Plan should be considered first or at least contemporaneously. The Sonoma applications should be considered in light of the results of that analysis. Our client’s applications would need also to be considered as part of that analysis as its proposals are dependent on the Neighbourhood Plan’s direction. It is premature to approve the Sonoma applications in advance of that process.

No Mewburn Neighbourhood-wide consultation has occurred to fully explore the ramifications of any amendment the Neighbourhood Plan. It appears to us that further amendments to the Mewburn Neighbourhood Plan would potentially be required in order for Sonoma’s applications to conform. For example, the size and configuration of the “Civic and Institutional” designated block may need be amended to accommodate the relocated road connection or if Sonoma’s lands are serviced in the long term by a stormwater management facility in that block. Prior to any amendments all landowners should have an opportunity to consider whether all required amendments have been identified and are appropriate.

We would specifically ask Council to consider our client’s applications at the same time as the Sonoma applications so the approvals are coordinated. The configuration and size of Sonoma’s proposed stormwater management blocks, the conditions for their continued use and transition to an integrated watershed system, conditions for Sonoma paying its share of the services its lands will benefit from, the road network, the configuration and size of the P5-Conservation/Hazard Lands
zone, the HH-Restrictive Community Shopping and Commercial zone and the shape of the severed and retained parcels on LPF’s land are inter-related.

Summary

In summary, the Sonoma applications are premature, and should not be approved now. Significant changes may be necessary to ensure either ensure compatibility with the Mewburn Neighbour Plan or a review, involving our client and other landowners in the Neighbourhood, is required to comprehensively amend that Plan. At a minimum, development applications filed for lands within the Neighbourhood, such as our client’s applications, must be considered together with Sonoma’s applications.

Please consider this to be the written submission referred to in both subsection 34(19) and 51(43) of the Planning Act for Sonoma’s zoning, subdivision and condominium applications and provide us with further notice of any actions taken with respect to these applications. Please also place us on the deputations list at the meeting on April 30, 2013 to speak to this matter.

Please contact us if you require any further information.

Yours very truly,

GOWLING LAFLEUR HENDERSON LLP

David C.K. Tang

DCT:gvd

cc: LPF Realty Retail Inc.
IBI Group

Enclosure: April 20, 2012 letter