May 15, 2008

VIA E-MAIL

Mayor Fred Eisenberger and
Members of Council
City of Hamilton
71 Main Street West
Hamilton, Ontario L8P 4Y5

Dear Mayor Eisenberger & Members of Council:

Re: Focusing Efforts on Employment Lands (City Wide)

And Re: OMB Case No. PL070386
OMB File No. 0070052, R070071
Official Plan Amendment No. 210 Hamilton
Zoning By-law No. 07-043
West Hamilton Innovation District Secondary Plan ("WHID")
Appellants: Hamilton Metal Trading Corp and Aberdeen Holdings Inc.,
Lafarge Canada Inc.,
The Gore District Land Trustee Corporation on behalf of The
Gore District Land Trust

We are the solicitors for Trinity Properties Investments Inc. and Trinity Development Group Inc. "Trinity"). This correspondence is directed to the Planning and Economic Development Committee and to Council in respect of the Focusing Efforts on Employment Lands initiative and the planning documents arising therefrom.

We submit this correspondence in response to Staff Report PED08066. We have now had the opportunity to consider the extensive reports, findings and conclusions that have been presented to Council in respect of the employment lands and brownfield issues.

Trinity is pursuing a development application for lands in the WHID. The Trinity development proposal is for a mixed use centre with an office and retail component. A preliminary concept plan is attached.

The Trinity development proposal is intended to be complementary to the McMaster Innovation Park, the initial phases of which are now under construction. Through the progress of the above referenced Ontario Municipal Board proceedings, Trinity has secured the co-operation of McMaster for its contemplated development proposal.

On behalf of our client, and in respect of its development proposal for the WHID, we submit the following for Council and staff consideration:


1. The McMaster Innovation Park, in conjunction with the Trinity development proposal, will be able to accommodate significantly more than 37 jobs per hectare, and the Trinity development proposal itself will create hundreds of new job opportunities. As a result, the Trinity proposal has no negative effect on the City's ability to meet its long term employment land requirements;

2. The Trinity development proposal represents an immediate realizable development opportunity to create a complementary office, service and retail component for the McMaster Innovation Park. The development proposal enhances the WHID vision and would result in removal of existing heavy industrial uses that are out of character with the WHID vision;

3. The Trinity development proposal does not adversely affect the long-term viability and function of the WHID, but rather enhances it. McMaster's willingness to work with Trinity to implement the mixed use office and retail development is the best evidence that the long term function of the area will not be compromised by the Trinity proposal;

4. The Trinity development proposal is beneficial to the community and the City of Hamilton. The development proposal will expedite development in the WHID, including the McMaster Innovation Park. The Trinity development will permit urgent necessary road improvements, including the Frid Street extension and will allow area servicing work to be completed;

5. The Trinity development proposal can be accommodated without any adverse impact on the planned function of any existing commercial area;

6. There are significant issues to be litigated in the OMB proceedings, including the merits of the downzoning imposed in the WHID. It is our view that the downzoning was an unnecessarily burdensome action by the municipality. Removing zoned commercial permissions was not necessary or reasonable to promote development of the McMaster Innovation Park. Our position is that there exists no genuine opportunity for private sector land to develop in a competitive fashion to the McMaster Innovation Park given the public funding and the government commitment to lease space from McMaster which are opportunities not available to the private sector;

7. Although we maintain the position that the proposal is not a "conversion" subject to the Growth Plan or the 2005 PPS, it is our view that the WHID is a regeneration area as that term is defined in the Growth Plan, and accordingly, no municipal comprehensive review is required to zone the lands to permit the Trinity development proposal;

8. The development opportunity represents an opportunity for Hamilton to further itself as the leader in brownfield redevelopment. This development proposal contemplates the remediation and/or mitigation of significant environmental constraints on the development site as well as on lands intended for public ownership; and

9. Economic benefits to the City include (but are certainly not limited to) approximately $2,500,000 in annual property taxes, approximately $4,000,000 in development charges, and approximately $2,000,000 for the costs of construction of the Frid Street extension as well as the land required for the road. All of these benefits are of course in addition to
jobs and economic benefits arising from construction and the long term intensified utilization of the subject lands.

In order to keep this correspondence to a reasonable length, we have only been able to provide the highlights of our client’s position on the merits of its proposal. We are confident that a diligent and considered view of Trinity’s development proposal will lead to the inevitable conclusion that the proposal is beneficial to the community, to the environment and to the economy of Hamilton.

We would therefore ask Council to direct staff and the consultants to specifically address the Trinity proposal in the context the employment lands and brownfield redevelopment planning initiatives.

Our client will soon be submitting materials in support of its development proposal to staff in conjunction with the Ontario Municipal Board proceedings. After submission of justification documents to the City, our client will be requesting the opportunity to make a delegation before the Planning and Economic Development Committee and ultimately to Council in support of the Trinity’s development proposal. Among the requests that will likely be made to Council will be consideration of the re-opening of the OMB sponsored mediation, now that McMaster Innovation Park is approved and under construction. Our client would of course prefer to work with Council instead of leaving the matter in the OMB’s hands.

We look forward to working with the City of Hamilton to obtain a mutually beneficial development for the subject lands.

Yours truly,

FOGLER, RUBINOFF LLP

Joel D. Farber
(computer generated signature)

Joel D. Farber
JDF/Imn
Enclosure

cc Mayor Fred Eisenberger, City of Hamilton
    Councillor Brian McHattie, City of Hamilton
    John Nolan, Nolan Law Offices
    John Ariens, PEIL
    Stefan Savelli, Trinity
    Sergio Manchia, PEIL
    Randall Bocock, Evans Philp
    Art Zuidema, City of Hamilton
    Mike Foley, Trinity
    Tim McCabe, City of Hamilton
    Joanne Hickey-Evans, City of Hamilton
    Guy Paparella, City of Hamilton
    Carolyn Reid, City of Hamilton
    Al Fletcher, City of Hamilton