

November 4, 2015

DELIVERED BY REGULAR MAIL AND  
EMAIL TO: [todd.salter@guelph.ca](mailto:todd.salter@guelph.ca)  
AND TO: [sylvia.kirkwood@guelph.ca](mailto:sylvia.kirkwood@guelph.ca)

City of Guelph  
1 Carden Street  
Guelph, Ontario N1H 3A1

Attention: Todd Salter and Sylvia Kirkwood

Dear Mr. Salter and Ms. Kirkwood,

Re: Friends of the Homewood Grounds  
Committee of Adjustment Application for 148-160 Delhi Street and 49 Emma Street,  
Guelph  
Our File B8343

---

We are the solicitors for “Friends of the Homewood Grounds” - an unincorporated group of residents living in proximity of the Homewood Health Care facility. The group has significant concerns about three applications submitted to the Committee of Adjustment related to 148-160 Delhi Street and 49 Emma Street Guelph (the **Property**):

These concerns are summarized as follows:

- a. Schlegel Health Care Inc. (known as **Homewood**) has not established that severance of their **Homewood property** is required in order to obtain approval from the City of Guelph planning approval for the proposed renovation/expansion of **Homewood**, and the City of Guelph Development Planning is not meeting its obligations to ensure that granting a severance, if not required, constitutes good planning;
- b. Enabling Homewood to obtain approval the proposed severance through the Committee of Adjustment (while concurrently allowing the proponent to obtain approval through a site plan approval for a 170-bed renovated facility) is contrary to the intended scope of the Committee of Adjustment mandate and prevents effective public scrutiny of a major development project by avoiding the requirements for City-wide notification and the opportunity for meaningful community consultation normally required under the *Planning Act* for developments of this size and importance;
- c. The severance is not permitted under the current Official Plan; and
- d. The proposal by Homewood to demolish or modify several historic building on the Property, some or all of which may have significant heritage value that warrants designation under the Ontario Heritage Act (OHA).

We set out the history of the applications and the concerns of the community in detail below.

**1. Background for the Applications:**

On May 21, 2014 Homewood applied for consent to sever the property at 148-160 Delhi Street in to two parcels together with two applications for minor variances related to the parcels to be created if consent to the severance was given. The Application Numbers are B-19/14, A-57/14 and A-58/14 (the **Applications**).

Homewood states that the severance is required to permit it to refinance part of the property. Homewood has not provided any information on why the proposed development cannot proceed without severance (for example by refinancing the entire Property).

In the June 12, 2014 Committee of Adjustment Comments from Staff, Public and Agencies, Planning Services highlighted that given the timing of the application the December 2012 consolidated Official Plan was the current Official Plan, however the Ontario Municipal Board approved Official Plan Amendment 42 (**OPA 42**) on June 4, 2014 and the September 2014 Consolidation of the Official Plan contains OPA 42.

The December 2012 OP and the OPA 42 differ in terms of the designation of the Property.<sup>1</sup> Although the policies of OPA 42 are not binding with respect to this application, the City of Guelph is required to "have regard for" the changes made in Official Plan policies in OPA 42 (which were approved by City Council in July 2010 and withstood intense scrutiny in an extended OMB appeal and were finally approved by the OMB in June 2014).

Under the December 2012, OP the Property was designated as Institutional and Core Greenlands. The Woodlands on the site were identified by a Non-Core Greenland overlay. The boundary of the Woodland area to be protected on the **Property** is to be established by an Environmental Impact Study (EIS) and development is permitted, according to the underlying designation, on any portion of the Non-Core Greenland overlay that is removed from protection by the EIS. The grounds for allowing development on a portion of the Overlay is that there will be no negative environmental impact resulting from the development (Official Plan sections 7.13.5 through 7.13.10).

In the planning study completed in preparation of OPA 42, the Woodland area on the Property, previously recognized by the Non-Core Greenland overlay, was given Significant Woodland status. Consequently the Woodland area on the **Property**, together with a minimum buffer of 10 m, was designated in OPA 42 as Significant Natural Area in which no development is allowed. Furthermore OPA 42 identified severance of a Significant Woodland as being against the principles of good planning. In "having regard for" the findings of OPA 42 studies and for the policies instituted in OPA 42 the City is required to recognize (1) that part of the property has been identified as a Significant Woodland and consequently no development is permitted (2) there is a requirement for a suitable ecological buffer between the Woodland and any development, and (3) that allowing a severance of Significant Woodlands would be contrary to principles of good planning. Planning Services have already acknowledged that the severance would not be supported as a result of the findings of the OPA 42 preparatory study.

---

<sup>1</sup>The OPA 42 was approved by the Ontario Municipal Board on June 4, 2014 and a consolidated Official Plan was released in September 2014.

There is no appeal by Homewood to the OPA42 with respect to the Property.

On June 16, 2015, the Committee of Adjustment released a decision deferring the application sinedie in order to allow Homewood to submit further information.

## 2. **Homewood's Rationale for the Applications and Community Concerns**

Application Number B-19/14 is a request for consent to sever the Property into two parcels. Homewood states that the severance is necessary because it would like to finance one portion of the Property. Homewood has not provided any information on why it cannot finance the entire Property, instead of just one portion.

Section 50(3) of the *Planning Act* prevents a party from conveying or dividing (including mortgaging), part of a property, and not the other. The Ministry of Municipal Affairs and Housing provides the policy rationale for this prohibition, stating that the section protects the community and its members from "developments which are inappropriate or may put an undue strain on community facilities, services or finances. Problems can result when large tracts of land are split into building lots without the benefit of a formal approval process."<sup>2</sup>

According to the Ministry, land should not be divided indiscriminately; land division must take into account the potential long-term effect the division would have on the community and municipal services.

In this case, as in all cases, the long-term impact of a severance must be taken into account. The prohibition of this type of conveyance or division of land under the *Planning Act* is in place to ensure that future planning goals, and undisclosed opportunities that are created by severance, are taken into account before land is subdivided.

If consent to sever is granted, the parcel can be sold to another party without further approval and re-developed independently of the other portion of the Property and would not require Homewood to satisfy the criteria for a plan of subdivision for the Property under the *Planning Act*.

**Our clients' main concern and our position is that an application for a plan of subdivision for the entire Property is appropriate in this case. A plan of subdivision would allow the municipality to consider whether the subdivision is in the public interest, the environmental impact of the subdivision, and the adequacy of utilities, municipal services, and transportation infrastructure. Furthermore, by bringing the decision to City Council, a Plan of Subdivision application provides the public with proper notification and with the opportunity to make submissions to staff and City Council.**<sup>3</sup>

## 3. **Environmental Impacts of the Application**

Under the OPA 42 and the 2014 Consolidated OP, part of the Property is designated as Significant Woodlands. Under section 6A.2.6(4) of the 2014 Consolidated OP, development and site alteration will not be permitted in areas designated as Significant Woodlands, except

---

<sup>2</sup> <http://www.mah.gov.on.ca/Page1757.aspx>

<sup>3</sup> See Section 51(24) of the *Planning Act (Ontario)* R.S.O. 1990, CHAPTER P.13

for general permitted uses which includes existing legal uses, buildings or structures. Development Planning comments to the Committee of Adjustment in June of 2014 should be updated to reflect the requirements under the OPA 42 and the 2014 Consolidated OP.

Under the 2014 Consolidated OP, an EIS is required to establish the width of ecological buffer required for the Significant Woodlot (10 m from the drip line is a minimum and recent science suggests at least 30 m is required in most cases to demonstrate no negative impact on the Significant Woodland). The ecological buffer is to be protectively zoned (P1) and a suitable setback of buildings from the boundary of the P1 zone is to be included in the development approval.

**It is our position that Planning Staff should be clear and unequivocal about the requirements in the 2014 Consolidated OP and how these requirements apply to the Property and Applications made by Homewood.**

#### 4. **The Proposal to Significantly Impact Heritage Resources**

As part of a current site plan application and through discussions with the City of Guelph (through Heritage Guelph), our client understands that Homewood is seeking to either demolish or modify several buildings on the Property.

In particular, our client is concerned about the proposed demolition, unsympathetic alterations and relocation of several buildings or heritage features located on the Property. We note that while some are listed on the Local Municipal Heritage Register (e.g. 148 Delhi St.), none have been designated under the OHA to date and as such, are offered little to no protection from unsympathetic alterations or demolition. These include:

- a. The Manor Building built in 1912 by architect George Miller;
- b. Riverslea, the best and most impressive remaining example of a residential building constructed in the Richardsonian Romanesque style in Guelph.
- c. The Gate House, a unique stone cottage likely associated with the former Craignour Manse due to its Italianate detailing, that has fallen in serious disrepair and has become a victim of vandalism since the property was purchased by Schlegel Health Care Inc.

**Further, we note that The Second Nurse's Resident (one of Guelph's few remaining examples of institutional Edwardian Classicism was designed by Ottawa architect Walter Herbert George, a well-known specialist in institutional architecture) and the Cameron Gates building are neither listed on the local Municipal Heritage Register, nor designated for their heritage value.**

We note that Section 3.5 of the 2014 Consolidated OP identifies as objectives to maintain the unique style and character of the Guelph and to encourage the identification, restoration, protection, maintenance and enhancement of cultural heritage resources and architecturally significant buildings and landmarks. Any development proposals should preserve and enhance cultural heritage resources.

**Our client encourages the City to take a proactive role in listing the buildings on the Property in the Heritage Register and designating them as heritage building. Any application made by Homewood should address the important cultural heritage resources located on the Property, as required by the 2014 Consolidated OP.**

We would be pleased to provide any further information regarding the concerns set out in this letter and advise you that our client will pursue all means possible to ensure that the Planning Act is abided by, and to ensure that community, environmental and heritage concerns are accounted for.

We look forward to your reply,

Yours truly,

**ILER CAMPBELL LLP**



Shelina Ali

E-mail: [sali@ilercampbell.com](mailto:sali@ilercampbell.com)

/sa

cc:

client:

Councillor James Gordon (Email to: [james.gordon@guelph.ca](mailto:james.gordon@guelph.ca))

Councillor Andy Van Hellemond (Email to: [andy.vanhellemond@guelph.ca](mailto:andy.vanhellemond@guelph.ca))

Mayor Cam Guthrie (Email to: [mayor@guelph.ca](mailto:mayor@guelph.ca))

Committee of Adjustment (Email to: [tristalyn.russell@guelph.ca](mailto:tristalyn.russell@guelph.ca))

Environmental Advisory Committee (Email to: [planning@guelph.ca](mailto:planning@guelph.ca))

Heritage Guelph (Email to: [Stephen.robinson@guelph.ca](mailto:Stephen.robinson@guelph.ca))