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DELIVERED VIA EMAIL TO: ataylor@haldimandcounty.on.ca;
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Ashley Taylor, Planner
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Dear Ms. Taylor:

**RE: Draft Plan of Subdivision PL28T-2020-196 and Zoning By-law Amendment PLZ-HA-2021-009
Applications - Garden Communities (Hagersville) Inc. (Empire)
Hagersville Quarry (Lic. # 4443), Lafarge Canada Inc.**

Thank you for the opportunity for Lafarge Canada Inc. ("Lafarge") to provide its comments on the applications for Draft Plan of Subdivision, Official Plan Amendment and Zoning By-law Amendment (the "Applications") submitted by Garden Communities (Hagersville) Ltd. for the proposed development of the Smith Farm lands.

We confirm that Lafarge is being provided this opportunity in advance of public circulation of the Applications because of Lafarge's immediate and direct interest in the proposed development given its proximity to the Hagersville Quarry. We also confirm that Lafarge will have an opportunity to make submissions directly to Council in Committee at the statutory public meeting for the Applications.

The Applications contemplate the development of an 854-unit subdivision directly adjacent to Lafarge's Hagersville Quarry (the "Quarry"). The Applications suggest the use of a phased approach to construction, with 578 units built in Phase 1 and 276 units built in Phase 2. This includes a mix of single-detached, semi-detached and townhouse dwellings with design configurations for a stormwater management pond and greenspace.

The proposed subdivision is located both within and outside the existing urban boundary of Hagersville in the County of Haldimand ("the County") and all the lands are designated and zoned Agriculture. Parcel A and Parcel B abut existing industrial uses to the north, a crop field to the east and approved development

under active construction to the west (“the Lands”). Lafarge owns and operates the Quarry, which shares a common boundary with the Lands and is located at 4024 Highway 6.

Lafarge is in the process of reviewing the technical reports submitted in support of the Applications, including the Land Use Impact Assessment and Addendum, and will provide comments on those technical reports at or in advance of the statutory public meeting. In the meantime, we offer the following high-level comments for your consideration.

Lafarge has two primary concerns with the Applications at this stage. First, in Lafarge’s view they are not consistent with or in conformity with applicable planning policy. Second, the Applications are premised on a development setback from an arbitrary and disputed blasting limit which is based on outdated approvals and is inappropriate.

Policy Analysis

It is the responsibility of the County as the approval authority to review potential land-use impacts of the proposed development to ensure that the Applications are consistent with the Provincial Policy Statement (“PPS”) and conform with the County’s Official Plan (“OP”). Based on Lafarge’s preliminary review, the Applications do not appear to be consistent with the PPS, or to conform with the OP.

The relevant policies of the PPS are the following:

- **Policy 1.2.6.1** - *Major facilities and sensitive land uses shall be planned and developed to avoid, or if avoidance is not possible, minimize and mitigate any potential adverse effects from odour, noise and other contaminants, minimize risk to public health and safety, and to ensure the long-term operational and economic viability of major facilities in accordance with provincial guidelines, standards and procedures.*
Where avoidance is not possible in accordance with policy 1.2.6.1, planning authorities shall protect the long-term viability of existing or planned industrial, manufacturing or other uses that are vulnerable to encroachment by ensuring that the planning and development of proposed adjacent sensitive land uses are only permitted if the following are demonstrated in accordance with provincial guidelines, standards and procedures:
 - a) *there is an identified need for the proposed use;*
 - b) *alternative locations for the proposed use have been evaluated and there are no reasonable alternative locations;*
 - c) *adverse effects to the proposed sensitive land use are minimized and mitigated; and*
 - d) *potential impacts to industrial, manufacturing or other uses are minimized and mitigated*
- **Policy 2.5.2.4** - *Mineral aggregate operations shall be protected from development and activities that would preclude or hinder their expansion or continued use or which would be incompatible for reasons of public health, public safety or environmental impact. Existing mineral aggregate operations shall be permitted to continue without the need for official plan amendment, rezoning or development permit under the Planning Act. Where the Aggregate Resources Act applies, only processes under the Aggregate Resources Act shall address the depth of extraction of new or*

existing mineral aggregate operations. When a license for extraction or operation ceases to exist, policy 2.5.2.5 continues to apply

These policies direct that major facilities shall be protected from adverse effects of sensitive land uses, and that mineral aggregate operations shall be protected from planning or development that preclude or hinder their use. Based on our review of the Applications to date, we do not believe that the Applications have satisfied these planning tests. Rather, our view is that the Applications as proposed may hinder the Quarry operations.

We also note that the MECP recently released for public comment a proposed Land Use Compatibility Guideline which is intended to support the implementation of the PPS, in particular policy 1.2.6.1. That Guideline makes it clear that is the responsibility of the land use planning authority – in this case the County - to ensure that sensitive land uses and major facilities are planned and developed to avoid or minimize adverse effects.

The policy direction set out in the PPS is implemented at the County level through policy 2(5) of the OP, which reads as follows:

- *The County recognizes the potential for incompatibility of certain types of development within or near mineral aggregate resource areas. Appropriate land use separations should be applied to new sensitive land uses proximate to an existing aggregate extraction operation or identified resource area. New residential and institutional development within 500 metres of existing operations or resource areas shall be assessed on a case-by-case basis and appropriate development setbacks shall be established in consultation with the appropriate agencies based on studies carried out in support of the application for land use approvals.*

The Applications fail to conform with this policy, given that they propose development within 300 metres of a “blasting limit”, rather than assessing development proposed to be located within 500 m of the Quarry boundary. In fact, we note that the Planning Rationale Report provided in support of the Applications does not even address this policy of the OP or provide any analysis as to conformity with this policy. Our specific concerns with the proposed “blasting limit” setback are detailed further in the next section.

In addition, the applicant requested an urban boundary expansion that updates the urban boundary to remove 7.91 ha of land to the north of the proposed subdivision and includes 7.91 ha of land to the east of the proposed subdivision. The Planning Rationale Report states that an Official Plan Amendment is required per Section 2.2.1.3 and 2.2.1.4 of the OP to facilitate the land swap. However based on the second submission, it appears that the applicant is no longer pursuing an Official Plan Amendment. We would note that the urban boundary expansion has not been approved and that the lands remain designated Agricultural in the OP. We have seen nothing to indicate that there has been an analysis of whether the proposed Zoning By-law Amendment and Plan of Subdivision are consistent with PPS 2.3.5 and 2.3.6 regarding the removal of prime agricultural areas and permitting non-agricultural uses in prime agricultural areas.

Development Setback

The 300 m “blasting limit” setback was recommended and approved in 1989 based on technical studies completed at that time for a subdivision adjacent to the current proposed subdivision. That application was approved in 1992. It is important to note that the policy regime was very different in 1992. There was no PPS in 1992. The D-6 Guidelines were not published until 1995. It is very likely that the subdivision that was approved in 1992 would not be approved today, given changes to the policy regime.

It is also important to note that when revisions to the subdivision were proposed in 2005 (known as the Haldimand Gardens Phase IV Plan), the reports submitted in support of the proposed revisions were reviewed by the Province. In 2006 and 2007, the Province through MNRF, MECP and MMAH recommended there should be a 300-metre setback between the licensed boundary of the Quarry and property line of the proposed subdivision. There is no available documentation indicating that the Province’s position on the setback was revised or reduced to anything less than a 300 m separation distance between the licensed boundary and the residential property line. The 2018 Acknowledgement signed by the County and Lafarge includes further details on this matter and confirms that neither the Province nor Lafarge agreed that a 300 m setback from a “blasting limit” was appropriate.

Notwithstanding the Province’s comments and Lafarge’s objections, the County as approval authority accepted the proposed 300 m setback from the “limit of blasting” and not from the licensed boundary of the Quarry. As noted above, the frameworks on which this separation distance was established are now outdated. It was Lafarge’s position at that time, and remains Lafarge’s position now, that an acceptable setback is required in consultation with the appropriate agencies to reflect contemporary planning practices. We do not believe it is appropriate for the proposed subdivision application consisting of more than 850 residential units adjacent to the Quarry to rely on a setback that was established based on technical work completed in the late 1980s for lands adjacent to this proposal.

In addition, the proposed Land Use Compatibility Guideline referred to above establishes a minimum separation distance of 500 metres between aggregate extraction operations and sensitive land uses. Development of sensitive land uses within this minimum separation distance can only take place if: (i) a compatibility study shows that any adverse effects on the aggregate operation can be minimized or mitigated; and (ii) there is an identified need for the sensitive use at the proposed location and no reasonable alternative locations.

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Conclusion

Based on our review of the Applications to date, it is our opinion that the Applications as proposed are not consistent with the PPS and do not conform with the OP. In addition, we urge the County to critically consider whether it is good planning and in the public interest to rely on a development setback established in the late 1980s under a different policy regime, for a 2021 planning application to establish more than 850 residential units next to an existing and active quarry operation. Consideration of these issues must include consultation with all appropriate agencies, including MNRF, MECP and MMAH.

We would like to receive notice of any council meetings where this application is discussed as well as prompt circulation of staff reports, recommendations or council decisions.

Respectfully,

**LAFARGE CANADA INC.**

*Cc: Chris McGuckin, Land Director, Eastern Canada
David Bazargan, Land Manager, Southwest Ontario
Neal DeRuyter, MHBC Planning
Kim Mullin, Wood Bull LLP
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