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May 9, 2016

DELIVERED BY COURIER

Ms. Rose Caterini
City Clerk
City of Hamilton
71 Main Street West, 1st Floor
Hamilton, Ontario
L8P 4Y5

Dear Madam:

**Re: Notice of Appeal pursuant to Section 34(11) of the *Planning Act*,
R.S.O. 1990, c. P. 13, as amended – Mikmada Development Group
Inc. – 383 Dundas Street East, Waterdown (Connon Nurseries) – City
of Hamilton
City of Hamilton File No. ZAC-15-055**

We are counsel for Mikmada Development Group Inc., the owner of the above referenced lands in the City of Hamilton.

The owner, through its land use planning consultants IBI Group, made an application for an amendment to the Zoning By-law of the City of Hamilton, to the City of Hamilton on October 7, 2015. The City of Hamilton issued Notice of a Complete Application and Preliminary Circulation for Zoning By-law Amendment Application by IBI Group for Lands Located at 383 Dundas Street East and 4 First Street, Flamborough, (Ward 15) on November 6, 2015.

To date, the City of Hamilton has failed to make a decision in respect of the above referenced application for a Zoning By-law Amendment.

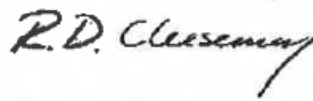
This letter will serve as our client's Notice of Appeal to the Ontario Municipal Board of the City of Hamilton Council's refusal or neglect to make a decision on the requested zoning by-law amendment within 120 days after the receipt of the clerk of the application, pursuant to Section 34(11) of the *Planning Act*, R.S.O, 1990, c. P. 13, as amended. Please find enclosed our firm cheque in the amount of \$125.00, payable to the "Minister of Finance – Ontario", which we understand to be the prescribed fee for the within appeal.

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Please also find enclosed a completed copy of Form "A1" of the Ontario Municipal Board, which we trust you will forward on to the OMB along with the appropriate record which you shall compile pursuant to Section 34(23) of the *Planning Act*.

If you have any questions, or require further clarification, please do not hesitate to contact the undersigned by telephone.

Yours very truly,

A handwritten signature in black ink, appearing to read "R.D. Cheeseman". The signature is written in a cursive style with a long, sweeping tail on the final letter.

Russell D. Cheeseman

Encls.

cc. Ms. Heather Travis, Senior Project Manager, City of Hamilton (via e-mail)
Mr. Adam Nesbitt (via e-mail)



Environment and Land Tribunals Ontario
Ontario Municipal Board
655 Bay Street, Suite 1500 Toronto, Ontario M5G 1E5
TEL: (416) 212-6349 or Toll Free: 1-866-448-2248
FAX: (416) 326-5370
www.elto.gov.on.ca

**APPELLANT FORM (A1)
PLANNING ACT**

**SUBMIT COMPLETED FORM
TO MUNICIPALITY/APPROVAL AUTHORITY**

Date Stamp - Appeal Received by Municipality

Receipt Number (OMB Office Use Only)

Part 1: Appeal Type (Please check only one box)

SUBJECT OF APPEAL	TYPE OF APPEAL	PLANNING ACT REFERENCE (SECTION)
Minor Variance	<input type="checkbox"/> Appeal a decision	45(12)
	<input type="checkbox"/> Appeal a decision	53(19)
Consent/Severance	<input type="checkbox"/> Appeal conditions imposed	53(27)
	<input type="checkbox"/> Appeal changed conditions	53(14)
	<input type="checkbox"/> Failed to make a decision on the application within 90 days	34(19)
Zoning By-law or Zoning By-law Amendment	<input type="checkbox"/> Appeal the passing of a Zoning By-law	34(11)
	<input checked="" type="checkbox"/> Application for an amendment to the Zoning By-law – failed to make a decision on the application within 120 days	34(11)
Interim Control By-law	<input type="checkbox"/> Application for an amendment to the Zoning By-law – refused by the municipality	38(4)
	<input type="checkbox"/> Appeal the passing of an Interim Control By-law	17(24) or 17(36)
Official Plan or Official Plan Amendment	<input type="checkbox"/> Appeal a decision	17(40)
	<input type="checkbox"/> Failed to make a decision on the plan within 180 days	22(7)
	<input type="checkbox"/> Application for an amendment to the Official Plan – failed to make a decision on the application within 180 days	51(39)
Plan of Subdivision	<input type="checkbox"/> Application for an amendment to the Official Plan – refused by the municipality	51(43) or 51(48)
	<input type="checkbox"/> Appeal a decision	51(34)
	<input type="checkbox"/> Appeal conditions imposed	
	<input type="checkbox"/> Failed to make a decision on the application within 180 days	

Part 2: Location Information

_____ 383 Dundas Street East and 4 First Street (Waterdown) _____
Address and/or Legal Description of property subject to the appeal:

Municipality/Upper tier: _____ City of Hamilton _____

Part 3: Appellant Information

First Name: _____ Russell _____ Last Name: _____ Cheeseman _____

Barrister and Solicitor
Company Name or Association Name (Association must be incorporated – include copy of letter of incorporation)

Professional Title (if applicable): _____

E-mail Address: _____ rdcheese@aol.com _____
By providing an e-mail address you agree to receive communications from the OMB by e-mail.

Daytime Telephone #: _____ 416-955-9529 _____ Alternate Telephone #: _____ 905-844-8960 _____

Fax #: _____ 416-955-9532 _____

Mailing Address: _____ 1 Adelaide Street East, Suite 2340, P.O. Box 189 _____ Toronto _____
Street Address Apt/Suite/Unit# City/Town

Ontario _____ M5C 2V9 _____
Province Country (if not Canada) Postal CodeSignature of Appellant: _____ Date: _____ May 9, 2016 _____
(Signature not required if the appeal is submitted by a law office.)**Please note: You must notify the Ontario Municipal Board of any change of address or telephone number in writing. Please quote your OMB Reference Number(s) after they have been assigned.**Personal information requested on this form is collected under the provisions of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended, and the *Ontario Municipal Board Act*, R.S.O. 1990, c. O. 28 as amended. After an appeal is filed, all information relating to this appeal may become available to the public.**Part 4: Representative Information (if applicable)****I hereby authorize the named company and/or individual(s) to represent me:**

First Name: _____ Last Name: _____

Company Name: _____

Professional Title: _____

E-mail Address: _____
By providing an e-mail address you agree to receive communications from the OMB by e-mail.

Daytime Telephone #: _____ Alternate Telephone #: _____

Fax #: _____

Mailing Address: _____
Street Address Apt/Suite/Unit# City/Town

Province Country (if not Canada) Postal Code

Signature of Appellant: _____ Date: _____

Please note: If you are representing the appellant and are NOT a solicitor, please confirm that you have written authorization, as required by the Board's Rules of Practice and Procedure, to act on behalf of the appellant. Please confirm this by checking the box below. I certify that I have written authorization from the appellant to act as a representative with respect to this appeal on his or her behalf and I understand that I may be asked to produce this authorization at any time.

Part 5: Language and Accessibility

Please choose preferred language: English French

We are committed to providing services as set out in the *Accessibility for Ontarians with Disabilities Act, 2005*. If you have any accessibility needs, please contact our Accessibility Coordinator as soon as possible.

Part 6: Appeal Specific Information

1. Provide specific information about what you are appealing. For example: Municipal File Number(s), By-law Number(s), Official Plan Number(s) or Subdivision Number(s):

(Please print)
City of Hamilton File No. ZAC-15-055

2. Outline the nature of your appeal and the reasons for your appeal. Be specific and provide land-use planning reasons (for example: the specific provisions, sections and/or policies of the Official Plan or By-law which are the subject of your appeal - if applicable). **If more space is required, please continue in Part 9 or attach a separate page.

(Please print)
Please see letter dated May 9, 2016

THE FOLLOWING SECTIONS (a&b) APPLY ONLY TO APPEALS OF ZONING BY-LAW AMENDMENTS UNDER SECTION 34(11) OF THE *PLANNING ACT*.

- a) **DATE APPLICATION SUBMITTED TO MUNICIPALITY:** _____ OCTOBER 7, 2015 _____
(If application submitted before January 1, 2007 please use the O1 'pre-Bill 51' form.)

- b) Provide a brief explanatory note regarding the proposal, which includes the existing zoning category, desired zoning category, the purpose of the desired zoning by-law change, and a description of the lands under appeal:
**If more space is required, please continue in Part 9 or attach a separate page.

Zoning By-law to establish a modified Medium Density Residential "R6" Zone to permit a 79-unit townhouse development. It will also establish an Urban Residential (Single-Detached) "R1" Zone on a portion of the property fronting along First Street containing the existing single-detached dwelling. Lands are currently zoned "HC-2" – Highway Commercial and the proposal is to zone the lands "R6-x" Medium Density Residential and "R1" Urban Residential.

Part 7: Related Matters (if known)

Are there other appeals not yet filed with the Municipality? YES NO

Are there other planning matters related to this appeal? YES NO

(For example: A consent application connected to a variance application)

If yes, please provide OMB Reference Number(s) and/or Municipal File Number(s) in the box below:

(Please print)

Part 8: Scheduling Information

How many days do you estimate are needed for hearing this appeal? half day 1 day 2 days 3 days
 4 days 1 week More than 1 week – please specify number of days: _____ 10 _____

How many expert witnesses and other witnesses do you expect to have at the hearing providing evidence/testimony?
_____ 3 or 4 _____

Describe expert witness(es)' area of expertise (For example: land use planner, architect, engineer, etc.):
_____ Planning, Engineering, Environmental Noise, Traffic _____

Do you believe this matter would benefit from mediation? YES NO
(Mediation is generally scheduled only when all parties agree to participate)

Do you believe this matter would benefit from a prehearing conference? YES NO
(Prehearing conferences are generally not scheduled for variances or consents)

If yes, why? _____ To identify parties and participants, identify issues and set a procedural Order _____

Part 9: Other Applicable Information **Attach a separate page if more space is required.

Part 10: Required Fee

Total Fee Submitted: \$ _____ 125.00 _____

Payment Method: Certified cheque Money Order Solicitor's general or trust account cheque

- The payment must be in Canadian funds, **payable to the Minister of Finance.**
- **Do not send cash.**

- PLEASE ATTACH THE CERTIFIED CHEQUE/MONEY ORDER TO THE FRONT OF THIS FORM.