

November 30, 2016

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

Denise Baker
 Partner
 T: 905-829-8600
 dbaker@weirfoulds.com

File 16056.00004

Dear Ms. Caterini:

Re: Notice of Appeal of Proposed Official Plan and Zoning By-law Amendments Sections 22(7) and 34(11) of the *Planning Act*, RSO 1990, c P.13, as amended 1117 Garner Road East, City of Hamilton (former Town of Ancaster) Municipal File Nos. UHOPA-16-010 and ZAR-16-026

We are counsel to Sonoma Homes Inc. ("**Sonoma**"), owner of the property municipally known as 1117 Garner Road East (the "**Property**"), in the City of Hamilton (the "**City**").

On April 7, 2016, Wellings Planning Consultants Inc. ("**Wellings**"), on behalf of Sonoma, filed concurrent applications to amend the City's Official Plan and Zoning By-law, together with all of the required studies and supporting documentation. The Applications were declared complete as of April 21, 2016. To date, no decision has been made by Council.

Accordingly, City Council has failed to adopt the requested Official Plan amendment within 180 days after the complete Application, or to make a decision on the proposed Zoning By-law amendment within 120 days after the complete Application and as such, on behalf of our clients, we hereby appeal the Applications to the Ontario Municipal Board (the "**OMB**").

While reasons for an appeal from a non-decision are not required under sections 22(7) and 34(11) of the *Planning Act*, we note the following in support of our client's appeals of the Applications:

1. The proposed redevelopment of the Property is consistent with and conforms to the applicable planning policy framework as noted below:
 - a. The Provincial Policy Statement (2014) ("**PPS**"), by providing an appropriate form of housing, promoting intensification and contributing to an efficient mix of land uses;

- b. The Provincial Growth Plan for the Greater Golden Horseshoe (2006) ("**Growth Plan**"), by providing alternative forms of housing choices and by providing a transit-supportive form of intensification;
 - c. The Urban Hamilton Official Plan ("**UHOP**"), insofar as the proposed higher density development will facilitate intensification, while conforming to other applicable policies in the Plan. Moreover, the proposed high density residential development has been designed to be safe, efficient, pedestrian oriented and attractive.
2. From both a land use and urban design standpoint, the proposed redevelopment is compatible with and will enhance the character of existing development within the surrounding area.
3. The proposed redevelopment facilitates an appropriate form of land development and represents good land use planning.
4. The proposed redevelopment increases the amount of housing stock available in the City of Hamilton and specifically within the Meadowlands Neighbourhood IV Secondary Plan.
5. The proposed Zoning By-law amendments for the Property include appropriate zoning regulations which collectively eliminate or mitigate any unacceptable undue impacts on adjoining properties or the surrounding community. Those zoning regulations will form the basis for a detailed site plan review.
6. The proposed redevelopment represents an appropriate level of redevelopment and intensification of the Property. The proposed redevelopment is in keeping with the planning and urban design framework established in the PPS, the Growth Plan, the UHOP and the applicable urban design guidelines.
7. From a land use planning perspective, the proposed redevelopment of the Property promotes the achievement of numerous policy directives supporting intensification, particularly in locations that are well served by municipal infrastructure. The redevelopment is also situated on a future rapid transit corridor.
8. Such further and other reasons as counsel may advise and the Board may permit.

In support of this appeal please find the following enclosed:

1. The completed OMB Appeal form (A1) in respect of the Zoning By-law amendment appeal;
2. The completed OMB Appeal form (A1) in respect of the Official Plan amendment appeal; and
3. 2 firm cheques, each in the amount of \$300, made payable to The Minister of Finance, representing the two (2) filing fees.

Thank you for your consideration of this matter.

Yours truly,

WeirFoulds LLP



Denise Baker

DB/LB
Encls.

cc client

**APPELLANT FORM (A1)
PLANNING ACT**



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

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

Date Stamp - Appeal Received by Municipality

OFFICE OF THE CITY CLERK

DEC 1 2016

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

Part 2: Location Information

1117 Garner Road East, Ancaster
 Address and/or Legal Description of property subject to the appeal:

Municipality/Upper tier: City of Hamilton

Part 3: Appellant Information

First Name: _____ Last Name: _____

Sonoma Homes Inc.
Company Name or Association Name (Association must be incorporated – include copy of letter of incorporation)

Professional Title (if applicable): _____

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: _____
(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: Denise Last Name: Baker

Company Name: WeirFoulds LLP

Professional Title: Barrister & Solicitor

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

Daytime Telephone #: 416-947-5090 Alternate Telephone #: 905-829-8600

Fax #: 905-829-2035

Mailing Address: 1525 Cornwall Road Suite 10 Oakville
Street Address Apt/Suite/Unit# City/Town
ON L6J OB2
Province Country (if not Canada) Postal Code

Signature of Appellant:  Date: 11/30/16

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)

UHOPA-16-010

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)

see attached correspondence

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:** _____
(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.

Bill 73 - This question applies only to official plans/amendments, zoning by-laws/amendments and minor variances that came into effect/were passed on or after July 1, 2016.

- 1. Is the 2-year no application restriction under section 22(2.2) or 34(10.0.0.2) or 45(1.4) applicable?
 - a. No

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)

ZAR-16-026

Part 10: Required Fee

Total Fee Submitted: \$ 300.00

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.**

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(Please print)

ZAR-16-026

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[Empty box for explanatory note]

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