

Barristers & Solicitors

WeirFouldsLLP

September 8, 2017

Jennifer Meader
T: 905-829-8600
jmeader@weirfoulds.com

Michael Connell
T: 416-947-5087
mconnell@weirfoulds.com

File 16938.00007

VIA COURIER

City of Hamilton
Office of the City Clerk
71 Main St. W., 1st Floor
Hamilton, ON L8P 4Y5

Dear Ms. Caterini:

Re: NOTICE OF APPEAL
Zoning By-law Amendment Application
Section 34(11) of the *Planning Act*, R.S.O. 1990, C. P.13
157 Upper Centennial Parkway, Stoney Creek, Hamilton
Losani Homes

We represent 1520866 Ontario Limited ("**Losani Homes**"), owners of 1.87 hectares of land located on the west side of Upper Centennial Parkway between Highland Road West and Mud Street in Hamilton (the "**Subject Lands**"). The Subject Lands are municipally known as 157 Upper Centennial Parkway, and are legally described as Part of Lot 25, Concession 7, Part 1 of 62R-15922.

Through its planning consultant, James Webb, our client submitted applications for both an official plan amendment and a zoning by-law amendment to the City of Hamilton (the "**City**") in August, 2016. The zoning by-law amendment application was subsequently deemed complete by the City on September 7, 2016 and was assigned Municipal File No. ZAC-16-056 .

These planning approvals were sought in support of a development proposal for 95 dwelling units comprised of 48 maisonettes (back to back townhouses) and 47 standard townhouses. The development is intended to be established as a plan of condominium with units fronting onto a private condominium road.

The Subject Lands are zoned Neighbourhood Development "ND" by Stoney Creek Zoning By-law 3692-92. The zoning by-law amendment sought would rezone all of the Subject Lands to the Multiple Residential "RM3" Zone, with modifications, to permit the proposed residential dwellings.

Suite 10, 1525 Cornwall Road, Oakville, Ontario, Canada. L6J 0B2

T: 905-829-8600 F: 905-829-2035

www.weirfoulds.com

Barristers & Solicitors

WeirFoulds^{LLP}

It has been one year since the application was submitted and, as such, we hereby appeal the zoning by-law amendment application to the Ontario Municipal Board pursuant to subsection 34(11) of the *Planning Act* on the basis that over 120 days have passed and the City has failed to make a decision.

Appeals for our client's official plan amendment application are being filed concurrently herewith. We would request that appeals be administratively consolidated and scheduled for a single prehearing conference.

Enclosed in support of this appeal, please find:

1. OMB Appellant Form A1; and
2. Cheque in the amount of \$300.00 payable to the Minister of Finance, as the Board's required appeal fee.

Our clients would welcome any opportunity to discuss these matters with the City to explore the prospect of a mutually satisfactory resolution.

Should you have any questions or require any additional information, please do not hesitate to contact the undersigned. Otherwise, we thank you for your receipt of this appeal package.

Yours truly,

WeirFoulds LLP



Per: Jennifer Meader

MWC
Enclosures

cc: William Liske, Losani Homes



Environment and Land Tribunals Ontario
Ontario Municipal Board
655 Bay Street, Suite 1500
Toronto ON M5G 1E5
Telephone: 416-212-6349
Toll Free: 1-866-448-2248
Fax: 416-326-5370
Website: www.eltto.gov.on.ca

Appellant Form (A1)

Receipt Number (OMB Office Use Only)

Date Stamp - Appeal Received by Municipality

1. Appeal Type (Please check all applicable boxes) *

Subject of Appeal	Type of Appeal	Act Reference (Section)
Planning Act Matters		
Official Plan or Official Plan Amendment	<input type="checkbox"/> Appeal a decision by local council that adopted an OP or OPA (exempt from approval by Minister or Approval Authority)	17(24)
	<input type="checkbox"/> Appeal a decision of an Approval Authority that approved or did not approve all or part of a plan or amendment	17(36)
	<input type="checkbox"/> Approval Authority failed to make a decision on the plan within 180 days	17(40)
	<input type="checkbox"/> Council failed to adopt the requested amendment within 180 days	22(7)
	<input type="checkbox"/> Council refused the requested amendment	
Zoning By-law or Zoning By-law Amendment	<input type="checkbox"/> Appeal the passing of a Zoning By-law	34(19)
	<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)
	<input type="checkbox"/> Application for an amendment to the Zoning By-law – refused by the municipality	
Interim Control Zoning By-law	<input type="checkbox"/> Appeal the passing of an Interim Control By-law	38(4)
Minor Variance	<input type="checkbox"/> Appeal a decision of the Committee of Adjustment that approved or refused the application	45(12)
Consent/Severance	<input type="checkbox"/> Appeal a decision that approved or refused the application	53(19)
	<input type="checkbox"/> Appeal conditions imposed	53(27)
	<input type="checkbox"/> Appeal changed conditions	53(14)
	<input type="checkbox"/> Application for consent – Approval Authority failed to make a decision on the application within 90 days	
Plan of Subdivision	<input type="checkbox"/> Application for a plan of subdivision – Approval Authority failed to make a decision on the plan within 180 days	51(34)
	<input type="checkbox"/> Appeal a decision of an Approval Authority that approved a plan of subdivision	51(39)
	<input type="checkbox"/> Appeal a decision of an Approval Authority that did not approve a plan of subdivision	
	<input type="checkbox"/> Appeal a lapsing provision imposed by an Approval Authority	
	<input type="checkbox"/> Appeal conditions imposed by an Approval Authority	
	<input type="checkbox"/> Appeal conditions - after expiry of 20 day appeal period but before final approval (only applicant or public body may appeal)	51(43)
	<input type="checkbox"/> Appeal changed conditions	51(48)

Subject of Appeal	Type of Appeal	Act Reference (Section)
Development Charges Act Matters		
Development Charge By-law	<input type="checkbox"/> Appeal a Development Charge By-law	14
	<input type="checkbox"/> Appeal an amendment to a Development Charge By-law	19(1)
Development Charge Complaint	<input type="checkbox"/> Appeal municipality's decision regarding a complaint	22(1)
	<input type="checkbox"/> Failed to make a decision on the complaint within 60 days	22(2)
Front-ending Agreement	<input type="checkbox"/> Objection to a front-ending agreement	47
	<input type="checkbox"/> Objection to an amendment to a front-ending agreement	50
Education Act Matters		
Education Development Charge By-law	<input type="checkbox"/> Appeal an Education Development Charge By-law	257.65
	<input type="checkbox"/> Appeal an amendment to an Education Development Charge By-law	257.74(1)
Education Development Charge Complaint	<input type="checkbox"/> Appeal approval authority's decision regarding a complaint	257.87(1)
	<input type="checkbox"/> Failed to make a decision on the complaint within 60 days	257.87(2)
Aggregate Resources Act Matters		
Aggregate Removal Licence	<input type="checkbox"/> One or more objections against an application for a 'Class A' aggregate removal licence	11(5)
	<input type="checkbox"/> One or more objections against an application for a 'Class B' aggregate removal licence	
	<input type="checkbox"/> Application for a 'Class A' licence – refused by Minister	11(11)
	<input type="checkbox"/> Application for a 'Class B' licence – refused by Minister	
	<input type="checkbox"/> Changes to conditions to a licence	13(6)
	<input type="checkbox"/> Amendment of site plans	16(8)
	<input type="checkbox"/> Minister proposes to transfer the licence – applicant does not have licensee's consent	18(5)
	<input type="checkbox"/> Minister proposes to refuse transfer of licence – applicant is licensee or has licensee's consent to transfer	
	<input type="checkbox"/> Minister proposes to refuse transfer of licence – applicant does not have licensee's consent to transfer	
	<input type="checkbox"/> Revocation of licence	20(4)
Municipal Act Matters		
Ward Boundary By-law	<input type="checkbox"/> Appeal the passing of a by-law to divide the municipality into wards	222(4)
	<input type="checkbox"/> Appeal the passing of a by-law to redivide the municipality into wards	
	<input type="checkbox"/> Appeal the passing of a by-law to dissolve the existing wards	
Ontario Heritage Act Matters		
Heritage Conservation District	<input type="checkbox"/> Appeal the passing of a by-law designating a heritage conservation study area	40.1(4)
	<input type="checkbox"/> Appeal the passing of a by-law designating a heritage conservation district	41(4)

Other Matters		
Subject of Appeal	Act/Legislation Name	Section Number

2. Location Information

Address and/or Legal Description of property subject to the appeal *
157 Upper Centennial Parkway, Stoney Creek

Municipality *

The City of Hamilton

Upper Tier (Example: county, district, region)

3. Appellant/Objector Information

Note: You must notify the OMB of any change of address or telephone number in writing. Please quote your OMB Case/File Number(s) after they have been assigned.

Last Name

First Name

Company Name or Association Name (Association must be incorporated – include copy of letter of incorporation) *
1520866 Ontario Limited (Losani Homes)

Professional Title

Email Address

Daytime Telephone Number *
905-561-1700 ext.

Alternate Telephone Number

Fax Number

Mailing Address

Unit Number
203

Street Number *
430

Street Name *
McNeille Road

PO Box

City/Town *
Stoney Creek

Province *
Ontario

Country *
Canada

Postal Code *
L8E 5E3

4. Representative Information

☒ I hereby authorize the named company and/or individual(s) to represent me

Last Name
Meador

First Name
Jennifer

Company Name
WeirFoulds LLP

Professional Title
Legal Counsel

Email Address
jmeador@weirfoulds.com

Daytime Telephone Number
416-947-5099 ext.

Alternate Telephone Number

Fax Number

Mailing Address

Unit Number
10

Street Number
1525

Street Name
Cornwall Road

PO Box

City/Town
Oakville

Province
Ontario

Country
Canada

Postal Code
L6J 0B2

Note: If you are representing the appellant and are not a solicitor, please confirm that you have written authorization, as required by the OMB'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.

5. Appeal Specific Information

Municipal Reference Number(s)
ZAC-16-056

Outline the nature of your appeal and the reasons for your appeal *
Please see the attached covering letter.

Oral/written submissions to council

Did you make your opinions regarding this matter known to council?

- ☐ Oral submissions at a public meeting ☐ Written submissions to council

Planning Act matters only

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

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

- ☐ Yes ☒ No

6. Related Matters

Are there other appeals not yet filed with the Municipality?

- ☒ Yes ☐ No

Are there other matters related to this appeal? (For example: A consent application connected to a variance application)

- ☒ Yes ☐ No ▼

If yes, please provide OMB Reference Number(s) and/or Municipal File Number(s)
UHOPA - 16 - 020

7. Scheduling Information

How many days do you estimate are needed for hearing this appeal?

- ☐ 1 day ☐ 2 days ☐ 3 days ☐ 4 days ☒ 1 week
☐ More than 1 week

How many expert witnesses and other witnesses do you expect to have at the hearing providing evidence/testimony?
1

Describe expert witness(es)' area of expertise (For example: land use planner, architect, engineer, etc.)
Land Use Planner

Do you believe this matter would benefit from mediation?

(Prior to scheduling a matter for mediation, the OMB will conduct an assessment to determine its suitability for mediation)

☐ Yes ☒ No


8. Required Fee

Total Fee Submitted * \$ 300

Payment Method * ☐ Certified cheque ☐ Money Order ☒ Solicitor's general or trust account cheque

9. Declaration

I solemnly declare that all of the statements and the information provided, as well as any supporting documents are true, correct and complete.

Name of Appellant/Representative	Signature of Appellant/Representative	Date (yyyy/mm/dd)
Jennifer Meader		2017/09/08

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.

Barristers & Solicitors

WeirFouldsLLP

September 8, 2017

Jennifer Meader
T: 905-829-8600
jmeader@weirfoulds.com

VIA COURIER

Michael Connell
T: 416-947-5087
mconnell@weirfoulds.com

File 16938.00007

City of Hamilton
Office of the City Clerk
71 Main St. W., 1st Floor
Hamilton, ON L8P 4Y5

Dear Ms. Caterini:

Re: NOTICE OF APPEAL
Official Plan Amendment Application
Section 17(40) of the *Planning Act*, R.S.O. 1990, C. P.13
157 Upper Centennial Parkway, Stoney Creek, Hamilton
Losani Homes

We represent 1520866 Ontario Limited ("**Losani Homes**"), owners of 1.87 hectares of land located on the west side of Upper Centennial Parkway between Highland Road West and Mud Street in Hamilton (the "**Subject Lands**"). The Subject Lands are municipally known as 157 Upper Centennial Parkway, and are legally described as Part of Lot 25, Concession 7, Part 1 of 62R-15922.

Through its planning consultant, James Webb, our client submitted applications for both an official plan amendment and a zoning by-law amendment to the City of Hamilton (the "**City**") in August 2016. The official plan amendment application was subsequently deemed complete by the City on September 7, 2016 and was assigned Municipal File No. UHOPA-16-020.

These planning approvals were sought in support of a development proposal for 95 dwelling units comprised of 48 maisonettes (back to back townhouses) and 47 standard townhouses. The development is intended to be established as a plan of condominium with units fronting onto a private condominium road.

The Subject Lands are designated "Neighbourhood" and "Arterial Commercial" in the Urban Hamilton Official Plan ("UHOP") and "Low Density Residential 3c", "Low Density Residential 2b", and "Arterial Commercial" in the West Mountain Secondary Plan ("**Secondary Plan**"). The

Suite 10, 1525 Cornwall Road, Oakville, Ontario, Canada. L6J 0B2

T: 905-829-8600 F: 905-829-2035

www.weirfoulds.com

Barristers & Solicitors

WeirFouldsLLP

application is to amend the Secondary Plan to designate the entire Subject Lands as "Low Density Residential 3c" with a maximum density of 52 units per net residential hectare.

It has been a year since the application was submitted and, as such, we hereby appeal the official plan amendment application to the Ontario Municipal Board pursuant to subsection 17(40) of the *Planning Act* on the basis that over 180 days have passed and the City has failed to make a decision.

Appeals for our client's zoning by-law amendment application are being filed concurrently herewith. We would request that the appeals be administratively consolidated and scheduled for a single prehearing conference at the earliest opportunity in the Board's calendar.

Enclosed in support of this appeal, please find:

1. OMB Appellant Form A1; and
2. Cheque in the amount of \$300.00 payable to the Minister of Finance, as the Board's required appeal fee.

Our clients would welcome any opportunity to discuss these matters with the City to explore the prospect of a mutually satisfactory resolution.

Should you have any questions or require any additional information, please do not hesitate to contact the undersigned. Otherwise, we thank you for your receipt of this appeal package.

Yours truly,

WeirFoulds LLP



Per: Jennifer Meader

MWC
Enclosures

c: William Liske, Losani Homes



Environment and Land Tribunals Ontario
Ontario Municipal Board
 655 Bay Street, Suite 1500
 Toronto ON M5G 1E5
 Telephone: 416-212-6349
 Toll Free: 1-866-448-2248
 Fax: 416-326-5370
 Website: www.elt.o.gov.on.ca

Appellant Form (A1)

Receipt Number (OMB Office Use Only)

Date Stamp - Appeal Received by Municipality

1. Appeal Type (Please check all applicable boxes) *

Subject of Appeal	Type of Appeal	Act Reference (Section)
Planning Act Matters		
Official Plan or Official Plan Amendment	<input type="checkbox"/> Appeal a decision by local council that adopted an OP or OPA (exempt from approval by Minister or Approval Authority)	17(24)
	<input type="checkbox"/> Appeal a decision of an Approval Authority that approved or did not approve all or part of a plan or amendment	17(36)
	<input checked="" type="checkbox"/> Approval Authority failed to make a decision on the plan within 180 days	17(40)
	<input type="checkbox"/> Council failed to adopt the requested amendment within 180 days	22(7)
	<input type="checkbox"/> Council refused the requested amendment	
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 Zoning By-law	<input type="checkbox"/> Appeal the passing of an Interim Control By-law	38(4)
Minor Variance	<input type="checkbox"/> Appeal a decision of the Committee of Adjustment that approved or refused the application	45(12)
Consent/Severance	<input type="checkbox"/> Appeal a decision that approved or refused the application	53(19)
	<input type="checkbox"/> Appeal conditions imposed	
	<input type="checkbox"/> Appeal changed conditions	53(27)
	<input type="checkbox"/> Application for consent – Approval Authority failed to make a decision on the application within 90 days	53(14)
Plan of Subdivision	<input type="checkbox"/> Application for a plan of subdivision – Approval Authority failed to make a decision on the plan within 180 days	51(34)
	<input type="checkbox"/> Appeal a decision of an Approval Authority that approved a plan of subdivision	51(39)
	<input type="checkbox"/> Appeal a decision of an Approval Authority that did not approve a plan of subdivision	
	<input type="checkbox"/> Appeal a lapsing provision imposed by an Approval Authority	
	<input type="checkbox"/> Appeal conditions imposed by an Approval Authority	
	<input type="checkbox"/> Appeal conditions - after expiry of 20 day appeal period but before final approval (only applicant or public body may appeal)	51(43)
	<input type="checkbox"/> Appeal changed conditions	51(48)

Subject of Appeal	Type of Appeal	Act Reference (Section)
Development Charges Act Matters		
Development Charge By-law	<input type="checkbox"/> Appeal a Development Charge By-law	14
	<input type="checkbox"/> Appeal an amendment to a Development Charge By-law	19(1)
Development Charge Complaint	<input type="checkbox"/> Appeal municipality's decision regarding a complaint	22(1)
	<input type="checkbox"/> Failed to make a decision on the complaint within 60 days	22(2)
Front-ending Agreement	<input type="checkbox"/> Objection to a front-ending agreement	47
	<input type="checkbox"/> Objection to an amendment to a front-ending agreement	50
Education Act Matters		
Education Development Charge By-law	<input type="checkbox"/> Appeal an Education Development Charge By-law	257.65
	<input type="checkbox"/> Appeal an amendment to an Education Development Charge By-law	257.74(1)
Education Development Charge Complaint	<input type="checkbox"/> Appeal approval authority's decision regarding a complaint	257.87(1)
	<input type="checkbox"/> Failed to make a decision on the complaint within 60 days	257.87(2)
Aggregate Resources Act Matters		
Aggregate Removal Licence	<input type="checkbox"/> One or more objections against an application for a 'Class A' aggregate removal licence	11(5)
	<input type="checkbox"/> One or more objections against an application for a 'Class B' aggregate removal licence	
	<input type="checkbox"/> Application for a 'Class A' licence – refused by Minister	11(11)
	<input type="checkbox"/> Application for a 'Class B' licence – refused by Minister	
	<input type="checkbox"/> Changes to conditions to a licence	13(6)
	<input type="checkbox"/> Amendment of site plans	16(8)
	<input type="checkbox"/> Minister proposes to transfer the licence – applicant does not have licensee's consent	18(5)
	<input type="checkbox"/> Minister proposes to refuse transfer of licence – applicant is licensee or has licensee's consent to transfer	
	<input type="checkbox"/> Minister proposes to refuse transfer of licence – applicant does not have licensee's consent to transfer	
	<input type="checkbox"/> Revocation of licence	20(4)
Municipal Act Matters		
Ward Boundary By-law	<input type="checkbox"/> Appeal the passing of a by-law to divide the municipality into wards	222(4)
	<input type="checkbox"/> Appeal the passing of a by-law to redivide the municipality into wards	
	<input type="checkbox"/> Appeal the passing of a by-law to dissolve the existing wards	
Ontario Heritage Act Matters		
Heritage Conservation District	<input type="checkbox"/> Appeal the passing of a by-law designating a heritage conservation study area	40.1(4)
	<input type="checkbox"/> Appeal the passing of a by-law designating a heritage conservation district	41(4)

Other Matters		
Subject of Appeal	Act/Legislation Name	Section Number

2. Location Information

Address and/or Legal Description of property subject to the appeal *
157 Upper Centennial Parkway, Stoney Creek

Municipality *
The City of Hamilton

Upper Tier (Example: county, district, region)

3. Appellant/Objector Information

Note: You must notify the OMB of any change of address or telephone number in writing. Please quote your OMB Case/File Number(s) after they have been assigned.

Last Name

First Name

Company Name or Association Name (Association must be incorporated – include copy of letter of incorporation) *
1520866 Ontario Limited (Losani Homes)

Professional Title

Email Address

Daytime Telephone Number *
905-561-1700 ext.

Alternate Telephone Number

Fax Number

Mailing Address

Unit Number
203

Street Number *
430

Street Name *
McNeilley Road

PO Box

City/Town *
Stoney Creek

Province *
ON

Country *
Canada

Postal Code *
L8E 5E3

4. Representative Information

☒ I hereby authorize the named company and/or individual(s) to represent me

Last Name
Meader

First Name
Jennifer

Company Name
WeirFoulds LLP

Professional Title
Legal Counsel

Email Address
jmeader@weirfoulds.com

Daytime Telephone Number
416-947-5099 ext.

Alternate Telephone Number

Fax Number

Mailing Address

Unit Number
10

Street Number
1525

Street Name
Cornwall Road

PO Box

City/Town
Oakville

Province
ON

Country
Canada

Postal Code
L6J 0B2

Note: If you are representing the appellant and are **not** a solicitor, please confirm that you have written authorization, as required by the OMB'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.

5. Appeal Specific Information

Municipal Reference Number(s)
UHOPA -16 - 020

Outline the nature of your appeal and the reasons for your appeal *
Please see the attached covering letter.

Oral/written submissions to council

Did you make your opinions regarding this matter known to council?

- ☐ Oral submissions at a public meeting ☐ Written submissions to council

Planning Act matters only

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

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

- ☐ Yes ☒ No

6. Related Matters

Are there other appeals not yet filed with the Municipality?

- ☒ Yes ☐ No

Are there other matters related to this appeal? (For example: A consent application connected to a variance application)

- ☒ Yes ☐ No ▼

If yes, please provide OMB Reference Number(s) and/or Municipal File Number(s)
ZAC - 16 - 056

7. Scheduling Information

How many days do you estimate are needed for hearing this appeal?

- ☐ 1 day ☐ 2 days ☐ 3 days ☐ 4 days ☒ 1 week
☐ More than 1 week

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

1

Describe expert witness(es)' area of expertise (For example: land use planner, architect, engineer, etc.)
Land Use Planner

Do you believe this matter would benefit from mediation?

(Prior to scheduling a matter for mediation, the OMB will conduct an assessment to determine its suitability for mediation)

☐ Yes ☒ No


8. Required Fee

Total Fee Submitted * \$ 300

Payment Method * ☐ Certified cheque ☐ Money Order ☒ Solicitor's general or trust account cheque

9. Declaration

I solemnly declare that all of the statements and the information provided, as well as any supporting documents are true, correct and complete.

Name of Appellant/Representative	Signature of Appellant/Representative	Date (yyyy/mm/dd)
Jennifer Meader		2017/09/08

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.