

November 14, 2017

**Via Delivered**

Ms. Rose Caterini  
City Clerk

OFFICE OF THE CITY CLERK

NOV 14 2017

City of Hamilton  
71 Main Street West, 1<sup>st</sup> Floor  
Hamilton, ON L8P 4Y5

Dear Ms. Caterini,

**RE: Notice of Appeal to the Ontario Municipal Board  
Zoning By-law Amendment Application No. ZAC-17-014  
941 Old Mohawk Road, Ancaster, City of Hamilton**

Fortino's Umbrella Inc. is the owner of property municipally known as 941 Old Mohawk Road in Ancaster.

On December 23, 2016, the subject Zoning By-law Amendment Application was submitted to the City of Hamilton and later deemed complete on January 19, 2017. The purpose of the application is to change the zoning of the lands from Agricultural "A" Zone to the Residential "R3" Zone, Modified in Zoning By-law No. 87-57 and to the Conservation/Hazard Lands "P5" Zone in Zoning By-law No. 05-200. The Effect of the application is to accommodate four lots for single detached dwellings in the appropriate residential zone while the rear portion of the lands be zoned Conservation/Hazard Land "P5" Zone to protect the natural heritage features on the subject property. Fortino's Umbrella Inc. now appeals this application to the Ontario Municipal Board as the municipality has failed to make a decision on the application with 120 days as required by Section 34(11) of the *Planning Act*.

In support of this appeal, please find enclosed the following:

- One (1) certified cheque made payable to the Minister of Finance in the amount of \$300.00; and,
- The completed OMB Appellant Form (A1) for Application No. ZAC-17-014.

If you have any questions regarding this matter, please feel free to contact the undersigned.

Regards,



Mr. Jordan Fortino

Encl. (2)

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Fortino's Umbrella Inc.  
51 Herkimer Street  
Hamilton, ON L8P 2G3  
905-515-6176



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](http://www.elt.o.gov.on.ca)

**Appellant Form (A1)**

Receipt Number (OMB Office Use Only)

Date Stamp - Appeal Received by Municipality

**OFFICE OF THE CITY CLERK****NOV 14 2017****1. Appeal Type** (Please check all applicable boxes) \*

Subject of Appeal	Type of Appeal	Act Reference (Section)
<b>Planning Act Matters</b>		
<b>Official Plan or Official Plan Amendment</b>	<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	
<b>Zoning By-law or Zoning By-law Amendment</b>	<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	
<b>Interim Control Zoning By-law</b>	<input type="checkbox"/> Appeal the passing of an Interim Control By-law	38(4)
<b>Minor Variance</b>	<input type="checkbox"/> Appeal a decision of the Committee of Adjustment that approved or refused the application	45(12)
<b>Consent/Severance</b>	<input type="checkbox"/> Appeal a decision that approved or refused the application	
	<input type="checkbox"/> Appeal conditions imposed	53(19)
	<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)
<b>Plan of Subdivision</b>	<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 <b>approved</b> a plan of subdivision	
	<input type="checkbox"/> Appeal a decision of an Approval Authority that did <b>not approve</b> a plan of subdivision	51(39)
	<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)
<b>Development Charges Act Matters</b>		
<b>Development Charge By-law</b>	<input type="checkbox"/> Appeal a Development Charge By-law	14
	<input type="checkbox"/> Appeal an amendment to a Development Charge By-law	19(1)
<b>Development Charge Complaint</b>	<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)
<b>Front-ending Agreement</b>	<input type="checkbox"/> Objection to a front-ending agreement	47
	<input type="checkbox"/> Objection to an amendment to a front-ending agreement	50
<b>Education Act Matters</b>		
<b>Education Development Charge By-law</b>	<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)
<b>Education Development Charge Complaint</b>	<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)
<b>Aggregate Resources Act Matters</b>		
<b>Aggregate Removal Licence</b>	<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)
<b>Municipal Act Matters</b>		
<b>Ward Boundary By-law</b>	<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	
<b>Ontario Heritage Act Matters</b>		
<b>Heritage Conservation District</b>	<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
<b>2. Location Information</b>				
Address and/or Legal Description of property subject to the appeal *				
941 Old Mohawk Road, Ancaster				
Municipality *				
City of Hamilton				
Upper Tier (Example: county, district, region)				
N/A				
<b>3. Appellant/Objector Information</b>				
<b>Note:</b> 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		
Fortino		Jordan		
Company Name or Association Name (Association must be incorporated – include copy of letter of incorporation)				
Fortino's Umbrella Inc.				
Professional Title				
N/A				
Email Address				
jordan@fortinobros.com				
Daytime Telephone Number *		Alternate Telephone Number		Fax Number
905-515-6176 ext.				
<b>Mailing Address</b>				
Unit Number	Street Number *	Street Name *		PO Box
	51	Herkimer Street		
City/Town *		Province *	Country *	Postal Code *
Hamilton		Ontario	Canada	L8P 2G3
<b>4. Representative Information</b>				
<input type="checkbox"/> I hereby authorize the named company and/or individual(s) to represent me				
Last Name		First Name		
Company Name				
Professional Title				
Email Address				
Daytime Telephone Number		Alternate Telephone Number		Fax Number
<b>Mailing Address</b>				
Unit Number	Street Number	Street Name		PO Box
City/Town		Province	Country	Postal Code

**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-17-014

Outline the nature of your appeal and the reasons for your appeal \*

The application was submitted on December 23, 2016 and deemed complete by the City on January 19, 2017 and the municipality has failed to make a decision within 120 days as required by Section 34(11) of the Planning Act.

### 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

### 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?

3

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

Land use planning, development engineering and natural heritage.

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)
Jordan Fortino for Fortino's Umbrella Inc.		2017/11/14

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.