



OFFICE OF THE CITY CLERK	
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ACTION _____	
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SHAPING GREAT COMMUNITIES

November 27<sup>th</sup>, 2017

File: 16045

Rose Caterini, City Clerk  
Office of the City Clerk  
City of Hamilton  
71 Main St. West, 1<sup>st</sup> Floor  
Hamilton, ON L8P 4Y5

Dear Ms. Caterini:

**RE: Notice of Appeal – Failure to make a decision within 180 days  
261 King Street East, Stoney Creek, L8G 1M1 – UHOPA-16-028**

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We act on behalf of J.A.N. Group Inc. with respect to the above-noted matters. J.A.N. Group Inc. is the owner of the property located at 261 King Street East, Stoney Creek, located in the City Hamilton (the "City"). The aforementioned project is being appealed to the Ontario Municipal Board due to the timeframe mandated by subsection 17(40) of the Planning Act R.S.O 1990, c. P.13, being exceeded.

The Site is located on the north side of King Street East, west of Green Road in the former City of Stoney Creek. There is an existing single detached dwelling on the property.

Please note this appeal is submitted in tandem with an appeal of the related Zoning By-law Amendment (ZAC-16-068). Our client requests that the Board consolidate these appeals to be heard together.

GSP Group Inc. submitted applications for Official Plan Amendment and Zoning By-law Amendment on October 21<sup>st</sup>, 2016. This application was deemed complete by the City on November 18<sup>th</sup>, 2016, and was circulated on the same date. Section 17(40) of the Planning Act requires the approval authority to make a decision within a 180-day time frame. The timeframe therefore lapsed on approximately May 17<sup>th</sup>, 2017.

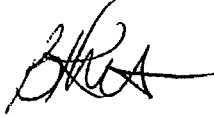
Accordingly, our client is appealing City Council's non-decision on the Official Plan Amendment application to the Ontario Municipal Board pursuant to subsection 17(40) of the *Planning Act*, R.S.O 1990, c. P.13.

Enclosed within this appeal are: one (1) cheque in the amount of \$300.00, payable to the Minister of Finance, representing the Board's filing fees for the appeal; and one (1) completed Ontario Municipal Board appellant form.

PLANNING | URBAN DESIGN | LANDSCAPE ARCHITECTURE

We trust this is satisfactory. Should you have any questions, please do not hesitate to contact me at [bkhes@gspgroup.ca](mailto:bkhes@gspgroup.ca) or 905-572-7477.

Yours truly,  
GSP Group Inc.

A handwritten signature in black ink, appearing to read 'BKhes', with a stylized flourish extending from the end.

Brenda Khes, MCIP RPP  
Associate - Senior Planner

Cc: John Frketich, J.A.N. Group Inc.



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.elto.gov.on.ca](http://www.elto.gov.on.ca)

## Instructions for preparing and submitting the Appellant Form (A1)

- **Important: Do not send your appeal directly to the Ontario Municipal Board (OMB).**  
 Submit your completed appeal form(s) and filing fee(s) by the filing deadline to either the Municipality or the Approval Authority/School Board, as applicable. The notice of decision provided by the municipality/approval authority will tell you where to send the form and appeal fee.
- The Municipality/Approval Authority/School Board will forward your appeal(s) and fee(s) to the OMB.
- 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 at:  
 Toll free: 1-866-448-2248; or  
 TTY: 1-800-855-1155 via Bell relay
- E-mail is the primary form of communication used by the OMB. Providing an e-mail address ensures prompt delivery/receipt of documents and information. Please ensure to include your e-mail address in the space provided on the appeal form.
- A filing fee of \$300 is required for each type of appeal you are filing.  
 Example: An appeal of an official plan and a zoning by-law would be \$300 + \$300 for a total fee of \$600.
- To view the Fee Schedule, visit the OMB's website [<http://elto.gov.on.ca/omb/fee-chart/>].
- The filing fee **must** be paid by certified cheque or money order, in Canadian funds, payable to the **Minister of Finance**. Do not send cash.
- If you are represented by a solicitor the filing fee may be paid by a solicitor's general or trust account cheque.
- Professional representation is not required but please advise the OMB if you retain a representative after the submission of this form.
- The *Planning Act*, *Development Charges Act*, *Education Act* and *Ontario Municipal Board Act* are available on the OMB's website [<http://elto.gov.on.ca/omb/legislation-and-regulations/>].
- Fields marked with an asterisk (\*) are mandatory.



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 Website: [www.eltso.gov.on.ca](http://www.eltso.gov.on.ca)

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)
<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 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	
<b>Zoning By-law or Zoning By-law Amendment</b>	<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	
<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	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)
<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	51(39)
	<input type="checkbox"/> Appeal a decision of an Approval Authority that did <b>not approve</b> 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	Page 5 of 8 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

Page 6 of 8

Subject of Appeal	Act/Legislation Name	Section Number
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**2. Location Information**

Address and/or Legal Description of property subject to the appeal \*

261 King Street East  
 Stoney Creek, ON  
 L8G 1M1

Municipality \*

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

Frketich

First Name

John

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

J.A.N Group Inc.

Professional Title

Email Address

jfrketich@can-amindustrial.com

Daytime Telephone Number \*

905-920-6010

ext.

Alternate Telephone Number

Fax Number

**Mailing Address**

Unit Number

Street Number \*

8

Street Name \*

Admiral Circle

PO Box

City/Town \*

Grimsby

Province \*

Ontario

Country \*

Canada

Postal Code \*

L3M 5C7

**4. Representative Information**
☒ I hereby authorize the named company and/or individual(s) to represent me

Last Name

Khes

First Name

Brenda

Company Name

GSP Group Inc

Professional Title

Senior Planner

Email Address

bkhes@gspgroup.ca

Daytime Telephone Number

905-572-7477

ext.

Alternate Telephone Number

Fax Number

**Mailing Address**

Unit Number

200

Street Number

162

Street Name

Locke Street South

PO Box

City/Town

Hamilton

Province

Ontario

Country

Canada

Postal Code

L8P 4A9

**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-16-028

Outline the nature of your appeal and the reasons for your appeal \*  
Please see attached cover 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

## 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 Planner, Urban Design Expert, Transportation Engineer, others

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)
Brenda Khes		2017/11/27

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.