



INFORMATION REPORT

TO:	Chair and Members Planning Committee
COMMITTEE DATE:	May 3, 2022
SUBJECT/REPORT NO:	Appeal of Draft Plan of Subdivision Application 25T-201806 for Lands Located at 140 Garner Road East, Ancaster (PED22096) (Ward 12)
WARD(S) AFFECTED:	Ward 12
PREPARED BY:	E. Tim Vrooman (905) 546-2424 Ext. 5277
SUBMITTED BY:	Steve Robichaud Director, Planning and Chief Planner Planning and Economic Development Department
SIGNATURE:	

Council Direction:

In accordance with Subsections 51(34) of the *Planning Act*, a Draft Plan of Subdivision Application may be appealed by the Applicant to the Ontario Land Tribunal (OLT) after 120 days if Council has not made a decision on the Application.

A motion to direct staff to advise the Planning Committee on matters relating to appeals of Council's non-decision, pursuant to the *Planning Act*, was passed by City Council on May 18, 2010. This Information Report has been prepared in accordance with Council's policy for staff to advise the Planning Committee and City Council of appeals for non-decision to the OLT.

The following information is provided to Planning Committee with regards to Draft Plan of Subdivision Application 25T-201806 for lands located at 140 Garner Road East, which has been appealed by the current proponent for non-decision.

The appeal of the Draft Plan of Subdivision Application, filed with the OLT on December 13, 2021 by Patrick J. Harrington, counsel for ONE Properties Limited Partnership, was received by the City Clerk's Office on February 1, 2022, 1,307 days after the receipt of the initial Application by MHBC Planning c/o Gerry Tchisler, on behalf of Lea Silvestri

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OUR Mission: To provide high quality cost conscious public services that contribute to a healthy, safe and prosperous community, in a sustainable manner.

OUR Culture: Collective Ownership, Steadfast Integrity, Courageous Change, Sensational Service, Engaged Empowered Employees.

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Holdings. The lands were subsequently sold to Ontario Holdings Inc. in 2021 who subsequently filed the appeal (refer to Appendix “C” attached to Report PED22096).

Background:

The subject property is municipally known as 140 Garner Road East (refer to Appendix “A” attached to Report PED22096). The original Applicant, MHBC Planning c/o Gerry Tchisler, on behalf of Lea Silvestri Holdings (Owner), applied for a Draft Plan of Subdivision (Application No. 25T-201806) in 2018.

The Applicant later submitted Consent and Minor Variance Applications AN/B-20:17 and AN/A-20:58, which were approved by the Committee of Adjustment on July 9, 2020, to permit the conveyance of a vacant parcel of land for a future business park (the subject lands) and to retain a parcel of land containing an existing single detached dwelling and agricultural lands (adjacent lands to the west).

The subject lands were subsequently purchased by Ontario Holdings Inc., c/o AIMCo Realty Investors LP (Alberta Investment Management Company). The appellant, ONE Properties Limited Partnership, manages the subject lands on behalf of the current owner.

The current owner submitted a Request for Formal Consultation (Application No. FC-20-067) with a development concept which differed from the original Application, which was reviewed by the Development Review Team on August 26, 2020.

The current owner also submitted Permit Application No. A/F,C,A/21/15 in 2021 to the Hamilton Conservation Authority (HCA) for the relocation of a watercourse and the removal of a locally significant wetland and the creation of a new wetland feature in a regulated area associated with Ancaster Creek. The Application was heard by the Board of Directors on June 3, 2021 and refused as the proposed development does not conform to the requirements of Section 3.1.7 of the Hamilton Conservation Authority’s Planning and Regulation Policies and Guidelines (October, 2011) as they relate to the implementation of Ontario Regulation 161/06 (HCA’s Regulation of Development, Interference with Wetlands and Alterations to Shorelines and Watercourses) made under the *Conservation Authorities Act*, R.S.O. 1990. The decision was appealed by the proponent to the OLT on June 18, 2021. This matter is addressed separately as part of the HCA permit process.

The subject property is generally rectangular in shape. It has a lot area of 35.27 hectares and frontages along Garner Road East broken up with six single detached residential parcels fronting Garner Road East. The subject lands are vacant agricultural land, containing actively cropped fields, with natural features located throughout the property. Core Areas (Significant Woodland, unevaluated wetland, and a watercourse)

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and Linkages (wooded areas) have been identified within and adjacent to the subject property. The property is traversed along the east side by a headwater tributary of Ancaster Creek, which flows through a small locally significant wetland northerly towards 328 Garner Road East. The property is bounded by Highway No. 6 to the east, a Hydro One Network Inc. high voltage transmission corridor to the south, and the retained parcel of land containing an existing single detached dwelling and agricultural lands to the west.

The original Application was submitted on July 5, 2018 and was deemed to be complete on November 8, 2018. The details of the proposal are outlined below.

Urban Hamilton Official Plan and Hamilton Zoning By-law No. 05-200

The subject lands are identified as “Employment Areas” on Schedule E – Urban Structure and designated “Airport Employment Growth District” on Schedule E-1 – Urban Land Use Designations in Volume 1 of the UHOP. The subject lands are further designated “Airport Prestige Business” in the Airport Employment Growth District Secondary Plan and located within the Site Specific Policy “H” area.

The subject property is currently zoned Airport Prestige Business (M11, 26, H57) Zone, in Hamilton Zoning By-law No. 05-200, as shown on Appendix “A” attached to Report PED22096.

Draft Plan of Subdivision Application

The Draft Plan of Subdivision Application, 25T-201806, consists of 14 blocks for a range of employment uses (Blocks 1-14), two open space blocks (Blocks 15-16), a wetland open space block (Block 17), a storm water management block (Block 18), a future development block (Block 19), a 0.3 m reserve block (Block 20), and a public roadway network (Streets ‘A’, ‘B’, ‘C’, and ‘D’) (refer to Appendix “B” attached to Report PED22096).

The following issues/concerns were raised through circulation of the original Application in 2018:

- The integration of the existing parcel fabric with the collector and local road and block pattern envisioned in the AEGD Secondary Plan and Transportation Master Plan and the suitability of some proposed blocks for the development of employment uses;
- Road right-of-way dedications along Garner Road East, curvature of the planned Collector Road (particularly the 90° bend in Street ‘B’ as shown on Appendix “B”

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attached to Report PED22096), and dedication of daylighting triangles at the proposed intersections with Garner Road East;

- Frequency and location of road and land accesses to Garner Road East and spacing from the Highway No. 6 interchange;
- The development does not maintain the 30 m setback from the locally significant wetland and the information provided in the submitted reports has not demonstrated that the development will not result in negative impacts on the Core Areas and Linkages located within and adjacent to the subject property, including the Significant Woodland, unevaluated wetland and watercourse;
- The conservation and protection of adjacent cultural heritage resources;
- Appropriate zoning for Employment Supportive Centre uses and Natural Open Spaces;
- Stormwater management design and water and wastewater servicing constraints; and,
- Ministry of Transportation (MTO) setbacks from Highway No. 6.

PUBLIC CONSULTATION

In accordance with the provisions of the *Planning Act* and the Council Approved Public Participation Policy, Notice of Complete Application and Preliminary Circulation was sent to 32 property owners within 120 m of the subject lands on November 20, 2018.

To date staff have received a total of four written submissions by residents, two requesting additional information and two providing comments and concerns with the development. Issues raised by the public relate to traffic along Garner Road, types of land use proposed, noise generation, odour, property values, and open bodies of standing water.

APPENDICES AND SCHEDULES ATTACHED

Appendix “A” to Report PED22096 – Location Map
Appendix “B” to Report PED22096 – Draft Plan of Subdivision
Appendix “C” to Report PED22096 – Letter of Appeal

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