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June 1, 2022

**Via Email and Courier**

Our File No.: 221594

Office of the City Clerk  
Hamilton City Hall  
1<sup>st</sup> Floor, 71 Main Street West  
Hamilton, Ontario L8P 4Y5

**Attention: City Clerk (clerk@hamilton.ca)**

Dear Sirs/Mesdames:

**Re: Notice of Appeal – 526 Winona Road, Stoney Creek  
City of Hamilton Files: ZAC-22-015 and UHOPA-22-007  
– Zoning By-law Amendment and Official Plan Amendment Applications**

We are solicitors for Fengate Liuna Gardens Holdings LP, who is the owner of the property known municipally in the City of Hamilton (the "**City**") as 526 Winona Road (the "**Property**"). On behalf of our client, we are appealing the above-noted zoning by-law amendment and official plan amendment applications (the "**Applications**") to the Ontario Land Tribunal pursuant to subsections 22(7) and 34(11) of the *Planning Act*. On December 24, 2021, our client filed official plan amendment and rezoning applications for the Property, which the City of Hamilton (the "**City**") confirmed as complete on the date of submission by letter dated February 1, 2022.

### **Background**

The Property is located on the south shore of Lake Ontario, north of Liuna Court between Winona Road and East Street. The irregularly shaped parcel has a site area of approximately 3.4 hectares (8.6 acres) based on frontage of approximately 113.4 metres on Winona Road, 155.5 metres on East Street and 32.7 metres on Liuna Court. The Property are currently vacant but were previously occupied by the LiUNA Gardens Banquet Hall and local 837 E.H. Mancinelli Training Centre. An on-site pumping station exists on the southern portion of the Property, with the Applications preserving access from Winona Road to it.

The surrounding context includes low-rise residential uses with redevelopment occurring in the form of infill and severances. As noted in the Planning Justification Report included with the Applications, more broadly, there are recent approvals for higher and denser developments. The Winona Area is undergoing a period of transition from traditional low-rise single detached dwellings to higher intensity uses. The Planning Justification Report also reviewed the policy



context in detail and concluded that the Applications are consistent with the Provincial Policy Statement (2020) and conform with the Growth Plan for the Greater Golden Horseshoe. Further, the Applications would facilitate the redevelopment of the Property in a manner that is good planning and with a built form that implements the general intent of the Urban Hamilton Official Plan.

In particular, the Applications would permit redevelopment of the Property for two (2) 24-storey buildings and two (2) 15-storey buildings connected by a 2-storey podium, as well as two (2) four-storey stacked townhouse blocks and five (5) 2-storey townhouse blocks. The proposal would facilitate approximately 1212 residential units, supported by 1067 vehicle parking spaces and 727 bicycle parking spaces. A public open space with a depth of 30-metres would be provided along the shoreline running along the complete length of the Property.

### **Reasons for the Appeal**

Based on the materials submitted in support of the Applications, including but not limited to the above-noted Planning Justification Report, it is clear that the Applications represent good planning and urban design. The proposal will result in the desirable intensification of underutilized lands having excellent access to planned and existing infrastructure, including a variety of transportation options, in accordance with the applicable policy framework. The proposed development will assist in achieving Provincial and City policy directions promoting intensification within built-up areas. Finally, from a built form and urban design perspective, the proposal appropriately responds to and harmoniously fits within the existing and planned context for the Property, including both existing and proposed buildings.

However, and based on circulation comments from various departments and agencies, it is clear that the assistance of the Tribunal is necessary to ensure a timely approval of the Application. Further, the break in Council meetings as a result of the municipal election will delay community consultation opportunities and push back any decision on the Application, which decision could still be appealed. This leaves open the potential for significant delay in the approval timeline. Despite the appeal, our client's goal would be to engage with the City and any stakeholders identified as part of the initial case management conference, including through mediation, to ensure that meaningful dialogue will continue.

Please find enclosed an appeal form, as well two cheques in the amount of \$1,100.00 payable to the Minister of Finance. Please do not hesitate to contact us if any further information is required.

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**Goodmans<sup>LLP</sup>**

Yours truly,

**Goodmans LLP**

A handwritten signature in dark ink, appearing to read 'D. Bronskill', written over the printed name.

David Bronskill  
DB/

Encl  
7272714



## Ontario Land Tribunal

655 Bay Street, Suite 1500, Toronto, ON M5G 1E5  
Tel: 416-212-6349 | 1-866-448-2248  
Web Site: olt.gov.on.ca

## Appeal Form (A1)

<b>Municipal/Approval Authority Date Stamp</b>	<b>Receipt Number</b> (OLT Office Use Only)	<b>Date Stamp – Appeal Received by OLT</b>
	<b>OLT Case Number</b> (OLT Office Use Only)	

Please complete this Appeal Form by following the instructions in the companion document titled "Appeal Form Instructions". Please read **both** documents carefully to ensure you submit the correct information and complete this form correctly.

There are guides available for review on the Tribunal's [website](#) for different appeal types to assist you in filing an appeal.

**Please review the notice of the decision you are appealing to determine the appeal deadline and the specific official with whom the appeal should be filed (e.g. Secretary-Treasurer, Clerk, Minister, Ontario Land Tribunal) prior to completing this Appeal Form. Relevant portions of the applicable legislation should also be reviewed before submitting this form. Your appeal must be filed with the appropriate authority within the appeal period as set out in the notice of the decision and applicable legislation.**

### Section 1 – Contact Information (Mandatory)

Applicant/Appellant/Objector/Claimant Information			
Last Name:		First Name:	
Company Name or Association Name (Association must be incorporated – include copy of letter of incorporation):			
Fengate Liuna Gardens Holdings LP			
Email Address:			
Daytime Telephone Number:		Alternative Telephone Number:	
	ext.		
Mailing Address			
Unit Number:	Street Number:	Street Name:	P.O. Box:

City/Town:	Province:	Country:	Postal Code:

<b>Representative Information</b>			
<input checked="" type="checkbox"/> I hereby authorize the named company and/or individual(s) to represent me			
Last Name:		First Name:	
Bronskill		David	
Company Name or Association Name (Association must be incorporated – include copy of letter of incorporation):			
Goodmans LLP			
Email Address:			
dbronskill@goodmans.ca			
Daytime Telephone Number:		Alternative Telephone Number:	
416-597-4299	ext.		
Mailing Address			
Unit Number:	Street Number:	Street Name:	P.O. Box:
3400	333	Bay Street	
City/Town:	Province:	Country:	Postal Code:
Toronto	ON	Canada	M5H 2S7
<p><b>Note:</b> If your representative is not licensed under the <i>Law Society Act</i>, please confirm that they have your written authorization, as required by the <i>OLT Rules of Practice and Procedure</i>, to act on your behalf and that they are also exempt under the Law Society's by-laws to provide legal services. Please confirm this by checking the box below.</p>			
<p><input type="checkbox"/> I certify that I understand that my representative is not licensed under the <i>Law Society Act</i> and I have provided my written authorization to my representative to act on my behalf with respect to this matter. I understand that my representative may be asked to produce this authorization at any time along with confirmation of their exemption under the Law Society's by-laws to provide legal services.</p>			

<b>Location Information</b>
Are you the current owner of the subject property? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Address and/or Legal Description of property subject to the appeal:
526 Winona Road
Municipality:
City of Hamilton

Upper Tier (Example: county, district, region):

Language Requirements	
Do you require services in French?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

To file an appeal, please complete the section below. Complete one line for each appeal type			
Subject of Appeal		Type of Appeal (Act/Legislation Name)	Reference (Section Number)
Example	Minor Variance	<i>Planning Act</i>	45(12)
1	Official Plan Amendment	Planning Act	22(7)
2	Zoning By-law Amendment	Planning Act	34(11)
3			
4			
5			

Section 2 – Appeal Type (Mandatory)

Please select the applicable type of matter		
Select	Legislation associated with your matter	Complete Only the Section(s) Below
<input checked="" type="checkbox"/>	Appeal of <i>Planning Act</i> matters for Official Plans and amendments, Zoning By-Laws and amendments and Plans of Subdivision, Interim Control By-laws, Site Plans, Minor Variances, Consents and Severances	3A
<input type="checkbox"/>	Appeal of <i>Development Charges, Education Act, Aggregate Resources Act, Municipal Act</i> matters	3A
<input type="checkbox"/>	Appeal of or objection to <i>Ontario Heritage Act</i> matters under subsections 29, 30.1, 31, 32, 33, 40.1 and 41	3A
<input type="checkbox"/>	Appeal of <i>Planning Act</i> (subsections 33(4), 33(10), 33(15), 36(3)), <i>Municipal Act</i> (subsection 223(4)), <i>City of Toronto Act</i> (subsection 129(4)) and <i>Ontario Heritage Act</i> (subsections 34.1(1), 42(6)) matters	3A & 3B
<input type="checkbox"/>	Appeal of <i>Clean Water Act, Environmental Protection Act, Nutrient Management Act, Ontario Water Resources Act, Pesticides Act, Resource Recovery and Circular Economy Act, Safe Drinking Water Act, Toxics Reduction Act, and Waste Diversion Transition Act</i> matters	4A
<input type="checkbox"/>	Application for Leave to Appeal under the <i>Environmental Bill of Rights, 1993</i>	4B

<input type="checkbox"/>	Appeal under the <i>Niagara Escarpment Planning and Development Act (NEPDA)</i>	5
<input type="checkbox"/>	Appeal of <i>Conservation Authorities Act, Mining Act, Lakes and Rivers Improvement Act, Assessment Act, and Oil, Gas and Salt Resources Act</i> matters	6
<input type="checkbox"/>	Legislation not listed above	Contact OLT before filing your appeal

### Section 3A – Planning Matters

Appeal Reasons and Specific Information	
Number of new residential units proposed:	
1212	
Municipal Reference Number(s):	
ZAC-22-015 and UHOPA-22-007	
List the reasons for your appeal:	
<p>Please see attached letter.</p>	
Has a public meeting been held by the municipality? <input type="checkbox"/> Yes <input type="checkbox"/> No	
For appeals of Official Plans, Official Plan Amendments, Zoning By-laws and Zoning By-law Amendments, please indicate if you will rely on one or more of the following grounds:	
A: A decision of a Council or Approval Authority is:	
<input type="checkbox"/> Inconsistent with the Provincial Policy Statement issued under subsection 3(1) of the <i>Planning Act</i> <input type="checkbox"/> Fails to conform with or conflicts with a provincial plan <input type="checkbox"/> Fails to conform with an applicable Official Plan	
<b>And</b>	
B: For a non-decision or decision to refuse by council:	
<input type="checkbox"/> Consistency with the provincial policy statement, issued under subsection 3(1) of the <i>Planning Act</i>	

If it is your intention to argue one or more of the above grounds, please explain your reasons:

☐ Not applicable

If yes, please provide the Ontario Land Tribunal Case Number(s) and/or Municipal File Number(s) for the related matters:

## Section 3B – Other Planning Matters

Please see attached letter.



There are required documents and materials to be submitted to the Ontario Land Tribunal (OLT) based on the type of legislation and section you are filing under. Please see the [Section 3B Checklist\(s\)](#) located [here](#) and submit all documents listed.

#### Section 4A – Appeals under Environmental Legislation

##### Appeal Specific Information

Outline the grounds for the appeal and the relief requested:

Reference Number of the decision under appeal:

Portions of the decision in dispute:

Date of receipt of Decision or Director's Order (yyyy/mm/dd):

Applying for Stay? ☐ Yes ☐ No

If Yes, outline the reasons for requesting a stay: (Tribunal's Guide to Stays can be viewed [here](#))

There are required documents and materials to be submitted to the Ontario Land Tribunal (OLT) based on the type of legislation and section you are filing under. Please see the [Section 4A Checklist\(s\)](#) located [here](#) and submit all documents listed on the checklist.

#### Section 4B – Environmental Application for Leave to Appeal

Are you filing an Application for Leave to Appeal under the <i>Environmental Bill of Rights, 1993</i> ?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Identify the portions of the instrument you are seeking to appeal:	
Identify the grounds you are relying on for leave to appeal. Your grounds should include reasons why there is good reason to believe that no reasonable person, having regard to the relevant law and to any government policies developed to guide decisions of that kind could have made the decision; and why the decision could result in significant harm to the environment:	
Outline the relief requested:	
There are required documents and materials to be submitted to the Ontario Land Tribunal (OLT) based on the type of legislation and section you are filing under. Please see the <a href="#">Section 4B Checklist(s)</a> located <a href="#">here</a> and submit all documents listed on the checklist.	

**Section 5 – Appeal regarding Development Permit Application under the *Niagara Escarpment Planning and Development Act***

<b>Appeal Specific Information</b>
Development Permit Application File No:
Address or legal description of the subject property:
Reasons for Appeal: Outline the nature and reasons for your appeal. Specific planning, environmental and/or other reasons are required. (The Niagara Escarpment Plan is available on the Niagara Escarpment Commission's website ( <a href="http://www.escarpment.org">www.escarpment.org</a> ))

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## Section 6 – Mining Claim and Conservation Matters

### Appeal Specific Information

List the subject Mining Claim Number(s) (for unpatented mining claims) and accompanying Townships, Areas and Mining Division(s) where mining claims are situated. List all "Filed Only" Mining Claims, if appropriate: (This is to be completed for *Mining Act* appeals only.)

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List the Parcel and the Property Identifier Numbers (PIN), if rents or taxes apply to mining lands, if appropriate (mining claims only):

--

Provide the date of the Decision of the Conservation Authority or the Provincial Mining Recorder, as appropriate:

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Provide a brief outline of the reasons for your application/appeal/review. If other lands/owners are affected, please include that information in the outline being provided below:

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### Respondent Information

Conservation Authority:

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Contact Person:

--

Email Address:

--

Daytime Telephone Number:

Alternative Telephone Number:

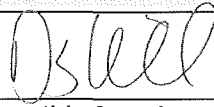
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		ext.		
Mailing Address or statement of last known address/general area they were living and name of local newspaper if address is not available				
Unit Number:	Street Number:	Street Name:		P.O. Box:
City/Town:	Province:	Country:	Postal Code:	
There are required documents and materials to be submitted to the Ontario Land Tribunal (OLT) based on the type of legislation and section you are filing under. Please see the <u>Section 6 Checklist(s)</u> located <u>here</u> and submit all documents listed on the checklist.				

### Section 7 – Filing Fee

Required Fee						
Please see the attached link to view the <u>OLT Fee Chart</u> .						
Total Fee Submitted: \$2,200.00						
Payment Method	<input type="checkbox"/>	Certified Cheque	<input type="checkbox"/>	Money Order	<input checked="" type="checkbox"/>	Lawyer's general or trust account cheque
	<input type="checkbox"/>	Credit Card				
If you wish to pay the appeal fee(s) by credit card, please check the box above and OLT staff will contact you by telephone to complete the payment process upon receipt of the appeal form. <b>DO NOT INCLUDE YOUR CREDIT CARD INFORMATION ON THIS FORM. YOU WILL BE CONTACTED TO COMPLETE YOUR PAYMENT OVER THE PHONE.</b>						
If a request for a fee reduction is being requested, please pay the minimum filing fee for each appeal and complete/submit the <u>Fee Reduction request form</u> .						
<input type="checkbox"/> Request for Fee Reduction form is attached (if applicable – see Appeal Form Guide for more information)						

### Section 8 – Declaration (Mandatory)

Declaration		
I solemnly declare that all the statements and the information provided, as well as any supporting documents, are true, correct and complete.		
By signing this appeal form below, I consent to the collection of my personal information.		
Name of Appellant/Representative	Signature of Appellant/Representative	Date (yyyy/mm/dd)
David Bronskill		2022/06/01
Personal information or documentation requested on this form is collected under the authority of the <i>Ontario Land Tribunal Act</i> and the legislation under which the proceeding is commenced. All information collected is included in the Ontario Land Tribunal (OLT) case file and the public record in this proceeding. In accordance		

with the *Freedom of Information and Protection of Privacy Act* and section 9 of the *Statutory Powers Procedure Act*, all information collected is available to the public subject to limited exceptions.

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 at [OLT.Coordinator@ontario.ca](mailto:OLT.Coordinator@ontario.ca) or toll free at 1-866-448-2248 as soon as possible.

## Section 9 – Filing Checklists (Mandatory)

### Filing/Submitting your form and documentation

You must file your Appeal Form with the appropriate authority(s) by the filing deadline.

If the completed Section is:	Refer to the relevant checklist and submit all documents listed on the checklist when filing your Appeal Form.
Section 3B	Review the Section 3B Checklist(s) and attach all listed documents.
Section 4A	Review the Section 4A Checklist(s) and attach all listed documents.
Section 4B	Review the Section 4B Checklist(s) and attach all listed documents.

If the completed Section is:	You must file with the following:	
Section 3A	<p>Municipality or the Approval Authority/School Board</p> <p>*If you are filing under the <i>Ontario Heritage Act</i>, including under <b>s. 34.1(1)</b>, please carefully review the specific section of that legislation to determine if your appeal needs to be filed with the Tribunal <b>in addition</b> to the Municipality or Approval Authority.</p>	
Section 3A & 3B or Section 4A or Section 4B or Section 6	<p>Ontario Land Tribunal</p> <p>655 Bay Street, Suite 1500</p> <p>Toronto, ON M5G 1E5</p>	<p>Phone: 416-212-6349   1-866-448-2248</p> <p>Website: <a href="http://www.olt.gov.on.ca">www.olt.gov.on.ca</a></p>
Section 5	<p><b>For the Areas of:</b></p> <p>Dufferin County (Mono)</p> <p>Region of Halton</p> <p>Region of Peel</p> <p>Region of Niagara</p> <p>City of Hamilton</p>	<p><b>For the Areas of:</b></p> <p>Bruce County</p> <p>Grey County</p> <p>Simcoe County</p> <p>Dufferin County (Mulmur, Melancthon)</p> <p><b>File with:</b></p>

	<p><b>File with:</b></p> <p>NIAGARA ESCARPMENT COMMISSION 232 Guelph Street, 3<sup>rd</sup> Floor Georgetown, ON L7G 4B1</p> <p>Phone: 905-877-5191 Fax: 905-873-7452 Website: <a href="http://www.escarpment.org">www.escarpment.org</a> Email: <a href="mailto:necgeorgetown@ontario.ca">necgeorgetown@ontario.ca</a></p>	<p>NIAGARA ESCARPMENT COMMISSION 1450 7<sup>th</sup> Avenue Owen Sound, ON N4K 2Z1</p> <p>Phone: 519-371-1001 Fax: 519-371-1009 Website: <a href="http://www.escarpment.org">www.escarpment.org</a> Email: <a href="mailto:necowensound@ontario.ca">necowensound@ontario.ca</a></p>
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**NOTE:** Please review the notice of the decision you are appealing to determine the appeal deadline and the specific official with whom the appeal should be filed (e.g. Secretary-Treasurer, Clerk, Minister, Ontario Land Tribunal).

**NOTE:** Relevant portions of the applicable legislation should be reviewed before submitting this form. Please ensure that a copy of this Appeal Form is served in accordance with the requirements of the applicable legislation.