

October 20, 2022

DELIVERED BY COURIER AND E-MAIL

Ms. Andrea Holland
 City Clerk
 Corporation of the City of Hamilton
 71 Main Street West, 1st Floor
 Hamilton, Ontario
 L8P 4Y5

Dear Ms. Holland:

**Re: Notice of Appeals Pursuant to Section 22(7) and 34(11) of the
Planning Act, R.S.O. 1990, c. P. 13, as amended – Liv
 Developments Ltd. - 909 North Waterdown Drive, Waterdown,
 Part of Lot 10 Concession 4, City of Hamilton
 City of Hamilton File Nos. UHOPA-22-018 & ZAC-22-032**

We are counsel for Liv Developments Ltd., the owners of the above referenced lands in the City of Hamilton.

Liv Developments Ltd., through its land use planning consultants, Corbett Land Strategies Inc., filed applications to amend both the Official Plan and the Comprehensive Zoning By-law of the City of Hamilton in respect of the above referenced property on April 11, 2022. The applications were deemed complete by the City of Hamilton on May 16, 2022.

To date the City of Hamilton has failed to adopt the Official Plan Amendment and neglected to make a decision on the Zoning By-law Amendment.

This letter will serve as our client's Notice of Appeal of Hamilton Council's failure to adopt the requested Official Plan Amendment Application pursuant to Section 22(7) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended. This letter will also serve as our client's Notice of Appeal of Hamilton Council's neglect to make a decision on the Zoning By-law pursuant to Section 34(11) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended

Please find enclosed our firm's cheque in the amount of \$2200.00, payable to the "Minister of Finance – Ontario", which we understand to be the required combined

Royal Building
 277 Lakeshore Road East, Suite 211
 Oakville ON L6J 1H9



Toronto Meeting Rooms
 Brookfield Place, 161 Bay Street, Suite 2700
 Toronto ON M5J 2S1

fee for these types of appeals. Please also find enclosed one set of completed Form "A1" of the Ontario Land Tribunal, for inclusion with the documentation you will forward to the Ontario Land Tribunal.

Our client is of the opinion that the applications as submitted are consistent with the Provincial Policy Statement 2020, issued under Section 3 of the *Planning Act*. We also are of the opinion that the applications are in conformity with the Growth Plan for the Greater Golden Horseshoe, which is the Provincial Plan in effect and applicable to these lands. We believe the applications that were submitted constitute good land use planning.

We trust that you will now prepare a record and forward the prescribed material to the Ontario Land Tribunal within fifteen days of the receipt of this notice, in compliance with Sections 22(9) and 34(23) of the *Planning Act*.

Thank you for your cooperation in respect of this matter.

Yours very truly,

A handwritten signature in black ink that reads "R.D. Cheeseman". The signature is written in a cursive style with a long, sweeping tail on the final letter.

Russell D. Cheeseman

cc. Mr. Andrew Mulder (via e-mail)
Mr. Eldon Darbyson (via e-mail)
Mr. John Corbett (via e-mail)
Mr. Nick Wood (via e-mail)



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)

Municipal/Approval Authority Date Stamp	Receipt Number (OLT Office Use Only)	Date Stamp – Appeal Received by OLT
	OLT Case Number (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:	
Mulder			Andrew	
Company Name or Association Name (Association must be incorporated – include copy of letter of incorporation):				
LIV Developments Ltd.				
Email Address:				
amulder@livhere.ca				
Daytime Telephone Number:			Alternative Telephone Number:	
289-245-1300	ext.	518		
Mailing Address				
Unit Number:	Street Number:	Street Name:		P.O. Box:
301	1005	Skyview Road		
City/Town:	Province:	Country:	Postal Code:	
Burlington	Ontario	Canada	L7P 5B1	

Representative Information

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

Last Name: Cheeseman First Name: Russell

Company Name or Association Name (Association must be incorporated – include copy of letter of incorporation):
Barrister and Solicitor

Email Address:
rdcheese@aol.com

Daytime Telephone Number: 416-955-9529 ext. Alternative Telephone Number: 416-520-9854

Mailing Address

Unit Number: Ste 211 Street Number: 277 Street Name: Lakeshore Road East P.O. Box:

City/Town: Oakville Province: Ontario Country: Canada Postal Code: L6J 1H9

Note: If your representative is not licensed under the *Law Society Act*, please confirm that they have your written authorization, as required by the *OLT Rules of Practice and Procedure*, 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.

I certify that I understand that my representative is not licensed under the *Law Society Act* 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.

Location Information

Are you the current owner of the subject property? Yes No

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

909 North Waterdown Drive, Waterdown

Municipality:

City of Hamilton

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

N/A

Language Requirements

Do you require services in French? Yes 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
x	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:

234

Municipal Reference Number(s):

UHOPA-22-018 and ZAC-22-032

List the reasons for your appeal:

Please see attached Letter dated October 20, 2022.

Has a public meeting been held by the municipality? Yes 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:

- Inconsistent with the Provincial Policy Statement issued under subsection 3(1) of the *Planning Act*
- Fails to conform with or conflicts with a provincial plan
- Fails to conform with an applicable Official Plan

And

B: For a non-decision or decision to refuse by council:

- Consistency with the provincial policy statement, issued under subsection 3(1) of the *Planning Act*
- Conformity with a provincial plan
- Conformity with the upper-tier municipality's Official Plan or an applicable Official Plan

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

Please see attached Letter dated October 20, 2022.

Oral/Written submissions to council

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

Oral submissions at a public meeting of council

Written submissions to council

Not applicable

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 the Ontario Land Tribunal Case Number(s) and/or Municipal File Number(s) for the related matters:

Section 3B – Other Planning Matters

Appeal Specific Information (Continued)

Date application submitted to municipality if known (yyyy/mm/dd):

Date municipality deemed the application complete if known (yyyy/mm/dd):

Please briefly explain the proposal and describe the lands under appeal:

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? <input type="checkbox"/> Yes <input type="checkbox"/> 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 Section 4B Checklist(s) located here and submit all documents listed on the checklist.

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

Appeal Specific Information

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 (www.escarpment.org))

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.)

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:

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:

Respondent Information

Conservation Authority:

Contact Person:

Email Address:

Daytime Telephone Number:

ext.


Alternative Telephone Number:

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 Section 6 Checklist(s) located here and submit all documents listed on the checklist.			

Section 7 – Filing Fee

Required Fee			
Please see the attached link to view the OLT Fee Chart .			
Total Fee Submitted: \$ 2200.00			
Payment Method	<input type="checkbox"/>	Certified Cheque	<input type="checkbox"/>
	<input type="checkbox"/>	Credit Card	
		Money Order	x
		Lawyer's general or trust account cheque	
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. DO NOT INCLUDE YOUR CREDIT CARD INFORMATION ON THIS FORM. YOU WILL BE CONTACTED TO COMPLETE YOUR PAYMENT OVER THE PHONE.			
If a request for a fee reduction is being requested, please pay the minimum filing fee for each appeal and complete/submit the Fee Reduction request form .			
<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)
Russell D. Cheeseman		2022/10/20
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 <i>Freedom of Information and Protection of Privacy Act</i> and section 9 of the <i>Statutory Powers Procedure Act</i> , 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 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:

<p align="center">Section 3A</p>	<p align="center">Municipality or the Approval Authority/School Board</p> <p align="center">*If you are filing under the <i>Ontario Heritage Act</i>, including under s. 34.1(1), please carefully review the specific section of that legislation to determine if your appeal needs to be filed with the Tribunal in addition to the Municipality or Approval Authority.</p>	
<p>Section 3A & 3B or Section 4A or Section 4B or Section 6</p>	<p align="center">Ontario Land Tribunal 655 Bay Street, Suite 1500 Toronto, ON M5G 1E5</p> <p align="right">Phone: 416-212-6349 1-866-448-2248 Website: www.olt.gov.on.ca</p>	
<p align="center">Section 5</p>	<p align="center">For the Areas of: Dufferin County (Mono) Region of Halton Region of Peel Region of Niagara City of Hamilton</p> <p align="center">File with: NIAGARA ESCARPMENT COMMISSION 232 Guelph Street, 3rd Floor Georgetown, ON L7G 4B1</p> <p align="center">Phone: 905-877-5191 Fax: 905-873-7452 Website: www.escarpment.org Email: necgeorgetown@ontario.ca</p>	<p align="center">For the Areas of: Bruce County Grey County Simcoe County Dufferin County (Mulmur, Melancthon)</p> <p align="center">File with: NIAGARA ESCARPMENT COMMISSION 1450 7th Avenue Owen Sound, ON N4K 2Z1</p> <p align="center">Phone: 519-371-1001 Fax: 519-371-1009 Website: www.escarpment.org Email: necowensound@ontario.ca</p>

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.