

Goodmans LLP

June 28, 2023

Our File No.: 231477

Delivered

City of Hamilton
City Hall
71 Main Street West, 1st Floor
Hamilton, ON L8P 4Y5

Attention: Andrea Holland, City Clerk

Dear Sirs/Mesdames:

**Re: 140 and 164 Sulphur Springs Road
City of Hamilton File No. ZAC-21-027
Appeal of Rezoning Application pursuant to subsections 22(7) and 34(11) of the
*Planning Act***

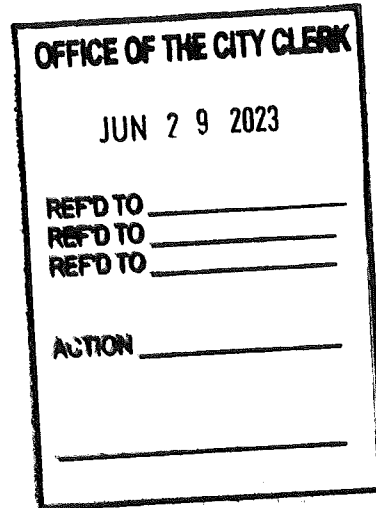
We are solicitors for Ahmed Bilal in respect of the property known municipally in the City of Hamilton as 140 and 164 Sulphur Springs Road (the "**Properties**"). On June 15, 2021, after pre-consultation with City staff, our client filed a rezoning application for the Property (the "**Application**"), which the City of Hamilton (the "**City**") declared complete as of July 9, 2021.

We are writing on behalf of our client to appeal the Application to the Ontario Land Tribunal (the "**Tribunal**") pursuant to subsection 34(11) of the *Planning Act* for the failure of City Council to make a decision regarding the Application within the applicable statutory timeline.

Background

The Properties are located on the south side of Sulphur Springs Road in a transition area between the downtown urban core (550 metres to the east on Wilson Street) and low density residential areas to the north and west. Current use of the Properties are as two detached dwellings. Surrounding uses include single family subdivisions with lot frontages generally in the range of 25 metres to 38 metres, with an average frontage of 33.17 metres, and lot areas in the range of 1,000 square metres to 2,500 square metres, with an average of 1,488.32 square metres.

The Application proposes the demolition of the existing dwelling at 164 Sulphur Springs Road and construction of a new detached dwelling, retention of the existing dwelling at 140 Sulphur Springs Road, and the creation of four new residential lots for detached dwellings. The Planning Justification Report submitted in support of the Application provides more details of the proposal.



Barristers & Solicitors

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Implementation would proceed by way of a vacant land plan of condominium to secure access to and maintenance of the proposed access driveway and municipal services.

The Planning Justification Report also describes the surrounding context and policy context in more detail. At the Provincial level, the Application helps achieve objectives related to intensification in settlement areas while maintaining compatibility and appropriately protecting natural heritage systems. At the municipal level, the Application implements the residential intensification policies in the City of Hamilton Official Plan and conforming with the policies applicable to lands designated as *Neighbourhoods*. The Application is also supported by extensive technical reports. While the Application would remove a portion of the woodland on the Properties, extensive tree compensation planting and restoration activities are proposed to improve existing woodland quality and result in a functional increase of the woodland.

Reasons for the Appeal

Based on the materials submitted in support of the Application, including but not limited to the above-noted Planning Justification Report and technical reports, it is clear that the Application represents good planning and urban design. The proposal results in modest intensification in an appropriate location that is generally consistent with the form of residential development in the surrounding area. The Application is consistent with the Provincial Policy Statement, conforms with the Growth Plan for the Greater Golden Horseshoe, meets the intent and objectives of the Niagara Escarpment Plan, and conforms to the policies of the Urban Hamilton Official Plan.

However, the Application has not been advanced to approval by the City in a timely fashion. The Tribunal's assistance is required to avoid 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 in an effort to narrow and/or resolve issues with a desired goal of a settlement hearing.

Please find enclosed an appeal form, as well a cheque 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.

Yours truly,

Goodmans LLP



David Bronskill
DJB/
Encl.



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:

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

Email Address:

Daytime Telephone Number: ext.

Alternative Telephone Number:

Mailing Address:

Unit Number: Street Number:

Street Name:

P.O. Box:

City/Town:

Province:

Country: Postal Code:

Representative Information

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

Last Name:

First Name:

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

Email Address(es):

Daytime Telephone Number: ext.

Alternative Telephone Number:

Mailing Address:

Unit Number: Street Number:

Street Name:

P.O. Box:

City/Town:

Province:

Country: Postal Code:

Note: If your representative is not licensed under the *Law Society Act*, please confirm that they have your

written authorization, as required by the OLI *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:

140 and 164 Sulphur Springs Road

Municipality: Hamilton

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

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	Zoning By-law Amendment	Planning Act	22(7) and 34(11)
2			
3			
4			

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 Severance	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 Right</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:

4 Residential lots for detached dwellings

Municipal Reference Number(s):

ZAC-21-027

List the reasons for your appeal:

Please see the covering letter attached.

Has a public meeting been held by the municipality? ☒ Yes ☐ No

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 the covering letter attached.

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):

June 15, 2021

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

July 9, 2021

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

Please see the covering letter attached.

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 (Continued)

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

Appeal Specific Information (Continued)

Are you filing an Application for Leave to Appeal under the *Environmental Bill of Rights, 1993*? ☐ Yes ☐ 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))

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: \$ 1100.00

Payment Method:

☐ Certified Cheque ☐ Money Order ☒ Lawyer's general or trust account cheque ☐ 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.

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


☐ 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		2023/06/28

Personal information or documentation requested on this form is collected under the authority of the *Ontario Land Tribunal Act* 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 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	Municipality or the Approval Authority/School Board *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.	
Section 3A & 3B or Section 4A or Section 4B or Section 6	<div> <div>Ontario Land Tribunal 655 Bay Street, Suite 1500 Toronto, ON M5G 1E5</div> <div> Phone: 416-212-6349 1-866-448-2248 Website: www.olt.gov.on.ca </div> </div>	
Section 5A or 5B	<p>For the Areas of: Dufferin County (Mono) Region of Halton Region of Peel Region of Niagara City of Hamilton</p> <p>File with: NIAGARA ESCARPMENT COMMISSION 232 Guelph Street, 3rd Floor Georgetown, ON L7G 4B1</p> <p>Phone: 905-877-5191 Fax: 905-873-7452 Website: www.escarpment.org Email: necgeorgetown@ontario.ca</p>	<p>For the Areas of: Bruce County Grey County Simcoe County Dufferin County (Mulmur, Melancthon)</p> <p>File with: NIAGARA ESCARPMENT COMMISSION 1450 7th Avenue Owen Sound, ON N4K 2Z1</p> <p>Phone: 519-371-1001 Fax: 519-371-1009 Website: www.escarpment.org Email: necgeorgetown@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.