




Hamilton

# INFORMATION REPORT

<b>TO:</b>	Chair and Members Planning Committee
<b>COMMITTEE DATE:</b>	August 13, 2024
<b>SUBJECT/REPORT NO:</b>	Appeal by Aird & Berlis LLP on behalf of Fengate Homestead Holdings Inc. LP of Urban Hamilton Official Plan Amendment Application UHOPA-22-008, Zoning By-law Amendment Application ZAC-22-017, and Draft Plan of Subdivision Application 25T-202202 to the Ontario Land Tribunal for Lack of Decision for Lands Located at 3054 Homestead Drive and 9174 and 9166 Airport Road West, Glanbrook (PED24062) (Ward 11)
<b>WARD(S) AFFECTED:</b>	Ward 11
<b>PREPARED BY:</b>	James Van Rooi (905) 546-2424 Ext. 4283
<b>SUBMITTED BY:</b>	Anita Fabac Acting Director of Planning and Chief Planner Planning and Economic Development Department
<b>SIGNATURE:</b>	

## COUNCIL DIRECTION

In accordance with Subsections 22(7), 34(11) and 51(34) of the *Planning Act*, an Official Plan Amendment, Zoning By-law Amendment, and a Plan of Subdivision application may be appealed to the Ontario Land Tribunal after 120 days by the owner if Council has not made a decision on the applications.

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 Ontario Land Tribunal.

The following information is provided for Planning Committee's information with regards to Urban Hamilton Official Plan Amendment application UHOPA-22-008, Zoning By-law

---

OUR Vision: To be the best place to raise a child and age successfully.

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.

**SUBJECT: Appeal by Aird & Berlis LLP on behalf of Fengate Homestead Holdings Inc. LP of Urban Hamilton Official Plan Amendment Application UHOPA-22-008, Zoning By-law Amendment Application ZAC-22-017, and Draft Plan of Subdivision Application 25T-202202 to the Ontario Land Tribunal for Lack of Decision for Lands Located at 3054 Homestead Drive and 9174 and 9166 Airport Road West, Glanbrook (PED24062) (Ward 11) - Page 2 of 6**

---

Amendment application ZAC-22-017 and Draft Plan of Subdivision application 25T-202202, which have been appealed for non-decision. The appeal was received by Aird and Berlis LLP on behalf of Fengate Homestead Holdings Inc. LP on April 22, 2024.

**INFORMATION**

The subject property is municipally known as 3054 Homestead Drive and 9174 and 9166 Airport Road West (refer to Appendix “A” attached to Report PED24062). The subject property is approximately 31.38 hectares in area and is generally located on the west side Homestead Drive and on the north side of Airport Road West. The subject lands also abut East Cargo Road which is a private road owned and maintained by the Hamilton International Airport.

The Urban Hamilton Official Plan Amendment, Zoning By-law Amendment and Draft Plan of Subdivision applications were submitted by Urban Solutions Planning and Land Development Consultants Inc. c/o Matt Johnston on behalf of Fengate Homestead Holdings Inc. LP on January 27, 2022, and deemed complete on February 10, 2022. The original proposal was for five industrial buildings with a total gross floor area of 141,600 square metres of employment use with a new street proposed off East Cargo Road.

The applicants submitted revised Urban Hamilton Official Plan Amendment (UHOPA-22-008), Zoning By-law Amendment (ZAC-22-017) and Draft Plan of Subdivision (25T-202202) applications on March 3, 2023, for four industrial buildings with a total gross floor area of 131,626 square metres and a new street proposed off Airport Road West. The amended applications also added the lands located at 9174 and 9166 Airport Road West.

A third submission was received on September 18, 2023, which reduced the four industrial buildings to a total gross floor area of 129,551 square metres and widened a swale on the north side of the subject lands.

The appeal of the Urban Hamilton Official Plan Amendment, Zoning By-law Amendment and Draft Plan of Subdivision applications, filed by Aird & Berlis LLP c/o Matthew Helfand, counsel for Fengate Homestead Holdings Inc. LP, was received by the City Clerk’s Office on April 22, 2024, 817 days after the receipt of the initial applications and 218 days after the September 18, 2023, submission (refer to Appendix “D” attached to Report PED24062).

**SUBJECT: Appeal by Aird & Berlis LLP on behalf of Fengate Homestead Holdings Inc. LP of Urban Hamilton Official Plan Amendment Application UHOPA-22-008, Zoning By-law Amendment Application ZAC-22-017, and Draft Plan of Subdivision Application 25T-202202 to the Ontario Land Tribunal for Lack of Decision for Lands Located at 3054 Homestead Drive and 9174 and 9166 Airport Road West, Glanbrook (PED24062) (Ward 11) - Page 3 of 6**

---

## **Proposed Development**

In the most recent submission received September 18, 2023, the applicant proposed four industrial buildings with a total gross floor area of 129,551 square metres, a new public street, a 1.11 hectare natural heritage compensation area, 911 parking spaces, 30 trailer parking spaces, and 243 loading spaces.

## **Urban Hamilton Official Plan Amendment Application**

The majority of the subject property is identified as “Employment Area” and the eastern portion along Homestead Drive and the southern portion along Airport Road West are identified as “Neighbourhoods” on Schedule E – Urban Structure. The application is to change the identification of the lands identified as “Neighbourhoods” to “Employment Area” on Schedule E – Urban Structure. Similarly, the majority of the subject lands are designated “Airport Employment Growth District” and “District Commercial” on Schedule E-1 – Urban Land Use Designations in the Urban Hamilton Official Plan. The application is to redesignate the subject lands from the “District Commercial” designation to the “Airport Employment Growth District” designation on Schedule E-1 Urban Land Use Designations.

The majority of the subject lands are located within the Airport Employment Growth District Secondary Plan and are designated “Airport Reserve” on Map B.8-1 Land Use Plan. The application is to redesignate these lands to “Airside Industrial”.

A portion of the subject lands are located within the Mount Hope Secondary Plan and are designated “District Commercial” on Map B.5.4-1 Land Use Plan. The application is to remove these lands from the Mount Hope Secondary Plan and add them to the Airport Employment Growth District Secondary Plan as an “Airside Industrial” designation on Map B.8-1 Land Use Plan. The lands will also be added to the Airport Employment Growth District Secondary Plan Maps B.8-2 (Natural Heritage System), B.8-3 (Road Classification Map), B.8-4 (Phasing Plan) and Appendix “A” (Transit Routes and Trails Map). Further, an amendment to Appendix A – Secondary Plan Index Map would be required.

## **Zoning By-law Amendment Application**

The subject lands are currently zoned Airport Reserve (M9, H37) Zone and District Commercial (C6, 580) Zone in Zoning By-law No. 05-200, as shown in Appendix “A”

**SUBJECT: Appeal by Aird & Berlis LLP on behalf of Fengate Homestead Holdings Inc. LP of Urban Hamilton Official Plan Amendment Application UHOPA-22-008, Zoning By-law Amendment Application ZAC-22-017, and Draft Plan of Subdivision Application 25T-202202 to the Ontario Land Tribunal for Lack of Decision for Lands Located at 3054 Homestead Drive and 9174 and 9166 Airport Road West, Glanbrook (PED24062) (Ward 11) - Page 4 of 6**

---

attached to Report PED24062. The proposal is to change the zoning to a modified Airside Industrial (M7) Zone and to a Conservation/Hazard Lands (P5) Zone in Hamilton Zoning By-law No. 05-200.

Site specific modifications are required to implement the proposed development, as shown on the Concept Plan in Appendix “B” attached to Report PED24062, including:

- To add permitted uses being aquaponics, building and lumber supply establishment, building or contracting supply establishment, educational establishment, equipment and machinery sales, rental, greenhouse, laboratory, repair service, surveying, engineering, planning or design business, trade school, and tradespersons shop; and,
- To permit loading facilities and parking within the front yard.

### **Draft Plan of Subdivision Application**

The proposed Draft Plan of Subdivision is for eight blocks, with three blocks for industrial uses (Blocks 1, 2, and 3), two temporary cul-de-sac blocks (Blocks 4 and 5), 0.3 m reserve blocks (Blocks 6 and 7) a natural heritage offsetting compensation block (Block 8), and a public road (Street ‘A’) as shown on attached Appendix “C” to Report PED24062.

Issues/concerns identified through the circulation include:

- The revised proposal does not comply with policy B.3.4.4 of the Urban Hamilton Official Plan which requires the protection, conservation, or mitigation of sites of archaeological value. Stage 1 & 2 Archaeological Assessments have not received a concurrence letter from the Ministry of Citizenship and Multiculturalism. Furthermore, a Stage 3 Archaeological Assessment is required to be completed, which could result in Stage 4 mitigation of development impacts, if required.
- The revised proposal does not comply with policies C.2.2.2, C.2.3.1, C.2.3.3, and C.2.11.1 of the Urban Hamilton Official Plan. Based on the field inventories completed by GEI, unevaluated wetlands and watercourses were identified within the subject properties. There is concern that the addition of these features has not been taken into consideration. To facilitate the proposed development,

**SUBJECT: Appeal by Aird & Berlis LLP on behalf of Fengate Homestead Holdings Inc. LP of Urban Hamilton Official Plan Amendment Application UHOPA-22-008, Zoning By-law Amendment Application ZAC-22-017, and Draft Plan of Subdivision Application 25T-202202 to the Ontario Land Tribunal for Lack of Decision for Lands Located at 3054 Homestead Drive and 9174 and 9166 Airport Road West, Glanbrook (PED24062) (Ward 11) - Page 5 of 6**

---

wetland communities and watercourses are proposed to be removed and re-created on site. The City does not have policies in place for the re-creation of wetlands. The Tree Protection Plan indicates that 444 trees have been inventoried, and of these trees 355 are proposed to be removed. The Tree Protection Plan has not been approved.

- The revised proposal does not meet the intent of the Airport Employment Growth District Secondary Plan's design with nature approach.
- The revised proposal does not comply with policies C.5.3.6 and C.5.3.17 of the Urban Hamilton Official Plan as the proposal could cause sanitary capacity issues downstream due to heavy processed water usage.
- The revised proposal does not comply with policy C.4.5.11 of the Urban Hamilton Official Plan as there are concerns with the Street A connection to Airport Road West and the amount of traffic that will be generated. It is noted that East Cargo Road is a private road located on airport lands.
- The revised proposal does not meet the intent of policy E.2.2.5 of the Urban Hamilton Official Plan as it results in a change to the City's Urban Structure. The proposal considers reclassifying a portion of the lands from "Neighbourhoods" to "Employment Areas" without a Municipal Comprehensive Review.

### **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 for the applications were sent to 84 property owners within 120 metres of the subject lands on February 25, 2022. A second circulation, as a result of the amended applications, was sent to 96 property owners on March 28, 2023.

Pursuant to the City's Public Consultation Strategy Guidelines, the applicant submitted a Public Consultation Strategy. The strategy relied on the *Planning Act* notification requirements and provided supplementary information such as the project lead's contact information and a microsite for review of studies and reports submitted for review. The applicant has not undertaken additional Public Consultation for the revised submissions received on March 3, 2023, and September 18, 2023.

**SUBJECT: Appeal by Aird & Berlis LLP on behalf of Fengate Homestead Holdings Inc. LP of Urban Hamilton Official Plan Amendment Application UHOPA-22-008, Zoning By-law Amendment Application ZAC-22-017, and Draft Plan of Subdivision Application 25T-202202 to the Ontario Land Tribunal for Lack of Decision for Lands Located at 3054 Homestead Drive and 9174 and 9166 Airport Road West, Glanbrook (PED24062) (Ward 11) - Page 6 of 6**

---

To date staff have received four written submissions from the public since the initial proposal. Concerns identified include noise, parking layout and landscaping design, and truck routing.

#### **APPENDICES AND SCHEDULES ATTACHED**

Appendix "A" to Report PED24062 – Location Map  
Appendix "B" to Report PED24062 – Concept Plan  
Appendix "C" to Report PED24062 – Draft Plan of Subdivision  
Appendix "D" to Report PED24062 – Letter of Appeal

JVR:sd