Barristers & Solicitors

OFFICE OF THE CITY CLERK

REF'D TO:

Appendix "D" to Report PED24147
Page 1 of 11
WeirFouldS
LLP

Denise Baker Managing Partner t. 416-947-5090

dbaker@weirfoulds.com

File 16938.00007

June 5, 2024

VIA E-MAIL & COURIER

City Clerk
City of Hamilton
71 Main St. W.
1st floor
Hamilton, Ontario
L8P 4Y5

Attention: Janet Pilon, Acting City Clerk

Dear Ms. Pilon:

Re: Notice of Appeals

Applications for Site Plan and Draft Plan of Subdivision

File Numbers: DA-23-043 and 25T-202304

Sections 41(12) and 51(34) of the *Planning Act*, R.S.O. 1990, c.P.13, as amended

157 Upper Centennial Parkway, Stoney Creek, Hamilton

We are counsel to 1520866 Ontario Limited ("Losani Homes"), owners of 1.87 hectares of land located on the west side of Upper Centennial Parkway between Highland Road West and Mud Street (the "Subject Lands"), in the City of Hamilton (the "City"). The Subject Lands are municipally known as 157 Upper Centennial Parkway, and are legally described as Part of Lot 25, Concession 7, Part 1 of 62R-15922.

Through its planning consultant, MHBC Planning, Losani Homes submitted applications for Draft Plan of Subdivision ("Subdivision Application") and Site Plan Approval ("Site Plan Application") on December 22, 2022. By letter dated April 13, 2023, the City advised that the Subdivision Application was deemed complete. By letter dated April 24, 2023, the City advised that the Site Plan Application was deemed complete. Following discussions with the City, a revised Site Plan Application was submitted by MHBC Planning on February 23, 2024.

The Subdivision Application and the Site Plan Application follow applications for an Official Plan and Zoning By-law amendments filed in August 2016 (the "**OPA and ZBA Applications**") which were appealed to the then Local Planning Appeal Tribunal on September 8, 2017, for non-decision (LPAT Case Number PL170991 and PL170992). The appeals of the OPA and ZBA Applications are ongoing with the Ontario Land Tribunal (the "**Tribunal**").

Collectively, the Subdivision Application, the Site Plan Application, and the OPA and ZBA Applications facilitate the development of a medium-density mixed use development on the Subject Lands.

T: 416-365-1110 F: 905-829-2035

Suite 201, 1320 Cornwall Road, Oakville, Ontario, Canada. L6J 7W5

www.weirfoulds.com



Losani Homes hereby appeals the Subdivision Application and the Site Plan Application pursuant to sections 41(12) and 51(34) of the *Planning Act* for non-decision within the prescribed statutory timelines.

The Applications

Site Plan

The Subject Lands are located on the west side of Upper Centennial parkway north of Highland Road West. The Subject Lands have an irregular shape in the form of an "L" with 73 metres of frontage onto Upper Centennial Parkway, a depth of 213 metres and a width of 109 metres along rear lot line, with a total area of 1.87 hectares.

After Losani Homes submitted its initial Site Plan Approval Application, discussions were had between the City and MHBC Planning, on behalf of Losani Homes. Following these discussions, a revised Site Plan was submitted on February 2, 2024. The Site Plan implements the proposed development. Losani Homes has also updated the Official Plan Amendment, Zoning By-law Amendment, and the Draft Plan of Subdivision to match the revisions to the Site Plan.

Draft Plan of Subdivision

Losani Homes is proposing the development of the Subject Lands with a medium-density mixed-use development consisting of a total of 90 residential and 5 commercial units. Losani Homes has submitted a Draft Plan of Subdivision to create two separate blocks: one residential block and one mixed-use block. The residential component proposes a residential block with 81 units, with a mix of back-to-back townhouse units, and townhouse units. The mixed-use component proposes 9 residential units, and 5 commercial units, and associated parking spaces, including garage spaces. Vehicle access to the proposed development is provided from Taverny Road for the residential portion, and Upper Centennial Parkway for the mixed-use portion. An internal street network connects all townhouse units within the proposed development and pedestrian access is provided between the two blocks.

Consolidation

We respectfully request that the appeal of the Subdivision Application and the Site Plan Application be consolidated with the appeals of the OPA and ZBA Applications pursuant to Rule 16 of the OLT Rules of Practice and Procedure, which allows the Tribunal to consolidate the hearing of related appeals. All four appeals pertain to the redevelopment of the Subject Lands:

- i. have common issues and questions of fact; and
- ii. will require the calling of common evidence and the making of common submissions.

Accordingly, the most efficient manner of hearing the appeals is through consolidation.



Filing Requirements

In satisfaction of the Tribunal's filing requirements, attached please find the following:

- One Tribunal appeal form entitled "Appeal Form (A1)" duly completed and signed; and
- Two firm cheques, each in the amount of \$1,100.00, payable to the Minister of Finance, representing the Tribunal's filing fees for the appeals herein.

Kindly acknowledge receipt of this letter and advise when the appeals have been forwarded to the Tribunal.

Thank you for your attention to this matter. Should you have any questions or require further information, please do not hesitate to contact the undersigned.

Yours truly,

WeirFoulds LLP

Denise Baker Managing Partner

DB/ng

cc: Client

Encls. 3 20632470.1

Ontario Land Tribunal

655 Bay Street, Suite 1500, Toronto, ON M5G 1E5

Appeal Form (A1)

Municipal/Approval Authority Date Stamp Receipt Number (OLT Office Use Only) OLT Case Number (OLT Office Use Only) OLT Case Number (OLT Office Use Only)

You may be able to submit your appeal online using our new e-file service if:

- the approval authority you are submitting your appeal to is registered on e-file; or
- you are appealing directly to the Ontario Land Tribunal

Please visit our <u>e-file page</u> to learn more.

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 <u>website</u> 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/Obje	ctor/Claima	int Info	rmatio	n				
				First Name:				
Company Name or Association Name (Association must be in					ncorporated – include copy of letter of			
incorporation):								
1520866 Ontario Limited	(Losani Ho	mes)						
Email Address:								
WLiske@losanihomes.co	m							
Daytime Telephone Numb	per:				Alternative Telephone Number:			
905-561-1700			ext.					
Mailing Address								
Unit Number: Street Number: Street Nar				Street Nam	ne:		P.O. Box:	
203 430 McNeilly R			McNeilly R	oad				
City/Town: Stoney Creek, Province: Ontario				ntaria	Country: Canada	Destal	2040.105.550	
Hamilton Province: Or			TILATIO	Country: Canada	Postar C	Code: L8E 5E3		

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Representative Information							
X I hereby authorize the Last Name: Baker	named com	npany and/or	individual(s)	to represent me First Name: Denise			
Last Name. Daker				First Name. Denise			
Company Name or Association Name (Association must be incorporated – include copy of letter of							
incorporation):							
WeirFoulds LLP							
Email Address: dbaker@weirfoulds.com							
Daytime Telephone Number: 416-947-5090 Alternative Telephone Number:							
		ext.					
Mailing Address	F =						
Unit Number: 201	Street Nu	mber: 1320	Street Nam	e: Corn	wall Road		P.O. Box:
City/Town: Oakville		Province: O	Intario	Country	y: Canada	Postal (L Code: L6J 7W5
Oity/ Town. Oakville		1 TOVITICE. O	Titario	Counti	y. Cariaua	FUSIAI	Joue. Log 7 VVS
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? X Yes □ No							
Address and/or Legal De					No		
157 Upper Centennial Pa			ject to the a	эр с аі.			
Municipality: City of Hamilton							
Upper Tier (Example: county, district, region):							
Language Requirements							
Do you require services i	n French?		☐ Yes	s X	No		
To file an appeal, please	complete th	ne section be			ne for each appe	al type	
Subject of Appe	al		Type ((Act/Legis	of Appea lation Na		ı	Reference ction Number)

Subject of Appeal		Type of Appeal (Act/Legislation Name)	Reference (Section Number)	
Exa	ample Minor Variance	Planning Act	45(12)	
1	Site Plan Approval	Planning Act	41(12)	
2	Draft Plan of Subdivision	Planning Act	51(34)	
3				
4				
5				

Section 2 – Appeal Type (Mandatory)

Please s	select the applicable type of matter	
Select	Legislation associated with your matter	Complete Only the Section(s) Below
Х	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

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	Appeal of Development Charges, Education Act, Aggregate Resources Act, Municipal Act matters	3A				
	Appeal of or objection to <i>Ontario Heritage Act</i> matters under subsections 29, 30.1, 31, 32, 33, 40.1 and 41	3A				
	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				
	Appeal of 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 matters	4A				
	Application for Leave to Appeal under the Environmental Bill of Rights, 1993	4B				
	Appeal under the Niagara Escarpment Planning and Development Act (NEPDA)	5				
	Appeal of Conservation Authorities Act, Mining Act, Lakes and Rivers Improvement Act, Assessment Act, and Oil, Gas and Salt Resources Act matters	6				
	Legislation not listed above	Contact OLT before filing your appeal				
Section	3A – Planning Matters					
	Reasons and Specific Information					
	of new residential units proposed:					
90						
Municipa	al Reference Number(s): DA-23-043, 25T-202304					
List the reasons for your appeal:						
Please see attached letter.						
Han a nu	ublic mosting been held by the my misimality?					
	ublic meeting been held by the municipality? Yes X No	ave Amandaanta				
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:						
	nsistent with the Provincial Policy Statement issued under subsection 3(1) of the	Planning Act				
1	s to conform with or conflicts with a provincial plan	J				
1	s to conform with an applicable Official Plan					
And						
B: For a	non-decision or decision to refuse by council:					
1	sistency with the provincial policy statement, issued under subsection 3(1) of the	Planning Act				
l .	formity with a provincial plan					
□ Conformity with the upper-tier municipality's Official Plan or an applicable Official Plan						

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If it is your intention to argue one or more of the above grounds, please explain your reasons:
Ozal/Almittan Culturalization to Council
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
X Not applicable
Related Matters
Are there other appeals not yet filed with the Municipality?
☐ Yes X No
Are there other matters related to this appeal? (For example: A consent application connected to a variance application).
X Yes □ No
If yes, please provide the Ontario Land Tribunal Case Number(s) and/or Municipal File Number(s) for the related matters:
PL170991 and PL170992 (ZAC-16-056 and UHOPA-16-020)
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:

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Portions of the decision in dispute:
Date of receipt of Decision or Director's Order (yyyy/mm/dd):
Applying for Stay? ☐ Yes ☐ No
Applying for Stay? ☐ Yes ☐ No If Yes, outline the reasons for requesting a stay:
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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 4A Checklist(s)</u> located <u>here</u> 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</i> , — Yes — No 1993?
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
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.		
	<u>,</u>		
Reasons for Appeal: Outline the nature an other reasons are required. (The Niagara E Commission's website (www.escarpment.c	Escarpme		appeal. Specific planning, environmental and/or available on the Niagara Escarpment
Section 6 - Mining Claim and Conserva	ation Mat	ters	
Appeal Specific Information			
			ng claims) and accompanying Townships, Areas
			all "Filed Only" Mining Claims, if appropriate:
(This is to be completed for Mining Act app	eals only.)	
List the Parcel and the Property Identifier N	lumbers (PIN), if re	ents or taxes apply to mining lands, if appropriate
(mining claims only):	,	, ,,	
Provide the date of the Decision of the Cor	servation	Authority	or the Provincial Mining Recorder, as
appropriate:			ar and the transfer than and the transfer that t
Provide a brief outline of the reasons for vo	ur applica	ation/app	eal/review. If other lands/owners are affected,
please include that information in the outlin			
Respondent Information			
Conservation Authority:			
Contact Person:			
Email Address:			
Daytime Telephone Number:			Alternative Telephone Number:
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	CAL.		

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City/Town:		Province:		Cour		ntry:		Postal (Code:
There are required type of legislation a submit all docume	and section you a	are filing	unde						
Section 7 – Filing	Fee								
Required Fee									
Please see the atta	ached link to viev	v the OL	T Fee	Chart.					
Total Fee Submitte	d: \$2,200.00								
Payment Method	Certified Ch ☐ Credit Card		□ N	Noney Order	Х	Lawyer's gen	eral or	trust ac	count cheque
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If the completed Section is:	You must file with the following:
Section 3A	Municipality or the Approval Authority/School Board

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

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.