




Hamilton

INFORMATION REPORT

TO:	Chair and Members Planning Committee
COMMITTEE DATE:	September 6, 2024
SUBJECT/REPORT NO:	Appeal by WeirFoulds LLP on behalf of 1520866 Ontario Limited (Losani Homes) of Draft Plan of Subdivision Application 25T-202304 to the Ontario Land Tribunal for Lack of Decision for Lands Located at 157 Upper Centennial Parkway, Stoney Creek (PED24147) (Ward 9)
WARD(S) AFFECTED:	Ward 9
PREPARED BY:	James Van Rooi (905) 546-2424 Ext. 4283
SUBMITTED BY:	Anita Fabac Acting Director of Planning and Chief Planner Planning and Economic Development Department
SIGNATURE:	

COUNCIL DIRECTION

In accordance with Subsection 51(34) of the *Planning Act*, 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 the appeal for non-decision to the Ontario Land Tribunal.

The following information is provided for Planning Committee's information with regards to the Draft Plan of Subdivision application 25T-202304, which has been appealed for non-decision.

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.

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INFORMATION

The subject property is municipally known as 157 Upper Centennial Parkway (refer to Appendix "A" attached to Report PED24147). The subject property is approximately 1.87 hectares in area and is located on the west side of Upper Centennial Parkway between Mud Street West and Highland Road West. The subject lands also have frontage on Taverny Road.

The Draft Plan of Subdivision application was submitted by MHBC Planning c/o Dave Aston on behalf of Losani Homes on December 22, 2022, and deemed incomplete on January 19, 2023. On April 13, 2023, the Draft Plan of Subdivision application was deemed complete.

The appeal of the Draft Plan of Subdivision, filed by WeirFoulds LLP c/o Denise Baker, counsel for Losani Homes, was received by the City Clerk's Office on June 6, 2024, 532 days after the receipt of the initial application. The notice of appeal submission is attached as Appendix "D" to Report PED24147.

The applicant also submitted a Site Plan Control application in December 2022, which has also been appealed to the Ontario Land Tribunal (June 6, 2024) for failure to approve the plans or drawings. This application is to facilitate the development of 82 townhouse units and back-to-back townhouse units and a three storey mixed use building with nine residential units and up to 579 square metres of ground floor commercial area (refer to Appendix "B" to Report PED24147). Staff note that under Subsection 41(4.0.1) of the *Planning Act*, Council shall delegate decision making authority on Site Plan Control applications to an officer, employee or agent of the municipality. The Site Plan Control application cannot proceed at a municipal level until the Official Plan Amendment, Zoning By-law Amendment and Draft Plan of Subdivision applications are dealt with such that the principle of land use is established.

BACKGROUND

The applicant also has also made applications for an Official Plan Amendment and Zoning By-law Amendment (UHOPA-16-020 and ZAC-16-056), submitted to the City in August 2016, which were appealed to the Ontario Land Tribunal on September 8, 2017. These applications and their related appeal information is discussed in Report PED17213. The appeals of the Official Plan and Zoning By-law amendments are still ongoing (Ontario Land Tribunal Legacy Case Number PL170991 / Case Number OLT-22-003572).

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Official Plan Amendment Application:

The proposed Urban Hamilton Official Plan Amendment application (UHOPA-16-020) is to redesignate part of the subject lands from “Arterial Commercial” to “Neighbourhoods” in Volume 1, and to redesignate the lands from “Arterial Commercial” to “Low Density Residential 3c” in the West Mountain (Heritage Green) Secondary Plan. The effect of this application is to permit a range of townhouse dwelling forms.

Zoning By-law Amendment Application:

The purpose of the Zoning By-law Amendment application (ZAC-16-056) is for a change in zoning from the Neighbourhood Development “ND” Zone, Open Space “OS” Zone, and General Commercial “GC-49” Zone, Modified, to a modified Multiple Residential “RM3” Zone to permit 95 block and back-to-back townhouse dwellings.

Draft Plan of Subdivision Application

The proposed Draft Plan of Subdivision consists of two development blocks with one block for the townhouse dwellings and back-to-back townhouse dwellings (Block 1) and one block for a mixed use building (Block 2), as shown in Appendix “C” attached to Report PED24147.

The following issues remain outstanding:

- As the Ontario Land Tribunal has not issued a decision on the Official Plan and Zoning By-law amendments, conformity to the Urban Hamilton Official Plan and West Mountain (Heritage Green) Secondary Plan policies cannot be determined and as such the application is considered to be premature;
- It has not been demonstrated if the redesignation of “Arterial Commercial” land is appropriate and if sufficient commercial lands remain for the surrounding area;
- Concerns with drainage and water run-off to neighbouring privately owned lands;
- Concerns that a sufficient buffer has not been provided to accommodate landscaping, drainage swale, grading, infrastructure, and maintenance access; and,
- Concerns with vehicular access onto Upper Centennial Parkway.

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 Draft Plan of Subdivision application was sent to 85 property owners within 120 metres

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of the subject lands on April 20, 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 standards and provided supplementary information such as the project lead's contact information should additional information be requested for review.

To date staff have received one submission from the public with concerns related to grading, the sanitary sewer and water servicing.

APPENDICES AND SCHEDULES ATTACHED

Appendix "A" to Report PED24147 – Location Map
Appendix "B" to Report PED24147 – Site Plan and Elevations
Appendix "C" to Report PED24147 – Draft Plan of Subdivision
Appendix "D" to Report PED24147 – Letter of Appeal

JVR:sd