




Hamilton

INFORMATION REPORT

TO:	Chair and Members Planning Committee
COMMITTEE DATE:	November 5, 2024
SUBJECT/REPORT NO:	Appeal by Aird & Berlis LLP on behalf of Dickenson Limited Partnership and Dickenson GP Inc. of Zoning By-law Amendment Application ZAH-22-021 and Draft Plan of Subdivision Application 25T-202203 to the Ontario Land Tribunal for Lack of Decision for Lands Located at 9451, 9517, 9541, 9569, 9579, 9593, and 9867 Dickenson Road West and 1199 and 1205 Glancaster Road, Glanbrook (PED24179) (Ward 11)
WARD(S) AFFECTED:	Ward 11
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 Subsections 36(3) and 51(34) of the *Planning Act*, a Zoning By-law Amendment application for the removal of a Holding Provision and Plan of Subdivision application may be appealed to the Ontario Land Tribunal after 90 and 120 days respectively 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 Zoning By-law Amendment application ZAH-22-021 and Draft Plan of Subdivision application 25T-202203, which have 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.

SUBJECT: Appeal by Aird & Berlis LLP on behalf of Dickenson Limited Partnership and Dickenson GP Inc. of Zoning By-law Amendment Application ZAH-22-021 and Draft Plan of Subdivision Application 25T-202203 to the Ontario Land Tribunal for Lack of Decision for Lands Located at 9451, 9517, 9541, 9569, 9579, 9593, and 9867 Dickenson Road West and 1199 and 1205 Glancaster Road, Glanbrook (PED24179) (Ward 11) - Page 2 of 7

INFORMATION

The subject lands are municipally known as 9451, 9517, 9541, 9569, 9579, 9593, and 9867 Dickenson Road West and 1199 and 1205 Glancaster Road, Glanbrook (refer to Appendix “A” attached to Report PED24179). The subject lands are approximately 109 hectares in area and are generally located on the south side of Dickenson Road West and east of Glancaster Road. The subject lands also abut John C. Munro Hamilton International Airport which is south and east of the subject lands.

The Zoning By-law Amendment and Draft Plan of Subdivision applications were submitted by Korsiak Urban Planning on behalf of Dickenson Limited Partnership on November 11, 2021, and deemed complete on December 20, 2021. The original Draft Plan of Subdivision consisted of 18 blocks, with seven blocks for industrial uses (Phase 1, Blocks 1 to 4; and Phase 2, Block 5 to 7), stormwater management channels (Blocks 8 to 11), three stormwater management ponds (Blocks 12 to 14), a reserve block (Block 15), three road widening blocks (Blocks 16 to 18), and two public roads (Street “A” and Street “B”) to permit the development of six industrial buildings containing a total gross floor area of 295,326 square metres of employment uses.

On December 9, 2022, the city received notice that the owners had changed their planning consultants to Landwise. On November 30, 2023, Landwise resubmitted revised materials for review and comment.

The appeal of the Draft Plan of Subdivision applications, filed by Aird & Berlis LLP c/o Matthew Trennum, counsel for Dickenson Limited Partnership and Dickenson GP Inc, was received by the City Clerk’s Office on July 16, 2024, 978 days after the receipt of the initial applications and 229 days after the November 30, 2023, resubmission (refer to Appendix “C” attached to Report PED24179).

Environmental Assessment (EA) Process

In parallel with the Draft Plan of Subdivision process, the applicant is conducting the Schedule C Municipal Class Environmental Assessment process for Arterial Roadway 1N (also known as Street ‘A’), from Dickenson Road West to Glancaster Road, within the private development lands. This is a process that must be followed under the *Environmental Assessment Act* for municipal projects that involve the construction of new facilities and major expansions to existing facilities. A virtual public information centre was held on June 27, 2024, to address a change in roadway alignment (where it

SUBJECT: Appeal by Aird & Berlis LLP on behalf of Dickenson Limited Partnership and Dickenson GP Inc. of Zoning By-law Amendment Application ZAH-22-021 and Draft Plan of Subdivision Application 25T-202203 to the Ontario Land Tribunal for Lack of Decision for Lands Located at 9451, 9517, 9541, 9569, 9579, 9593, and 9867 Dickenson Road West and 1199 and 1205 Glancaster Road, Glanbrook (PED24179) (Ward 11) - Page 3 of 7

meets Glancaster Road), from its alignment, approved as part of the Airport Employment Growth District's Transportation Master Plan Update (2024). A second public information centre will be hosted to address road design alternatives, their evaluation, and recommendation of a preferred design for the new roadway alignment.

The Environmental Assessment is in Phase 3 of the Environmental Assessment process. Overall, there are five phases in the Environmental Assessment process. Phase 3 involves looking at alternative solutions for the functional road design, the evaluation, and recommendation of a preferred design. Phase 4 is the Completion of Environmental Study Report and Phase 5 is the implementation phase (detailed design and construction, followed by monitoring).

Staff note that through the Airport Employment Growth District Transportation Master Plan Update (June 2024) a revised road network identified that Arterial Roadway 1N needed to be upgraded from a 33 metre wide Major Collector to a 45 metre wide Minor Arterial Road.

Zoning By-law Amendment (Holding Removal) Application

The purpose of the proposed Zoning By-law Amendment application is to remove Holding symbol 'H37' from the Airside Industrial (M7, H37) Zone and the Airport Prestige Business (M11, H37) Zone from the subject lands. The H37 Holding Provision requires that lands subject to this provision have access to servicing, the provision of adequate municipal water, municipal wastewater, and transportation infrastructure in accordance with the respective master plans for the Airport Employment Growth District.

Revised Draft Plan of Subdivision Application

In the most recent submission received November 30, 2023, the revised Draft Plan of Subdivision consists of 18 blocks, with four blocks for industrial uses (Blocks 1, 2, 3 and 4) with a total of 76.67 hectares, four blocks for natural heritage system (Blocks 9, 10, 13 and 18), three blocks for stormwater management ponds (Blocks 11, 12 and 14), two 0.3 metre reserve blocks (Blocks 5 and 15), three road widening blocks (Blocks 6, 7 and 8), two blocks for a realigned watercourse (Blocks 16 and 17) and a public road (Street 'A') as shown on attached Appendix "B" to Report PED24179. The details for gross floor area of buildings, parking, loading, driveways were not provided in the most recent submission.

SUBJECT: Appeal by Aird & Berlis LLP on behalf of Dickenson Limited Partnership and Dickenson GP Inc. of Zoning By-law Amendment Application ZAH-22-021 and Draft Plan of Subdivision Application 25T-202203 to the Ontario Land Tribunal for Lack of Decision for Lands Located at 9451, 9517, 9541, 9569, 9579, 9593, and 9867 Dickenson Road West and 1199 and 1205 Glancaster Road, Glanbrook (PED24179) (Ward 11) - Page 4 of 7

Issues/concerns identified through the circulation of the November 30, 2023; submission include:

- The revised proposal is premature as it 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. The Stage 1 & 2 Archaeological Assessment for 1199 and 1205 Glancaster Road has not received a concurrence letter from the Ministry of Citizenship and Multiculturalism. Furthermore, Stage 3 Archaeological Assessments are required to be completed for the entire subject lands, which could result in Stage 4 mitigation of development impacts.
- The revised proposal is premature as it does not comply with policy B.3.4.2.13 of the Urban Hamilton Official Plan which ensures protection of cultural heritage resources through documenting and salvaging where feasible and appropriate. A built heritage resource (barn) located at 9867 Dickenson Road West was removed sometime between March 2021 and April 2023. This property was on the City's Inventory of Buildings of Architectural and/or Historical Interest for having cultural heritage value or interest. Cultural Heritage staff requested conditions in April 2022 for documentation and salvaging of buildings on 9867 Dickenson Road West.
- The revised proposal does not comply with policies C.2.2.4, C.2.3.3, and C.2.11.1 of the Urban Hamilton Official Plan. Based on the field inventories in the Environmental Impact Study completed by Savanta (GEI), dated September 2023, watercourses, unevaluated wetlands, headwater drainage features, species at risk habitat (bat habitat) and significant wildlife habitat were identified within the subject properties. To facilitate the proposed development, wetland communities and watercourses are proposed to be removed and re-created on site. There is concern based on the information provided by the applicant that the removal/compensation of wetlands and realignment of watercourses may not protect and enhance features and their functions. The Tree Protection Plan, prepared by Savanta (GEI) and dated September 2023, indicates that 2,782 trees have been inventoried, and of these trees 2,381 are proposed to be removed. The Tree Protection Plan has not been approved. There are several woodland features within the subject properties, however none of them are considered significant woodland. It has been identified that woodland communities will be removed and replaced with 2.65 ha of woodland. There is

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 Dickenson Limited Partnership and Dickenson GP Inc. of Zoning By-law Amendment Application ZAH-22-021 and Draft Plan of Subdivision Application 25T-202203 to the Ontario Land Tribunal for Lack of Decision for Lands Located at 9451, 9517, 9541, 9569, 9579, 9593, and 9867 Dickenson Road West and 1199 and 1205 Glancaster Road, Glanbrook (PED24179) (Ward 11) - Page 5 of 7

concern with this approach as this may cause further fragmentation of habitat as well as the potential loss of habitat and biodiversity.

- The revised proposal does not meet the intent of the Airport Employment Growth District Secondary Plan's design with nature approach. More specifically, it does not comply with policy B.8.2.2 b) of the Airport Employment Growth District Secondary Plan in that the integration of existing trees into the design has not been taken into consideration. An Environmental Impact Statement prepared by Savanta (GEI), dated October 2021 indicates existing features (including fish habitat, unevaluated wetlands, and significant wildlife habitat) are proposed to be removed and/or recreated on site. The intent of the Urban Hamilton Official Plan is to protect and enhance existing natural heritage features.
- The revised proposal does not comply with policies C.5.3.6 and C.5.3.17 of the Urban Hamilton Official Plan as there are no existing watermains or sanitary sewers along Dickenson Road West fronting the subject lands, and therefore the application is premature.
- The revised proposal does not comply with policy C.5.4.11, which requires development to be designed in accordance with the City's standards and to conform to stormwater master plans and master drainage plans. The revised proposal does not comply with policies B.8.9.3, B.8.9.6, B.8.9.12 and B.8.14.15 of the Airport Employment Growth District Secondary Plan. An updated Functional Servicing Report and Stormwater Management Report are required to address this.
- The revised proposal does not comply with policy C.4.2.19 of the Urban Hamilton Official Plan in that the revised Draft Plan of Subdivision and coordinated Environmental Assessment process is proposing an alternate alignment of Arterial 1N that is not consistent with the planned road alignment shown in Map B.8-3 – Airport Employment Growth District Secondary Plan – Road Classification Map. The proposed realignment shifts the intersection of Arterial 1N with Glancaster Road approximately 240 metres to the south in alignment with the existing Arkwood Drive right-of-way. The existing right-of-way of Arkwood Drive is 20.0 metres, and an additional 25.0 metres is required to be secured to be established as the 45.0 metre continuation of Street 'A'. The preferred alignment of Arterial 1N will be determined through the Environmental Assessment process.

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 Dickenson Limited Partnership and Dickenson GP Inc. of Zoning By-law Amendment Application ZAH-22-021 and Draft Plan of Subdivision Application 25T-202203 to the Ontario Land Tribunal for Lack of Decision for Lands Located at 9451, 9517, 9541, 9569, 9579, 9593, and 9867 Dickenson Road West and 1199 and 1205 Glancaster Road, Glanbrook (PED24179) (Ward 11) - Page 6 of 7

- The revised proposal is premature in that it does not comply with policy B.8.10.15 a) and c) of the Airport Employment Growth District as financial commitments to full build out of the road and all other necessary infrastructure have not been secured. Traffic control signals are required at the intersections of Dickenson Road West and Street 'A' and Glancaster Road and Street 'A'. Cost sharing agreements between the Applicant and adjacent property owners of lands to the west of Glancaster Road are required to address the cost of improvements at the intersection and cost estimate schedules are required for installation of all works at required intersections. Conditions have been requested by Transportation Planning; however, these were issued after the appeal being received, and staff are not aware of the proponent's position on the conditions requested.
- The revised proposal does not comply with policy B.3.6.3.19 or meet the intent of policies B.8.28 f), B.8.3.6 and 8.4.5.8 n). A Land Use Compatibility Study prepared by GHD Limited, dated September 20, 2023, was submitted which concludes that the proposed development is feasible and recommends potential noise measures. However, it does not include a thorough review of noise sensitive points of reception. Details surrounding potential noise impact should be evaluated at this stage. An updated noise impact study is required.

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 92 property owners within 120 metres of the subject lands on March 11, 2022.

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 the applicant hosted two open houses. The first was held virtually on May 12, 2022, and the second was in-person on May 19, 2022, at the Glanbrook Municipal Service Centre.

To date staff have received three written submissions from the public since the initial proposal. Concerns identified include traffic volume, noise, light pollution, water management, and current lack of sidewalks.

SUBJECT: Appeal by Aird & Berlis LLP on behalf of Dickenson Limited Partnership and Dickenson GP Inc. of Zoning By-law Amendment Application ZAH-22-021 and Draft Plan of Subdivision Application 25T-202203 to the Ontario Land Tribunal for Lack of Decision for Lands Located at 9451, 9517, 9541, 9569, 9579, 9593, and 9867 Dickenson Road West and 1199 and 1205 Glancaster Road, Glanbrook (PED24179) (Ward 11) - Page 7 of 7

APPENDICES AND SCHEDULES ATTACHED

Appendix "A" to Report PED24179 – Location Map
Appendix "B" to Report PED24179 – Draft Plan of Subdivision
Appendix "C" to Report PED24179 – Letter of Appeal

JVR:mb