

Ontario Land Tribunal
Tribunal ontarien de l'aménagement
du territoire



ISSUE DATE: February 04, 2022

CASE NO(S): PL090114
PL110331

IN THE MATTER OF subsection 17(36) of the *Planning Act*, R.S.O. 1990, C. P. 13,
as amended

Appellants:	See below
Subject:	Rural Hamilton Official Plan
Municipality:	City of Hamilton
OMB Case No.:	PL090114
OMB File No.:	PL090114

List of Appellants

No.	Appellant
1	Ontario Stone, Sand & Gravel Association (OSSGA)
2	Paletta International Corporation
3	P&L Livestock Limited
9	St. Marys Cement (Canada) Inc.
10	Demik Developments
11	1694408 Ontario Inc.
13	Artstone Holdings Limited
14	Artstone Holdings Limited
15	Weizer Investments Limited
16	Corpveil Holdings Limited
18	Ancaster Christian Reform Church
	456941 Ontario Ltd., 1263339 Ontario Ltd. and Lea Silvestri ("Silvestri
19	Investments")
20	Angelo Giacomelli and Mario Nesci
22	Keith Pickles and Brenda Pickles
	John Paolini, Gino DalBello, Olindo DalBello, Luigi DeTina, Peter Djeneralovic,
23	Jim Swick and Quinto Simone
24	New Country Investors Limited
25	1507565 Ontario Inc.
27	Lafarge Canada Inc.

- 28 Peter Cartwright
- 29 City of Hamilton
- 30 Dr. Tom Nugent
- 32 DiCenzo (Golf Club Road) Holdings Inc.
- 33 Dufferin Aggregates (a division of Holcim (Canada) Inc.)
- 35 David E. Mercer
- 36 Multi-Area Developments Inc.
- 37 Paletta International Corporation (Elfrida Lands)

- 39 2101510 Ontario Inc. (subsumed by Paletta International Corporation)
- 40 2000963 Ontario Inc.
- 41 Mud & First Inc.
- 42 2084696 Ontario Inc.
- 43 2188410 Ontario Inc.

The Ontario Municipal Board has received appeals under subsection 17(36) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended, from a decision of the City of Hamilton to approve Official Plan Amendment No. 35 to the Region of Hamilton-Wentworth Official Plan
OMB File No. PL090779 (See Schedule "1")
OMB Case No. PL090779

The Ontario Municipal Board has received appeals under subsection 17(36) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended, from a decision of the City of Hamilton to approve Official Plan Amendment No. 128 to the Town of Ancaster Official Plan (PL090780); Official Plan Amendment No. 18 to the Town of Dundas Official Plan (PL090781); Official Plan Amendment No. 118 to the Town of Flamborough Official Plan (PL090782); Official Plan Amendment No. 75 to the Township of Glanbrook Official Plan (PL090783); Official Plan Amendment No. 220 to the City of Hamilton Official Plan (PL090784); Official Plan Amendment No. 149 to the City of Stoney Creek Official Plan (PL090785)
OMB File Nos. PL090780-PL090785 (See Schedule "1")
OMB Case No. PL090779

The Ontario Municipal Board has received appeals under subsection 17(40) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended, from the failure of the Minister of Municipal Affairs and Housing to announce a decision respecting the City of Hamilton Urban Official Plan
OMB File No. PL101381 (See Schedule "2")
OMB Case No. PL101381

The Ontario Municipal Board has received appeals under subsection 17(36) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended, from the decision of the Minister of Municipal Affairs and Housing to approve the new City of Hamilton Urban Official Plan
OMB File No. PL110331 (See Schedule "3")

OMB Case No. PL110331

Auburn Developments Inc. has appealed to the Ontario Municipal Board under subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, from Council's refusal to enact a proposed amendment to Zoning By-law 6593 of the City of Hamilton to rezone lands respecting 17 Ewen Road from "J" (Light and Limited Heavy Industrial, etc.) District to the "E-3" (High Density Multiple Dwellings) District to permit a 10 storey student residential building

Approval Authority File No. ZAC-07-062

OMB File No. PL120574

OMB Case No. PL120574

Auburn Developments Inc. has appealed to the Ontario Municipal Board under subsection 22(7) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, from Council's refusal to enact a proposed amendment to the Official Plan for the City of Hamilton to redesignate land at 17 Ewen Road from "Industrial" to "High Density Residential" to permit a 10 storey student residential building

Approval Authority File No. OPA-07-016

OMB File No. PL120575

OMB Case No. PL120574

Schedule "1"

Appellants to the amendments to the in-force Official Plans of the former Region of Hamilton-Wentworth, Towns of Ancaster, Dundas and Flamborough, Township of Glanbrook and Cities of Hamilton and Stoney Creek (OMB Case No. PL090779)

OMB FILE NO.

APPELLANT NAME

PL090784

Shawcor Ltd.

Schedule "2"

Appellants to the failure of the Minister of Municipal Affairs and Housing to announce a decision respecting the City of Hamilton Urban Official Plan (OMB Case No. PL101381)

OMB FILE NO.

APPELLANT NAME

PL101381

A. DeSantis Developments Ltd.
LIUNA Group Corp.
St. Joseph's Villa

Schedule "3"

Appellants to the new City of Hamilton Urban Official Plan (OMB Case No. PL110331)

OMB FILE NO.**APPELLANT NAME**

PL110331

2000963 Ontario Inc.
2051206 Ontario Inc.
2084696 Ontario Inc.
2188410 Ontario Inc.
456941 Ontario Ltd., 1263339 Ontario Ltd., and
Lea Silvestri
909940 Ontario Inc.
Artstone Holdings Limited
Carmen Chiaravelle, 1694408 Ontario Ltd., John
Edward Demik, Peter Demik, Demik Brothers
Hamilton Ltd., and Elaine Vyn
City of Hamilton
Corpveil Holdings Limited
Flamborough Power Centre Inc., Flamborough
South Centre Inc., Clappison Five Six Properties
Inc.
Freeland Developments Limited
Gino and Olindo DalBello
Lynmount Developments Limited
Mondelēz Canada Inc. (formerly Kraft Canada
Inc.)
Mud and First Inc.
Multi-Area Developments Inc.
Norman Vartanian
Paletta International Corporation
Paletta International Corporation (re: Elfrida)
Spallacci & Sons Limited
Sullstar Twenty Limited
Twenty Road Developments Inc.
Upper Centennial Developments Ltd.
Waterdown Bay Ltd.

Heard:

December 6, 2021 by video hearing

APPEARANCES:**Parties****Counsel*/Representative**

See List in Attachment 1

**MEMORANDUM OF ORAL DECISION DELIVERED BY HUGH S. WILKINS ON
DECEMBER 6, 2021 AND ORDER OF THE TRIBUNAL**

[1] On December 6, 2021, the Tribunal held a Case Management Conference (“CMC”) regarding appeals of the Rural Hamilton Official Plan and the Urban Hamilton Official Plan.

[2] At the CMC, the Parties provided the Tribunal with an update on the status of the proceedings, discussed opportunities for settlement discussions, and requested the scheduling of a motion, a further CMC, and the hearing of the appeals.

[3] Updating the Tribunal on the status of the proceedings, the Parties stated that the City of Hamilton Council had recently decided against an urban boundary expansion, which would have narrowed or resolved the issues. They agreed that a hearing should be scheduled. Several entities expressed interest in seeking Party or Participant status and requested that a date be set on which the Tribunal could consider these requests. The City stated that it intends to bring a motion to dismiss appeals brought by Twenty Road West Landowners and suggested that the requests for status could be heard on the same day as the motion.

[4] The Parties described the issues and evidence that would be addressed at the hearing and stated that a draft Procedural Order and Issues List was being finalized. The Parties stated that they have exhausted settlement discussions and requested that the Tribunal set an eleven-week hearing, which the Tribunal scheduled to commence in January 2023.

[5] Subsequent to the CMC, on January 27, 2022, the Parties filed with the Tribunal a draft Procedural Order and Issues List, which includes motion dates for the hearing of the requests for status and the City’s motion to dismiss. The Tribunal has now

reviewed, revised, and approves these documents. The Tribunal notes that the Issues List may be subject to refinements and scoping.

[6] The Parties also requested, and the Tribunal agreed to, the scheduling of a further CMC for August 2023 to finalize preparations for the hearing.

ORDER

[7] The Tribunal directs that requests for Party and Participant status will be heard along with the City's motion to dismiss by video hearing on **Thursday, June 9, 2021** commencing at **10 a.m.** Two days have been set aside.

[8] The Tribunal directs that a further CMC will be held by video hearing on **Monday, August 15, 2022** commencing at **10 a.m.** One day has been set aside.

[9] The Tribunal directs that the hearing will be held by video hearing on **Monday, January 9, 2023** commencing at **10 a.m.** Eleven weeks have been set aside.

[10] The requests for status, motion, CMC, and the hearing are scheduled to proceed by video as follows:

Requests for Status and Motion to Dismiss

Thursday, June 9, 2022 at 10 a.m.

GoTo Meeting: <https://global.gotomeeting.com/join/450070605>

Access code: 450-070-605

Audio-only telephone line: (647) 497-9373 or Toll Free 1-888-299-1889

Audio-only access code: 829-991-525

CMC

Monday, August 15, 2022 at 10 a.m.

GoTo Meeting: <https://global.gotomeeting.com/join/829991525>

Access code: 829-991-525

Audio-only telephone line: (647) 497-9373 or Toll Free 1-888-299-1889

Audio-only access code: 829-991-525

Hearing

Monday, January 9, 2023 at 10 a.m.

GoTo Meeting: <https://global.gotomeeting.com/join/217268517>

Access code: 217-268-517

Audio-only line: (647) 497-9373 or Toll Free 1-888-299-1889

Audio-only access code: 217-268-517

[11] Parties and participants are asked to log into the video hearings at least **15 minutes** before the start of each event to test their video and audio connections.

[12] Parties and participants are asked to access and set up the application well in advance of the event to avoid unnecessary delay. The desktop application can be downloaded at [GoToMeeting](https://app.gotomeeting.com/home.html) or a web application is available:

<https://app.gotomeeting.com/home.html>

[13] Persons who experience technical difficulties accessing the GoToMeeting application or who only wish to listen to an event can connect to the event by calling into an audio-only telephone line.

[14] Individuals are directed to connect to the events on the assigned dates at the correct time. It is the responsibility of the persons participating in the hearings by video to ensure that they are properly connected to the events at the correct time. Questions prior to the hearing events may be directed to the Tribunal's Case Coordinator having carriage of this case.

[15] There will be no further notice.

[16] This Member is not seized.

“Hugh S. Wilkins”

HUGH S. WILKINS
MEMBER

Ontario Land Tribunal

Website: olt.gov.on.ca Telephone: 416-212-6349 Toll Free: 1-866-448-2248

The Conservation Review Board, the Environmental Review Tribunal, the Local Planning Appeal Tribunal and the Mining and Lands Tribunal are amalgamated and continued as the Ontario Land Tribunal (“Tribunal”). Any reference to the preceding tribunals or the former Ontario Municipal Board is deemed to be a reference to the Tribunal.

ISSUE DATE:

**OLT Case Nos. PL090114
PL110331**

ATTACHMENT 1

ONTARIO LAND TRIBUNAL

PROCEEDING COMMENCED UNDER subsection 17(36) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellants: Various Appellants
Subject: Rural Hamilton Official Plan
Municipality: City of Hamilton
OLT Case No.: PL090114
OLT File No.: PL090114

PROCEEDING COMMENCED UNDER subsection 17(36) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellants: Various Appellants
Subject: Urban Hamilton Official Plan
Municipality: City of Hamilton
OLT Case No.: PL110331
OLT File No.: PL110331

PROCEDURAL ORDER

1. The Tribunal may vary or add to the directions in this procedural order at any time by an oral ruling or by another written order, either on the parties' request or its own motion.

Organization of the Hearing

2. The video hearing will begin on **January 9, 2023** at 10:00 a.m. The hearing will be held by videoconference, but may be converted to an in-person hearing by direction of the Tribunal.
3. Preliminary motions will be held on on **June 9, 2022** and **June 10, 2022** commencing at 10:00 a.m. The motion hearings will be held by videoconference, but may be converted to an in-person hearing by direction of the Tribunal.
4. A further Case Management Conference will be held on **August 15, 2022** at 10:00 a.m. The Case Management Conference will be held by videoconference, but may be converted to an in-person event by direction of the Tribunal.

5. The length of the hearing will be approximately **eleven (11) weeks**. The parties are expected to cooperate to reduce the length of the hearing by eliminating redundant evidence and attempting to reach settlements on issues where possible. The procedural order deadlines are generally found in **Attachment 1**.
6. The parties and participants identified at the case management conference are set out in **Attachment 2**.
7. The issues are set out in the draft Issues List attached as **Attachment 3**. The Parties will confirm the Issues List and provide a copy to the Tribunal no later than **August 8, 2022**, being 7 days prior to the Case Management Conference described in paragraph 4 above. Aside from the potential for the removal of issues as they may be resolved, there will be no changes to the Issues List unless the Tribunal permits, and a party who asks for changes may have costs awarded against it.
8. The order of evidence shall be as set out in **Attachment 4** to this Order. The Tribunal may limit the amount of time allocated for opening statements, evidence in chief (including the qualification of witnesses), cross-examination, evidence in reply and final argument. The length of written argument, if any, may be limited either on the parties' consent, subject to the Tribunal's approval, or by Order of the Tribunal.
9. Any person intending to participate in the hearing should provide a mailing address, email address and a telephone number to the Tribunal as soon as possible – ideally before the case management conference. Any person who will be retaining a representative should advise the other parties and the Tribunal of the representative's name, address, email address and the phone number as soon as possible.
10. Any person who intends to participate in the hearing, including parties, counsel and witnesses, is expected to review the Tribunal's Video Hearing Guide, available on the Tribunal's website.

Requirements Before the Hearing

11. A party who intends to call witnesses, whether by summons or not, shall provide to the Tribunal and the other parties a list of the witnesses and the order in which they are intended to be called. This list must be delivered on or before **September 12, 2022** and in accordance with paragraph 24 below. A party who intends to call an expert witness must include a copy of the witness' Curriculum Vitae and the area(s)

of expertise in which the witness is proposed to be qualified.

12. Expert witnesses in the same field(s) shall meet at least once prior to **October 11, 2022** to try to resolve or reduce the issues for the hearing. Following the experts' meeting, and if agreement is reached, the witnesses shall prepare an Agreed Statement and identify the remaining issues to be addressed at the hearing, and provide this statement to all of the parties on or before **October 26, 2022**.
13. An expert witness shall prepare an expert witness statement, which shall list any reports prepared by the expert, or any other reports or documents to be relied on at the hearing. Copies of this must be provided as in paragraph 24 below. Instead of a witness statement, the expert may file his or her entire report if it contains the required information. If this is not done, the Tribunal may refuse to hear the expert's testimony. For greater certainty, each expert witness statement must comply with the minimum content requirements specified in Rule 7 of the Tribunal's *Rules*. If the expert witness has prepared any report(s) that he/she intends to rely on at the hearing, and which did not form part of the submissions made to the City, such report(s) shall be provided to the other parties at the same as the delivery of expert witness statements, as in paragraph 24
14. Expert witnesses who are under summons but not paid to produce a report do not have to file an expert witness statement; but the party calling them must file a brief outline of the expert's evidence as in paragraph 13 above. A party who intends to call a witness who is not an expert must file a brief outline of the witness' evidence, as in paragraph 13 above.
15. On or before **November 4, 2022** the parties shall provide copies of their witness and expert witness statements to the other parties in accordance with paragraph 24 below.
16. On or before **November 4, 2022** a participant shall provide copies of their written participant statement to the parties and the OLT case co-ordinator in accordance with paragraph 24 below. A participant cannot present oral submissions at the hearing on the content of their written statement, unless ordered by the Tribunal.
17. On or before **December 5, 2022**, the parties may provide to all other parties a written response to any written evidence received and in accordance with paragraph 24 below.
18. On or before **December 16, 2022**, the parties shall provide copies of their visual evidence to all of the other parties in accordance with paragraph 24 below. The Tribunal and all parties shall be notified if a model will be used, and all parties must

have a reasonable opportunity to view it before the scheduled commencement of the hearing.

19. A person wishing to change written evidence, including witness statements, must make a written motion to the Tribunal. Such a motion shall be in accordance with the Tribunal's Rule 10, which requires that the moving party provide copies of the motion to all other parties at least **fifteen (15) days** before the Tribunal hears the motion.
20. A party who provides written evidence of a witness to the other parties must have the witness attend the hearing to give oral evidence, unless the party notifies the other parties and the Tribunal at least **seven (7) days** before the hearing that the written evidence is not part of their record.
21. On or before **December 23, 2022**, the parties shall prepare and file with the Tribunal a Hearing Plan that identifies the following, at a minimum: the identified parties participating in the Hearing Event, preliminary matters (if any to be addressed), the date a witness is expected to attend the Tribunal, the identified witness name/expertise, and the approximate time allotted for Examination in Chief, Cross Examination and any re-examination (if any) (the "**Hearing Plan**"). The Hearing Plan should be used to guide the Hearing Event, and any and all witnesses shall be available on the identified date(s), unless otherwise directed by the Tribunal. The Tribunal may, at its discretion, change or alter the Hearing Plan throughout the Hearing Event.
22. The parties shall cooperate and share the costs to prepare a joint document book which shall be shared with the OLT case co-ordinator on or before **December 23, 2022**. All parties must be served with the joint document book in paper or an accessible electronic format in accordance with paragraph 24.
23. Any documents which may be used by a party in cross examination of an opposing party's witness shall be password protected and only be accessible to the Tribunal and the other parties if it is introduced as evidence at the hearing, pursuant to the directions provided by the OLT case co-ordinator.
24. All filings of documents with the Tribunal of documents referred to in this Procedural Order shall be in electronic and in hard copy, unless otherwise directed. Documents to be served on other parties may be done in electronic form only. Electronic copies may be filed by email, an electronic file sharing service for documents that exceed 10MB in size or as otherwise directed by the Tribunal. The delivery of documents by email shall be governed by the Rule 7. All documents to be filed with the Tribunal shall be organized, tabbed and digitally searchable and such materials will be filed in accordance with directions contained in the Tribunal's Video Hearing Guide, dated July 2, 2020, or as may be amended. This paragraph applies regardless of whether

the hearing event is in-person or electronic.

25. No adjournments or delays will be granted before or during the hearing except for serious hardship or illness. The Tribunal's Rule 17 applies to such requests.

26. The purpose of this Procedural Order and the meaning of the terms used in this Procedural Order are set out in **Attachment 5**.

This Member is not seized.

So orders the Tribunal.

BEFORE:

Name of Member) Date:
)
)

TRIBUNAL REGISTRAR

ATTACHMENT 1
SUMMARY OF DATES

DATE	EVENT
September 12, 2022	Exchange of witness lists (names, disciplines and order to be called)
October 11, 2022	Experts meeting prior to this date
October 26, 2022	Agreed Statement of Expert Witnesses (if any)
November 4, 2022	Exchange of Witness Statements, summoned witness outlines, Expert Reports and Participant Statements
December 5, 2022	Exchange of Reply Witness Statements
December 16, 2022	Exchange of Visual Evidence
December 23, 2022	Hearing Plan filed with the Tribunal
December 23, 2022	Finalize Joint Document Book
January 9, 2023	Hearing commences

ATTACHMENT 2

LIST OF APPELLANTS, PARTIES AND PARTICIPANTS

Appellant / Party	Representative	Contact Information
City of Hamilton	Michael Kovacevic/Aisling Flarity	City of Hamilton Legal Services, Corporate Services Department 71 Main Street West Hamilton, ON L8P 4Y5 (t) 905-546-2424 (e) michael.kovacevic@hamilton.ca / aisling.flarity@hamilton.ca
	Kim Mullin	Wood Bull LLP 65 Queen Street West, Suite 1400 Toronto, ON M5H 2M5 (t) 416-203-5633 (e) kmullin@woodbull.ca
Ministry of Municipal Affairs and Housing	Ugo Popadic	Ministry of the Attorney General Legal Services Branch – Ministry of Municipal Affairs and Housing 777 Bay Street, 16 th Floor Toronto, ON M7A 2J3 (t) 647-637-7400 (e) ugo.popadic@ontario.ca
1507565 Ontario Inc.	David Sunday/Jonathan Minnes	Gowling WLG 345 King Street West, Suite 600 Kitchener, ON N2G 0C5 (t) 519-575-7513 / 519-569-4561 (e) david.sunday@gowlingwlg.com / jonathan.minnes@gowlingwlg.com
<ul style="list-style-type: none"> • Demik Developments • Carmen Chiaravalle • 1694408 Ontario Inc. • Demik Brothers Hamilton Ltd. 	Susan Rosenthal/Samantha Lampert	Davies Howe LLP 425 Adelaide Street West, 10 th Floor Toronto, ON M5V 3C1 (t) 416-263-4518/416-263-4523 (e) susanr@davieshowe.com / samanthal@davieshowe.com
	Denise Baker	WeirFoulds LLP 1525 Cornwall Road, Suite 10 Oakville, ON L6J 0B2

Appellant / Party	Representative	Contact Information
<ul style="list-style-type: none"> • John Edward Demik • Peter Demik • Elaine Vyn <p>("Twenty Road East Landowners")</p>		<p>(t) 416-947-5090 (e) dbaker@weirfoulds.com</p>
<ul style="list-style-type: none"> • Sullstar Twenty Limited 909940 Ontario Inc. • Lynmount Developments Limited • Twenty Road Developments Inc. • Spallacci & Sons Ltd. • 2051206 Ontario Inc. <p>("Twenty Road West Landowners")</p>	<p>Joel Farber / Matthew Rutledge</p>	<p>Fogler Rubinoff LLP 77 King Street West, Suite 3000 North Tower, TD Centre Toronto, ON M5K 1G8 (t) 416-365-3707 / 416-864-7607 (e) jfarber@foglers.com / mrutledge@foglers.com</p>
<ul style="list-style-type: none"> • Multi-Area Developments Inc. • Mud & First Inc. • Marz Homes Brofrida Inc. • Marz Homes (Elfrida) Inc. • Palleta International Corporation • 1356715 Ontario Inc. • 2188410 Ontario Inc. • 2084696 Ontario Inc. <p>("Elfrida Landowners")</p>	<p>Mark Noskiewicz/Joe Hoffman</p>	<p>Goodmans LLP Bay Adelaide Centre 333 Bay Street, Suite 3400 Toronto, ON M5H 2S7 (t) 416-597-4136 / 416-597-5168 (e) mnoskiewicz@goodmans.ca / jhoffman@goodmans.ca</p>

Appellant / Party	Representative	Contact Information
<ul style="list-style-type: none"> • 456941 Ontario Ltd. • 1263339 Ontario Ltd. • Lea Silvestri (“Silvestri Investments”)	Peter Pickfield / Alex Ciccone	Garrod Pickfield LLP 9 Norwich Street West Guelph, ON N1H 2G8 (t) 519-837-0500 (e) pickfield@garrodpickfield.ca / aciccone@garrodpickfield.ca
<ul style="list-style-type: none"> • Artstone Holdings Limited • Corpveil Holdings Limited • Weizer Investments Limited • LIUNA Group Corp. 	Scott Snider/Anna Toumanians	Turkstra Mazza Associates 15 Bold Street Hamilton, ON L8P 1T3 (t) 905-529-3476 (e) ssnider@tmalaw.ca / atoumanians@tmalaw.ca
<ul style="list-style-type: none"> • DiCenzo (Golf Club Road) Holdings Inc. • DiCenzo Construction Company Limited 	Russell Cheeseman	Russel D. Cheeseman Royal Building, Municipal Law Chambers 277 Lakeshore Road East, Suite 211 Oakville, ON L6J 1 Hp (t) 416-955-9523 (e) rdcheese@aol.com

Participants

Dr. Tom Nugent
 Property PIN #17391
 Con 2 PT Lot 10 GL GB
 (t) (905) 643-9036
 tpnugent@sympatico.ca

ATTACHMENT 3

DRAFT CONSOLIDATED ISSUES LIST

Note: The identification of an issue does not mean that all parties agree that such issue, or the manner in which the issue is expressed, is appropriate or relevant to the determination of the Tribunal at the hearing. The extent to which these issues are appropriate or relevant to the determination of the Tribunal at the hearing will be a matter of evidence and argument at the hearing.

1. Should the references to the GRIDS Study in the UHOP be deleted, including, without limitation, the reference in Policy 1.6, as this study has not undergone a public review process under the Planning Act?
2. Are additional growth area(s) needed to meet the City's projected housing needs to 2031?
3. If additional growth areas are needed to meet the City's projected housing needs to 2031:
 - i) how much additional land is needed?
 - ii) is it appropriate to add additional growth areas to the existing urban boundary?
 - iii) should some or all of the Elfrida lands be identified as being part of, or all of, a Future Urban Growth District as provided for in the adopted but not approved Policy B.2.2.1 b)?
 - iv) alternatively or in addition, should some or all of the Elfrida lands be added to the lands within the City's urban boundary?
 - v) should some or all of the Twenty Road East lands be identified as being part of, or all of, a Future Urban Growth District?
 - vi) alternatively or in addition, should some or all of the Twenty Road East lands be added to the lands within the City's urban boundary?
 - vii) should some or all of the Twenty Road West lands be identified as being part of, or all of, a Future Urban Growth District?
 - viii) alternatively or in addition, should some or all of the Twenty Road West lands be added to the lands within the City's urban boundary?

4. Is it appropriate and is it good planning to identify areas for future urban boundary expansions, including as provided for in the adopted but not approved Policy B.2.2.1?
5. Is the adopted but not approved Policy B.2.2.1 consistent with, and does it conform to, Provincial policy?
6. Has a need been established to justify the identification of the areas for future urban boundary expansions in the Hamilton Urban OP?
7. Does the identification of the future urban growth district as provided for in the approved Policy B.2.2.1 constitute a de facto settlement boundary expansion?
8. Have the policies of the Provincial Policy Statement and the Growth Plan for the Greater Golden Horseshoe with respect to settlement area boundary expansion been met?
9. Do the City's growth studies reasonably and appropriately justify and support the identification for the expansion of a settlement area boundary expansion? Are the assumptions, methodology and information input relied on in the GRIDS study appropriate, reasonable and sufficient?
10. Is the list of planning analyses identified in Policy B.2.2.3 for a municipally initiated comprehensive review and secondary plan complete and appropriate?
11. Should studies and guidelines be afforded policy status, particularly where they do not exist presently and/or have not undergone a public review process under the Planning Act?
12. Are the tests set out in Policy B.2.2 for a municipally initiated comprehensive review consistent with the Provincial Policy Statement and do they conform with the Growth Plan?

ATTACHMENT 4

ORDER OF EVIDENCE

The Parties shall submit the Order of Evidence to the Tribunal at the August 2022 CMC.

ATTACHMENT 4

PURPOSE OF THE PROCEDURAL ORDER AND MEANING OF TERMS

The Tribunal recommends that the parties **meet to discuss this sample Order before the prehearing conference** to try to identify the issues and the process that they want the Tribunal to order following the conference. The Tribunal will hear the parties' comments about the contents of the Order at the conference.

Prehearing conferences usually take place only where the hearing is expected to be long and complicated. If you are not represented by a lawyer, you should prepare by obtaining the Ontario Land Tribunal Appeal Guide, and the Tribunal's Rules, from the Tribunal Information Office, 15th Floor, 655 Bay Street, Toronto, M5G 1E5, 416-326-6800, or from the Tribunal's website at <https://elto.gov.on.ca/tribunals/OLT/about-OLT/>.

MEANING OF TERMS USED IN THE PROCEDURAL ORDER

Party is an individual or corporation permitted by the Tribunal to participate fully in the hearing by receiving copies of written evidence, presenting witnesses, cross-examining the witnesses of the other parties, and making submissions on all of the evidence. If an **unincorporated group** wishes to become a party, it must appoint one person to speak for it, and that person must accept the other responsibilities of a party as set out in the Order. Parties do not have to be represented by a lawyer, and may have an agent speak for them. The agent must have written authorization from the party. **NOTE** that a person who wishes to become a party before or at the hearing, and who did not request this at the case management conference (CMC), must ask the Tribunal to permit this.

Participant is an individual, group or corporation, whether represented by a lawyer or not, who may make a written submission to the Tribunal. A participant cannot make an oral submission to the Tribunal or present oral evidence (testify in-person) at the hearing (only a party may do so). Subsection 33.2 of the Local Planning Appeal Tribunal Act states that a person who is not a party to a proceeding may only make a submission to the Tribunal in writing. The Tribunal may direct a participant to attend a hearing to answer questions from the Tribunal on the content of their written submission, should that be found necessary by the Tribunal. A participant may also be asked questions by the parties should the Tribunal direct a participant to attend a hearing to answer questions on the content of their written submission.

A participant must be identified and be accorded participant status by the Tribunal at the CMC. A participant will not receive notice of conference calls on procedural issues that may be scheduled prior to the hearing, nor receive notice of mediation. A participant cannot ask for costs, or review of a decision, as a participant does not have the rights of a party to make such requests of the Tribunal.

Written and Visual Evidence: **Written evidence** includes all written material, reports, studies, documents, letters and witness statements which a party or participant intends to present as evidence at the hearing. These must have pages numbered consecutively throughout the entire document, even if there are tabs or dividers in the material. **Visual**

evidence includes photographs, maps, videos, models, and overlays which a party or participant intends to present as evidence at the hearing.

Witness Statements: A **witness statement** is a short written outline of the person's background, experience and interest in the matter; a list of the issues which he or she will discuss and the witness' opinions on those issues; and a list of reports that the witness will rely on at the hearing. An **expert witness statement** should include his or her (1) name and address, (2) qualifications, (3) a list of the issues he or she will address, (4) the witness' opinions on those issues and the complete reasons for the opinions and (5) a list of reports that the witness will rely on at the hearing. A **participant statement** is a short written outline of the person's or group's background, experience and interest in the matter; a list of the issues which the participant will address and a short outline of the evidence on those issues; and a list of reports, if any, which the participant will refer to at the hearing.

ADDITIONAL INFORMATION

Summons: A party must ask a Tribunal Member or the senior staff of the Tribunal to issue a summons. This request must be made before the time that the list of witnesses is provided to the Tribunal and the parties. (See Rule 13 on the summons procedure.) If the Tribunal requests it, an affidavit must be provided indicating how the witness' evidence is relevant to the hearing. If the Tribunal is not satisfied from the affidavit, it will require that a motion be heard to decide whether the witness should be summoned.

The order of examination of witnesses: is usually direct examination, cross-examination and re-examination in the following way:

- direct examination by the party presenting the witness;
- direct examination by any party of similar interest, in the manner determined by the Tribunal;
- cross-examination by parties of opposite interest;
- re-examination by the party presenting the witness; or
- another order of examination mutually agreed among the parties or directed by the Tribunal.