

Ontario Municipal Board
Commission des affaires municipales
de l'Ontario



ISSUE DATE: April 20, 2017

CASE NO(S):

PL161115
PL161118

PROCEEDING COMMENCED UNDER subsection 22(7) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant and Appellant: Upper Centennial Developments Ltd.
Subject: Request to amend the Official Plan - Failure of City of Hamilton to adopt the requested amendment

Existing Designation: Arterial Commercial, Low Density Residential 2b, Institutional and Arterial Commercial Neighbourhoods, Low Density Residential 3C, Medium Density Residential 3 and Local Commercial

Proposed Designated:

Purpose: To permit the proposed development of street townhouses, maisonettes, semi-detached dwellings, an apartment building, and a range of retail and service commercial uses

Property Address/Description: 165 Upper Centennial Parkway
Municipality: City of Hamilton
Approval Authority File No.: UHOPA-15-007
OMB Case No.: PL161115
OMB File No.: PL161115
OMB Case Name: Upper Centennial Developments Ltd. v. Hamilton (City)

PROCEEDING COMMENCED UNDER subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant and Appellant: Upper Centennial Developments Ltd.
Subject: Application to amend Zoning By-law No. 3692-92 - Neglect of the City of Hamilton to make a decision

Existing Zoning: Community Shopping Centre (Holding) – SC2-5(H) and Community Shopping Centre (Holding) – SC2-6(H)

Proposed Zoning: Multiple Residential RM2-23, Multiple Residential RM3, Residential R5-10, Multiple Residential RM4, Local Commercial LC

Purpose: To permit the proposed development of street townhouses, maisonettes, semi-detached dwellings, an apartment building, and a range of retail and service commercial uses

Property Address/Description: 165 Upper Centennial Parkway
Municipality: City of Hamilton
Municipality File No.: ZAC-15-015
OMB Case No.: PL161115
OMB File No.: PL161116

PROCEEDING COMMENCED UNDER subsection 51(34) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant and Appellant: Upper Centennial Developments Ltd.
Subject: Proposed Plan of Subdivision - Failure of the City of Hamilton to make a decision

Purpose: To permit the proposed development of street townhouses, maisonettes, semi-detached dwellings, an apartment building, and a range of retail and service commercial uses

Property Address/Description: 165 Upper Centennial Parkway
Municipality: City of Hamilton
Municipality File No.: 25T-201503
OMB Case No.: PL161115
OMB File No.: PL161117

PROCEEDING COMMENCED UNDER subsection 22(7) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant and Appellant: Penta Properties Inc.
Subject: Request to amend the Official Plan - Failure of the City of Hamilton to adopt the requested amendment

Existing Designation: Institutional-Elementary School, Utility, Low Density Residential 2b, Medium Density Residential 3

Proposed Designated: Low Density Residential 3c, Low Density Residential 2b, Utility

Purpose: To permit the development of a range of low density residential uses comprising of townhouses, single detached, duplex and semi-detached dwellings

Property Address/Description: 198 First Rd. W & 165 Upper Centennial Parkway
Municipality: City of Hamilton
Approval Authority File No.: UHOPA-14-012
OMB Case No.: PL161118
OMB File No.: PL161118
OMB Case Name: Penta Properties Inc. v. Hamilton (City)

PROCEEDING COMMENCED UNDER subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant and Appellant: Penta Properties Inc.
 Subject: Application to amend Zoning By-law Nos. 05-200 and 3692-92 - Neglect of the City of Hamilton to make a decision

Existing Zoning: Neighbourhood Institutional (I1), Community Shopping Centre (Holding) "SC-2-5 (H)", Multiple Residential "RM4"

Proposed Zoning: Multiple Residential RM2-23, Single Residential "R4", Conservation/Hazard (P5)

Purpose: To permit the development of a range of low density residential uses comprising of townhouses, single detached, duplex and semi-detached dwellings

Property Address/Description: 198 First Rd. W & 165 Upper Centennial Parkway

Municipality: City of Hamilton
 Municipality File No.: ZAC-14-027
 OMB Case No.: PL161118
 OMB File No.: PL161119

PROCEEDING COMMENCED UNDER subsection 51(34) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant and Appellant: Penta Properties Inc.
 Subject: Proposed Plan of Subdivision - Failure of the City of Hamilton to make a decision

Purpose: To permit the development of a range of low density residential uses comprising of townhouses, single detached, duplex and semi-detached dwellings

Property Address/Description: 198 First Rd. W & 165 Upper Centennial Parkway

Municipality: City of Hamilton
 Municipality File No.: 25T-200908R
 OMB Case No.: PL161118
 OMB File No.: PL161120

Heard: April 11, 2017 in Hamilton, Ontario

APPEARANCES:

| <u>Parties</u> | <u>Counsel</u> |
|------------------------------------|-----------------------|
| City of Hamilton (“City”) | M. Kovacevic |
| Upper Centennial Developments Ltd. | S. Snider |
| Penta Properties Inc. | S. Snider |
| Michael Tellerd | Self-represented |

**MEMORANDUM OF ORAL DECISION DELIVERED BY BLAIR S. TAYLOR
APRIL 11, 2017 AND ORDER OF THE BOARD**

INTRODUCTION

[1] On April 11, 2017, the Board held a Pre-hearing Conference with regard to two development applications that had been appealed to the Board.

[2] The first matter was with regard to the property known municipally as 165 Upper Centennial Parkway owned by Upper Centennial Developments Ltd. (“Ltd”) concerning an Official Plan Amendment (“OPA”), a Zoning By-law Amendment (“ZBA”), and a Draft Plan of Subdivision (“Draft Plan”) all of which had been appealed to the Board as no City decisions had been made within the statutory time frames.

[3] The second matter was with regard to an adjacent property known municipally as 198 First Road West and 165 Upper Centennial Parkway owned by Penta Properties Inc. (“Inc”). Similarly its OPA, ZBA and Draft Plan had been appealed to the Board as no City decisions had been made within the statutory time frames.

[4] The purpose of the Pre-hearing Conference was to organize for the hearing on the merits and ascertain if there were any other persons interested in the hearing of the appeals.

[5] In that regard, Michael Tellerd of 151 Upper Centennial Parkway appeared and indicated that he was an owner in the immediate area and had concerns with regard to drainage, and he sought party status.

[6] Additionally, a representative of Losani Homes (1998) Incorporated advised the Board that it owned lands in the immediate vicinity and it sought to have participant status.

[7] The Board heard from counsel for the City and counsel for Ltd and Inc with regard to an issue of consolidation, the likely length of the hearing, potential hearing dates, and a Procedural Order and Issues List.

[8] The Board considered the matters raised and gave an oral decision with regard to these matters, granted party status to Michael Tellerd, granted participant status to Losani Homes (1998) Incorporated, fixed a hearing date, and fixed a date for the submission of a draft Procedural Order and Issues List.

DECISION

[9] As adjacent property owners, the Board granted, on consent, party status to Michael Tellerd, and participant status to Losani Homes (1998) Incorporated.

[10] The Board was advised that the two matters before the Board are inter-related. With the consent of all the parties, the Board consolidated the two matters pursuant to s. 57 of the Board's *Rules of Practice and Procedure*.

[11] Submissions from counsel indicated that a five day hearing was necessary and the Board set the **five day hearing to commence on Monday, November 20, 2017 at 10 a.m. at:**

**Dundas Town Hall
OMB Hearing Room
(2nd Floor Auditorium)
60 Main Street
Dundas, ON, L9H 1C6**

[12] The Board directs that a Procedural Order and Issues List be prepared for the hearing. Counsel for Ltd and Inc shall be responsible for the submission of a draft Procedural Order and Issues List to the Case Coordinator on or before July 7, 2017 for issuance by the Board.

[13] There will be no further notice.

[14] I am not seized.

[15] Scheduling permitting, I may be available for case management purposes.

Blair S. Taylor

BLAIR S. TAYLOR
MEMBER

If there is an attachment referred to in this document,
please visit www.elto.gov.on.ca to view the attachment in PDF format.

Ontario Municipal Board

A constituent tribunal of Environment and Land Tribunals Ontario
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