

**Local Planning Appeal Tribunal**  
Tribunal d'appel de l'aménagement  
local



**ISSUE DATE:** April 06, 2021

**CASE NO(S):** PL200458

The Ontario Municipal Board (the “OMB”) is continued under the name Local Planning Appeal Tribunal (the “Tribunal”), and any reference to the Ontario Municipal Board or Board in any publication of the Tribunal is deemed to be a reference to the Tribunal.

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

Applicant and Appellant:	LJM Developments (Stoney Creek) Inc.
Subject:	Request to amend the Official Plan - Refusal of request by the City of Hamilton
Existing Designation:	Medium Density Residential 3
Proposed Designated:	High Density Residential
Purpose:	To permit
Property Address/Description:	325 Highway No. 8
Municipality:	City of Hamilton
Approval Authority File No.:	UHOPA-20-005
LPAT Case No.:	PL200458
LPAT File No.:	PL200458
LPAT Case Name:	LJM Devt. (Stoney Creek) 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:	LJM Developments (Stoney Creek) Inc.
Subject:	Application to amend Zoning By-law No. 3692-92 - Refusal of Application the City of Hamilton
Existing Zoning:	Multiple Residential (RM4-8) – Zone
Proposed Zoning:	Site-specific – to be determined
Purpose:	To permit
Property Address/Description:	325 Highway No. 8
Municipality:	City of Hamilton
Municipality File No.:	ZAC-20-010
LPAT Case No.:	PL200458
LPAT File No.:	PL200459

**Heard:** March 10, 2021 by video hearing

**APPEARANCES:**

**Parties**

**Counsel**

LJM Developments (Stoney  
Creek) Inc.

R.D. Cheeseman

City of Hamilton

P. MacDonald

**MEMORANDUM OF ORAL DECISION DELIVERED BY N.P. ROBINSON ON MARCH  
10, 2021 AND ORDER OF THE TRIBUNAL**

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**INTRODUCTION**

[1] This Case Management Conference (“CMC”) was convened for appeals lodged by LJM Developments (Stoney Creek) Inc. (“LJM”) in relation to the refusal of the City of Hamilton (“City”) to adopt a proposed Official Plan Amendment (“OPA”) and Zoning By-law Amendment (“ZBA”) to permit the construction of a high-density multi-unit residential dwelling.

**PARTIES & PARTICIPANTS**

[2] The statutory Parties to this proceeding are LJM as the Appellant and the City as the Approval Authority.

[3] The Tribunal received no Party status or Participant status requests in advance of this CMC.

**NEXT STEPS**

[4] The City and LJM indicated to the Tribunal that there would be no meaningful benefit to mediation and provided the Tribunal with a draft Procedural Order with Issues List attached to this Decision as Schedule 1.

[5] That Order shall issue in the form set out at Schedule 1 and the matter shall be set for a nine-day hearing commencing at **10 a.m. on Monday, November 29 to Friday, December 10, 2021**, excluding December 9 when the Tribunal is unavailable. The PO shall be in effect and in force as of the date of issuance of this decision.

[6] The Parties are asked to log into the video hearing at least **15 minutes** before the start of the event to test their video and audio connections:

<https://global.gotomeeting.com/join/311929573>

**Access Code:** 311-929-573

[7] 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](#) or a web application is available:

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

[8] Persons who experience technical difficulties accessing the GoToMeeting application or who only wish to listen to the event can connect to the event by calling into an audio-only telephone line: **Toll-Free 1-888-455-1389 or +1 (647) 497-9391**. The **access code** is **311-929-573**.

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

[10] There will be no further notice.

[11] This Member is not seized for the purpose of the hearing.

[12] The Tribunal so orders.

*"N.P. Robinson"*

N.P. ROBINSON  
MEMBER

If there is an attachment referred to in this document,  
please visit [www.olt.gov.on.ca](http://www.olt.gov.on.ca) to view the attachment in PDF format.

**Local Planning Appeal Tribunal**

A constituent tribunal of Ontario Land Tribunals

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# SCHEDULE 1

PL200458

## LOCAL PLANNING APPEAL TRIBUNAL

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

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Purpose: To permit  
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Municipality: City of Hamilton  
Municipality File No.: ZAC-20-010  
LPAT Case No.: PL200458  
LPAT File No.: PL200459

## PROCEDURAL ORDER

The Tribunal orders that:

[1] The Tribunal may vary or add to this Order at any time either on request or as it sees fit. It may amend this Order by an oral ruling or by another written Order.

**Organization of the Hearing**

[2] The hearing will commence on Monday, November 29, 2021, at 10:00 a.m. by Videoconference.

[3] The length of the hearing will be 9 days. The length of the hearing may be shortened as issues are resolved or settlement is achieved.

[4] The parties and participants identified at the prehearing conference are listed in Attachment 1 to this Order.

[5] The Issues are set out in the Issues List attached as Attachment 2 to this Order. There will be no changes to this list unless the Board permits it. A party who asks for changes may have costs awarded against it.

[6] The order of evidence shall be as listed in Attachment 3 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 consent or by Order of the Tribunal.

**Requirements Before the Hearing**

[7] All parties and participants (or their representatives) shall provide a mailing address, email address, and telephone number to the Tribunal. Any such person who retains a representative (legal counsel or agent) subsequent to the prehearing conference must advise the other parties and the Tribunal of the representative's name, mailing address, email address and phone number.

[8] A party who intends to call witnesses, whether by summons or not, shall provide to the Tribunal, the other parties and to the Clerk of the City of Hamilton a list of the witnesses and the order in which they will be called. This list must be delivered on or before Friday, July 30, 2021.

[9] Expert witnesses in the same field shall have a meeting before the hearing to try to resolve or reduce the issues for the hearing. The experts must prepare a list of agreed facts and the remaining issues to be addressed at the hearing, on or before Friday, August 27, 2021 and provide this list to all of the parties and the Clerk of the City of Hamilton.

[10] An expert witness shall prepare an expert witness statement, that shall include: an acknowledgement of expert's duty form, the area(s) of expertise, any reports prepared by the expert, and any other reports or documents to be relied on at the hearing. Copies of this must be provided as in section [12]. 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.

[11] 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 and his or her area of expertise, as in section [12].

[12] On or before Friday, September 24, 2021, the parties shall provide copies of their witness and expert witness statements to the other parties and the Tribunal.

[13] On or before Friday, November 19, 2021 the parties shall provide copies of their visual evidence to all of the other parties and the Tribunal. If a model is proposed to be used the Tribunal must be notified before the hearing. All parties must have a reasonable opportunity to view it before the hearing.

[14] Parties may provide to all other parties and the Tribunal a written response to any written evidence on or before Friday, October 29, 2021.

[15] A person wishing to change written evidence, including witness statements, must make a written motion to the Tribunal in accordance with the Tribunal Rule 10.

[16] A party who provides the written evidence of a witness to the other parties must have that witness attend the hearing to give oral evidence, unless the Tribunal and the parties are notified at least 7 days before the hearing that the written evidence is not part of their record.

[17] The parties shall prepare and file a hearing plan with the Tribunal on or before Friday, November 19, 2021 with a proposed schedule for the hearing that identifies, as a minimum, the parties participating in the hearing, the preliminary matters (if any to be addressed), the anticipated order of evidence, the date each witness is expected to attend, the anticipated length of time for evidence to be presented by each witness in chief, cross-examination and re-examination (if any) and the expected length of time for final submissions. The parties are expected to ensure that the hearing proceeds in an efficient manner and in accordance with the hearing plan. The Tribunal may, at its discretion, change or alter the hearing plan at any time in the course of the hearing.

[18] All filings shall be electronic with a hard copy of all filings also being provided to the Board. Electronic copies may be filed by email, an electronic file sharing service for documents that exceed 10MB in size, or as other directed by the Tribunal. The delivery of documents by email shall be governed by the Tribunal Rule 7 on this subject.

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

This Member is not seized.

So orders the Tribunal.



**Attachment 1**

**PARTIES**

1. LJM Developments (Stoney Creek) Inc.
2. City of Hamilton

**PARTICIPANTS**

None

## **Attachment 2**

### **Issues List**

1. Is the development proposal consistent with the Provincial Policy Statement (2020) (“PPS”) in terms of accommodating an appropriate range and mix of residential types and densities, and promoting well designed built form, as required by PPS policies 1.1.1 b), 1.4.3, and 1.7.1 e)?
2. Does the development proposal conform to the A Place to Grow: Growth Plan for the Greater Golden Horseshoe (2019, as amended) (“P2G”), in terms of achieving complete communities by providing a diverse mix and range of housing options, and providing for a more compact building form and a vibrant public realm, as required by P2G policies 2.2.1.4?
3. Does the development proposal meet the residential intensification tests of the Urban Hamilton Official Plan (“UHOP”), in terms of establishing a relationship that maintains, enhances, and builds upon the existing neighbourhood character and contributes to maintaining and achieving an appropriate range and mix of dwelling types and tenures, as required by UHOP Volume 1 policies B.2.4.1.4 and B.2.4.2.2?
4. Does the development proposal contribute to achieving the planned urban structure, built form, and density of the UHOP, Western Development Area Secondary Plan, and Poplar Park Neighbourhood Plan for Secondary Corridors and High Density Residential designations, as required by UHOP Volume 1 policies E.2.4.10, E.2.4.11, E.2.4.12, E.3.6.6, and E.3.6.7; and UHOP Volume 2 policy B.7.1.1.5?
5. Does the development proposal provide for a compatible integration with the surrounding area in terms of scale, form, and character, as required by PPS Policy 1.2.6.1 and UHOP Volume 1 policies E.2.4.16, E.3.2.4, and E.3.3.2? Specifically, does the proposal address matters such as:
  - a. overlook;
  - b. noise;
  - c. the transition and relationship of the proposed multiple dwelling from the secondary corridor with the height, massing, and scale of adjacent residential neighbourhood dwellings;
  - d. the provision of amenity space and relationship to existing patterns of private and public amenity space; and,

- e. ability to respect and maintain or enhance the streetscape patterns, including setbacks and the location of a noise barrier adjacent to a secondary corridor?
6. Does the cumulative effect of the proposed zoning modifications, including increased height and density and reduced setbacks and landscaped area, respect and maintain or enhance the existing character of the area?
  7. Does the development proposal conform to the Urban Design policies, as required by UHOP Volume 1 policies B.3.3.2.3, B.3.3.2.4, and B.3.6.3.11, to:
    - a. respect the existing character, development patterns, built form, and landscape;
    - b. promote quality design consistent with the locale and surrounding environment; and,
    - c. create quality spaces through the design and placement of the proposed building and landscaping that physically and visually connects the public and private realms, including the location of a noise barrier adjacent to a secondary corridor?
  8. Do the proposed upgrades to the existing sanitary sewer system, in order to accommodate the proposed increase in density for the development proposal, represent orderly development and logical expansion of infrastructure and services, as required by PPS Policy 1.1.3.3 and UHOP Volume 1 policies B.2.4.1.4, B.2.4.2.2, and C.5.3.11?
  9. Is a holding provision appropriate for the proposed development, and if so, what are the appropriate provisions to include?
  10. Does the development proposal provide a sufficient number of parking spaces given the location of the site within the context of the Secondary Corridor and surrounding Neighbourhood, as required by UHOP Volume 1 policies E.2.4.17?
  11. Does the proposed development represent good land use planning and is in the public interest?

**Attachment 3**

**ORDER OF EVIDENCE**

1. LJM Developments (Stoney Creek) Inc.
2. City of Hamilton
3. LJM Developments (Stoney Creek) Inc., in Reply