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OCT 27 2020

SERVICE BURLINGTON

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ssnider@tmalaw.ca

October 27, 2020

VIA COURIER

City of Burlington
Office of the City Clerk
Attn: Kevin Arjoon, City Clerk
426 Brant Street, First Floor
Burlington, ON.
L7R 3Z6

Dear Mr. Arjoon,

**RE: Appeal of Non-Decision of the City of Burlington to the
Local Planning Appeal Tribunal pursuant to s. 22(7) of the *Planning Act*
Official Plan Amendment Application No.: 505-02/20
2107 Old Lakeshore Road and 2119 Lakeshore Road
Old Lakeshore (Burlington) Inc. - Our File No. 13540**

We are counsel to Old Lakeshore (Burlington) Inc. Our client owns property municipally known as 2107 Old Lakeshore Road and 2119 Lakeshore Road in the City of Burlington ("Subject Lands"). The Subject Lands are located north of Old Lakeshore Road, east of Pearl Street, south of Lakeshore Road and west of Torrance Street East and have an area of approximately 0.20 hectares (0.50 acres). The site is proposed to be developed with a 27-storey mixed use building containing 150 residential units and 598 square metres of retail space at grade.

Our client made applications for an Official Plan Amendment and Zoning By-Law Amendment ("Applications") in December 2019 with a further submission in January 2020. These Applications were deemed complete by the City on February 27, 2020. A copy of the

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TURKSTRA MAZZA ASSOCIATES, LAWYERS

Notice of Complete Application dated March 12, 2020 is attached.

To date, Council has failed to make a decision in connection with the Applications. Pursuant to Section 22(7) of the *Planning Act*, we hereby appeal the Official Plan Amendment to the Local Planning Appeal Tribunal. A decision was not made on the Applications within the statutory timeframe of 120 days. Pursuant to Section 5 of O. Reg. 149/20, this does not include the time between March 17, 2020 and June 22, 2020, when *Planning Act* timelines were suspended due to the COVID-19 emergency.

We are also filing a related appeal with respect to Council's failure to make a decision on the Zoning By-Law Amendment. In our respectful submission, these matters should be consolidated.

We enclose a cheque made payable to the Minister of Finance in the order of \$1,100.00 as the appropriate filing fee along with a completed Form A1.

Yours truly,



PER: Scott Snider

Atss: 13540/14
Encls.

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March 12, 2020



905 335-7600 Ext. 7860
905 335-7880
Rebecca.Lau@burlington.ca

Old Lakeshore Burlington Inc.
c/o Mark Bales
2069 Lakeshore Road
Burlington, ON
L7R 1E2

Dear: Mr. Bales,

SUBJECT: 2107 Old Lakeshore Road & 2119 Lakeshore Road
File No's.: 505-02/20 & 520-03/20

Your applications to amend the Official Plan and Zoning By-law 2020 (as amended), for 2107 Old Lakeshore Road and 2119 Lakeshore Road, Burlington, Ontario have been deemed complete as of February 27, 2020. Public and technical circulation of the above applications will commence within the next 30 days.

We have received your cheque for the Region of Halton, which will be forwarded to the Region.

Burlington's Official Plan policy for a complete development application requires you to identify the property under application with a "Notice" sign. This sign must be posted on the subject property before the application is processed.

The notice sign should be located on the site on private property where it will have maximum exposure to the streets, and will not obstruct the vision of motorists or pedestrians. The notice sign will be prepared by the City of Burlington, and you will be contacted by our Sign Shop when it is ready to be picked up.

Please send us a letter of confirmation along with a photograph of the notice sign erected on the site, to ensure compliance with Council's policy.

Should you have any questions on the above, or require further information, please call me at (905) 335-7600 ext. 7860.

Yours truly,

A handwritten signature in black ink, appearing to be 'RL'.

Rebecca Lau
Planner II, Development Review

c.c. Jamie Tellier - Interim Director of Community Planning
Brynn Nheiley - Manager - Development Planning



Ontario Land Tribunals

Local Planning Appeal Tribunal
655 Bay Street, Suite 1500
Toronto ON M5G 1E5
Telephone: 416-212-6349
Toll Free: 1-866-448-2248
Website: www.olt.gov.on.ca

Appellant Form (A1)

Instructions for preparing and submitting the Appellant Form (A1)

For help navigating the LPAT appeals process, practices and procedures, please see information on the LPAT website <http://olt.gov.on.ca/tribunals/lpat/lpat-process/>

- **Important: Do not send your appeal directly to the Local Planning Appeal Tribunal (LPAT).** Submit your completed appeal form(s) and filing fee(s) by the filing deadline to either the Municipality or the Approval Authority/School Board, as applicable. The notice of decision provided by the Municipality/Approval Authority/School Board will tell you where to send the form and appeal fee.
- The Municipality/Approval Authority/School Board will forward your appeal(s) and fee(s) to the LPAT.
- We are committed to providing services as set out in the *Accessibility for Ontarians with Disabilities Act, 2005*. If you have any accessibility needs, please contact our Accessibility Coordinator as soon as possible at:
Toll free: 1-866-448-2248; or
TTY: 1-800-855-1155 via Bell relay
- E-mail is the primary form of communication used by the LPAT. Providing an e-mail address ensures prompt delivery/receipt of documents and information. Please ensure to include your e-mail address in the space provided on the appeal form.
- A filing fee is required for each type of appeal you are filing. Please see the Tribunal's Fee Schedule to calculate the correct amount due.
- To view the Fee Schedule, visit the LPAT's website [<http://olt.gov.on.ca/lpat/fee-chart/>].
- The filing fee **must** be paid by certified cheque or money order, in Canadian funds, payable to the **Minister of Finance**. Do not send cash.
- If you are represented by a lawyer the filing fee may be paid by a solicitor's general or trust account cheque.
- Professional representation is not required but please advise the LPAT if you retain a representative after the submission of this form.
- Should you need more room to provide a further explanation to any sections throughout this form, please attach a separate letter to the back of the form.
- Provide both an electronic copy (.pdf) and paper copy of all document submissions. The electronic submissions are to be provided by USB key.
- The *Planning Act*, *Development Charges Act*, *Education Act*, *Local Planning Appeal Tribunal Act*, and others, are available on the LPAT website [<http://olt.gov.on.ca/lpat/legislation-and-rules/>].



Ontario Land Tribunals
 Local Planning Appeal Tribunal
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 Toronto ON M5G 1E5
 Telephone: 416-212-6349
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Appellant Form (A1)

Receipt Number (LPAT Office Use Only)

Date Stamp Appeal Received by Municipality/Approval Authority
RECEIVED
 OCT 27 2020
 SERVICE BURLINGTON

To file an appeal, select one or more below

- Appeal of *Planning Act* matters for Official Plans and amendments, Zoning By-Laws and amendments and Plans of Subdivision, Interim Control By-laws, Site Plans, Minor Variances, Consents and Severances, proceed to Section 1A
- Second appeal of a *Planning Act* matter for Official Plans and amendments, Zoning By-Laws and amendments, proceed to Section 1B. NOTE: Bill 139, *Building Better Communities and Conserving Watersheds Act, 2017*, allows appeals to the Tribunal of some *Planning Act* matters previously determined by LPAT.
- Appeals of other matters, including Development Charges, *Education Act*, *Aggregate Resources Act*, *Municipal Act* and Ontario Heritage, proceed to Section 1C

1 A. Appeal Type (Please check all applicable boxes)

Subject of Appeal	Type of Appeal	Reference (Section)
Planning Act Matters		
Official Plan or Official Plan Amendment	<input type="checkbox"/> Appeal a decision by local council that adopted an OP or OPA (exempt from approval by Minister or Approval Authority)	17(24)
	<input type="checkbox"/> Appeal a decision of an Approval Authority that approved or did not approve all or part of a plan or amendment	17(36)
	<input type="checkbox"/> Approval Authority failed to make a decision on the plan within 120 days	17(40)
	<input checked="" type="checkbox"/> Council failed to adopt the requested amendment within 120 days	22(7)
	<input type="checkbox"/> Council refuses to adopt the requested amendment	
Zoning By-law or Zoning By-law Amendment	<input type="checkbox"/> Appeal the passing of a Zoning By-law	34(19)
	<input type="checkbox"/> Application for an amendment to the Zoning By-law – failed to make a decision on the application within 90 days	34(11)
	<input type="checkbox"/> Application for an amendment to the Zoning By-law – failed to make a decision within 120 days where the application is associated with an Official Plan Amendment	
	<input type="checkbox"/> Application for an amendment to the Zoning By-law – refused by the municipality	
Interim Control Zoning By-law	<input type="checkbox"/> Appeal the passing of an Interim Control By-law within 60 days (Minister only)	38(4)
	<input type="checkbox"/> Appeal the passing of an extension of an Interim Control By-law within 60 days	38(4.1)
Site Plan	<input type="checkbox"/> Application for a site plan – council failed to make a decision within 30 days	41(12)

Subject of Appeal	Type of Appeal	Reference (Section)
	<input type="checkbox"/> Appeal requirements imposed by the municipality or upper tier municipality	41(12.01)
Minor Variance	<input type="checkbox"/> Appeal a decision of the Committee of Adjustment that approved or refused the application	45(12)
Consent/Severance	<input type="checkbox"/> Appeal a decision that approved or refused the application	53(19)
	<input type="checkbox"/> Appeal conditions imposed	
	<input type="checkbox"/> Appeal changed conditions	53(27)
	<input type="checkbox"/> Application for consent – Approval Authority failed to make a decision on the application within 90 days	53(14)
Plan of Subdivision	<input type="checkbox"/> Application for a plan of subdivision – Approval Authority failed to make a decision on the plan within 120 days	51(34)
	<input type="checkbox"/> Appeal a decision of an Approval Authority that approved a plan of subdivision	
	<input type="checkbox"/> Appeal a decision of an Approval Authority that did not approve a plan of subdivision	
	<input type="checkbox"/> Appeal a lapsing provision imposed by an Approval Authority	51(39)
	<input type="checkbox"/> Appeal conditions imposed by an Approval Authority	
	<input type="checkbox"/> Appeal conditions - after expiry of 20 day appeal period but before final approval (only applicant or public body may appeal)	51(43)
	<input type="checkbox"/> Appeal changed conditions	51(48)

1 B. Appeal Type (Please check all applicable boxes) Only for appeal(s) of a new decision or non-decision by municipality or Approval Authority following a previous LPAT Decision (i.e., second appeal).

For matters subject to Bill 139 and the associated transition regulation (the second appeal).

Subject of Appeal	Type of Appeal	Reference (Section)
Planning Act Matters		
Official Plan or Official Plan Amendment	<input type="checkbox"/> Appeal of a decision by Approval Authority on an OP or OPA (exempt from approval by Minister or Approval Authority) following a LPAT decision	17(24) and 17(49.6)
	<input type="checkbox"/> Appeal of a decision by Council or Approval Authority on an OP or OPA following a LPAT decision	17(36) and 17(49.6)
	<input type="checkbox"/> Appeal of a refusal within 90 days by Council following a LPAT decision	22(7) and 22(11.0.12)
	<input type="checkbox"/> Appeal of a non-decision within 90 days by Council following a LPAT decision	
Zoning By-law or Zoning By-law Amendment	<input type="checkbox"/> Appeal of a refusal within 90 days by Council following a LPAT decision	34(11) and 34(26.5)
	<input type="checkbox"/> Appeal of a non-decision within 90 days by Council following a LPAT decision	
	<input type="checkbox"/> Appeal of a decision by Council following a LPAT decision	34(19) and 34(26.5)

1 C. Other Appeal Types (Please check all applicable boxes)

Subject of Appeal	Type of Appeal	Reference (Section)
<i>Development Charges Act Matters</i>		
Development Charge By-law	<input type="checkbox"/> Appeal a Development Charge By-law	14
	<input type="checkbox"/> Appeal an amendment to a Development Charge By-law	19(1)
Development Charge Complaint	<input type="checkbox"/> Appeal municipality's decision regarding a complaint	22(1)
	<input type="checkbox"/> Failed to make a decision on the complaint within 60 days	22(2)
Front-ending Agreement	<input type="checkbox"/> Objection to a front-ending agreement	47
	<input type="checkbox"/> Objection to an amendment to a front-ending agreement	50
<i>Education Act Matters</i>		
Education Development Charge By-law	<input type="checkbox"/> Appeal an Education Development Charge By-law	257.65
	<input type="checkbox"/> Appeal an amendment to an Education Development Charge By-law	257.74(1)
Education Development Charge Complaint	<input type="checkbox"/> Appeal approval authority's decision regarding a complaint	257.87(1)
	<input type="checkbox"/> Failed to make a decision on the complaint within 60 days	257.87(2)
<i>Aggregate Resources Act Matters</i>		
Aggregate Removal Licence	<input type="checkbox"/> One or more objections against an application for a 'Class A' aggregate removal licence	11(5)
	<input type="checkbox"/> One or more objections against an application for a 'Class B' aggregate removal licence	
	<input type="checkbox"/> Application for a 'Class A' licence – refused by Minister	11(11)
	<input type="checkbox"/> Application for a 'Class B' licence – refused by Minister	
	<input type="checkbox"/> Changes to conditions to a licence	13(6)
	<input type="checkbox"/> Amendment of site plans	16(8)
	<input type="checkbox"/> Minister proposes to transfer the licence – applicant does not have licensee's consent	18(5)
	<input type="checkbox"/> Minister proposes to refuse transfer of licence – applicant is licensee or has licensee's consent to transfer	
	<input type="checkbox"/> Minister proposes to refuse transfer of licence – applicant does not have licensee's consent to transfer	
<input type="checkbox"/> Revocation of licence	20(4)	
<i>Municipal Act Matters</i>		
Ward Boundary By-law	<input type="checkbox"/> Appeal the passing of a by-law to divide the municipality into wards	222(4)
	<input type="checkbox"/> Appeal the passing of a by-law to redivide the municipality into wards	

Subject of Appeal	Type of Appeal	Reference (Section)
	<input type="checkbox"/> Appeal the passing of a by-law to dissolve the existing wards	

Ontario Heritage Act Matters

Designation of Property	<input type="checkbox"/> Appeal a Notice of intention to designate property	29(11)
	<input type="checkbox"/> Appeal of an amendment to a by-law designating property	30.1(10)
	<input type="checkbox"/> Appeal a Notice of Intention to repeal a designating by-law or part of a designating by-law	31(9)
	<input type="checkbox"/> Appeal a council's decision to approve or refuse the repealing of a designating by-law or part of a designating by-law	32(7)/32(8)
	<input type="checkbox"/> Appeal council's decision to alter a heritage designated property	33(9)
Heritage Conservation District	<input type="checkbox"/> Appeal the passing of a by-law designating a heritage conservation study area	40.1(4)
	<input type="checkbox"/> Appeal the passing of a by-law designating a heritage conservation district	41(4)

Other Act Matters

Subject of Appeal	Act/Legislation Name	Section Number

2. Location Information

Address and/or Legal Description of property subject to the appeal
 2107 Old Lakeshore Road and 2119 Lakeshore Road

Municipality
 City of Burlington

Upper Tier (Example: county, district, region)
 Region of Halton

3. Appellant/Objector Information

Note: You must notify the LPAT of any change of address or telephone number in writing. Please quote your LPAT Case/File Number(s) after they have been assigned.

Last Name

First Name

Company Name or Association Name (Association must be incorporated – include copy of letter of incorporation)
 Old Lakeshore (Burlington) Inc.

Email Address

Daytime Telephone Number

ext.

Alternate Telephone Number

Mailing Address

Unit Number

Street Number

Street Name

PO Box

City/Town

Province

Country

Postal Code

4. Representative Information

I hereby authorize the named company and/or individual(s) to represent me

Last Name
Snider

First Name
Scott

Company Name
Turkstra Mazza Associates

Professional Title
Lawyer

Email Address
ssnider@tmalaw.ca

Daytime Telephone Number
905-529-3476

ext.

Alternate Telephone Number

Mailing Address

Unit Number

Street Number
15

Street Name
Bold Street

PO Box

City/Town
Hamilton

Province
Ontario

Country
Canada

Postal Code
L8P 1T3

Note: If you are representing the appellant and are not licensed under the *Law Society Act*, please confirm that you have written authorization, as required by the LPAT's Rules of Practice and Procedure, to act on behalf of the appellant. Please confirm this by checking the box below.

I certify that I have written authorization from the appellant to act as a representative with respect to this appeal on his or her behalf and I understand that I may be asked to produce this authorization at any time.

5. Appeal Reasons

Municipal Reference Number(s)
505-02/20

For all appeal types, please outline the nature of the appeal and the reasons for your appeal.

[Please see attached letter.](#)

For appeals of Official Plans, Official Plan Amendments, Zoning By-laws and Zoning By-law Amendments, please indicate if you intend on arguing one or more of the following:

A: A decision of a Council or Approval Authority is:

- Inconsistent with the Provincial Policy Statement, issued under subsection 3(1) of the *Planning Act*
- Fails to conform with or conflicts with a provincial plan
- Fails to conform with an applicable Official Plan

And

B: For a non-decision or decision to refuse by council:

- Consistency with the provincial policy statement, issued under subsection 3(1) of the *Planning Act*
- Conformity with a provincial plan
- Conformity with the upper-tier municipality's Official Plan or an applicable Official Plan

If you intend on arguing on one or more of the above throughout a proceeding, please explain:

[Please see attached letter \(details not required under section 22\(8\) of the Planning Act\)](#)

Oral/written submissions to council

If applicable, did you make your opinions regarding this matter known to council?

Oral submissions at a public meeting of council

Written submissions to council

6. Related Matters

Are there other appeals not yet filed with the Municipality?

Yes No

Are there other matters related to this appeal? (For example: A consent application connected to a variance application)

Yes No ▼

If yes, please provide LPAT Case Number(s) and/or Municipal File Number(s)

[Zoning By-Law Amendment Application No.: 520-03/20. These matters should be consolidated.](#)

7. Mediation

Mediation is a confidential process in which the parties to an appeal talk about their differences and, with the facilitative assistance of an impartial individual, a mediator, negotiate a consensual resolution of the appeal. Unless the Tribunal determines that there is a good reason for not addressing the appeal with mediation, all parties shall presume that their differences will first be addressed through a mediation directed by the Tribunal. As such, parties shall act and prepare accordingly, meaning good faith negotiation and collaboration are a priority and are expected by the Tribunal.

I have read and understand the above statement.

8. Witness Information

Detail the nature and/or expertise of witnesses you will have available.

[TBD based on issues for hearing](#)

For all other appeal types :

Describe expert witness(es)' area of expertise (For example: land use planner, architect, engineer, etc.).

9. Required Fee

Total Fee Submitted \$ **1,100**

Payment Method ► Certified cheque Money Order Lawyer's general or trust account cheque

10. Declaration

I solemnly declare that all of the statements and the information provided, as well as any supporting documents are true, correct and complete.

Name of Appellant/Representative	Signature of Appellant/Representative	Date (yyyy/mm/dd)
Scott Snider		2020/10/27

Personal information or documentation requested on this form is collected under the provisions of the *Planning Act*, R.S.O. 1990 c. P. 13 and the *Local Planning Appeal Tribunal Act*. After an appeal is filed, all information relating to this appeal may become available to the public.

