# COMMUNICATION UPDATE

| | |
|---|---|
| **TO:** | Mayor and Members<br>City Council |
| **DATE:** | June 27, 2025 |
| **SUBJECT:** | Appeal of Urban Hamilton Official Plan Amendment No. 232 and Rural Hamilton Official Plan Amendment No. 44 (Framework for Processing and Evaluating Urban Boundary Expansion Applications) to the Ontario Land Tribunal |
| **WARD(S) AFFECTED:** | City Wide |
| **SUBMITTED BY:**<br><br>**SIGNATURE:**<br><br><br><br>**SIGNATURE:** | Dave Heyworth<br>Acting Director and Senior Advisor – Strategic Growth Planning and Economic Development Department &<br> <br><br>Anita Fabac<br>Acting Director of Planning and Chief Planner<br>Planning and Economic Development Department<br> |

The purpose of this communication update is to inform Council that the City has received three appeals of Urban Hamilton Official Plan Amendment No. 232 and Rural Hamilton Official Plan Amendment No. 44 which implement the City's Framework for Processing and Evaluating Urban Boundary Expansion Applications (Framework).

**BACKGROUND**

The City of Hamilton has developed a Framework for Processing and Evaluating Urban Boundary Expansions (Framework) in direct response to policy and legislative changes enacted by the Province which allow privately initiated urban boundary expansion applications of any size and for any location to be submitted at any time provided that they are outside of the Greenbelt area.

In August 2024, City Council approved a Draft Framework for Processing and Evaluating Urban Boundary Expansion Applications (Draft Framework) and directed staff to use the Draft Framework in reviewing urban boundary expansion applications

received until community engagement had been concluded on the Draft Framework and a final Framework was implemented through Official Plan Amendments.

On April 16, 2025, City Council adopted the recommendations of staff report PED24109(b) and approved:

- A final Framework;
- Urban Hamilton Official Plan Amendment No. 232 and Rural Hamilton Official Plan Amendment No. 44 enshrining the requirements of the Framework into policy; and,
- Terms of References for specific studies required to support privately initiated urban boundary expansion applications including a Financial Impact Analysis, Housing Assessment and Subwatershed Study (Phase 1).

Notice of adoption of the Official Plan Amendments was issued in accordance with the *Planning Act*.

**APPEALS**

The City has received three appeals of Urban Hamilton Official Plan Amendment No. 232 and Rural Hamilton Official Plan Amendment No. 44 to the Ontario Land Tribunal:

- An appeal from Goodmans LLP dated May 16, 2025, representing the Elfrida Landowners Group which is made up of 25 corporations that own land within the Elfrida area. Staff note that the City has already received an urban boundary expansion application from the Elfrida Landowners Group for the Elfrida area (UHOPA-25-007/RHOPA-25-008) that is to be considered at a Special Meeting of Planning Committee scheduled for June 25, 2025.

- An appeal from Aird Berlis dated May 16, 2025, representing four corporations that own land within the White Church area. Staff note that the City has already received an urban boundary expansion application from the White Church Landowners Group Inc. (UHOPA-25-004/RHOPA-25-005) which is to be considered at a Special Meeting of Planning Committee scheduled for June 25, 2025.

- An appeal from Kagan Shastri DeMelo Winer Park LLP dated May 16, 2025, representing the Upper West Side Landowners Group Inc. which is made up of eight corporations that own land within the Twenty Road West area and the Airport Employment Growth District Secondary Plan area. Staff note that the City received urban boundary expansion applications in 2020 for the Twenty Road

West lands which have also been appealed to the Ontario Land Tribunal. A merit hearing for those applications is scheduled for April 13, 2026.

A copy of the three appeals is enclosed with this Communication Update.

On June 23, 2025 the Ontario Land Tribunal sent letters to Goodmans LLP (representing the Elfrida Landowners Group) and Kagan Shastri DeMelo Winer Park LLP (representing Upper West Side Landowners Group) stating that in both letters:

> "The authority of the Tribunal to conduct hearings and issue decisions must be explicitly provided in legislation. The Tribunal has reviewed your appeal and attached documents. The legislation(s), and the section(s) therein, you have provided in your Notice of Appeal/Appellant Form are not provisions under which the Tribunal has authority to conduct a hearing and make decisions. Accordingly, the Tribunal does not have the jurisdiction to process this matter."

The Ontario Land Tribunal has send a letter to Aird & Berlis who submitted an appeal on behalf of four corporations owning land within the proposed White Church expansion area allowing the appeal to proceed.

As of the date of this update, it is unclear whether the Elfrida Landowners Group and Upper Westside Landowners Group intend to challenge the Tribunal's decision respecting their jurisdiction to process the appeals. The Tribunal will most likely set a case management conference at which the status of any parties and future hearing dates will be set.

**NEXT STEPS**

To notify residents that participated and provided input in the City's consultation on the Draft Framework, staff will be:

- Updating the City's engage page for the Framework (engage.hamilton.ca/ubeapplicationframework)
- Updating the City's urban boundary expansion webpage (www.hamilton.ca/ube)
- Sending an e-mail to the City's Urban Boundary e-mail list.

A Case Management Conference has not yet been scheduled in response to these appeals.

**Impact on Future Urban Boundary Expansion Applications**

With the exception of the Official Plan Amendments, the final Framework and new terms of references approved by City Council on April 16, 2025, are not subject to the *Planning Act* and therefore not subject to the Ontario Land Tribunal appeals. This means that should the City receive new urban boundary expansion applications, staff will apply both the final Framework and new terms of references in receiving, processing, and considering the proposal. However, as discussed in Report PED24109(b), until the requirements of the final Framework are enshrined in the Official Plans as policy, the document will act a guideline which may limit the City's ability to mandate certain requirements including prescribing minimum submission requirements, early Indigenous consultation, and enhanced public notification.

Please contact Dave Heyworth, Acting Director and Senior Advisor – Strategic Growth with any questions at Dave.Heyworth@hamilton.ca or by phone at (905) 546-2424 Ext. 7451.

**APPENDICES AND SCHEDULES**

Appendix 1 - Goodmans LLP Appeal Letter
Appendix 2 - Aird Berlis Appeal Letter
Appendix 3 - Kagan Shastri DeMelo Winer Park LLP Appeal Letter