

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



20-162-LPAT Attachment 1

**ISSUE DATE:** July 15, 2020

**CASE NO.:**

PL171388

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

Applicant and Appellant:	Losani Homes (1998) Ltd.
Subject:	Application to amend Zoning By-law No. (6593) - Neglect of the City of Hamilton to make a decision
Existing Zoning:	"C" District (Urban Protected Residential)
Proposed Zoning:	"RT-20/S-XXX" District (Townhouse - Maisonette)
Purpose:	To permit townhouse and Maisonette dwelling units as part of a common element condominium.
Property Address/Description:	575 Woodward Avenue
Municipality:	City of Hamilton
Municipality File No.:	ZAC-17-031
OMB Case No.:	PL171388
OMB File No.:	PL171388
OMB Case Name:	Losani Homes (1998) Ltd. vs. Hamilton (City)

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

Applicant and Appellant:	Losani Homes (1998) Ltd.
Subject:	Proposed Plan of Subdivision - Failure of the City of Hamilton to make a decision
Purpose:	To permit townhouse and Maisonette dwelling units as part of a common element condominium.
Property Address/Description:	575 Woodward Avenue
Municipality:	City of Hamilton

BEFORE:

DAVID L. LANTHIER )  
VICE-CHAIR )  
 )  
 ) Wednesday, the 15<sup>th</sup>  
 ) day of July, 2020

**THIS MATTER** came before the Tribunal for a settlement hearing on July 18, 2019, and after the hearing the Tribunal, in its Decision issued on February 19, 2020, granting approvals to a draft Zoning By-law and draft Plan of Condominium, withheld its final Order to await the fulfillment of the conditions imposed by the Tribunal. The Tribunal subsequently received communications from the City of Hamilton with respect to the conditions and also received a request from the Parties, on consent, to approve certain minor revisions to the Draft Plan of Condominium approved by the Tribunal, and

**UPON REVIEWING** a request for clarification and correction of a final Order prepared for issuance on May 11, 2020, and receiving the request for the revisions, and upon the facts and background set out below, this final Order of the Tribunal now issues for the purposes of clarification and correction in accordance with Rule 24 of the Tribunal's *Rules of Practice and Procedure* and for the purposes of approving minor revisions to the draft Plan of Condominium, and the orderly final disposition of these proceedings in accordance with s. 31 of the *Local Planning Appeal Tribunal Act, 2017*.

**WHEREAS:**

- (a) The Tribunal issued an Interim Decision and Order on February 19, 2020 ("Interim Decision") which allowed the appeal of the Zoning By-law Amendment ("ZBLA") in part in accordance with the ZBLA appended as Attachment 1 to that Interim Decision, subject to the single condition that the final Order be withheld until the City confirmed that the draft ZBLA was finalized to the satisfaction of City Officials;
- (b) That Interim Decision also allowed the appeal of the draft Plan of Condominium ("Draft Plan") in part, in accordance with the Draft Plan attached as Attachment 2 to that Interim Decision, subject to the single condition that the final Order be withheld until the City confirmed that the Draft Plan was in its final form;

- (c) That Interim Decision further provided that the Draft Plan was subject to the conditions set out in Attachment 3 to the Interim Decision and the two additional conditions set out in paragraphs 49 and 50 (collectively the “Draft Plan Conditions”) which were to be fulfilled to the satisfaction of the City;
- (d) The Tribunal was advised by the City on April 28, 2020 that the ZBLA had been finalized to the satisfaction of the City officials in accordance with the Tribunal’s Interim Decision and that the final Order could be issued with respect to the ZBLA;
- (e) The Tribunal was further advised by the City on April 28, 2020, that the Draft Plan was also approved in its final form, and that the final Order could be issued with respect to the Draft Plan, subject to the fulfillment of the Draft Plan Conditions;
- (f) The City also requested that the Tribunal, for ease of reference, incorporate all of the Draft Plan Conditions (some of which had been in the Tribunal’s Order) to be fulfilled, into one consolidated Schedule of Draft Plan Conditions and appended to the final Order;
- (g) Following receipt of the advice from the City, the Tribunal prepared a final Order which may inadvertently have lacked clarity with respect to the fulfillment of the Tribunal’s Conditions and the Draft Plan Conditions and accordingly the City, with the consent of the Applicant/Appellant, requested that this corrected Order be issued as a final Order, subject to fulfillment of the still-outstanding Draft Plan Conditions set out in the now-consolidated schedule of Draft Plan Conditions; and
- (h) The Tribunal was then subsequently requested by the Applicant/Appellant, on June 24, 2020, with the consent of the City, to approve minor modifications and revisions to the Draft Plan approved by the Tribunal in the Interim Decision and to incorporate the final form of the Draft Plan into its final Order containing those minor revisions from the version presented at the settlement hearing, and now finalized in accordance with paragraph 47 of the Tribunal’s Interim Decision;

**AND THE TRIBUNAL** having considered the matters set out above and having received the request to approve and incorporate the minor revisions to the Draft Plan approved by the Tribunal, with the consent of all parties, has deemed it appropriate that a corrected final Order now be issued incorporating the consolidated Draft Plan Conditions, and the final revised Draft Plan;

**NOW THEREFORE:**

**THE TRIBUNAL ORDERS** that the Order prepared for issuance on May 11, 2020 is rescinded as necessary and replaced by this final Order incorporating the necessary corrections and clarification and appending the requested varied Plan of Condominium and consolidated schedule of conditions.

**THE TRIBUNAL ORDERS** that the s. 34(11) appeal filed by Losani Homes (1998) Ltd. is allowed in part in accordance with the Zoning By-law marked as Attachment 1 to this Order.

**THE TRIBUNAL ORDERS** that the s. 51(34) appeal respecting the Draft Plan of Condominium is allowed in part and draft plan approval shall now apply to the Draft Plan of Condominium in Attachment 2 to this Order, subject to the conditions of approval marked as Attachment 3 to this Order.

**THE TRIBUNAL ORDERS** upon the consent of the parties, and pursuant to s. 51(56.1) of the *Planning Act*, that the City of Hamilton shall have the authority to clear the conditions of Draft Plan approval included in Attachment 3 of this Order and to administer final approval of the Plan of Condominium for the purposes of s. 51(58) of the *Planning Act*.

**IN THE EVENT** that the Parties have any difficulty implementing this Order or any of the conditions of Draft Plan approval, or if any further changes are required to be made to the draft Plan, the Tribunal may be spoken to. The Tribunal's files are now closed.

*“Evelyn Dawes”*

EVELYN DAWES  
DEPUTY REGISTRAR

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

Website: [www.olt.gov.on.ca](http://www.olt.gov.on.ca) Telephone: 416-212-6349 Toll Free: 1-866-448-2248

## ATTACHMENT 1

**Authority:**

Report LS19027 /  
PED18055(a)

CM:

**Bill No.**

### CITY OF HAMILTON

#### BY-LAW NO.

**To Amend Zoning By-law No. 6593  
Respecting Lands Located at 575 Woodward Avenue  
Owned by Losani Homes (1998) Ltd.**

**WHEREAS** the *City of Hamilton Act, 1999*, Statutes of Ontario, 1999 Chap. 14, Sch. C. did incorporate, as of January 1, 2001, the municipality “City of Hamilton”;

**AND WHEREAS** the City of Hamilton is the successor to certain area municipalities, including the former municipality known as the “The Corporation of the City of Hamilton” and is the successor to the former regional municipality, namely, “The Regional Municipality of Hamilton-Wentworth”;

**AND WHEREAS** the *City of Hamilton Act, 1999* provides that the Zoning By-laws of the former area municipalities continue in force in the City of Hamilton until subsequently amended or repealed by the Council of the City of Hamilton;

**AND WHEREAS** Zoning By-law No. 6593 was enacted on the 25<sup>th</sup> day of July, 1950;

**AND WHEREAS** this By-law is in conformity with the Urban Hamilton Official Plan, as amended;

**NOW THEREFORE** the by-law is enacted as follows:

- (a) That Map E82, appended to and forming part of By-law No. 6593, is amended as follows by changing the zoning from the “C” (Urban Protected Residential, etc.) District to the “RT-20/S-1784” (Townhouse – Maisonette) District, Modified, which are shown on a plan here to annexed as Schedule “A”

2. That the “RT-20” (Townhouse – Maisonette) District provisions, as contained in Section 10E of Zoning By-law No 6593, applicable to the subject lands be modified to include the following special requirements:

- a) Notwithstanding Subsection 2.(2) H.(via) a "Planting Strip" shall mean an area of land growing ornamental shrubs or trees or both, suitable to the soil and climatic conditions of the area of land for the sole purpose of providing a visual barrier or buffer and may include a 1.5 metres wide sidewalk for pedestrian access and a visual barrier.
- b) Notwithstanding Subsection 10E.(3) no building or structure within the district shall exceed three storeys, and no structure other than a building shall exceed 12.0 metres in height.
- c) Notwithstanding Subsection 10E.(4)(a) where a yard abuts a street, a minimum front yard depth not less than 5.9 metres from a street line..
- d) Notwithstanding Subsection 10E.(4)(b) where a yard abuts any other lot the following yards apply:
  - a. A minimum northerly side yard not less than 4.2 metres;
  - b. A minimum southerly side yard not less than 6.0 metres; and,
  - c. A minimum rear yard not less than 6.0 metres.
- e) Notwithstanding Subsection 10E.(5) a distance not less than 2.4 metres between buildings on the same lot.
- f) Notwithstanding Subsection 10E.(6) shall have a lot depth not less than 30.0 metres,
- g) Notwithstanding Subsection 10E.(7) a lot area of not less than 17,000 square metres for each single family dwelling unit and a width of not less than 36.0 metres..
- h) Notwithstanding Subsection 10E.(8), there shall be provided and maintained a privacy area for each dwelling unit that:
  - a. Townhouse Dwellings:
    - i. Is screened on two sides by means of a screen that is not less than 1.2 m and no more than 2.0 metres in height;
    - ii. Is not less than 1.8 metres in depth;

- iii. Is not less than 24 square metres in area and may include a balcony for townhouse dwellings abutting the north property line; and,
    - iv. Not less than 33 square metres in area and may include a balcony for townhouse dwellings abutting the south property line.
  - b. Maisonette Dwellings:
    - i. No screening required;
    - ii. Not less than 0.9 m in depth; and,
    - iii. Not less than 6.5 sq. m. in area and may include a balcony.
- i) Notwithstanding Subsection 10E.(9) “where a privacy area is comprised of the whole or part of,
  - a. A required yard;
  - b. A landscaped area; or,
  - c. A required yard and a landscaped area, the required yard or landscaped area or both may be reduced by the privacy area.
- j) Notwithstanding Subsection 10E.(10) and 10E.(11) there shall be provided and maintained on the same lot for one or more buildings or structures, an amount not less than 35% of the area of the lot on which the buildings or structures are situated, as landscaped area.
- k) No part of any landscaped area provided under Subsection 10E.(11) shall be used for parking space or manoeuvring space, access and egress driveways or for any vehicular purpose of any kind.
- l) Notwithstanding Subsection 18.(3)(vi)(b)(i) and (ii) a canopy, cornice, eave or gutter may project:
  - a. into a required front yard not more than 2.5 metres provided that no such projection shall be closer to a street line than 3.4 metres; and,
  - b. into a required side yard not more than 1.8 metres provided that no such projection shall be closer to a property line than 2.4 metres.
- m) Notwithstanding Subsection 18.(3)(vi)(cc)(iii) into a required side yard not more than 1.8 metres.
- n) In addition to the regulations of Subsection 18.(3)(vi)(d) a roofed-over unenclosed one-storey porch at the first storey level, including eaves and



gutters, may project into a required side yard a distance of not more than 2.5 metres.

- o) In addition to the regulations of Subsection 18.(3)(vi)(d), the privacy area for any townhouse dwelling within 6.0 metres of the northerly side yard shall be designed to provide a maximum of one precast step from the finished floor elevation of an interior door to the townhouse dwelling.
  - p) Notwithstanding Subsection 18A(1)(a) and 18A-Table 1 parking ratios for the following Residential uses shall apply:
    - a. Townhouse: Minimum 2 spaces per unit (includes garage).
    - b. Maisonette: Minimum 2 spaces per unit (includes garage).
  - q) Notwithstanding Subsection 18A(1)(b) and 18A- Table 2 “Minimum Required Residential Visitor Parking”, the following visitor parking ratio shall apply:
    - a. Minimum 0.25 spaces per Class A dwelling unit shall be provided in addition to those parking spaces required for each of the Townhouse and Maisonette dwelling units.
  - r) Notwithstanding Subsection 18A.(7), every required parking space other than a parallel parking space, have dimensions not less than of 2.7 metres wide and 6.0 metres long, except required parking spaces within the driveway shall have dimensions not less than 2.5 metres wide and 5.5 metres long.
  - s) Notwithstanding Subsections 18A.(10) and 18A.(22), the accessibility and manoeuvring space for the required parking space located within each of the attached garages for the townhouse dwellings and maisonette dwellings may be obstructed by the required parking space located on each of the individual driveways.
  - t) Notwithstanding Subsection 18A.(12)(c), a visual barrier along the boundary abutting the residential district not less than 1.2 metres in height and not greater than 2.2 metres in height and may include a 1.5 metres wide sidewalk for pedestrian access without a visual barrier to the west property boundary.
  - u) Notwithstanding Subsection 18A.(29), where a parking space for a townhouse dwelling or maisonette dwelling is covered and attached to or enclosed within the dwelling unit, the entrance to the parking space shall be located not less than 5.5 metres from the entrance to the individual driveway.
  - v) Notwithstanding Subsection 18A.(24)(a), each individual access driveway for the townhouse and the maisonette shall have a width of at least 2.5 metres.
3. The by-law is passed and shall come into effect immediately upon the date of decision by the Local Planning Appeal Tribunal

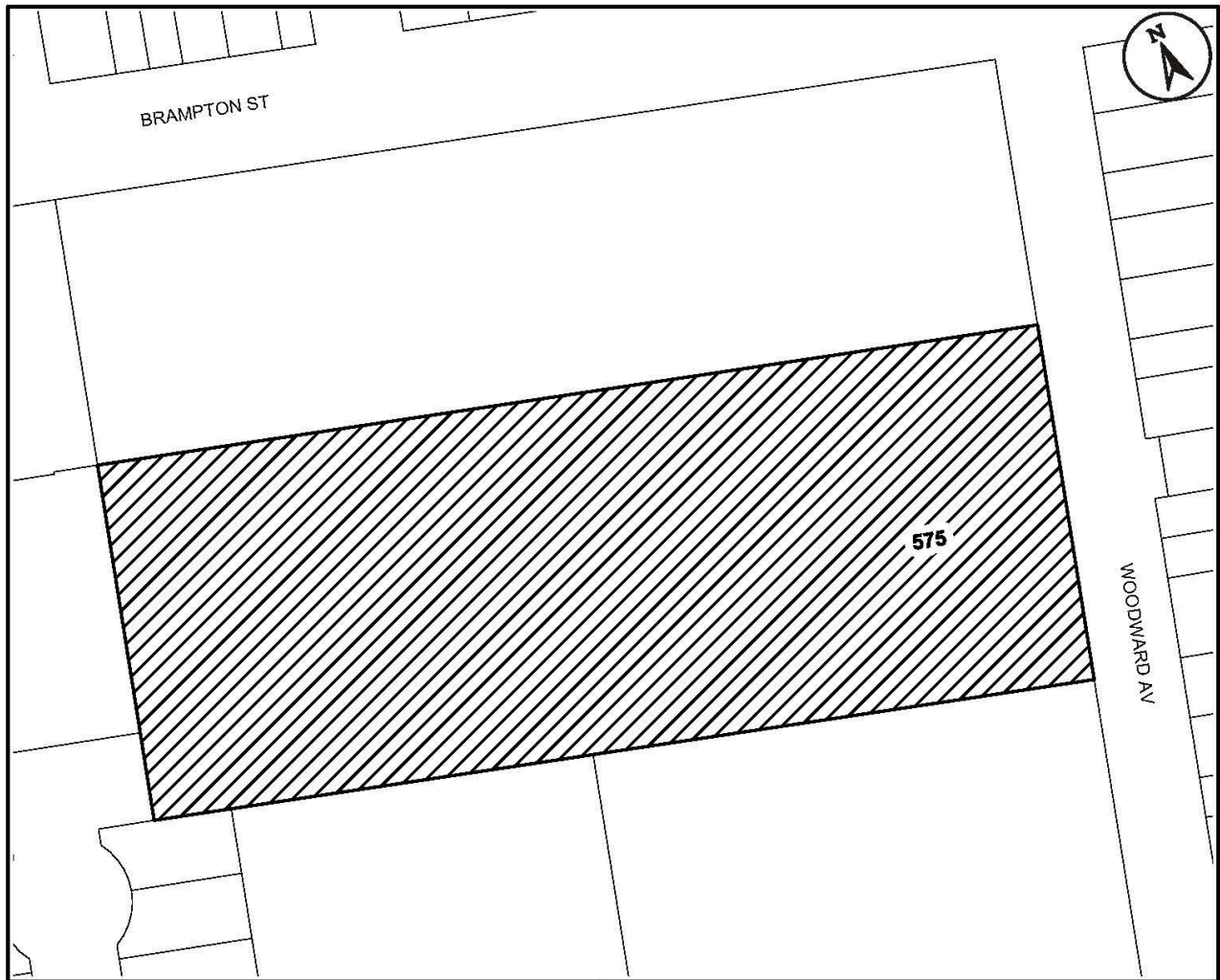
**PASSED** this XX day of June, 2019.

---

F. Eisenberger  
Mayor

---

J. Pilon  
Acting City Clerk



<p>This is Schedule "A" to By-law No. 19-</p> <p>Passed the ..... day of ....., 2019</p>	<p>-----</p> <p style="text-align: center;">Mayor</p> <p>-----</p> <p style="text-align: center;">Clerk</p>
--	---

<p><b>Schedule "A"</b></p> <p>Map Forming Part of By-law No. 19-_____</p> <p>to Amend By-law No. 6593</p>	<p><b>Subject Property</b></p> <p> Change in Zoning from "C" (Urban Protected Residential Etc.) District to "RT-20/S-1784" (Townhouse - Maisonette) District, Modified</p>
---	--

Scale: N.T.S.	File Name/Number: ZAC-17-031 & 25T-201707	<p><b>Hamilton</b></p>
Date: June 11, 2019	Planner/Technician: SM/NB	
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT		