

October 21, 2019

To Whom It May Concern

Denise Baker
Partner
T: 416-947-5090
dbaker@weirfoulds.com

File No. 19322.00001

**Re: NOTICE OF CASE MANAGEMENT CONFERENCE
Local Planning Appeal Tribunal Case No. PL190378
Appeals by Liv Communities**

We are solicitors for Liv Communities, owner of land at 1085 Clearview Avenue and 1082, 1086 and 1090 St. Matthews Avenue, in the City of Burlington (the "Applicant"). The Applicant has appealed their application for an Official Plan Amendment and a Zoning By-law Amendment to the Local Planning Appeal Tribunal (the "Tribunal") on the basis of the City of Burlington's refusal of the proposed Applications.

The Tribunal has scheduled a Case Management Conference in this matter for January 7, 2020 for a duration of one day. We are required by the Tribunal to circulate notice of this case management conference to the proximate landowners and other interested parties.

As such we are enclosing the following materials:

1. Notice of Case Management Conference, January 7, 2020;
2. Extracts of the Tribunal's *Rules of Practice and Procedure*;
3. An explanation of the purpose and effect of the proposed Official Plan Amendment;
4. An explanation of the purpose and effect of the proposed Zoning By-law;
4. A description of the subject land and a key map showing the subject land.

If you have questions with respect to this notice, please contact the undersigned or the Local Planning Appeal Tribunal Case Manager, Ben Bath, at (416) 326-6780.

Yours truly,
WEIRFOULDS LLP



Denise Baker

Encls.

**Environment and Land Tribunals
Ontario**

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.elto.gov.on.ca

**Tribunaux de l'environnement et de
l'aménagement du territoire Ontario**

Tribunal d'appel de l'aménagement
local

655 rue Bay, suite 1500
Toronto ON M5G 1E5
Téléphone: (416) 212-6349
Sans Frais: 1-866-448-2248
Site Web: www.elto.gov.on.ca



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

Applicant and Appellant: Liv Communities
Subject: Request to amend the Official Plan - Refusal of request by
City of Burlington
Existing Designation:
Proposed Designated:
Purpose: To permit
Property Address/Description: 1085 ClearviewAve & 1082,1086,1090 St.MatthewsAve
Municipality: City of Burlington
Approval Authority: 505-01/19
File No.:
LPAT Case No.: PL190378
LPAT File No.: PL190378
LPAT Case Name: Liv Communities v. Burlington (City)

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

Applicant and Appellant: Liv Communities
Subject: Application amend Zoning By-law No. 2020 -
Refusal of Application by City of Burlington
Existing Zoning:
Proposed Zoning:
Purpose: To permit
Property Address/Description: 1085 ClearviewAve & 1082,1086,1090
St.MatthewsAve
Municipality: City of Burlington
Municipality File No.: 520-02/19
LPAT Case No.: PL190378
LPAT File No.: PL190379

NOTICE OF CASE MANAGEMENT CONFERENCE

The Local Planning Appeal Tribunal ("Tribunal") will conduct a case management conference for this matter.

This case management conference will be held:

AT: 10:00 AM

ON: Tuesday January 7, 2020

**AT: Halton Provincial Offence Office
Hearing Room 202
4085 Palladium Way
Burlington, ON L7M 2A6**

The Tribunal has set aside **1 day** for this conference.

THE CASE MANAGEMENT CONFERENCE

The *Local Planning Appeal Tribunal Act, 2017*, as amended, requires the Tribunal to conduct a case management conference after it has received a notice of appeal of the matter identified in the title of proceedings (above).

The Purpose of the Case Management Conference is set out in Rule 19 (attached) of the Tribunal's *Rules of Practice and Procedure*. Persons other than the Appellant(s), applicant, municipality or approval authority who wish to participate in the case management conference, either as a party or as a participant are expected to file a written submission with the Tribunal to outline their interest in the proceeding. A copy of written submissions can be sent to the Case Coordinator assigned to this file, Ben Bath at Ben.Bath@ontario.ca, both in electronic and paper formats.

Please note that a Case Management Conference Submission Form is available on the Tribunal's website.

At the case management conference, the Tribunal shall discuss opportunities for settlement, including the possible use of mediation or other dispute resolution techniques.

WRITTEN SUBMISSION FILING REQUIREMENTS

A copy of the written submission should be provided to:

- The assigned Tribunal Case Coordinator before the date of the case management conference in both electronic and paper formats.

- The municipality or the approval authority, depending upon whose decision or failure to make a decision is appealed, on the same day as it is emailed to the Tribunal Case Coordinator.
- The Appellant(s) on the same day as it is emailed to the Tribunal Case Coordinator.

The contact information for the parties is included in 'Schedule A'.

Please note that a *Case Management Conference Submission Form* is available on the Tribunal's website (<https://elto.gov.on.ca/tribunals/lpat/forms/>) and should accompany all written submissions described above.

FURTHER DIRECTIONS

The Tribunal shall issue a disposition following the Case Management Conference that will set out the directions of the Tribunal. A copy of this decision can be obtained from the Tribunal's website (<https://elto.gov.on.ca/tribunals/lpat/e-decisions/>) by referencing the above case number.

A person who is not granted party or participant status by the Tribunal at the case management conference is not permitted to participate in any further hearing event that is convened by the Tribunal for this appeal.

Pour recevoir des services en français, veuillez communiquer avec la Division des audiences au (416) 212-6349, au moins 20 jours civils avant la date fixée pour l'audience.

We are committed to providing accessible 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 by emailing ELTO@ontario.ca. If you require documents in formats other than conventional print, or if you have specific accommodation needs, please let us know so we can make arrangements in advance. Please also identify any assistance you may require in the event of an emergency evacuation.

DATED at Toronto, this 03rd day of October, 2019.

Evelyn Dawes
Deputy Registrar

SCHEDULE A

Contact information of statutory parties:

Denise Baker
WeirFoulds LLP
10-1525 Cornwall Rd.
Oakville, ON
L6J 0B2
dbaker@weirfoulds.com

Blake Hurley
City of Burlington
P.O. Box 5013 426 Brant Street
Burlington, ON
L7R 3Z6
blake.hurley@burlington.ca

SCHEDULE B

LOCAL PLANNING APPEALS TRIBUNAL RULES ON DOCUMENTS, EXHIBITS, FILING, SERVICE

7.1 Form of Documents Unless otherwise directed by the Tribunal, every document filed or introduced by a party or participant in a proceeding shall be legible and prepared on letter size paper (8 ½" x 11"), except for large documents such as plans or surveys, and, where bound together with other documents, shall have each page numbered consecutively, throughout the entire text or within tabs, including any graphic content. Wherever possible, an electronic copy of the document must also be filed with the Tribunal, identically numbered as the paper document.

7.1 Other Exhibits Large graphic or other such types of visual evidence should not be glued to foam or other boards. They shall be on paper and be removed from the boards following the hearing event, and folded to 8 ½" x 11". Three-dimensional models must be photographed, and the photographs must be introduced with the model. Visual evidence must be reviewed by the other parties before the hearing event or by an earlier date if set out in a procedural order.

7.2 Copies of Documents for Parties and the Municipal Clerk A party who intends to introduce a document as evidence at a hearing event shall provide a copy of the document to all the parties at the beginning of the proceeding or by an earlier date if that is required by the terms of a procedural order or otherwise directed by the Tribunal. If the document is an official plan, those parts of the plan to be referred to at the hearing event should be distributed to the parties, and a copy of the entire plan must be made available to the Tribunal Member(s). If the Tribunal orders that the clerk of the municipality keep copies of documents for public inspection, they do not need to be certified copies, unless a party objects that they are not authentic copies.

7.3 Prefiling of Witness Statements and Reports If a hearing is expected to last more than 5 days, the Tribunal may require that parties calling expert or professional witnesses serve on the other parties and file with the clerk of the municipality any expert witness statements and reports prepared for the hearing, at least 30 days in advance of the commencement of the hearing, unless otherwise directed by the Tribunal. The Tribunal may in its discretion, or at the request of a party, also make this prefiling order for hearings expected to last fewer than 5 days. The expert witness statement must contain:

- (a) an executed acknowledgment of expert's duty form (attached to these Rules) and expert's qualifications;
- (a) the issues the expert will address, their opinions on these issues, the reasons that support their opinions and their conclusions; and
- (b) a list of the reports or documents, whether prepared by the expert or by someone else, that the expert will refer to at the hearing.

The expert's complete report may be filed instead of this statement if it contains the required information.

An expert may not be permitted to testify if this statement or report is not served on all parties and filed with the clerk of the municipality when so directed by the Tribunal.

7.4 Duty of the Expert Witness It is the duty of every expert engaged by or on behalf of a party who is to provide opinion evidence at a proceeding under these Rules to acknowledge, either prior to (by signing the acknowledgment form attached to the Rules) or at the proceeding, that they are to:

- (a) provide opinion evidence that is fair, objective and non-partisan;
- (a) provide opinion evidence that is related only to the matters that are within the expert's area of expertise;
- (b) provide such additional assistance as the Tribunal may reasonably require to determine a matter in issue; and
- (c) acknowledge that these duties prevail over any obligation owed by the expert to the party by whom or on whose behalf he or she is engaged.

7.5 Other Witnesses The Tribunal may also require that a witness who is not presenting expert evidence provide a witness statement. A witness statement should contain (a) a short written outline of the person's background experience, and interest in the matter, (b) a list of the issues that they will discuss, and (c) a list of reports that they will rely on at the hearing. The Tribunal may decline to allow the witness to testify if this statement is required by the Tribunal and has not been provided to the other parties.

7.6 Participant Statements A person who wishes to participate in a proceeding as a participant, shall file a written participant statement that sets out their position on the matter and issues of the proceeding, together with an explanation of their reasons in support of their position. A participant may only make submissions to the Tribunal in writing unless participant status was conferred by the Tribunal in a procedural order that was issued prior to the effective date of these Rules. In that case, the person conferred participant status may make an oral submission to the Tribunal and be cross-examined by parties on the content of their oral submission or the content of their written participant statement pursuant to the procedural order. In all circumstances, the Tribunal may direct a participant to pre-file their statement in advance of a hearing event with the Tribunal and all of the parties to the proceeding.

7.7 Amendment of Documents Documents filed with the Tribunal can only be amended with the consent of the parties or by a Tribunal Order. The Tribunal may require that the person requesting an amendment do so by way of a motion under Rule 10.

7.8 Copies of Tribunal Documents A person may examine any document filed with the Tribunal and copy it after paying the Tribunal's fee, unless a statute, a Court Order, a Tribunal Order or these Rules provide otherwise. Persons, including participants in the proceeding wishing to review expert witness statements and reports, may also do so at the Clerk's office when the Tribunal directs that witness statements or reports are to be filed at the municipality.

7.9 Return of Exhibits Exhibits of all types introduced at a hearing will be kept for 180 days after the Tribunal decision issues. The person introducing an exhibit may ask for its return after this time, and it may be given back if the Tribunal agrees. If no such request is made, the exhibit becomes the property of the Tribunal and may be archived.

7.10 Service by Personal Service or Electronic Service Where any document is required to be served or filed, including the one commencing a proceeding or a

motion or providing notice, it shall be served by personal service, registered mail or electronically (unless a statute or the Tribunal requires another method of service) and shall be sent to:

- (a) the party's representative, if any;
- (a) where the party is an individual and is not represented, to that party directly, where that party has provided an address for service and/or an e-mail address;
- (b) where that party is a corporation and is not represented, to the corporation directly, to the attention of an individual with apparent authority to receive the document;
- (c) where served on or filed with a local board or commission, or any department, ministry or agency of the federal, provincial or municipal government, to an individual with apparent authority to receive the document; or
- (d) where served on or filed with the Tribunal, to the Registrar, or assigned administrative staff.

Subject to Rule 7.11, if a document is served by e-mail, then service is effective on the date of service.

7.11 If Served Electronically After 4:30 p.m. Any document served electronically after 4:30p.m. is deemed to have been served on the next business day.

7.12 Proof of Electronic Service A confirmation printout received by the sender is proof of the full transmission and receipt of the electronic service.

LOCAL PLANNING APPEAL TRIBUNAL RULES ON ADJOURNMENTS

17.1 Hearing Dates Fixed Hearing events will take place on the date set unless the Tribunal agrees to an adjournment. Adjournments will not be allowed that may prevent the Tribunal from completing and disposing of its proceedings within any applicable prescribed time period.

17.1 Requests for Adjournment if All Parties Consent If all of the parties agree, they may make a written request to adjourn a hearing event. The request must include the reasons, a suggested new date, and the written consents of all parties. However, the Tribunal may require that the parties attend in person or convene an electronic hearing to request an adjournment, even if all of the parties consent. The consenting parties are expected to present submissions to the Tribunal on the application of any prescribed time period to dispose of the proceeding.

17.2 Requests for Adjournment without Consent If a party objects to an adjournment request, the party requesting the adjournment must bring a motion at least 15 days before the date set for the hearing event. If the reason for an adjournment arises less than 15 days before the date set for the hearing event, the party must give notice of the request to the Tribunal and to the other parties and serve their motion materials as soon as possible. If the Tribunal refuses to consider a late request, any motion for adjournment must be made in person, at the beginning of the hearing event.

17.3 Emergencies Only The Tribunal will grant last minute adjournments only for unavoidable emergencies, such as illnesses so close to the hearing date that another representative or witness cannot be obtained. The Tribunal must be informed of these emergencies as soon as possible.

17.4 Powers of the Tribunal upon Adjournment Request The Tribunal may,

- (a) grant the request;
- (a) grant the request and fix a new date or, where appropriate, the Tribunal will schedule a case management conference on the status of the matter;
- (b) grant a shorter adjournment than requested;
- (c) deny the request, even if all parties have consented;
- (d) direct that the hearing proceed as scheduled but with a different witness, or evidence on another issue;
- (e) grant an indefinite adjournment, if the Tribunal finds no substantial prejudice to the other parties or to the Tribunal's schedule and the Tribunal concludes the request is reasonable for the determination of the issues in dispute. In this case a party must make a request, or the Tribunal on its own initiative may direct, that the hearing be rescheduled or resumed as the case may be;
- (f) convert the scheduled date to a mediation or case management conference;
- (g) issue a Notice of Postponement, in the event the proceeding is an appeal of a Planning Act matter subject to O. Reg. 102/18 under LPATA; or
- (h) make any other appropriate order.

LOCAL PLANNING APPEAL TRIBUNAL RULES ON A CASE MANAGEMENT CONFERENCE

19.1 Case Management Conference At the request of a party, on its own initiative or as may be required by LPATA, the Tribunal may direct parties to participate in a case management conference conducted by a Member, which can include settlement conferences, motions or preliminary hearing matters, in order to:

- (a) identify the parties and participants and determine the issues raised by the appeal;
- (a) identify facts or evidence the parties may agree upon or on which the Tribunal may make a binding decision;
- (b) obtain admissions that may simplify the hearing, which may include the examination of persons by the Tribunal as part of the conference;
- (c) provide directions for exchange of witness lists, witness statements, expert witness statements and reports, for meetings of experts to address the disclosure of information, including the disclosure of the information that was not provided to the Municipality before Council made its decision that is the subject of the appeal, and for further disclosure where necessary;
- (d) provide directions to the parties to file a hearing plan to outline how the hearing will proceed, the order of witnesses, or the anticipated time for submissions to ensure that the Tribunal sets aside sufficient time in its hearing calendar to dispose of the issues;
- (e) discuss opportunities for settlement, including possible use of mediation or other dispute resolution processes;
- (f) fix a date and place for the hearing and estimate its length, and encourage the parties to agree upon the dates for any procedural steps;
- (g) discuss issues of confidentiality, including any need to hold a part of the hearing in the absence of the public or to seal documents;
- (h) address the production and cost sharing of joint document books; and
- (i) deal with any other matter that may assist in a fair, cost-effective, and expeditious resolution of the issues.

19.1 Sample Procedural Order and Meeting Before Case Management Conference The Tribunal may provide a sample procedural order to the parties before the case management conference. The parties are expected to meet before the case management conference to consider the matters set out in Rule 19.1 and present recommendations to the Tribunal for the conduct of the hearing. A sample procedural order is listed in the index of forms on the final page of these Rules.

19.2 Serving Notice of a Conference The Tribunal will issue directions to serve a Notice of Case Management Conference that provides the time and place of the conference. The person or municipality who is issued the direction must serve this notice on those persons entitled to notice of the conference and provide an affidavit to the Tribunal, at or prior to the conference, to prove service of the notice.

19.3 Tribunal Member Presides The Associate Chair will assign at least one Tribunal Member to conduct the conference.

19.4 Public Attendance at a Case Management Conference A case management conference held in person will be open to the public. A case management conference held by electronic hearing will be open to the public where

practical. Despite the general principle of public open sessions, where circumstances prevail that may require confidentiality, in the discretion of the presiding Member, part or all of the conference may be conducted *in camera*.

19.5 Conversion From One Procedure to Another The Tribunal Member may, at any time, conduct a procedural discussion, initiate a motion, inquire into a preliminary matter, or convert the conference into a hearing. The Tribunal will state in the notice of a case management conference that the parties are expected to arrive prepared for a procedural and settlement conference as well as a preliminary hearing, where evidence or formal statements or submissions may be heard. Even if no settlement is reached, the Tribunal may proceed to make a final decision on any evidence received during the conference.

19.6 Results of Failure to Attend a Conference If a party fails to attend the conference in person or by authorized representative, the Tribunal may proceed without that party. The non-attending party is not entitled to notice of subsequent hearing events in the proceedings.

19.7 Tribunal Order Following The Member conducting the case management conference will issue an order that may decide any of the matters considered at the conference and provide procedural directions for any subsequent hearing event.

19.8 Hearing Member Bound The Member conducting the hearing or any subsequent hearing event is bound by the order resulting from the case management conference unless the Member is satisfied that there is good reason to vary the order.

19.9 Methods of Holding Hearing Events The Tribunal may direct in an order following a conference that hearing events in a proceeding be held by a combination of written, electronic or oral hearing events.

September 3, 2019

An explanation of the purpose and effect of the proposed official plan amendment

The purpose and effect of the proposed Official Plan Amendment is to change the land use designation on Subject Lands from “Residential – Low Density” to “Residential – High Density” and introduce site specific provisions to permit a maximum density of 259 units per hectare and to permit direct access off of a local road. The Amendment facilitates the development of a 6-storey, mid-rise building containing 162 dwelling units across from the Aldershot GO Station.

An explanation of the purpose and effect of the proposed by-law

The purpose and effect of the proposed Zoning By-law Amendment is to implement the proposed Official Plan Amendment by changing the zoning on the Subject Lands from the “R2.1 (Low Density)” zone to the “RH1 (High Density)” zone. The Zoning By-law Amendment also introduces site specific provisions which facilitate the design of the building including, but not limited to, side yards, density, amenity area, landscaped areas, parking stall requirements and parking structure setbacks.

A description of the subject land and a key map showing the subject land

The Subject Lands are located within the Aldershot community of Burlington (Ward 1). The Subject Lands are approximately 6,270 m² in area, with approximately 45 m of frontage along both Clearview Avenue and St. Matthews Avenue and 137 m along Masonry Court. The Subject Lands consists of 3 separate parcels of land which will be merged on title to facilitate the development.

The majority of the Subject Lands consist of 1085 Clearview Avenue and 1082 St. Matthews (which are considered a single parcel). Currently this parcel contains a 1 storey place of worship facility with surface parking and driveway accesses onto Clearview Avenue and Masonry Court. The portion of the parcel fronting onto St. Matthews contains a detached dwelling (used for administrative purposes by the worship facility) and an additional access driveway leading to the place of worship. The balance of the Subject Lands consist of 1086 and 1090 St. Matthews; two separate parcels with a detached dwelling located on each.



Data Source: First Base Solutions Aerial Flown 2016

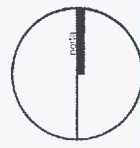
Figure 1
Location Map

LEGEND
 Subject Lands

1085 Clearview Avenue,
 1082, 1086, and 1090 St
 Matthews Avenue
 Burlington, Ontario

DATE: October 22, 2018 SCALE N.T.S

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MHBC PLANNING
 URBAN DESIGN
 & LANDSCAPE
 ARCHITECTURE
 442 BRANT STREET BURLINGTON, ON. L7R 2G3
 P: 905 639 8686 F: 905 761 5589 | WWW.MHBCPLAN.COM