



INFORMATION REPORT

TO:	Chair and Members Planning Committee
COMMITTEE DATE:	October 20, 2020
SUBJECT/REPORT NO:	Appeal to the Local Planning Appeal Tribunal (LPAT) for Lack of Decision on Urban Hamilton Official Plan Amendment UHOPA-17-006 and Zoning By-law Amendment application ZAC-17-016 for Lands Located at 909 North Waterdown Drive (Flamborough) (PED20167) (Ward 15)
WARD AFFECTED:	Ward 15
PREPARED BY:	Alaina Baldassarra (905) 546-2626 Ext. 7421
SUBMITTED BY:	Steve Robichaud Director, Planning and Chief Planner Planning and Economic Development Department
SIGNATURE:	

Council Direction:

In accordance with subsections 22(7) and 34(11), of the *Planning Act*, an Official Plan Amendment Application and a Zoning By-law Amendment Application, may be appealed to the Local Planning Appeal Tribunal (LPAT) after 180 Days for the Official Plan Amendment and 120 days for the Zoning By-law Amendment if Council has not made a decision on the application.

A motion to direct staff to advise the Planning Committee on matters relating to appeals regarding lack of decision by Council, pursuant to the *Planning Act* was passed by City Council on May 18, 2010.

This Information Report has been prepared in accordance with Council's policy for staff to advise the Planning Committee and City Council of appeals for non-decision to the Local Planning Appeal Tribunal (LPAT).

The following information is provided for Planning Committee's information with regards to the Urban Hamilton Official Plan Amendment application UHOPA-17-006 and Zoning By-law Amendment application ZAC-17-016, which has been appealed to the LPAT for

OUR Vision: To be the best place to raise a child and age successfully.

OUR Mission: To provide high quality cost conscious public services that contribute to a healthy, safe and prosperous community, in a sustainable manner.

OUR Culture: Collective Ownership, Steadfast Integrity, Courageous Change, Sensational Service, Engaged Empowered Employees.

SUBJECT: Appeal to the Local Planning Appeal Tribunal (LPAT) for Lack of Decision on Urban Hamilton Official Plan Amendment UHOPA-17-006, Zoning By-law Amendment Application ZAC-17-016 for Lands Located at 909 North Waterdown Drive (Flamborough) (PED20167) (Ward 15) - Page 2 of 6

lack of decision (see Appeal Letter attached as Appendix “B” to Report PED20167). Legal and Planning staff will be preparing a future in-camera report on this matter.

Information:

The subject lands, municipally known as 909 North Waterdown Drive, are located north of the future intersection of Mosaic Drive and North Waterdown Drive Road in Flamborough (see location map attached as Appendix “A” to Report PED20167). The applicants are LIV Developments Ltd.

The subject lands are surrounded to the north and east by environmentally sensitive lands, wetlands and agricultural lands, to the west by a vacant development parcel containing some environmentally sensitive lands and wetlands, and to the south by North Waterdown Road and existing townhouse developments developed by Liv Developments Ltd., (Owner). The subject applications are considered to be Phase 3 of the development of the lands by Liv Developments Ltd.

The subject lands are irregularly shaped with a frontage of 218 metres on North Waterdown Drive, a depth of approximately 840 metres, and an area of 16.1 hectares. The lands are currently vacant with environmentally sensitive lands on majority of the lands to the north that are not included for development in these applications as they are outside of the urban area, and are designated Rural in the Rural Hamilton Official Plan (RHOP). The proposed development will be entirely in the portion of the lands within the Urban boundary for residential uses with access to North Waterdown Drive.

The applicants submitted an Official Plan Amendment and Zoning By-law Amendment applications to facilitate the residential development on the subject lands.

The applications were originally submitted on December 23, 2016 and were deemed incomplete on January 20, 2017 and deemed complete on February 14, 2017.

The purpose of the Official Plan Amendment is to permit a reduced minimum density within High Density 1 designation. Other requested amendments include revising the natural heritage designation in accordance with the submitted Environmental Impact Study.

The purpose of the Zoning By-law Amendment is to change the current zoning to a Medium Density Residential (RM6-XX) Zone, Modified in the Flamborough Zoning By-law in order to permit the uses and modify the required regulations to allow for the implementation of the development concept. The applicants requested that additional lands be added into the Conservation / Hazard Land (P5, XX) Zone, Modified to

OUR Vision: To be the best place to raise a child and age successfully.

OUR Mission: To provide high quality cost conscious public services that contribute to a healthy, safe and prosperous community, in a sustainable manner.

OUR Culture: Collective Ownership, Steadfast Integrity, Courageous Change, Sensational Service, Engaged Empowered Employees.

SUBJECT: Appeal to the Local Planning Appeal Tribunal (LPAT) for Lack of Decision on Urban Hamilton Official Plan Amendment UHOPA-17-006, Zoning By-law Amendment Application ZAC-17-016 for Lands Located at 909 North Waterdown Drive (Flamborough) (PED20167) (Ward 15) - Page 3 of 6

implement the proposed natural heritage designation and a separate zone to maintain access to the rear of the subject lands.

The applicants submitted a Site Plan Control application (DA-20-057) for the subject lands on April 07, 2020. The proposal was for 123 stacked townhouse dwellings and 277 parking spaces (including 31 visitor parking spaces). The application was deemed complete on April 9, 2020 and subsequently denied on May 7, 2020 on the basis that the proposal was premature as it does not comply with existing zoning and official plans. The Site Plan application aligns with the second development concept submitted in April 9, 2018 which is described in the submission history section of this report.

Concept Submissions:

Original Submission

The original concept plan dated November 21, 2016 proposed a total of 104 residential units consisting of 80 stacked townhouse dwellings and 24 townhouses (see Appendix “C” to Report PED20167). A total of 208 residential parking spaces and 26 visitor parking spaces were proposed. Two accesses including an emergency access onto North Waterdown Drive were proposed. The density proposed was 45 units per hectare.

Concept No. 2

The revised concept plan dated April 9, 2018 proposed 123 stacked townhouse units (see Appendix “D” to Report PED20167). A total of 261 residential parking spaces and 31 visitor parking spaces were proposed. Similar to the original concept, two accesses including an emergency access onto North Waterdown Drive were proposed. As well, an amenity area was added as part of the proposed residential development. The revised concept proposed a density of 66.5 units per hectare.

The main difference between the original submission and Concept No. 2 is the relocation of the amenity area, removal of the standard townhouse units and increase in the number of units proposed on the site.

Concept No. 3

The revised concept plan dated January 16, 2019 proposed 123 stacked townhouse units (see Appendix “D” to Report PED20167). A total of 261 parking spaces and 31 visitor parking spaces with two accesses onto North Waterdown Drive. The revised concept proposed a density of 66 units per hectare.

SUBJECT: Appeal to the Local Planning Appeal Tribunal (LPAT) for Lack of Decision on Urban Hamilton Official Plan Amendment UHOPA-17-006, Zoning By-law Amendment Application ZAC-17-016 for Lands Located at 909 North Waterdown Drive (Flamborough) (PED20167) (Ward 15) - Page 4 of 6

The main differences between Concept No. 2 and Concept No. 3 is that the applicant removed the amenity space and the emergency access was changed to a right-in right-out access.

Concept No. 4

The revised concept plan dated July 18, 2019 proposed 163 units consisting of 99 stacked townhouse dwellings and 64 stacked back-to-back townhouses with underground parking (see Appendix “D” to Report PED20167). A total of 278 residential parking spaces (198 spaces in attached garages and 80 in underground area) and 41 visitor parking spaces were proposed. Two accesses onto North Waterdown Drive with one of the accesses being a right-in and right-out only. The residential density proposed was approximately 87 units per hectare.

The main differences between Concept No. 3 and Concept No. 4 was additional residential units within a new built form (stacked back-to-back townhouses) and additional parking to support the residential uses including underground parking.

Concept No. 5

The revised concept plan dated January 29, 2020 proposed 84 stacked townhouse dwellings which are identified in Phase 3 and 112 apartment units within an 8 storey apartment building with a ground floor parkade which is identified in Phase 4 (see Appendix “D” to Report PED20167). A total of 389 parking spaces were proposed which included 193 parking spaces for the townhouse portion of the development and 196 parking spaces for the apartment portion of the proposal. Two accesses onto North Waterdown Drive with one of the accesses being a right-in and right-out only. The proposed density would total 105 units per hectare.

The main differences between Concept No. 4 and Concept No. 5 were the increase in the number of residential units from 163 residential units to 196 residential units the addition of an 8 storey apartment building on the northern (rear) portion of the site with an increased number of parking spaces in order to support the increase in the number of residential units.

Through the applications review, staff advised the applicants that the proposed development needed to get as close as possible to the current minimum Official Plan density requirement as staff were not supportive of a significant reduction in density from what is required in the Waterdown North Secondary Plan. The current High Density Residential 1 Designation states that the density for all lands within the designation shall be greater than 100 units to a maximum of 125 units per gross

OUR Vision: To be the best place to raise a child and age successfully.

OUR Mission: To provide high quality cost conscious public services that contribute to a healthy, safe and prosperous community, in a sustainable manner.

OUR Culture: Collective Ownership, Steadfast Integrity, Courageous Change, Sensational Service, Engaged Empowered Employees.

SUBJECT: Appeal to the Local Planning Appeal Tribunal (LPAT) for Lack of Decision on Urban Hamilton Official Plan Amendment UHOPA-17-006, Zoning By-law Amendment Application ZAC-17-016 for Lands Located at 909 North Waterdown Drive (Flamborough) (PED20167) (Ward 15) - Page 5 of 6

residential hectare. The only concept that proposed to meet the density requirements of the secondary plan was concept no. 5

Urban Hamilton Official Plan:

The subject lands are identified as “Neighbourhoods” on Schedule “E” – Urban Structure and designated as “Neighbourhoods” on Schedule “E-1” – Urban Land Use Designations. A portion of the lands are identified as Natural Open Space on Schedule B – Natural Heritage System. The lands are designated as High Density Residential 1, Natural Open Space and Low Density Residential 2 on Map B.4.2-1 – Land Use Plan in the Waterdown North Secondary Plan.

A portion of the subject lands are located within the Rural Hamilton Official Plan. The portion of the lands located within the Rural Hamilton Official Plan are designated as “Rural” on Schedule “D” – Rural Land Use Designations. The proposed development will not be located within this area.

Zoning By-laws:

The portion of the lands within the urban boundary is zoned Agricultural “A” Zone in the Town of Flamborough Zoning By-law 90-145-Z.

The Agricultural “A” Zone permits agriculture, accessory open storage, single detached dwelling, one help house, one fruit and/or vegetable stand, an office of one physical or mental health practitioner located within the residence.

The portion of the property outside the urban boundary within the rural area is zoned the following in the City of Hamilton Zoning By-law No. 05-200:

- Conservation / Hazard Land – Rural (P7) Zone;
- Conservation / Hazard Land – Rural (P8) Zone; and,
- Rural (A2) Zone

The Conservation / Hazard Land – Rural (P7) Zone permits agriculture, conservation, flood and erosion control facilities, passive recreation and existing single detached dwellings. The Zone does not permit the development of new buildings or structures on vacant lots, however there are permissions for expansions to existing buildings and structures.

The Conservation / Hazard Land – Rural (P8) Zone permits agriculture, conservation, flood and erosion control facilities, passive recreation and existing single detached

OUR Vision: To be the best place to raise a child and age successfully.

OUR Mission: To provide high quality cost conscious public services that contribute to a healthy, safe and prosperous community, in a sustainable manner.

OUR Culture: Collective Ownership, Steadfast Integrity, Courageous Change, Sensational Service, Engaged Empowered Employees.

SUBJECT: Appeal to the Local Planning Appeal Tribunal (LPAT) for Lack of Decision on Urban Hamilton Official Plan Amendment UHOPA-17-006, Zoning By-law Amendment Application ZAC-17-016 for Lands Located at 909 North Waterdown Drive (Flamborough) (PED20167) (Ward 15) - Page 6 of 6

dwellings. The Zone does not permit the development of new buildings or structures on vacant lots or the expansion of expansion of existing structures on the property.

The Rural (A2) Zone permits, among other things: Agriculture, Secondary Uses to Agriculture, Veterinary Service – Farm Animal, Single Detached Dwelling, Farm Product Supply Dealer, Kennel, Agricultural Processing Establishment, Abattoir and kennel.

Public Consultation:

In accordance with the provisions of the *Planning Act* and Council's Public Participation Policy, a Notice of Complete Application and Preliminary Circulation was circulated to 95 property owners within 120 m of the subject property on March 10, 2017 requesting public input on the application.

A Public Notice sign was also posted on the property on March 22, 2017.

To date, no correspondence from the public has been received.

The appeal to the LPAT was received by the City Clerks' office on March 20, 2020, 1,183 days after the receipt of the initial application.

APPENDICES AND SCHEDULES ATTACHED

- Appendix "A" – Location Map
- Appendix "B" – Appeal Letter
- Appendix "C" – Original Development Concept
- Appendix "D" – Concept Plan, dated April 9, 2018
- Appendix "E" – Concept Plan, dated January 16, 2019
- Appendix "F" – Concept Plan, dated July 18, 2019
- Appendix "G" – Concept Plan, dated January 29, 2020