

# INFORMATION REPORT

<b>TO:</b>	Chair and Members Planning Committee
<b>COMMITTEE DATE:</b>	March 22, 2022
<b>SUBJECT/REPORT NO:</b>	Appeal of Urban Hamilton Official Plan Amendment and Zoning By-law Amendment Applications to the Ontario Land Tribunal (OLT) for Lack of Decision for Lands Located at 299-307 John Street South and 97 St. Joseph's Drive, Hamilton (PED22038) (Ward 2)
<b>WARD(S) AFFECTED:</b>	Ward 2
<b>PREPARED BY:</b>	Shannon McKie (905) 546-2424 Ext. 1288
<b>SUBMITTED BY:</b>	Steve Robichaud Director, Planning and Chief Planner Planning and Economic Development Department
<b>SIGNATURE:</b>	

## Council Direction:

In accordance with Subsections 22(7) and Subsection 34(11) of the *Planning Act*, an Official Plan Amendment Application and associated Zoning By-law Amendment Application may be appealed to the Ontario Land Tribunal (OLT) after 120 days 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 was prepared in accordance with Council's policy for staff to advise the Planning Committee and City Council of appeals for non-decision to the OLT.

The following information is provided to Planning Committee with regards to Urban Hamilton Official Plan Amendment Application (UHOPA-18-004) and Zoning By-law Amendment Application (ZAC-18-009) for lands located at 299-307 John Street South and 97 St. Joseph's Drive which have been appealed to the OLT for lack of decision. The City Clerk's Office received an appeal for non-decision for the applications by Spallacci Construction Ltd., on October 28, 2021, 1,407 days after the receipt of the initial Application (see Appendix "B" attached to Report PED22038).

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**Background:**

The subject property is municipally known as 299-307 John Street South and 97 St. Joseph's Drive (see Appendix "A" attached to Report PED22038).

The subject property has a lot area of 0.85 ha (8,500 square metres) and has frontage on three streets, being John Street South, St. Joseph's Drive, and Charlton Avenue East. The lands are currently occupied by a five storey multiple dwelling.

**Urban Hamilton Official Plan Amendment Application (UHOPA-18-004) and Zoning By-law Amendment Application (ZAC-18-009)**

Applications UHOPA-18-004 and ZAC-18-009 were submitted on December 22, 2017 by UrbanSolutions Planning and Land Development Consultants Inc. c/o Sergio Manchia on behalf of Spallacci Contracting Ltd. and deemed complete on January 19, 2018.

The Applications for an Urban Hamilton Official Plan Amendment (UHOPA-18-004) and Zoning By-law Amendment (ZAC-18-009) were submitted for the lands located at 299-307 John Street South and 97 St. Joseph's Drive, Hamilton, to allow for a residential density of 1,086 units per hectare and to permit a mixed use building consisting of 1,476.4 square metres of commercial at grade. The proposal included 923 dwelling units above a common three storey podium. The residential units were proposed within three towers being 26 storeys (Tower A), 30 storeys (Tower B) and 36 storeys (Tower C) in height.

The Applicant submitted a revision to the submission in September 2019, and a further revision in October 2020 to address concerns related to massing, tower separation, visual impact on the Niagara Escarpment and surrounding neighbourhood, shadow impacts and transition. The Applicant made revisions in each of the subsequent submissions to the overall building height, parking provisions, and density. A summary of the revisions is provided below.

**PROPOSED DEVELOPMENT**

**First Submission:**

The original Applications (UHOPA-18-004/ZAC-18-009) included three residential towers atop a two storey podium. The towers were proposed at 26 storeys (Tower A), 30 storeys (Tower B) and 36 storeys (Tower C) (see Appendix "D" attached to Report PED22038). The proposal accommodated a residential density of 1,086 units per

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hectare (923 residential units), 1,476 square metres of commercial area, and 934 parking spaces.

As a result of comments from the initial circulation, the Applicant was required to address issues related to the overall building height in contrast to the height of the Niagara Escarpment, massing, scale, and visual impact.

**Second Submission (September, 2019):**

In September 2019, the proposal was revised to reduce the tower heights to 23 storeys (Tower A), 22 storeys (Tower B) and 22 storeys (Tower C) to reflect the height of the Niagara Escarpment. The residential units were decreased from 934 units to 723 units and the proposed parking reduced to 723 parking spaces to reflect the reduced unit count. The building base was increased to four storeys. As a result of the revisions the overall density decreased from 1,086 units per hectare to 851 units per hectare.

**Third Submission (October, 2020):**

The proposal was further revised in October 2020 to increase the heights for Tower A from 23 storeys to 25 storeys and Tower B from 22 storeys to 24 storeys. The residential units increased from 723 to 773 units and the overall parking was reduced from 723 parking spaces to 708 parking spaces. The commercial area remained unchanged at 1,587 square metres.

The table below provides a comparison for each of the submissions.

Submission	Density (u/ha)	Units	Height (metres/ metres above sea level m.a.s.l.)	Tower A height (storeys)	Tower B height (storeys)	Tower C height (storeys)	Parking	Commercial GFA (square metres)
Original Submission	1,086	923	114 metres	26	30	36	934	1,476
Second Submission	851	723	196 m.a.s.l	23	22	22	705	1,587
Third Submission	910	773	204 m.a.s.l	25	24	22	708	1,587

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**Urban Hamilton Official Plan and Zoning By-law No. 05-200**

The subject lands are identified as "Neighbourhoods" on Schedule "E" – Urban Structure and are designated "Neighbourhoods" on Schedule "E-1" – Urban Land Use Designations in Volume 1 of the Urban Hamilton Official Plan (UHOP).

The subject lands are zoned "E" (Multiple Dwellings, Lodges, Clubs, etc.) District, Modified, "E-3/S-1512" (High Density Multiple Dwellings) District, Modified, "E/S-1512" (Multiple Dwellings, Lodges, Clubs etc.) District, Modified and "E" (Multiple Dwellings, Lodges, Clubs etc) District.

Policy C.1.1.1 of the UHOP requires that any development within the Niagara Escarpment Plan (NEP) area must meet the requirements of both the UHOP and the NEP. The policies of the Niagara Escarpment Plan have not been addressed and the Niagara Escarpment Commission has not approved the Visual Impact Assessment submitted in support of the applications.

**Public Consultation:**

In accordance with Council's Public Participation Policy, the proposal was circulated as part of the Notice of Complete Application to property owners within 120 metres of the subject lands on January 31, 2018.

A total of 21 submissions were received from members of the public. One submission was in support of the increased height and density.

Twenty submissions received expressed concerns related to the proposed development. The concerns from the public included:

- Height, massing and shadow impacts;
- Visual impact on the Niagara Escarpment;
- Increased vehicle traffic;
- Loss of green space;
- Garbage collection;
- Noise;
- Wind impacts;
- Loss of on street parking;
- Loss of affordable housing;
- Need for commercial/retail services for the neighbourhood;
- Sustainable development practices;

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- Loss of greenspace being proposed combined with the loss of mature trees and the impact this development may have on the environment; and,
- Impact on the existing infrastructure.

**APPENDICIES AND SCHEDULES ATTACHED**

Appendix "A" – Location Map

Appendix "B" – Third revised Concept Plan

Appendix "C" – Letter of Appeal from Applicant's Solicitor

Appendix "D" – Original Concept Plan

Appendix "E" – Second revised Concept Plan

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