

AIRD BERLIS

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October 28, 2021

BY EMAIL

Our File No. 169089

Ms. Andrea Holland  
Office of the City Clerk  
City Hall  
71 Main Street West, 1<sup>st</sup> Floor  
Hamilton, ON L8P 4Y5

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Dear Ms. Holland:

**Re: Notice of Appeal of Official Plan Amendment and Zoning By-law Amendment Applications  
299-307 John Street South & 97 St. Joseph's Drive, Hamilton  
City File Nos. UHOPA-18-04 & ZAC-18-009**

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We act on behalf of Spallacci Contracting Ltd., the owner of the lands municipally known as 299-307 John Street South and 97 St. Joseph's Drive in the City of Hamilton (the "Site").

The 0.85 hectare Site is located on the east side of John Street between St. Joseph's Drive and Charlton Avenue East and is currently occupied by a five storey multiple dwelling and privately owned surface parking lot.

### **The Proposed Development**

Our client's consultants submitted an Official Plan Amendment ("OPA") and Zoning By-law Amendment ("ZBA") applications (collectively the "Applications") on December 22, 2017. The purpose of the original version of the Applications was to permit the construction of a mixed use development consisting of 26, 30 and 36 storey buildings with a common podium of 5 storeys, including 923 residential units and 1,476.3 square metres of commercial area on the Site.

Our client filed a revised proposal on August 28, 2019, which reduced the proposed tower heights, lowered the podium height to 4 storeys, reoriented the three proposed towers and decreased the unit count to 723 residential units. Further resubmissions to address comments from City Staff were filed in December 2019 and July 6, 2020.

On October 5, 2020, our client filed an additional resubmission, proposing three towers of 25, 24 and 22 storeys in height, connected by a podium varying in height between 3-4 storeys. The revised development proposal contemplates 773 residential units, 708 parking spaces and 1,587 square metres of commercial area (the "Proposed Development").

### **Notice of Appeal**

The Applications were originally deemed complete as of January 31, 2018. To date, no decisions have been issued by Hamilton City Council respecting the various iterations of the proposal.

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Accordingly, pursuant to subsections 22(7) and 34(11) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended, our client is appealing Council's failure to make a decision on the Applications to the Ontario Land Tribunal. The grounds for this appeal include the submissions detailed below, as well as the planning and technical submissions provided to the City during the time these Applications have been under review.

### **Policy and Regulatory Context**

In our submission, the Proposed Development is consistent with the policy directions in the Provincial Policy Statement, 2020 ("PPS") and conforms to A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2019 ("Growth Plan"), both of which promote the efficient use of land and infrastructure within built-up areas and optimize intensification opportunities.

#### **(a) The Proposed Development is consistent with the PPS**

The proposed mixed use development will contribute to an appropriate range and mix of uses in the immediate area, and is an appropriate form of intensification in this location. It will make use of an underutilized property and will support the existing Hamilton Street Railway bus service along John Street South and St. Joseph's Drive/Arkledun Avenue. The Site is in close proximity to non-residential and community uses, including commercial uses, parks and recreation facilities, and schools, and, as noted, has access to nearby public transit. Given the mix of uses surrounding the Site and the Proposed Development's design and density, the proposal will support the use of active transportation and the use of the existing and proposed transit service in the area.

#### **(b) The Proposed Development conforms with the Growth Plan**

The Site is located within the Growth Plan's Built-Up Area, which is where the forecasted population growth in the City of Hamilton is to be focused. The Site is also adjacent to the Growth Plan's Urban Growth Centre for Hamilton.

The Applications permit a development that conforms with the policy direction in the Growth Plan by contributing to a full range of housing types to support and enhance the surrounding neighbourhood; providing access to a range of transportation options and support for the provision of public transit; providing housing within a reasonable walking distance of important public service facilities; and contributing to the development of a complete community by utilizing existing infrastructure.

#### **(c) The Proposed Development conforms with the Niagara Escarpment Plan and the Greenbelt Plan**

The Proposed Development conforms to the policy direction in the Niagara Escarpment Plan ("NEP"). The Site is designated Urban Areas in the NEP. As part of the Applications, our client's consultants conducted a Visual Impact Assessment and concluded that the proposed development would not negatively impact the scenic resources of the Escarpment. Revisions were made to the proposed massing of the development in order to minimize visual impact on the Escarpment, in accordance with policy 1.7.5.1 of the NEP.

The Proposed Development also conforms with the direction in policy 2.2 of the Greenbelt Plan, 2017, which provides that lands within the NEP area are subject to the requirements of the NEP.

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**(d) The Proposed Development conforms with the Urban Hamilton Official Plan**

The Site is currently designated Neighbourhoods in the Urban Hamilton Official Plan. The purpose of the OPA is to permit a site-specific increase in density, while the purpose of the ZBA is to prescribe site-specific standards to the proposed built form (including heights, podium, setbacks, etc.) The OPA and ZBA present an appropriate project that support the intent of the City's Neighbourhoods designation and achieves the City's planning goals for mixed use intensification within central Hamilton.

Enclosed with this notice of appeal are two (2) cheques, each in the amount of \$1,100.00, made payable to the Minister of Finance, representing the filing fee for the subject appeals, along with the completed OLT Appellant A-1 Form.

Please do not hesitate to contact me or my colleague Meaghan Barrett ([mbarrett@airdberlis.com](mailto:mbarrett@airdberlis.com)) if you have any questions or require any further information.

Yours truly,

AIRD & BERLIS LLP



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