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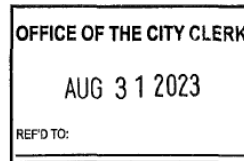
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August 31, 2023

Our File No.: 231041

**Delivered**

City of Hamilton  
City Hall  
71 Main Street West, 1<sup>st</sup> Floor  
Hamilton, ON L8P 4Y5



**Attention: Andrea Holland, City Clerk**

Dear Sirs/Mesdames:

**Re: 1284 Main Street East  
City of Hamilton File No. UHOPA-23-006 & ZAC-23-012  
Appeal of Official Plan Amendment and Rezoning Applications pursuant to  
subsections 22(7) and 34(11) of the *Planning Act***

We are solicitors for Delta Joint Venture Inc. in respect of the property known municipally in the City of Hamilton as 1284 Main Street East (the "**Property**"). On December 14, 2022, after pre-consultation with City staff, our client filed official plan amendment and rezoning applications for the Property (the "**Applications**"), which the City of Hamilton (the "**City**") declared complete as of January 10, 2023.

We are writing on behalf of our client to appeal the Applications to the Ontario Land Tribunal (the "**Tribunal**") pursuant to subsections 22(7) and 34(11) of the *Planning Act* for the failure of City Council to make a decision regarding the Applications within the applicable statutory timeline.

**Background**

The Property is located generally in the centre of the former City of Hamilton in the community known as Delta East. The Property occupies two City blocks with frontages on four municipal right-of-ways, resulting in no shared property lines with adjacent land uses. The Property has a generally square shape with frontages of 148.5 metres on Main Street East to the north, 147.13 metres on Maple Avenue to the south, 164.48 metres on Graham Avenue to the east and 171.27 metres on Wexford Avenue to the west. The resulting site area is 2.48 hectares.

Current use of the Property is the former Delta Secondary School (with associated surface parking, black-top playground and landscaped space), which closed in June 2019 before being declared

surplus by the school board in September 2019. The school building comprises three distinct sections, with the original school structure built in 1925 and additions in 1950 and 1972.

The Planning Justification Report describes the surrounding context in more detail, but residential, institutional and mixed use commercial land uses surround the Property with neighbouring houses being an eclectic mix of detached dwellings. The Main Street East corridor features a variety of commercial uses. The broader context includes a variety of public facilities and amenities to support a complete community, including education facilities, a wide variety of commercial amenities, parks, community/religious uses and employment opportunities.

From a transportation perspective, and as noted above, the Property is bounded by four streets, including Main Street East which is classified as a Major Arterial Road on Schedule C of the UHOP. Three HSR bus routes currently serve the Property, with convenient access to the 1/1A, 10 and 41/41A bus routes. Importantly, the planned LRT corridor follows Main Street East with the Property being within 500 metres of two planned stops at Kenilworth Avenue South and Ottawa Street.

As noted in the Planning Justification Report, the Property is clearly underutilized based on existing and planned transit services, access to a variety of community amenities, and Provincial and municipal land use policies. Provincial policy supports intensification, redevelopment and the efficient use of land and existing planning infrastructure within urban areas. The Property is not only located within a settlement area but is part of an area prioritized for intensification. In particular, the Property forms part of a Major Transit Station Area and is located along a priority transit corridor.

The City of Hamilton Official Plan designates the front portion of the Property as *Mixed Use – Medium Density* and the balance of the Property as *Neighbourhoods*.<sup>1</sup> The property also forms part of a Primary Corridor (Schedule E – Urban Structure), which is a focus for residential intensification. As described in the Planning Justification Report and the Urban Design Brief submitted with the Applications, the proposal is a compact form of development along a priority transit corridor that achieves appropriate transition to the surrounding context while providing an inviting campus-like space that will serve the broader community.

The Applications propose the intensification of the Property with an adaptive reuse of the original school and redevelopment of the balance of the Property south of the original school with three 14-storey residential buildings, two blocks of four-storey stacked townhomes and two blocks of townhomes providing approximately 975 new residential units. Vehicular access is proposed midblock from Maple Avenue to a keyhole loop limited only to the southern one-third of the

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<sup>1</sup> The proposed official plan amendment would designate all of the Property as *Mixed Use – Medium Density*, with a site-specific permission to increase the maximum permitted height. Note that City staff comments suggest that an official plan amendment application may not be required to permit the proposed heights but our client has maintained the official plan amendment application out of an abundance of caution.

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Property. The majority of parking is proposed underground to maximize opportunities for landscape open space, including the retention of many existing trees. A comprehensive pedestrian network is also proposed through the Property in a campus-like setting.

**Reasons for the Appeal**

Based on the materials submitted in support of the Applications, including but not limited to the above-noted Planning Justification Report and Urban Design Brief, it is clear that the Applications represent good planning and urban design. The proposal will result in the desirable intensification of underutilized lands having excellent access to existing infrastructure, including a variety of transportation options, in accordance with the applicable policy framework. The proposed development will assist in achieving Provincial and City policy directions promoting intensification within built-up areas, particularly in Urban Growth Centres well-served by municipal infrastructure, amenities, and facilities. Finally, from a built form and urban design perspective, the proposal appropriately responds to and harmoniously fits within the existing and planned context for the Property while delivering a high quality of architecture to the City.

However, the Applications have not been advanced to approval by the City in a timely fashion. The Tribunal's assistance is required to avoid the potential for significant delay in the approval timeline for much-needed housing in the City. Despite the appeal, our client's goal would be to engage with the the City and any stakeholders identified as part of the initial case management conference, including through mediation, to ensure that meaningful dialogue will continue in an effort to narrow and/or resolve issues with a desired goal of a settlement hearing.

Please find enclosed an appeal form, as well two cheques each in the amount of \$1,100.00 payable to the Minister of Finance. Please do not hesitate to contact us if any further information is required.

Yours truly,

**Goodmans LLP**



David Bronskill  
DJB/  
Encl.



**Ontario Land Tribunal**

655 Bay Street, Suite 1500, Toronto, ON M5G 1E5

Tel: 416-212-6349 | 1-866-448-2248

Web Site: olt.gov.on.ca

**Appeal Form (A1)**

**Municipal/Approval Authority Date  
Stamp**

**Receipt Number**  
(OLT Office Use Only)

**Date Stamp – Appeal Received by  
OLT**

**OLT Case Number**  
(OLT Office Use Only)

Please complete this Appeal Form by following the instructions in the companion document titled "Appeal Form Instructions". Please read **both** documents carefully to ensure you submit the correct information and complete this form correctly.

There are guides available for review on the Tribunal's website for different appeal types to assist you in filing an appeal.

**Please review the notice of the decision you are appealing to determine the appeal deadline and the specific official with whom the appeal should be filed (e.g. Secretary-Treasurer, Clerk, Minister, Ontario Land Tribunal) prior to completing this Appeal Form. Relevant portions of the applicable legislation should also be reviewed before submitting this form. Your appeal must be filed with the appropriate authority within the appeal period as set out in the notice of the decision and applicable legislation.**

**Section 1 – Contact Information (Mandatory)**

**Applicant/Appellant/Objector/Claimant Information**

Last Name:

First Name:

Company Name or Association Name (Association must be incorporated – include copy of letter of incorporation):

Email Address:

Daytime Telephone Number:  ext.

Alternative Telephone Number:

Mailing Address:

Unit Number:  Street Number:   
Street Name:   
P.O. Box:   
City/Town:   
Province:   
Country:  Postal Code:

**Representative Information**

☒ I hereby authorize the named company and/or individual(s) to represent me

Last Name:

First Name:

Company Name or Association Name (Association must be incorporated – include copy of letter of incorporation):

Email Address(es):

Daytime Telephone Number:  ext.

Alternative Telephone Number:

Mailing Address:

Unit Number:  Street Number:

Street Name:

P.O. Box:

City/Town:

Province:

Country:  Postal Code:

**Note:** If your representative is not licensed under the *Law Society Act*, please confirm that they have your

written authorization, as required by the OLI *Rules of Practice and Procedure*, to act on your behalf and that they are also exempt under the Law Society's by-laws to provide legal services. Please confirm this by checking the box below.

☒ I certify that I understand that my representative is not licensed under the *Law Society Act* and I have provided my written authorization to my representative to act on my behalf with respect to this matter. I understand that my representative may be asked to produce this authorization at any time along with confirmation of their exemption under the Law Society's by-laws to provide legal services.

**Location Information**

Are you the current owner of the subject property?

☒ Yes ☐ No

Address and/or Legal Description of property subject to the appeal:

1284 Main Street East

Municipality: Hamilton

Upper Tier (Example: county, district, region):

**Language Requirements**

Do you require services in French?

☐ Yes ☒ No

**To file an appeal, please complete the section below. Complete one line for each appeal type**

Subject of Appeal		Type of Appeal (Act/Legislation Name)	Reference (Section Number)
Example	Minor Variance	<i>Planning Act</i>	45(12)
1	Official Plan Amendment	Planning Act	22(7)
2	Zoning By-law Amendment	Planning Act	34(11)
3			
4			

**Section 2 – Appeal Type (Mandatory)**

Please select the applicable type of matter

Please select the applicable type of matter:

Select	Legislation associated with your matter	Complete Only the Section(s) Below
<input checked="" type="checkbox"/>	Appeal of <i>Planning Act</i> matters for Official Plans and amendments, Zoning By-Laws and amendments and Plans of Subdivision, Interim Control By-laws, Site Plans, Minor Variances, Consents and Severance	3A
<input type="checkbox"/>	Appeal of <i>Development Charges, Education Act, Aggregate Resources Act, Municipal Act</i> matters	3A
<input type="checkbox"/>	Appeal of or objection to <i>Ontario Heritage Act</i> matters under subsections 29, 30.1, 31, 32, 33, 40.1 and 41	3A
<input type="checkbox"/>	Appeal of <i>Planning Act</i> (subsections 33(4), 33(10), 33(15), 36(3)), <i>Municipal Act</i> (subsection 223(4)), <i>City of Toronto Act</i> (subsection 129(4)) and <i>Ontario Heritage Act</i> (subsections 34.1(1), 42(6)) matters	3A & 3B
<input type="checkbox"/>	Appeal of <i>Clean Water Act, Environmental Protection Act, Nutrient Management Act, Ontario Water Resources Act, Pesticides Act, Resource Recovery and Circular Economy Act, Safe Drinking Water Act, Toxics Reduction Act, and Waste Diversion Transition Act</i> matters	4A
<input type="checkbox"/>	Application for Leave to Appeal under the <i>Environmental Bill of Right</i>	4B
<input type="checkbox"/>	Appeal under the <i>Niagara Escarpment Planning and Development Act (NEPDA)</i>	5
<input type="checkbox"/>	Appeal of <i>Conservation Authorities Act, Mining Act, Lakes and Rivers Improvement Act, Assessment Act, and Oil, Gas and Salt Resources Act</i> matters	6
<input type="checkbox"/>	Legislation not listed above	Contact OLT before filing your appeal

#### Section 3A – Planning Matters

##### Appeal Reasons and Specific Information

Number of new residential units proposed:

Municipal Reference Number(s):

List the reasons for your appeal:

Please see the covering letter attached.

Has a public meeting been held by the municipality? ☐ Yes ☐ No

Has a public meeting been held by the municipality? ☐ YES ☐ NO

For appeals of Official Plans, Official Plan Amendments, Zoning By-laws and Zoning By-law Amendments, please indicate if you will rely on one or more of the following grounds:

A: A decision of a Council or Approval Authority is:

- ☐ Inconsistent with the Provincial Policy Statement issued under subsection 3(1) of the *Planning Act*
- ☐ Fails to conform with or conflicts with a provincial plan
- ☐ Fails to conform with an applicable Official Plan

**And**

B: For a non-decision or decision to refuse by council:

- ☒ Consistency with the provincial policy statement, issued under subsection 3(1) of the Planning Act
- ☒ Conformity with a provincial plan
- ☒ Conformity with the upper-tier municipality's Official Plan or an applicable Official Plan

If it is your intention to argue one or more of the above grounds, please explain your reasons:

Please see the covering letter attached.

**Oral/Written submissions to council**

Did you make your opinions regarding this matter known to council?

- ☐ Oral submissions at a public meeting of council
- ☐ Written submissions to council
- ☒ Not applicable

**Related Matters**

Are there other appeals not yet filed with the Municipality? ☐ Yes ☒ No

Are there other matters related to this appeal? (For example: A consent application connected to a variance application). ☐ Yes ☒ No

If yes, please provide the Ontario Land Tribunal Case Number(s) and/or Municipal File Number(s) for the

related matters:

#### Section 3B – Other Planning Matters

##### Appeal Specific Information (Continued)

Date application submitted to municipality if known (yyyy/mm/dd):

2022/12/14

Date municipality deemed the application complete if known (yyyy/mm/dd):

2023/01/10

Please briefly explain the proposal and describe the lands under appeal:

Please see the covering letter attached.

There are required documents and materials to be submitted to the Ontario Land Tribunal (OLT) based on the type of legislation and section you are filing under. Please see the Section 3B Checklist(s) located here and submit all documents listed.

#### Section 4A – Appeals under Environmental Legislation

##### Appeal Specific Information (Continued)

Outline the grounds for the appeal and the relief requested:

Reference Number of the decision under appeal:

Portions of the decision in dispute:

Date of receipt of Decision or Director's Order (yyyy/mm/dd):

Applying for Stay? ☐ Yes ☐ No

If Yes, outline the reasons for requesting a stay: (Tribunal's Guide to Stays can be viewed [here](#))

There are required documents and materials to be submitted to the Ontario Land Tribunal (OLT) based on the type of legislation and section you are filing under. Please see the [Section 4A Checklist\(s\)](#) located [here](#) and submit all documents listed on the checklist.

#### Section 4B – Environmental Application for Leave to Appeal

##### Appeal Specific Information (Continued)

Are you filing an Application for Leave to Appeal under the *Environmental Bill of Rights, 1993*? ☐ Yes ☐ No

Identify the portions of the instrument you are seeking to appeal:

Identify the grounds you are relying on for leave to appeal. Your grounds should include reasons why there is good reason to believe that no reasonable person, having regard to the relevant law and to any government policies developed to guide decisions of that kind could have made the decision; and why the decision could result in significant harm to the environment:

Outline the relief requested:

There are required documents and materials to be submitted to the Ontario Land Tribunal (OLT) based on the type of legislation and section you are filing under. Please see the [Section 4B Checklist\(s\)](#) located here and submit all documents listed on the checklist.

**Section 5 – Appeal regarding Development Permit Application under the *Niagara Escarpment Planning and Development Act***

**Appeal Specific Information**

Development Permit Application File No:

Address or legal description of the subject property:

Reasons for Appeal: Outline the nature and reasons for your appeal. Specific planning, environmental and/or other reasons are required. (The Niagara Escarpment Plan is available on the Niagara Escarpment Commission's website ([www.escarpment.org](http://www.escarpment.org)))

**Section 6 – Mining Claim and Conservation Matters**

**Appeal Specific Information**

List the subject Mining Claim Number(s) (for unpatented mining claims) and accompanying Townships, Areas and Mining Division(s) where mining claims are situated. List all "Filed Only" Mining Claims, if appropriate: (This is to be completed for *Mining Act* appeals only.)

--

List the Parcel and the Property Identifier Numbers (PIN), if rents or taxes apply to mining lands, if appropriate (mining claims only):

--

Provide the date of the Decision of the Conservation Authority or the Provincial Mining Recorder, as appropriate:

--

Provide a brief outline of the reasons for your application/appeal/review. If other lands/owners are affected, please include that information in the outline being provided below:

--

**Respondent Information**

Conservation Authority:

--

Contact Person: Email Address: Daytime Telephone Number:  ext. Alternative Telephone Number: 

Mailing Address or statement of last known address/general area they were living and name of local newspaper if address is not available

Unit Number:  Street Number: Street Name: P.O. Box: City/Town: Province: Country:  Postal Code: 

There are required documents and materials to be submitted to the Ontario Land Tribunal (OLT) based on the type of legislation and section you are filing under. Please see the [Section 6 Checklist\(s\)](#) located here and submit all documents listed on the checklist.

**Section 7 – Filing Fee****Required Fee**

Please see the attached link to view the OLT Fee Chart

Total Fee Submitted: \$ 

Payment Method:

☐ Certified Cheque ☐ Money Order ☒ Lawyer's general or trust account cheque ☐ Credit Card

If you wish to pay the appeal fee(s) by credit card, please check the box above and OLT staff will contact you by telephone to complete the payment process upon receipt of the appeal form.

**DO NOT INCLUDE YOUR CREDIT CARD INFORMATION ON THIS FORM. YOU WILL BE CONTACTED TO COMPLETE YOUR PAYMENT OVER THE PHONE.**

If a request for a fee reduction is being requested, please pay the minimum filing fee for each appeal and complete/submit the Fee Reduction request form


☐ Request for Fee Reduction form is attached (if applicable – see Appeal Form Guide for more information)

#### Section 8 – Declaration (Mandatory)

##### Declaration

I solemnly declare that all the statements and the information provided, as well as any supporting documents, are true, correct and complete.

By signing this appeal form below, I consent to the collection of my personal information.

Name of Appellant/Representative	Signature of Appellant/Representative	Date (yyyy/mm/dd)
David Bronskill		2023/08/31

Personal information or documentation requested on this form is collected under the authority of the *Ontario Land Tribunal Act* and the legislation under which the proceeding is commenced. All information collected is included in the Ontario Land Tribunal (OLT) case file and the public record in this proceeding. In accordance with the *Freedom of Information and Protection of Privacy Act* and section 9 of the *Statutory Powers Procedure Act*, all information collected is available to the public subject to limited exceptions.

We are committed to providing services as set out in the *Accessibility for Ontarians with Disabilities Act*, 2005. If you have any accessibility needs, please contact our Accessibility Coordinator at [OLT.Coordinator@ontario.ca](mailto:OLT.Coordinator@ontario.ca) or toll free at 1-866-448-2248 as soon as possible.

#### Section 9 – Filing Checklists (Mandatory)

##### Filing/Submitting your form and documentation

You must file your Appeal Form with the appropriate authority(s) by the filing deadline.

If the completed Section is:	Refer to the relevant checklist and submit all documents listed on the checklist when filing your Appeal Form.
Section 3B	Review the Section 3B Checklist(s) and attach all listed documents.
Section 4A	Review the Section 4A Checklist(s) and attach all listed documents.
Section 4B	Review the Section 4B Checklist(s) and attach all listed documents.

If the completed Section is:	You must file with the following:	
Section 3A	Municipality or the Approval Authority/School Board  *If you are filing under the <i>Ontario Heritage Act</i> , including under <b>s. 34.1(1)</b> , please carefully review the specific section of that legislation to determine if your appeal needs to be filed with the Tribunal <b>in addition</b> to the Municipality or Approval Authority.	
Section 3A & 3B or Section 4A or Section 4B or Section 6	<div> <div>Ontario Land Tribunal 655 Bay Street, Suite 1500 Toronto, ON M5G 1E5</div> <div> Phone: 416-212-6349   1-866-448-2248 Website: <a href="http://www.olt.gov.on.ca">www.olt.gov.on.ca</a> </div> </div>	
Section 5A or 5B	<p><b>For the Areas of:</b> Dufferin County (Mono) Region of Halton Region of Peel Region of Niagara City of Hamilton</p> <p><b>File with:</b> NIAGARA ESCARPMENT COMMISSION 232 Guelph Street, 3rd Floor Georgetown, ON L7G 4B1</p> <p>Phone: 905-877-5191 Fax: 905-873-7452 Website: <a href="http://www.escarpment.org">www.escarpment.org</a> Email: <a href="mailto:necgeorgetown@ontario.ca">necgeorgetown@ontario.ca</a></p>	<p><b>For the Areas of:</b> Bruce County Grey County Simcoe County Dufferin County (Mulmur, Melancthon)</p> <p><b>File with:</b> NIAGARA ESCARPMENT COMMISSION 1450 7th Avenue Owen Sound, ON N4K 2Z1</p> <p>Phone: 519-371-1001 Fax: 519-371-1009 Website: <a href="http://www.escarpment.org">www.escarpment.org</a> Email: <a href="mailto:necgeorgetown@ontario.ca">necgeorgetown@ontario.ca</a></p>

**NOTE:** Please review the notice of the decision you are appealing to determine the appeal deadline and the specific official with whom the appeal should be filed (e.g. Secretary-Treasurer, Clerk, Minister, Ontario Land Tribunal).

**NOTE:** Relevant portions of the applicable legislation should be reviewed before submitting this form. Please ensure that a copy of this Appeal Form is served in accordance with the requirements of the applicable legislation.