

Ontario Land Tribunal
Tribunal ontarien de l'aménagement
du territoire



ISSUE DATE: August 08, 2022

CASE NO(S): OLT-22-003042
(Formerly PL180092)
OLT-22-003051
(Formerly PL180583)
OLT-22-003062
(Formerly MM180060)

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

Applicant and Appellant:	Union Waterfront Inc.
Subject:	Request to amend the Official Plan – Failure of the City of St. Catharines to adopt the requested amendment
Existing Designation:	Community Commercial
Proposed Designation:	Community Commercial (amendment to existing site-specific policies)
Purpose:	To permit a 14-storey mixed-use building that includes 220 apartment dwelling units, 2,152 square metres of commercial floor space and 258 underground parking spaces
Property Address/Description:	11 Main St., 16 Lock St. and 12 Lockport Rd.
Municipality:	City of St. Catharines
Approval Authority File No.:	60.30.331
OLT Case No.:	OLT-22-003042
Legacy Case No.:	PL180092
OLT Lead Case No.	OLT-22-003042
Legacy Lead Case No.:	PL180092
OMB Case Name:	Union Waterfront Inc. v. St. Catharines (City)

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

Applicant and Appellant:	Union Waterfront Inc.
Subject:	Application to amend Zoning By-law No. 2013-283 – Refusal or neglect of the City of St. Catharines to make a decision
Existing Zoning:	Community Commercial, Special Provision 8 and Holding designations 4 and 5 (C2-8-H4, H5)
Proposed Zoning:	Site Specific (To be determined)
Purpose:	To permit a 14-storey mixed-use building that includes 220 apartment dwelling units, 2,152 square metres of commercial floor space and 258 underground parking spaces
Property Address/Description:	11 Main St., 16 Lock St. and 12 Lockport Rd.
Municipality:	City of St. Catharines
Municipality File No.:	60.35.1029
OLT Case No.:	OLT-22-003046
Legacy Case No.:	PL180093
OLT Lead Case No.	OLT-22-003042
Legacy Lead Case No.:	PL180092

PROCEEDING COMMENCED UNDER subsection 17(24) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellant:	Union Waterfront Inc.
Subject:	Proposed Official Plan Amendment No. 18
Municipality:	City of St. Catharines
OLT Case No.:	OLT-22-003051
Legacy Case No.:	PL180583
OLT Lead Case No.	OLT-22-003051
Legacy Lead Case No.:	PL180583
LPAT Case Name:	Union Waterfront Inc. v. St. Catharines (City)

PROCEEDING COMMENCED UNDER subsection 41(4) of the *Ontario Heritage Act*, R.S.O. 1990, c. O.18, as amended

Appellant:	Union Waterfront Inc.
Subject:	By-law 2018-120 – Port Dalhousie Commercial Core and Harbour Area Heritage Conservation District Plan
Municipality:	St. Catharines
OLT Case No.:	OLT-22-003062
Legacy Case No.:	MM180060

OLT Lead Case No.	OLT-22-003062
Legacy Lead Case No.:	MM180060
LPAT Case No.:	Union Waterfront Inc. v. St. Catharines (City)

Heard: May 20, 2022 by Video Hearing

APPEARANCES:

Parties

Counsel

Union Waterfront Inc. / 5009845 Ontario Inc.	Ian Andres
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City of St. Catharines ("City")	K. Stitt, D. Kehler
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Port Dalhousie Conservancy Group	J. Pepino
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**MEMORANDUM OF ORAL DECISION DELIVERED BY WILLIAM R. MIDDLETON
ON MAY 20, 2022 AND INTERIM ORDERS OF THE TRIBUNAL**

[1] This matter proceeded before the Ontario Land Tribunal ("OLT" or "Tribunal") as a settlement hearing held by video hearing ("VH") on May 20, 2022, arising from a comprehensive settlement of the Appeals in this matter (the "Settlement") pursuant to which the Parties are proposing modifications ("Redevelopment") to the Port Dalhousie Commercial Core and Harbour Area Secondary Plan ("Secondary Plan") and the Port Dalhousie Commercial Core and Harbour Area Heritage Conservation District Plan ("HCD Plan"), which facilitate the redevelopment of the lands municipally known as 11 Main Street, 12 Lock Street, 16 Lock Street, and 12 Lakeport Road, in the City of St. Catharines ("City") (collectively, the "Subject Lands").

[2] By a previous Order of the Tribunal, 5009845 Ontario Inc., part of the Rankin Construction Inc. family of companies, ("Appellant" or "Rankin") became the Appellant herein as the new owner of the Subject Lands, having acquired them from the court-appointed receiver after Union Waterfront Inc., the previous owner and original

appellant in respect of the above-noted appeals (originally assigned File Nos. PL180092, PL180093, PL180583 and MM180060) entered into receivership.

[3] The Subject Lands have a total site area of approximately 4,911.8 square metres ("m²") (0.49 hectares ("ha")) and approximately 58 metres ("m") of frontage on Main Street, 70 m of frontage on Lock Street, and 104 m of frontage on Lakeport Road. Hogan's Alley is currently a municipally owned right-of-way that bisects the Subject Lands north to south.

[4] The Subject Lands feature significant grade differences, with the highest elevations located on Lock Street (in front of the Austin House), and the lowest elevation at the northeast corner along Lakeport Road. The grade difference is approximately 4 m. The Subject Lands are largely vacant, with the exception of the Austin House (fronting Lock Street), the 12 Lock Street building and the Port Dalhousie Jail House (fronting Lakeport Road).

[5] On consent of the Parties, Dana Anderson was qualified before the Tribunal at the VH to provide opinion evidence on land use planning matters. The Tribunal also received her affidavit sworn May 10, 2022, comprising 138 paragraphs and 308 pages inclusive of 13 exhibits.

[6] The counsel for the Appellant, Ian Andres, also provided a document book comprising seven tabs and 170 pages, including architectural renderings concerning the Proposed Redevelopment.

[7] Ms. Anderson is a registered professional planner with over 30 years experience, and in her affidavit and oral testimony at the VH, her evidence was that:

- (a) The Redevelopment has been developed through extensive mediation and private settlement negotiations between the Appellant developer, the City and the Port Dalhousie Conservancy Group ("Conservancy"). The plans for

the Redevelopment ("Redevelopment Plans") are provided as Exhibit 4 to her affidavit and reflect the Settlement reached by the Parties;

- (b) The Redevelopment Plans will be implemented through modifications to the Secondary Plan and the HCD Plan. The proposed modifications to the Secondary Plan and the HCD Plan are provided as Attachments 1 and 2, respectively. The proposed modifications to the Secondary Plan includes a revised Schedule E1-1B;
- (c) The Redevelopment has been carefully designed to respect the existing Port Dalhousie local and historical context, the existing grading and site constraints, as well as the cultural heritage resources both on and surrounding the Subject Lands. The design approach was based on a series of design principles to establish strong connections with the history of the site and area, linkages throughout the site and between buildings, an appropriate built form and height, an enhanced public realm with accessible at grade active uses, a range of residential unit types and sizes, new community space, the protection of views and vistas as well as the conservation of cultural heritage resources;
- (d) The Redevelopment includes eight buildings of varying heights (two to 10 storeys) and six of the buildings are new. The existing Austin House and the Stanton Grocery are to be conserved and will be subject to Conservation Plans. The Port Dalhousie Jail House will also be subject to a Conservation Plan and will be relocated to the east of the site. A Heritage Easement Agreement will be entered into with the City in relation to the conservation of the Austin House and the Stanton Grocery building, and the conservation and relocation of the Port Dalhousie Jail House;
- (e) Following the acquisition of the Subject Lands by the Appellant in 2019, the City organized a site visit of the Subject Lands with the Appellant's project team and members of the Conservancy, a community- based, volunteer

organization that was founded in March, 1999, to pursue a heritage designation for Port Dalhousie;

- (f) As a result of the COVID-19 pandemic, the continuation of the without-prejudice discussions that had occurred between the Parties and the Conservancy was delayed. It was then determined and agreed by the Parties that a more formal mediation, to pursue a potential settlement of the issues, would be beneficial. A series of mediation sessions were carried out through 2020 and 2021, and resulted in the final settlement proposal now before the Tribunal ("Settlement"); and,
- (g) The Settlement can be summarized as follows:
 - a) The Parties agree to the Redevelopment as set out in the Proposed Redevelopment Plans;
 - b) The Parties agree to the approval of the modified Secondary Plan and HCD Plans, as approved by Council (with the modifications as set out in Attachment 1 and Attachment 2);
 - c) The Parties agree that amendments to the City's Zoning By-law to implement the Proposed Redevelopment will be finalized following the completion of the following studies and that the OLT will be asked to withhold its order in relation to the zoning for the Subject Lands until such studies and the draft Zoning By-law Amendment is revised and updated to the satisfaction of the City and the Tribunal:
 - (a) Functional Servicing Brief
 - (b) Heritage Impact Assessment for the Development
 - (c) Conservation Plan for the Austin House and for the Stanton Grocery

- (d) Conservation Plan and Relocation Plan for the Port Dalhousie Jail House
 - (e) Commemoration Plan for the Port Dalhousie Jail House and First Welland Canal
 - (f) Pedestrian Level Wind Study
 - (g) Traffic Impact Study and Sight Line Assessment
 - (h) Parking Study
 - (i) Streetscape Plan (including plan to illustrate removal of overhead hydro from the Lock Street frontage of Rankin properties as part of Lock Street Environmental Assessment work)
 - (j) Grading Plan
 - (k) Stormwater Management Plan.
- d) It is recognized that further planning applications including but not limited to a site plan application and heritage permits will be required before development can proceed.
- e) The Appellant is required to obtain approval of Conservation Plans for the Austin House, the Stanton Grocery building and the Port Dalhousie Jail House. The Conservation Plan for the Port Dalhousie Jail House will include its relocation within Lakeside Park, in the vicinity of the route of the first Welland Canal, in a turn-key condition and with conveyed ownership and a commemoration plan. The approved restoration works of the Austin House and the Stanton Grocery building shall form part of the first phase of development and shall be completed prior to occupancy of any new residential construction.
- f) The Appellant will enter into a Heritage Easement Agreement with the City, replacing the existing Heritage Easement Agreement that applies to

the Subject Lands and secure the conservation of the Austin House, the conservation of the Stanton Grocery building and the conservation and relocation of the Port Dalhousie Jail House.

- g) The Appellant will provide the following community benefits:
 - i. Community space within Building F with a minimum floor area of 409 m² (4,401 square feet ("ft²")) designed in accordance with the details as set out in the Minutes of Settlement;
 - ii. A privately owned public space ("POPS") and,
 - iii. A one-time monetary contribution to be used by the City toward heritage conservation objectives and/or heritage conservation projects within Port Dalhousie.
- h) Hogan's Alley will be conveyed from the City to the Appellant through an Agreement of Purchase and Sale, subject to the reservation of a public access easement over the area.
- i) An encroachment agreement will be provided between the Appellant and the City and the Region for any proposed elements (canopies, balconies, signage, etc.), which may encroach into the City and/or the Region's public realm.
- j) The Appellant will be responsible for costs related to streetscape improvements as may be required by the City and the Region around the perimeter of the Subject Lands.

[8] Ms. Anderson further opined that:

- (a) The proposed modifications to the Secondary Plan are appropriate and maintain the intent of the Secondary Plan. The Redevelopment conforms to the policies of the Secondary Plan;
- (b) The proposed modifications to the HCD provide for appropriate and well defined additional guidance for the Redevelopment. The Redevelopment generally conforms with the guidelines within the HCD Plan;
- (c) The Redevelopment has regard for the applicable matters of Provincial interest under the provisions of the *Planning Act*, R.S.O. 1990, c. P.13, as amended (“Act”) as it provides for a well designed, appropriate built form at an appropriate location that creates a sense of place and new public spaces that reflect a high quality, safe and accessible public realm. The Redevelopment will provide new housing in the form of apartment units and some larger ground floor units as well as new active at grade commercial and retail units. The Redevelopment is to be comprehensively redeveloped with regard for strong connectivity public access, heritage conservation and efficient servicing;
- (d) The Redevelopment uses POPS to facilitate a highly accessible and connected development which prioritizes the needs of pedestrians and provides spaces for community gathering that foster social interaction. In addition, the Redevelopment ensures conservation of all significant built heritage resources that will be addressed through conservation plans, heritage easements and commemoration;
- (e) The Redevelopment is consistent with and serves to implement the policies of the Provincial Policy Statement, 2020 (“PPS”) and also conforms with the vision and guiding principles of the Growth Plan for the Greater Golden

Horseshoe, 2019 (“GP”) and supports the achievement of complete community development by delivering a mixed-use development, which increases density in a compact form and prioritizes an appropriate level of intensification that makes efficient use of the Subject Lands;

- (f) The Region of Niagara Official Plan (“ROP”) was approved in 2015 and provides Regional policy direction to help guide economic, environmental, and community-building decisions affecting the use of the land throughout the Region. The Redevelopment achieves the Region’s objectives, policies and directions for growth through intensification by providing for a compact, vibrant sustainable mixed use built form that will provide for a range of housing units and new retail and commercial uses as well as new community space and POPS. Overall, the Redevelopment conforms with the intent and purposes of the ROP;
- (g) The City’s Official Plan (“City’s OP”) was adopted by Council on August 23, 2010, and this Redevelopment will introduce an appropriately designed development which will accentuate and enhance the character, public realm opportunities, and cultural heritage of the surrounding area, and uses an underutilized site to achieve intensification policies established by the City;
- (h) Redevelopment will conserve the Austin House and the Stanton Grocery building. The Port Dalhousie Jail House will be conserved and relocated to City-owned land. Overall, the Redevelopment is in conformity with the policies of the City’s OP, including the HCD Plan and the Secondary Plan;
- (i) In terms of the proposed amendment of Zoning By-law No. 2013-283, the Redevelopment is intended to be implemented through a new Zoning By-law Amendment (“ZBA”), which will replace the current site-specific zoning in order to implement the Proposed Development Plans. A draft ZBA is provided as a placeholder amendment at Attachment 3. This draft ZBA will

need to be revised and completed to the satisfaction of the City and the Tribunal, and will reflect appropriate standards and provisions supported by the updated studies as set out in the Minutes of Settlement; and,

- (j) As a whole, the Redevelopment represents good planning and is in the public interest.

[9] Based on the unchallenged written and oral evidence provided by Ms. Anderson, the Tribunal is satisfied that the proposed Settlement is fair and reasonable; is in accordance with the applicable provisions of the Act; is consistent with the provisions of PPS; conforms with the GP, the ROP, the City's OP, the Secondary Plan and the HCD Plan. Therefore, the Tribunal allows the appeals in Case No. OLT-22-003051, Case No. OLT-22-003062 and in Case No. OLT-22-003046 in part and approves the Settlement - all as subject to the provisions of paragraphs [10] and [11] below. With respect to Case No. OLT-22-003042, the appeal of the City's failure to amend its Official Plan is dismissed, on the basis that OPA 18, as modified and approved in principle, in accordance with paragraphs [10] and [11] below, will permit the Redevelopment without the need for further Official Plan Amendments.

ORDERS AND INTERIM ORDERS

[10] Therefore, the Tribunal makes the following Orders and Interim Orders:

1. With respect to Case No. OLT-22-003051: the appeal is allowed in part and the agreed-upon modifications to Official Plan Amendment No. 18 ("OPA 18") set out in Attachment 1 hereto are hereby approved in principle except as they relate to the area of the Subject Lands bounded by Lakeport Road, Lock Street, Main Street and Lakeside Park (the "Commercial Core Block") for which the Tribunal's Final Order is withheld subject to the contingent provisions contained in paragraph [11] below.

2. With respect to Case No. OLT-22-003062: the appeal is allowed in part and the agreed-upon modifications to the Port Dalhousie Commercial Core and Harbour Area Heritage Conservation District Plan (“HCD Plan”) set out in Attachment 2 hereto are hereby approved in principle except as they relate to the Commercial Core Block for which the Tribunal’s Final Order is subject to the contingent provisions contained in paragraph [11] below.
3. With respect to Case No. OLT-22-003046: the appeal is allowed in part and the Tribunal’s Final Order approving those amendments to Zoning By-law No. 2013-283 required to permit the Redevelopment is subject to the contingent provisions contained in paragraph [11] below.
4. With respect to Case No. OLT-22-003042, the appeal of the City of St. Catharine’s (“City”) failure to amend its Official Plan is dismissed.

[11] The Tribunal’s Interim Orders described above in paragraph [10] approving in principle the modified OPA 18 and the modified HCD Plan as they relate to the Commercial Core Block, as well as the amendments to Zoning By-law No. 2013-283 (“ZBA”), are contingent upon the pre-requisite matters described in paragraph [11](i) to [11](ix) below:

- i) The Parties’ solicitors have advised the Tribunal that they have agreed on the form and content of the ZBA and the modifications to OPA 18 and the HCD Plan that apply to the Commercial Core Block, all of which have been submitted to the Tribunal for its final review;
- ii) The Parties’ solicitors have advised the Tribunal that:
 - (a) Rankin has submitted and obtained approval of Conservation Plans for the Austin House, the Stanton Grocery building and the Port Dalhousie Jail House’s (“Jail”) relocation at Rankin’s expense to a location within

Lakeside Park in the vicinity of the route of the first Welland Canal in a turn-key condition each to the satisfaction of the City's Director of Planning and Building Services; and,

- (b) that the approved restoration works of the Austin House and the Stanton Grocery buildings will form part of the first phase of development and will be completed prior to occupancy of any new residential construction;
- iii) The Parties' solicitors have advised the Tribunal that Rankin has entered into a Heritage Easement Agreement with the City, replacing the existing Heritage Easement Agreement that applies to the Subject Lands and securing the conservation of the Austin House, the conservation of the Stanton Grocery building and the conservation and relocation of the Jail;
- iv) The Parties' solicitors have advised the Tribunal that Rankin has entered into an agreement with the City securing the transfer of ownership of the relocated Jail building to the City, and that said agreement includes provisions for the following matters:
 - (a) Relocation Plan including conservation and stabilization works to be undertaken prior to relocation as verified by a qualified building mover and a member of Canadian Association of Heritage Professionals ("CAHP");
 - (b) Commemoration Plan for the Jail and commemoration plan for the associated interpretation of the first Welland Canal to establish meaningful historical context for the Jail at the site where it is to be relocated, in accordance with the Parks Canada Standards and Guidelines for the Conservation of Historic Places;
 - (c) Foundation plan for the new site;

- (d) Servicing and Restoration plan for the new site (HVAC, plumbing, electrical, internet, and interior site works to base building condition including flooring and lighting, accessibility considerations, security considerations, and restoration works verified by a member of CAHP); and,
 - (e) Securities to guarantee completion of relocation and restoration;
- v) The Parties' solicitors have advised the Tribunal that Rankin has entered into an agreement with the City, pursuant to section 37 of the *Planning Act* or otherwise, securing the provision by Rankin to the City of the following community benefits:
 - (a) community space within Building F with a minimum floor area of four thousand, four hundred square feet (4,400 sq. ft.), as shown on Plan A-1.11 within Attachment 3 hereto (the "Community Space");
 - (b) publicly accessible, privately owned open space areas in the locations identified on Attachment 3 hereto; and,
 - (c) a one-time monetary contribution of fifty thousand dollars (\$50,000 CAD) to be paid by Rankin to the City and used by the City toward heritage conservation objectives and/or heritage conservation projects within Port Dalhousie;
- vi) The Parties' solicitors have advised the Tribunal that all Parties are satisfied that the Community Space includes details of construction and design that provide as follows:
 - (a) all interior works to base building condition to be completed by Rankin at no cost to the City, which shall include washroom facilities

appropriate for a community facility of this size, a kitchenette, minimum 10' ceilings throughout, a sprung wood floor, and room dividers;

- (b) Without limiting the provisions above, Rankin is responsible for all upfront HVAC, electrical and plumbing requirements for the community facility;
 - (c) the Community Space has been or will be transferred to the City, at no cost to the City, and is not subject to any future maintenance or condominium fees payable by the City; and,
 - (d) the provision by Rankin of the Community Space is agreed to be in complete satisfaction of any obligation it may have pursuant to section 37 of the *Planning Act*, including in the event that the City has enacted a community benefit charge by-law prior to the ZBA coming into force and effect, in which case the Community Space is or will be accepted by the City as in-kind contribution in full satisfaction of Rankin's community benefit charge payment obligation;
- vii) The Parties' solicitors have advised the Tribunal that Rankin and the City have entered into an Agreement of Purchase and Sale, whereby the lands comprising Hogan's Alley have been or will be conveyed from the City to Rankin, subject to the reservation of a public access easement over the area generally identified in Attachment 3 hereto and the relocation of any utilities that may be required, said relocation to be completed at Rankin's cost;
- viii) The Parties' solicitors have advised the Tribunal that all Parties are satisfied that Rankin has submitted the following updated studies:
- (a) Functional Servicing Brief;

- (b) Heritage Impact Assessment for the Development;
 - (c) Conservation Plan for the Austin House and for the Stanton Grocery;
 - (d) Conservation Plan and Relocation Plan for the Jail;
 - (e) Commemoration Plan for the Jail and First Welland Canal;
 - (f) Pedestrian Level Wind Study;
 - (g) Traffic Impact Study and Sight Line Assessment;
 - (h) Parking Study;
 - (i) Streetscape Plan (including plan to illustrate removal of overhead hydro from Lock Street frontage of Rankin properties as part of Lock Street Environmental Assessment work);
 - (j) Grading Plan; and
 - (k) Stormwater Management Plan;
- ix) The Parties' solicitors have advised the Tribunal that Rankin has entered into an encroachment agreement with the City and Region for any proposed elements (canopies, balconies, signage, etc.), which may encroach into the City and/or Region public realm; and
- x) The Parties' solicitors have advised the Tribunal that all Parties are satisfied that Rankin has taken or will take responsibility for costs related to streetscape improvements to the satisfaction of the City and Region around the perimeter of the Redevelopment on lands owned by the City and/or the Region.

[11] The Tribunal Member shall remain seized for the purpose of reviewing and approving the final form of the modified OPA 18, the modified HCD Plan, the ZBA and issuance of the Final Order and with respect to all outstanding matters relating to the Interim Orders described above in paragraphs [10] and [11].

[12] The Tribunal may convene a further hearing event or Telephone Conference Call attendance, or may require further written submissions, in the event that the Parties require assistance in implementing the provisions of this Interim Order or with respect to issuance of the Final Order, or in the event that the Tribunal has not received the confirmations set out in paragraph [11] within six months of the date of issuance of this Decision.

“William R. Middleton”

WILLIAM R. MIDDLETON
MEMBER

Ontario Land Tribunal

Website: olt.gov.on.ca Telephone: 416-212-6349 Toll Free: 1-866-448-2248

The Conservation Review Board, the Environmental Review Tribunal, the Local Planning Appeal Tribunal and the Mining and Lands Tribunal are amalgamated and continued as the Ontario Land Tribunal (“Tribunal”). Any reference to the preceding tribunals or the former Ontario Municipal Board is deemed to be a reference to the Tribunal.

Ontario Land Tribunal
Tribunal ontarien de l'aménagement
du territoire



ISSUE DATE: August 08, 2022

CASE NO(S).:

OLT-22-003042
(Formerly PL180092)
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Applicant and Appellant:

Union Waterfront Inc.

Subject:

Request to amend the Official Plan – Failure of the City of St. Catharines to adopt the requested amendment

Existing Designation:

Community Commercial

Proposed Designation:

Community Commercial (amendment to existing site-specific policies)

Purpose:

To permit a 14-storey mixed-use building that includes 220 apartment dwelling units, 2,152 square metres of commercial floor space and 258 underground parking spaces

Property Address/Description:

11 Main St, 16 Lock St. and 12 Lakeport Rd.

Municipality:

City of St. Catharines

Approval Authority File No.:

60.30.331

OLT Case No.

OLT-22-003042

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PL180092

OLT Lead Case No.

OLT-22-003042

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OLT Case Name:

Union Waterfront Inc. v. St. Catharines (City)

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

Applicant and Appellant:

Union Waterfront Inc.

Subject: Application to amend Zoning By-law No. 2013-283
– Refusal or neglect of the City of St. Catharines to
make a decision

Existing Zoning: Community Commercial, Special Provision 8 and
Holding designations 4 and 5 (C2-8-H4, H5)

Proposed Zoning: Site Specific (To be determined)

Purpose: To permit a 14-storey mixed-use building that
includes 220 apartment dwelling units, 2,152
square metres of commercial floor space and 258
underground parking spaces

Property Address/Description: 11 Main St, 16 Lock St. and 12 Lakeport Rd.

Municipality: City of St. Catharines

Municipality File No.: 60.35.1029

OLT Case No. OLT-22-003046

Legacy Case No.: PL180093

OLT Lead Case No. OLT-22-003042

Legacy Lead Case No.: PL180093

OLT Case Name: Union Waterfront Inc. v. St. Catharines (City)

PROCEEDING COMMENCED UNDER subsection 17(24) of the *Planning Act*, R.S.O.
1990, c. P.13, as amended

Appellant: Union Waterfront Inc.

Subject: Proposed Official Plan Amendment No. 18

Municipality: City of St. Catharines

OLT Case No. OLT-22-003051

Legacy Case No.: PL180583

OLT Lead Case No. OLT-22-003051

Legacy Lead Case No.: PL180583

OLT Case Name: Union Waterfront Inc. v. St. Catharines (City)

PROCEEDING COMMENCED UNDER subsection 41(4) of the *Ontario Heritage Act*,
R.S.O. 1990, c. O.18, as amended

Appellant: Union Waterfront Inc.

Subject: By-law No. 2018-120 Port Dalhousie Commercial
Core and Harbour Area Heritage Conservation
District Plan

Municipality: St. Catharines

OLT Case No. OLT-22-003062

Legacy Case No.: MM180060

OLT Lead Case No. OLT-22-003062

Legacy Lead Case No.: MM180060

OLT Case Name: Union Waterfront Inc. v. St. Catharines (City)

Attachment 1

Modifications to OPA 18 – Approved in Principle

The following notwithstanding policies shall be added to the end of policy 3.3.1 as 3.3.1 (e) Site Specific Exception:

3.3.1 (e) Site Specific Exception

Notwithstanding the policies in Section 3.3.1, the following exceptions shall apply to the lands located at 12 and 16 Lock Street and 12 Lakeport Road, Port Dalhousie:

i) Permitted uses

- Ground floor residential uses may be permitted where they face onto interior courtyard locations of buildings, but not including Hogan's Alley. This includes live/work units. Residential amenity functions may be permitted along the Main Street frontage, provided that transparency is maintained along the frontage to provide views to active uses.
- Individual units should generally be restricted to a maximum width of 12 metres at the street front and where two units occupy 30 metres of frontage, each unit may be up to a maximum of 18 metres to ensure that the fine grained character of the streetscape is maintained. Where the maximum width of units exceeds 12 metres, an urban design brief will be required to demonstrate how the unit maintains a continuously active public realm and the visual rhythm and character of the street which maintains the fine grained character of the streetscape.

ii) Building Setbacks

- Along Main Street, Hogan's Alley and Street With No Name opposite Lakeside Park, a minimum 3 metre step-back will not be required at 11 metres in building height, however, upper floor building step-backs will be provided where appropriate. Each building will have a defined base section to promote a comfortable scale.
- On Lock Street and Lakeport Road, a minimum 3 metre step-back should be provided for the portion of building above 11 metres in height.

iii) Building Heights

- Building heights may range from 2 storeys to a maximum height of 35 metres (10 storeys) relative to Lock Street (geodetic elevation of 83.0m) as set out on Schedule E1-1B. A Section 37 agreement shall be provided to

facilitate the provision of public community space and publicly accessible privately-owned open space areas.

iv) Stepping

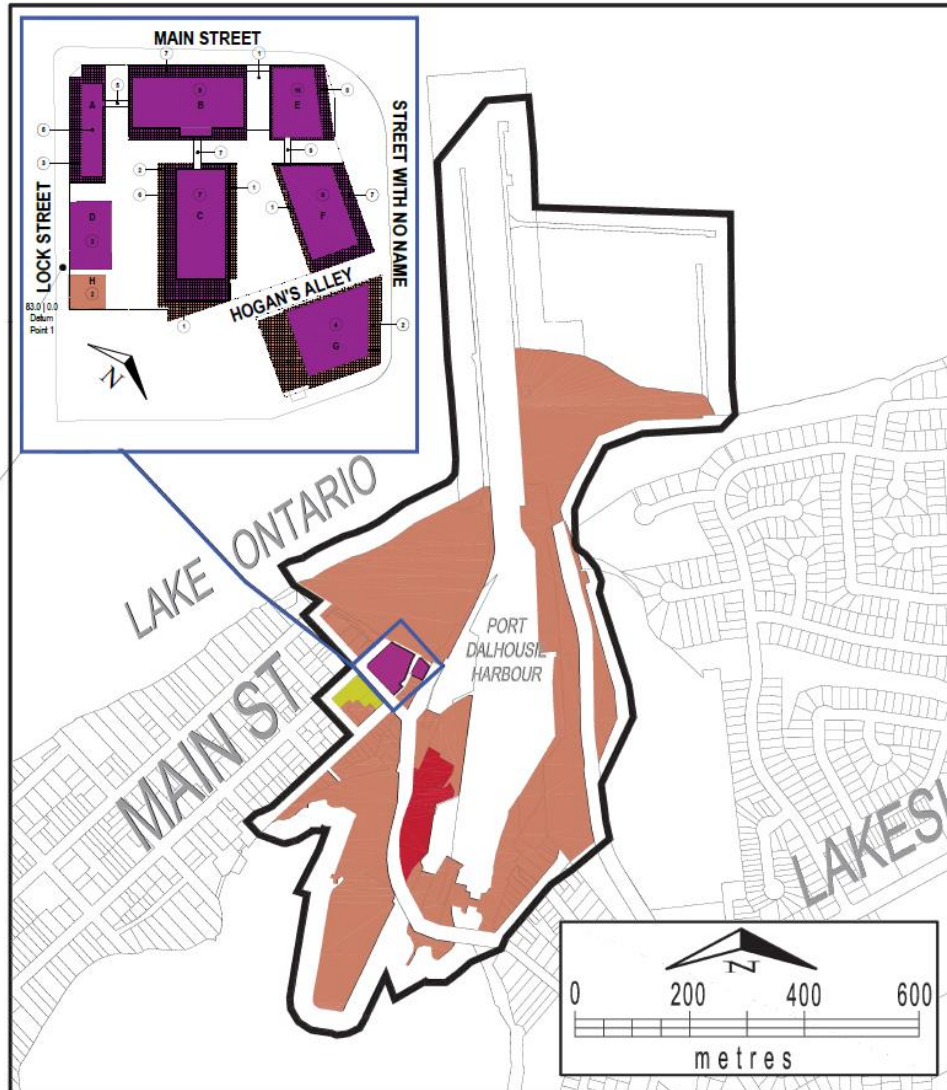
- The difference in elevation between the lake and the commercial development on Lock Street is an important part of the historical landscape context of Port Dalhousie. New development north of Lock Street and west of Hogan's Alley should ensure that the change in elevation from the water to Lock Street remains a discernable landform feature. Buildings should step up the slope or include design elements conveying the change in level and the slope. Landscaped terraces between stepping levels is encouraged.

v) Special Policies

- This Plan anticipates the relocation of the Port Dalhousie Jail to Lakeside Park prior to development of the block containing 16 Lock Street. The Port Dalhousie Jail may be relocated through a heritage easement agreement with the City. Schedule E1-1B is amended to reflect the revised height permissions for the lands and the relocation of the Port Dalhousie Jail.

The Garden City Plan

North Planning District - Port Dalhousie Commercial Core & Harbour Area
Secondary Plan (PDSP) Schedule E1 - 1 B (HEIGHT)



Building Heights

- 4.5 Metres (1 Storey)
- 9 Metres (2 Storey)
- 11 Metres (3 Storey)
- 22 Metres (6 Storey)
- 28 Metres (8 Storey)

* HEIGHT REFERENCED IN STOREYS IS FOR CONVENIENCE PURPOSES ONLY.

See insert for range of heights; up to 35m (10 storeys)

Subject to Site Specific Exception 3.3.1 (e)

All heights within insert measured from Geodetic Elevation of 83.0m

CITY OF ST. CATHERINES
PLANNING AND BUILDING SERVICES
OFFICIAL PLAN APRIL 9, 2018

Attachment 2**HCD Plan – Approved in Principle**

The Port Dalhousie Commercial Core and Harbour Area Heritage Conservation District Plan shall be modified as follows:

a) Section 9.3.1 Property Information Chart

i) Austin House Hotel

Replace the 4th sentence with the following:

“It was designated in 1980 and as one of the two remaining 19th century buildings facing onto the north side of Lock Street it is important to conserve in situ and whole. The removal of rear additions to the original core building may be supported subject to submission of an updated Heritage Impact Assessment and Conservation Plan (HIA) and approval of a Heritage Permit. The HIA is to incorporate an adaptive re-use strategy considering accessibility requirements and commemoration plan for the original structure.”

Add the following sentences at the end of the paragraph:

“Architectural evidence suggests that the original building likely incorporated a second storey balcony on the Lock Street facade. The reintroduction of this feature is encouraged to support the adaptive re-use of the building, subject to the balcony being consistent with the architectural style and period of the building.”

ii) Stanton Grocery Building

Add the following sentences to the end of the paragraph in the chart:

“The removal of later additions to the original core building may be supported subject to submission of an updated Heritage Impact Assessment and Conservation Plan (HIA) and approval of a Heritage Permit. The HIA is to incorporate an adaptive re-use strategy considering accessibility requirements and commemoration plan for the remaining original structure.”

iii) Port Dalhousie Jail

Delete the 4th sentence which reads:

“At different times it has been suggested it be relocated, public debate has defended the importance of its location”.

Add the following to the end of the paragraph:

“Relocation of the Port Dalhousie Jail may be considered within Lakeside Park in the vicinity of the route of the First Welland Canal, subject to submission of an up-to-date Heritage Impact Assessment and Conservation Plan (HIA) and approval of a Heritage Permit. The HIA shall include a relocation plan and stabilization plan, commemoration plan, and site and restoration plan for the proposed new location.”

b) 9.3.2 Views, Vistas and Vantage Points

Revise the description of View 11: Jail and Foot of Main Street to add the following sentences to the end of the paragraph:

“Relocation of the Port Dalhousie Jail may be contemplated within Lakeside Park in the vicinity of the route of the First Canal as part of an overall commemoration plan for the First Welland Canal, incorporating such commemoration elements as historical signage, public art and interpretive landscape features.”

c) 10.2 Areas Affected by the Guidelines

Delete the portion of the third sentence in the first paragraph which reads:

“...and should generally not appear to be higher than the ridge of the main roofline of the property, or the top of a flat roof or roof parapet as seen from the curb on the opposite side of the street, or a distance of 20m, whichever is less.”

And replace it with the following:

“...and incorporate design elements to minimize views of new buildings or additions at the rear of contributing properties from the public realm on the south side of Lock Street and the east side of the Lakeport Road municipal right of way.”

d) 10.5.5 Commercial Structures

Replace the last sentence of the second paragraph with the following:

“All remaining contributing buildings must be conserved. Any alterations to contributing buildings require approval of a heritage permit which must be supported by a Heritage Impact Assessment and Conservation Plan and other related requirements that may be identified by the municipality such as economic viability plan and commemoration plan.”

e) 10.5.5 Infill

Replace the first sentence with the following:

“To ensure new commercial buildings facing and abutting Lock Street and the west side of Lakeport Road create a street wall that is compatible with that of contributing buildings, new commercial buildings shall generally be no higher than the tallest contributing building for the first 3.0m from the streetwall.”

f) 10.5.5 New buildings facing Lake Ontario or Main Street

Modify the first bullet point to read:

“...and have service access from Main Street or the Street with No Name”.

Delete the fourth bullet point and replace with the following:

“Taller buildings shall be located away from Lock Street and Lockport Road and should include use of stepbacks or other design treatments to minimize the visibility of new buildings above the rooflines of the contributing buildings when viewed from the sidewalk opposite of contributing buildings north of Lock Street or from the sidewalk or portion of the right-of-way opposite contributing buildings on Lakeport Road.”

Delete the sixth bullet point and replace with the following:

“Shall generally step back from the waterfront and step up or incorporate design elements that provide the appearance of stepping up the slope to make the change in levels across the embankment evident when viewed from Lakeside Park.”

g) 10.5.7 Port Dalhousie Jail (Lock up)

Modify the heading as follows:

“10.5.7 Port Dalhousie Jail”

Replace the first sentence with the following:

“The historic relationship of the Port Dalhousie Jail to the route of the First Welland Canal shall be conserved and interpreted in a manner consistent with the policies and guidelines outlined within this Plan.”

h) 10.6.1 Lock Street

Replace the first bullet point in the third paragraph with the following:

“Conserve contributing buildings and limit height of new buildings to 3 storeys for first 3.0m from the street wall.”

i) 10.6.3 Hogan’s Alley

Modify the third bullet point by removing the words “...and asphalt paving.”

Replace the fourth bullet point with the following:

“Do not introduce trees or vegetation in locations that would obstruct the significant views identified in Section 9.3.1.”

j) 10.6.4 Main Street

Delete the second bullet point that reads:

“Preserving a view to the Port Dalhousie Jail from its northern end.”

k) 10.6.5 The Street with No Name

Add a fourth bullet point to the second paragraph as follows:

“Permit access to residential lobbies, commercial and community space.”

l) 10.7 Zoning in the Sub-District

Replace the first paragraph with the following:

“The existing zoning with height limit of 11 m (approximately 3 storeys) is generally appropriate for the area, permitting buildings of similar scale to those in the Sub-District. The Secondary Plan Study conducted

concurrently with the development of this HCD Plan, reviewed existing height permissions in the Sub- District to identify some areas where increased heights would be compatible with the existing generally low rise heritage fabric, and other identified heritage attributes, while ensuring that the former Maple Leaf Rubber Company building at 63 Lakeport Road retains its landmark quality..”

Replace the second paragraph with the following:

“In the area north of Lock Street, and west of Lakeport Road, generally behind the contributing buildings and compatible infill buildings, to ensure a compatible and visually comfortable scale relationship between the surrounding low rise fabric of the residential area to the west and south, as well as the generally maximum 3 storey commercial buildings, tall buildings shall be located behind the contributing buildings on Lock Street and Lakeport Road.”

Delete the third paragraph that reads:

“Special consideration was given to preserving the Port Dalhousie Jail and in its traditional open setting.”

Attachment 3
Final Order Conditions

The Tribunal will withhold its final order pending written confirmation from the Parties that each of the following matters has been satisfied:

- xi) the Parties have agreed on the form and content of the zoning by-law amendments required to permit the Proposed Redevelopment of the Subject Properties and the modifications to OPA 18 and the HCD Plan that apply to the Commercial Core Block;
- xii) Rankin has submitted and obtained approval of Conservation Plans for the Austin House, the Stanton Grocery building and the Jail, each to the satisfaction of the City's Director of Planning and Building Services, who shall consult with the City's Heritage Advisory Committee, it being understood and agreed that the Conservation Plan for the Jail will provide for its relocation at Rankin's expense to a location within Lakeside Park in the vicinity of the route of the first Welland Canal in a turn-key condition. The approved restoration works of the Austin House and the Stanton Grocery buildings shall form part of the first phase of development and shall be completed prior to occupancy of any new residential construction;
- xiii) Rankin has entered into a Heritage Easement Agreement with the City, replacing the existing Heritage Easement Agreement that applies to the Subject Properties and securing the conservation of the Austin House, the conservation of the Stanton Grocery building and the conservation and relocation of the Jail;
- xiv) Rankin has entered into an agreement with the City securing the transfer of ownership of the relocated Jail building to the City, said agreement shall include provisions for the following matters which shall all be to the satisfaction of the City:
 - (a) Relocation Plan including conservation and stabilization works to be undertaken prior to relocation as verified by a qualified building mover and a member of CAHP;
 - (b) Commemoration Plan for the Jail and commemoration plan for the associated interpretation of the first Welland Canal to establish meaningful historical context for the Jail at the site where it is to be relocated, in accordance with the Parks Canada Standards and Guidelines for the Conservation of Historic Places;
 - (c) Foundation plan for the new site;
 - (d) Servicing and Restoration plan for the new site (HVAC, plumbing, electrical, internet, and interior site works to base building condition including flooring

and lighting, accessibility considerations, security considerations, and restoration works verified by a member of CAHP); and

(e) Securities to guarantee completion of relocation and restoration;

xv) Rankin has entered into an agreement with the City, pursuant to section 37 of the *Planning Act* or otherwise, securing the provision by Rankin to the City of the following community benefits:

(a) community space within Building F with a minimum floor area of four thousand, four hundred square feet (4,400 sq. ft.), as shown on Plan A-1.11 within Schedule "A" (the "Community Space");

(b) publicly accessible, privately owned open space areas in the locations identified on Schedule "A" attached hereto; and

(c) a one-time monetary contribution of fifty thousand dollars (\$50,000 CAD) to be paid by Rankin to the City and used by the City toward heritage conservation objectives and/or heritage conservation projects within Port Dalhousie;

xvi) The Community Space shall include details of construction and design to the satisfaction of the City that shall provide as follows: all interior works to base building condition to be completed by Rankin at no cost to the City which shall include washroom facilities appropriate for a community facility of this size, a kitchenette, minimum 10' ceilings throughout, a sprung wood floor, and room dividers. Without limiting the provisions above, Rankin shall also be responsible for all upfront HVAC, electrical and plumbing requirements for the community facility. The Community Space shall be transferred to the City at no cost to the City, and shall not be subject to any future maintenance or condominium fees payable by the City. The provision by Rankin of the Community Space shall completely satisfy any obligation it may have pursuant to section 37 of the *Planning Act*, including in the event that the City has enacted a community benefit charge by-law prior to the ZBA coming into force and effect, in which case the Community Space shall be accepted by the City as in-kind contribution in full satisfaction of Rankin's community benefit charge payment obligation;

xvii) Rankin and the City have entered into an Agreement of Purchase and Sale whereby the lands comprising Hogan's Alley will be conveyed from the City to Rankin, subject to the reservation of a public access easement over the area generally identified on Schedule "A" attached hereto and the relocation of any utilities that may be required, said relocation to be completed at Rankin's cost;

xviii) Rankin has submitted the following updated studies to the satisfaction of the City's Director of Planning and Building Services, who shall consult with the City's Heritage Advisory Committee in respect of items (b) through (e):

(a) Functional Servicing Brief;

- (b) Heritage Impact Assessment for the Development;
 - (c) Conservation Plan for the Austin House and for the Stanton Grocery;
 - (d) Conservation Plan and Relocation Plan for the Jail;
 - (e) Commemoration Plan for the Jail and First Welland Canal;
 - (f) Pedestrian Level Wind Study;
 - (g) Traffic Impact Study and Sight Line Assessment;
 - (h) Parking Study;
 - (i) Streetscape Plan (including plan to illustrate removal of overhead hydro from Lock Street frontage of Rankin properties as part of Lock Street Environmental Assessment work);
 - (j) Grading Plan; and
 - (k) Stormwater Management Plan;
- xix) Rankin has entered into an encroachment agreement with the City and Region for any proposed elements (canopies, balconies, signage, etc.) which may encroach into within the City and/or Region public realm; and
- xx) Rankin shall also be responsible for costs related to streetscape improvements as may be required by the City and Region around the perimeter of the Permitted Development on lands owned by the City and/or the Region.

Schedule "A"

Publicly Accessible, Privately Owned Open Space Areas

