|  |  |
| --- | --- |
|  |  |
| **Local Planning Appeal Tribunal** |
| Tribunal d’appel de l’aménagement local |

|  |  |  |  |
| --- | --- | --- | --- |
| **ISSUE DATE:** | April 27, 2021 | **CASE NO(S).:** | PL171383 |

|  |
| --- |
| The Ontario Municipal Board (the “OMB”) is continued under the name Local Planning Appeal Tribunal (the “Tribunal”), and any reference to the Ontario Municipal Board or Board in any publication of the Tribunal is deemed to be a reference to the Tribunal. |

|  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| |  |  | | --- | --- | | **PROCEEDING COMMENCED UNDER** subsection 17(40) of the *Planning Act*,  R.S.O. 1990, c. P.13, as amended | | | Appellant: | J.A.N. Group Inc. | | Subject: | Failure of the City of Hamilton to announce a decision respecting Proposed Official Plan Amendment No. UHOPA-16-028 | | Municipality: | City of Hamilton | | OMB Case No.: | PL171383 | | OMB File No.: | PL171383 | | OMB Case Name: | J.A.N. Group Inc. v. Hamilton (City) |  |  |  | | --- | --- | | **PROCEEDING COMMENCED UNDER** subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended | | | Applicant and Appellant: | J.A.N. Group Inc. | | Subject: | Application to amend Zoning By-law No. 3692-92 Stoney Creek Zoning By-law - Refusal or neglect of the City of Hamilton to make a decision | | Existing Zoning: | RM3-16 (Multiple Residential) | | Proposed Zoning: | RM4 (Multiple Residential) | | Purpose: | To permit the redevelopment of the subject site with a four-storey apartment building with 48 units | | Property Address/Description: | 261 King Street East | | Municipality: | City of Hamilton | | Municipality File No.: | ZAR-16-062 | | OMB Case No.: | PL171383 | | OMB File No.: | PL171384 | | |
|  |  |

|  |  |
| --- | --- |
| **Heard:** | March 4, 2021 by video hearing |

|  |  |
| --- | --- |
| **APPEARANCES:** |  |
|  |  |
| **Parties** | **Counsel** |
|  |  |
| J.A.N Group Inc. | S. Snider |
|  |  |
| City of Hamilton | A. Flarity |
|  |  |

MEMORANDUM OF ORAL DECISION DELIVERED BY STEVEN COOKE ON MARCH 4, 2021 AND INTERIM ORDER OF THE TRIBUNAL

1. This was a Settlement hearing in the matter of appeals by J.A.N Group Inc. (“Applicant”) from the failure of the City of Hamilton (“City”) to make a decision in respect to applications for amendments to the Official Plan (“OP”) and Zoning By-law amendments (“ZBA”) to permit a mixed use development at the properties municipally known as 261 King Street East (“Subject Site”).

**PLANNING EVIDENCE**

1. Ms. Brenda Khes was qualified by the Tribunal to give expert land use planning evidence and opinion.
2. Ms. Khes described the proposed settlement as two three-storey buildings with 16 dwelling units in each located along the east side of the Subject Site. In addressing the concerns of neighbours there will be no balconies, but residents will have outdoor amenity spaces located between the two buildings. The west side of the Subject Site will contain 24 surface parking spaces set back from the property line 4 to 5 metres. This will allow for the preservation of the large cedar and spruce trees along the west property line.
3. Addressing the concern that the proposed development may create negative shadowing. Ms. Khes informed the Tribunal that height restriction of a maximum of three-storeys, which is shorter than some of the existing trees, and with the generous setbacks from the property lines, shadowing would be minimal.
4. It is the opinion of Ms. Khes that the settlement is consistent with the Provincial Policy Statement 2020 (“PPS”) and conforms to the Growth Plan for the Greater Golden Horseshoe 2020 (“GP”). The redevelopment of the Subject Site supports the objectives of these provincial policies by providing infill development in a settlement area, utilizing existing municipal infrastructure, creating an efficient development of a land use pattern that will sustain financial well being of the Province and the City, accommodates a range of mixed residential dwellings, and is supported by public transit.
5. Ms. Khes testified that the Subject Site is located on what is identified as a Minor Arterial Road within the Neighbourhoods complement of the City's urban structure that allows for a range of residential uses, including medium density development. The ZBA includes minimum setbacks manscaping screening and a maximum density provision specific to the proposed development. It is her opinion that the proposed development would conform with the OP and the ZBA to medium density designation is appropriate

**ANALYSIS AND FINDINGS**

1. In determining this matter, the Tribunal accepts and adopts the uncontested land use planning evidence and expert opinions provided by Ms. Khes.  The Tribunal is persuaded by the evidence that the proposal promotes efficient development of land, intensifies uses within the settlement area, optimizes the use of existing urban land supply, and will be supported by public transit.
2. The Tribunal finds that the proposal is consistent with the policy direction established by the PPS, and conforms to the relevant directives established by the GP, and as maintained by the OP. The Tribunal is further satisfied that the proposal has due regard for matters of Provincial interest, is consistent with the principles of good land use planning and is in the greater public interest. More significantly, the proposal furthers the goals and objectives of the Provincial planning regime to increase housing opportunities.

**ORDER**

1. The Tribunal orders that the appeal filed on behalf of J.A.N. Group Inc. is allowed.
2. The Urban Hamilton Official Plan is amended in accordance with Attachment 1 appended hereto.
3. Stoney Creek Zoning By-law No. 3692-92 is amended in accordance with Attachment 2 appended hereto.
4. The Attachments appended to this Order shall form part of this Order.
5. The Member may be spoken to should any matters arise respecting the implementation of this Order.

“Steven Cooke”

STEVEN COOKE

MEMBER

If there is an attachment referred to in this document,

please visit www.olt.gov.on.ca to view the attachment in PDF format.

**Local Planning Appeal Tribunal**

A constituent tribunal of Ontario Land Tribunals

Website: [www.olt.gov.on.ca](http://www.olt.gov.on.ca) Telephone: 416-212-6349 Toll Free: 1-866-448-2248