

Ontario Land Tribunal
Tribunal ontarien de l'aménagement
du territoire



ISSUE DATE: July 28, 2023

CASE NO(S).:

OLT-23-000075

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

Applicant and Appellant: Ahmed Group (1000 Dundas St. E.) Inc. and Ahmed Group (1024 Dundas St. E.) Inc.
Subject: Request to amend the Official Plan – Failure to adopt the requested amendment
Description: To permit the redevelopment of the property for a 4 storey, 16 storey and 20 storey mixed use building with at grade commercial use
Reference Number: OZ/OPA 22-18 W1
Property Address: 1000 and 1024 Dundas Street East
Municipality/UT: City of Mississauga/Region of Peel
OLT Case No.: OLT-23-000075
OLT Lead Case No.: OLT-23-000075
OLT Case Name: Ahmed Developments Inc. et al. v. Mississauga (City)

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

Subject: Application to amend the Zoning By-law – Refusal or neglect to make a decision
Description: To permit the redevelopment of the property for a 4 storey, 16 storey and 20 storey mixed use building with at grade commercial use
Reference Number: OZ/OPA 22-18 W1
Property Address: 1000 and 1024 Dundas Street East
Municipality/UT: City of Mississauga /Region of Peel
OLT Case No.: OLT-23-000076
OLT Lead Case No.: OLT-23-000075
Heard: July 14, 2023 by Video Hearing

APPEARANCES:**Parties**

Ahmed Developments Inc. et al.

City of Mississauga

Mother Parkers Tea and Coffee Inc.

Dundas Landowners' Association

Region of Peel

CounselPeter Gross
Jessica ChenMichael Minkowski
Quinto Annibale
Mark JoblinDavid Tang
Jesse White

Max Laskin

Brett Baker
Rachel Godley (*in absentia*)**MEMORANDUM OF ORAL DECISION DELIVERED BY ERIC S. CROWE AND
ORDER OF THE TRIBUNAL**

INTRODUCTION

[1] This was the second Case Management Conference (“CMC”) with respect to appeals brought pursuant to sections 22(7) and 34(11) of the *Planning Act* (“Act”) for an Official Plan Amendment (“OPA”) and Zoning By-law Amendment (ZBA”) for the property municipally addressed as 1000-1024 Dundas Street East (“Subject Properties”) located in the City of Mississauga (“City”), for the failure of council to adopt or to make a decision within the legislated timeframe.

[2] The purpose of the OPA and ZBA are to permit the redevelopment of a 4 storey, 16 storey, and 20 storey mixed use building with at grade commercial uses, 543 purpose – built rental apartments, and a gross floor area of 37,817 square metres (“m²”).

[3] The OPA proposes to amend the City of Mississauga's Official Plan ("MOP") by redesignating the Subject Properties from Employment Area, Dixie Employment Area, and Mixed use to Neighbourhood, Applewood Neighbourhood, and Residential High Density.

[4] The ZBA proposes to amend the City's ZBL No. 0255-2007 by changing the zoning designations of the Subject Properties from General Commercial Exception Zone C3-65 and General Commercial Exception Zone C3-66 to a site-specific Residential Apartment Exception (RA5-XX) Zone.

PARTICIPANT or PARTY STATUS REQUEST

[5] In response to the Notice, the Tribunal did not receive further Participant or Party Status requests.

HEARING

[6] David Tang, counsel for Mother Parkers Tea and Coffee Inc. ("Mother Parkers") provided background to the current status of the appeals. He advised there have been continued discussions with Paul Gross, counsel for the Applicant/ Appellant, however there are still three outstanding issues for the Draft Procedural Order ("DPO") and Issues List ("IL") to be finalized.

[7] Mr. Gross advised that he provided the Tribunal with a DPO and IL on July 10, 2023 and confirmed three issues have not been agreed upon by only the Applicant/ Appellant and Mother Parkers. The other Parties to the proceeding, specifically the City, Dundas Landowners Association and the Region all were satisfied with the DPO and IL and had no comments for the three issues between the Applicant/Appellant and Mother Parkers.

DRAFT PROCEDURAL ORDER AND ISSUES LIST

[8] Mr. Tang quoted the wording of issue #33 of the IL;

“Can, and if it can, should the Tribunal designate as Class 4, the lands known municipally as: 1000 & 1024 Dundas St. E.? PPS 2020, Policy 1.2.6.1; NPC-300; Mississauga OP, Policies 10.3.5, 6.10.1.6.”

[9] Mr. Tang submits the issue as written, oversteps the Tribunal jurisdiction. Mr. Tang asserts that the words following “Can” in the first sentence specifically, “*and if it can*” should be removed and the word “should” is the proper reading of the intention of the Parties.

[10] Mr. Gross submits that the words “*if it can*” should remain, as the Tribunal has discretion under the OPA and ZBLA to designate.

[11] The Tribunal finds the words “*if it can*” be removed which would keep within the Tribunal’s jurisdictional limits on designation.

[12] Mr. Tang submitted that issues 30 and 32 within the IL in regard to what mitigation is required by Mother Parker’s today in order for the Mother Parker’s facilities to operate in compliance with provincial legislation (issue 30) and whether Mother Parkers have a pre-existing obligation to demonstrate compliance with the applicable exclusion limits by implementing additional noise mitigation measures at its facilities (issue 32) are outside the jurisdiction of the Tribunal. Whereas Mr. Gross submits the Tribunal has jurisdiction under the OPA and ZBLA to determine these two issues.

[13] The two Parties suggested that they can continue to work on the wording of the two issues and therefore, the Tribunal requested that both Parties continue discussion towards a resolution of these issues and on consent provided a deadline by **Friday July 21, 2023** to try and resolve them.

[14] The Tribunal has since received the Final Draft of the PO including the IL. The Final PO as approved by the Tribunal is appended to this Order as **Attachment 1**.

[15] Michael Minkowski, counsel for the City, requested that Quinto Annibale now be counsel on record for these proceedings. Mr. Annibale advised that his co-counsel is Mark Joblin and any further correspondence be directed to them. Mr. Minkowski also added that the City as noted in the first CMC, are not available for the November hearings. Therefore, at the expense of the City, the City has had to provide outside counsel (Mr. Annibale). Mr. Minkowski advised the City had various options for the issue of the Tribunal setting the hearing in November which included appeal of the Tribunal's decision or a Rule 25 review of the decision or as noted in the first CMC bring a motion to adjourn the hearing in November. However, the City decided to "deconflict" this situation. Mr. Minkowski asserted it was only a procedural fairness issue as the City was not available for a hearing for the rest of 2023 and was no way impeding or delaying the proceedings and provided recent case law to substantiate his submission.

[16] The Tribunal explained that setting hearings was sometimes a "Balancing Act" ensuring procedural fairness between the Parties and not being prejudicial to any Party when setting hearing dates, and in this case the Tribunal relied on the *Ontario Tribunal Act*, subsection 12(2) for a fair, just and expeditious resolution. In any event, the Tribunal recognizes the City's cooperation in obtaining outside counsel for the expeditious resolution of this matter and acknowledges the City is sincere in not trying to impede or delay the proceedings.

MEDIATION

[17] The Parties were advised that Tribunal-led mediation was available and that they are aware that they may request this mediation at their convenience.

[18] No further notice will be given.

ORDER

[19] The Member is **not** seized (the Member was previously seized of this matter) but may be spoken to related to case management.

[20] The directions in this Decision are so ordered.

“Eric S. Crowe”

ERIC S. CROWE
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.

ATTACHMENT 1

**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

PROCEDURAL ORDER

CASE NO.: OLT-23-000075

PROCEEDING COMMENCED UNDER subsection 22(7) of the *Planning Act*, RSO 1990, c P13, as amended

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1. The Tribunal may vary or add to the directions in this procedural order at any time by an oral ruling or by another written order, either on the parties' request or its own motion.

Organization of the Hearing

2. The video hearing will begin on November 6, 2023 at 10:00 a.m. at:
<https://global.gotomeeting.com/join/442599157>
3. The parties' initial estimation for the length of the hearing is nine (9) days. The parties are expected to cooperate to reduce the length of the hearing by eliminating redundant evidence and attempting to reach settlements on issues where possible.
4. The parties and participants identified at the case management conference are set out in
Attachment 1 (see the sample procedural order for the meaning of these terms).
5. The issues are set out in the Issues Lists attached as **Attachment 2**. There will be no changes to this list unless the Tribunal permits, and a party who asks for changes may have costs awarded against it.
6. The order of evidence shall be as set out in **Attachment 3** to this Order. The Tribunal may limit the amount of time allocated for opening statements, evidence in chief (including the qualification of witnesses), cross-examination, evidence in reply and final argument. The length of written argument, if any, may be limited either on the parties' consent, subject to the Tribunal's approval, or by Order of the Tribunal.
7. Any person intending to participate in the hearing should provide a mailing address, email address and a telephone number to the Tribunal as soon as possible – ideally before the case management conference. Any person who will be retaining a representative should advise the other parties and the Tribunal of the representative's name, address, email address and the phone number as soon as possible.
8. Any person who intends to participate in the hearing, including parties, counsel and witnesses, is expected to review the Tribunal's [Video Hearing Guide](#), available on the Tribunal's website.

Requirements Before the Hearing

9. A party who intends to call witnesses, whether by summons or not, shall provide to the Tribunal and the other parties a list of the witnesses and the order in which they will be called. This list must be delivered on or before August 23, 2023, and in accordance with paragraph 22 below. A party who intends to call an expert witness must include a copy of the witness' Curriculum Vitae and the area of expertise in which the witness is prepared to be qualified.

10. Expert witnesses in the same field shall have a meeting on or before September 11, 2023 and use best efforts to try to resolve or reduce the issues for the hearing. Following the experts' meeting, the parties must prepare and file a Statement of Agreed Facts and Issues with the OLT case co-ordinator on or before October 6, 2023.
11. An expert witness shall prepare an expert witness statement, which shall list any reports prepared by the expert, or any other reports or documents to be relied on at the hearing. Copies of this must be provided as in paragraph 13 below. Instead of a witness statement, the expert may file his or her entire report if it contains the required information. If this is not done, the Tribunal may refuse to hear the expert's testimony.

Expert witnesses who are under summons but not paid to produce a report do not have to file an expert witness statement; but the party calling them must file a brief outline of the expert's evidence as in paragraph 13 below. A party who intends to call a witness who is not an expert must file a brief outline of the witness' evidence, as in paragraph 13 below.

12. On or before October 2, 2023, the parties shall provide copies of their witness and expert witness statements to the other parties and to the OLT case co-ordinator and in accordance with paragraph 22 below.
13. On or before October 2, 2023, a participant shall provide copies of their written participant statement to the other parties in accordance with paragraph 22 below. A participant cannot present oral submissions at the hearing on the content of their written statement, unless ordered by the Tribunal.
14. On or before October 16, 2023, the parties shall confirm with the Tribunal if all the reserved hearing dates are still required.
15. On or before October 16, 2023, the parties shall provide copies of their visual evidence to all of the other parties in accordance with paragraph 22 below. If a model will be used, all parties must have a reasonable opportunity to view it before the hearing.
16. Parties may provide to all other parties and the OLT case co-ordinator a written response to any written evidence within ten (10) days after the evidence is received and in accordance with paragraph 22 below.
17. The parties shall cooperate to prepare a joint document book which shall be shared with the OLT case co-ordinator on or before October 23, 2023.

18. A person wishing to change written evidence, including witness statements, must make a written motion to the Tribunal. *See Rule 10 of the Tribunal's Rules with respect to Motions, which requires that the moving party provide copies of the motion to all other parties 15 days before the Tribunal hears the motion.*
19. A party who provides written evidence of a witness to the other parties must have the witness attend the hearing to give oral evidence, unless the party notifies the Tribunal on or before October 30, 2023, that the written evidence is not part of their record.
20. The parties shall prepare and file a preliminary [hearing plan](#) with the Tribunal on or before October 30, 2023, with a proposed schedule for the hearing that identifies, as a minimum, the parties participating in the hearing, the preliminary matters (if any to be addressed), the anticipated order of evidence, the date each witness is expected to attend, the anticipated length of time for evidence to be presented by each witness in chief, cross-examination and re-examination (if any) and the expected length of time for final submissions. The parties are expected to ensure that the hearing proceeds in an efficient manner and in accordance with the hearing plan. The Tribunal may, at its discretion, change or alter the hearing plan at any time in the course of the hearing.
21. All filings shall be submitted electronically and in hard copy. Electronic copies may be filed by email, an electronic file sharing service for documents that exceed 10MB in size, or as otherwise directed by the Tribunal. The delivery of documents by email shall be governed by the *Rule 7*.
22. No adjournments or delays will be granted before or during the hearing except for serious hardship or illness. The Tribunal's Rule 17 applies to such requests.

This Member is not seized.

So orders the Tribunal.

Attachment 1 – Parties and Participants**Parties**

1. Applicants/Appellants - Ahmed Group (1000 Dundas St. E.) Inc. and Ahmed Group (1024 Dundas St. E.) Inc.
2. Dundas Landowners' Association
3. City of Mississauga
4. The Regional Municipality of Peel
5. Mother Parker's Tea & Coffee Inc.

Participant

1. Harper Dell & Associates

Attachment 2 – Issues List

Note: The identification of an issue does not mean that all parties agree that such issue, or the manner in which the issue is expressed, is appropriate or relevant to the determination of the Tribunal at the hearing. The extent to which these issues are appropriate or relevant to the determination of the Tribunal at the hearing will be a matter of evidence and argument at the hearing.

PLANNING ACT

1. Does the proposed development and the proposed Official Plan Amendment and Zoning By-law Amendment demonstrate adequate regard for the matters of provincial interest as found in the Ministry of Environment, Conservation and Parks' D Series Guidelines?
2. Does the proposed development have appropriate regard for the matters of provincial interest as set out in Section 2 of the *Planning Act*, including but not limited to:
 - (a) Section (k);
 - (b) Section (p) the appropriate location of growth and development; and
 - (c) Section (r) the promotion of built form that: (i) is well-designed and (ii) encourages a sense of place?

PROVINCIAL POLICY STATEMENTS

3. Is the proposed development consistent with the Provincial Policy Statement (2020), as required by Section 3(5)(a) of the *Planning Act*, including Sections
 - (a) 1.1.1;
 - (b) Policy 1.1.3.3 – Planning Authorities shall identify appropriate locations and promote opportunities for intensification and redevelopment;
 - (c) Policy 1.1.3.4 – Appropriate development standards should be promoted which facilitate intensification;
 - (d) Policy 1.7.1 e) – Long term economic prosperity should be supported by encouraging a sense of place by promoting well designed built form;
 - (e) Policy 1.2.6.1 – Major facilities and sensitive land uses shall be planned and developed to avoid, or if avoidance is not possible, minimize and mitigate any potential adverse effects and to ensure the long-term operational and economic viability of major facilities;
 - (f) Policy 1.2.6.2 – Where avoidance is not possible, planning authorities shall protect the long-term viability of existing or planned industrial or other uses that are vulnerable to encroachment by ensuring adjacent sensitive land uses are only permitted if:
 - a. there is an identified need for the proposed use
 - b. there are no reasonable alternative locations for the proposed use

- c. adverse effects to the proposed sensitive land use are minimized and mitigated
- d. potential impacts to industrial and other uses are minimized and mitigated;

(g) 1.2.6.2, and

(h) 1.3.2

reading the Provincial Policy Statement (2020) in its entirety and applying the relevant policies to this situation?

4. What, if any, regard should be given to the policies in the Provincial Policy Statement (2023) released for comment in March of 2023, with respect to the proposed development?

PROVINCIAL PLANS

5. Does the proposed development conform with and not conflict with the Growth Plan for the Greater Golden Horseshoe (2019), as required by Section 3(5)(b) of the *Planning Act*, including Sections:

(a) 2.2.5.7

(b) Policy 2.2.5.8 – The development of sensitive land uses will, in accordance with provincial guidelines, avoid, or where avoidance is not possible, minimize and mitigate adverse impacts on industrial or other uses that are particularly vulnerable to encroachment

(c) Policy 2.2.2.3 – All municipalities will develop a strategy to achieve minimum intensification target and intensification throughout delineated built-up areas; and

(d) Policy 5.2.5.6 – To achieve minimum intensification and density targets, municipalities will develop and implement urban design and site design official plan policies and other supporting documents that direct the development of a high quality public realm and compact built form

reading the Growth Plan for the Greater Golden Horseshoe (2019) in its entirety and applying the relevant policies to this situation?

6. Is the approval of the proposed development required for the relevant targets to be met under the Growth Plan, in the City of Mississauga and in the Region of Peel?

OFFICIAL PLANS

7. Does the proposed development conform with the policies and mapping of the Region of Peel Official Plan (2022), including relevant maps and Sections

(a) 5.6.17.5, 5.6.17.9.e, 5.6.19.18.i, 5.8, 5.8.7, 5.8.29, 5.8.30, 5.8.33 regarding land use compatibility; and

(b) 5.6.19.18.a regarding Major Transit Station Area development density.

8. Does the proposed development conform to the new Region of Peel Official Plan policies pertaining to the importance of addressing land use compatibility and the separation or

mitigation of sensitive land uses and major facilities as identified in policies 5.6.17.9 e; 5.6.19.10 h; 5.6.19.18 i; 5.8.29 b)

9. Does the proposed development conform to the Region of Peel Official Plan (Office Consolidation September 2021) including but not limited to Section 5.5 Growth Management policies related to requiring municipalities to develop intensification strategies and identify the appropriate type and scale of development in intensification areas as identified in policies 5.5.3.2.7 and 5.5.3.2.9
10. Does the proposed development conform with the policies and mapping of the City of Mississauga Official Plan, including Sections 5.1.2, 5.1.3, 5.3.6.2, 5.3.6.3, 10.1.1, 10.1.2, 10.3.2, 10.3.3, 10.3.4, 17.1.4, and all relevant Maps?
11. Does the proposed development conform to the Mississauga Official Plan, including but not limited to policies in:
 - (a) Chapter 5: Direct Growth - Sections 5.1 Introduction, 5.3 City Structure, 5.3.3 Community Node, 5.3.5 Neighbourhoods and 5.4 Corridors; 5.5 Intensification Areas
 - (b) Chapter 6: Value The Environment – Sections 6.1 Introduction, 6.2 Living Green, 6.3 Green System, 6.4 Water, 6.5 Air Quality, and 6.10 Noise
 - (c) Chapter 7: Complete Communities – Sections 7.1 Introduction, 7.4 Community Infrastructure, 7.7 Distinct Identities
 - (d) Chapter 8: Create A Multi-Modal City – Sections 8.1 Introduction, Section 8.2 Multi-Modal Network, 8.2.1 Corridor Protection, 8.2.2 Road Network, 8.2.4 Active Transportation
 - (e) Chapter 9: Build a Desirable Urban Form – Sections 9.1 Introduction; 9.2 City Pattern, 9.2.1 Intensification Areas, 9.2.2 Non-Intensification Areas, 9.2.3 Green System, 9.3 Public Realm, 9.3.1 Streets and Blocks, 9.3.5 Open Spaces and Amenity Areas, 9.4 Movement, 9.4.1 Transit, Active Transportation, 9.5 Site Development and Buildings, 9.5.1 Context, 9.5.2 Site Development, 9.5.3 Buildings, 9.5.4 Relationship to the Public Realm, 9.5.5 Parking, Servicing and Loading, 9.5.6 Safety
 - (f) Chapter 10: Foster A Strong Economy – Section 10.3 Industry
 - (g) Chapter 19: Implementation – Sections 19.5 Criteria for Site Specific Official Plan Amendments

DUNDAS CONNECTS MASTER PLAN:

12. Does the proposed development appropriately reflect the City's most recent vision for the area as reflected in the Dundas Connects Master Plan?

LAND USE COMPATIBILITY AND BUILT FORM; AND NOISE, ODOUR, AIR QUALITY, ETC.

13. Is the proposed mix of land uses appropriate for the site?
14. Does the proposal fit in with existing and planned context and the adjacent Employment Areas lands and industrial uses?

15. Is the proposed development appropriate and compatible with the current and future activities on the Mother Parker's Tea & Coffee Inc. properties located at 2530, 2531, and 2470 Stanfield Road ("Mother Parker's Lands"), including with respect to traffic, noise, vibration, odour, and air emissions impacts?
16. Is the introduction of sensitive land uses on this site appropriate and feasible with regard to all relevant standards, regulations, guidelines and jurisdictional screening levels, including for noise, vibration, odour, and air quality?
17. Are the proposed residential uses and the proposed built form, including the lot pattern and configuration of uses, location and orientation of living spaces, balconies, and outdoor amenity spaces of the proposed development appropriate and compatible with the current and future activities on the Mother Parker's Lands?
18. Does the proposed development, including its built form, lot pattern, configuration of uses and orientation of the various elements of the proposed development avoid, adequately eliminate or minimize adverse impacts from the Employment Lands and uses in the vicinity and appropriately ensure current and future compliance by nearby industry with all relevant or applicable regulations, documents, requirement and guidelines, including but not limited to the Ministry of Environment, Conservation and Parks (MECP) Publication NPC-300 and Ontario Regulation 419/05?
19. Has the potential noise and air quality impact of the Mother Parker's Lands on the proposed development been properly assessed?
20. Would the noise impacts of the current and future activities on the Mother Parker's Lands comply with the requirements of MECP Publication NPC-300 at the proposed development in the current form, including the location and orientation of living spaces, balconies, and outdoor amenity spaces?
21. Has the potential for noise and air quality impacts from future expansions on the Mother Parker's Lands being appropriately addressed?
22. Would a designation of the proposed development as a Class 4 area per MECP Publication NPC-300 be appropriate? And if so designated by the appropriate land use planning authority, and if all appropriate noise standards are met, does the proposed development nonetheless reflect good land use planning?
23. Should the proposed Official Plan Amendment and Zoning By-law Amendment be approved if the necessary agreements required by MECP Publication NPC-300, including with Mother Parker's have not been executed?
24. Has the potential for noise, air quality and odour complaints from the future residents of the proposed development regarding the Mother Parker's Lands with respect to Section 14 of the *Ontario Environmental Protection Act* and City of Mississauga By-Law No. 360-79 been appropriately addressed?
25. Has an acceptable land use compatibility study been submitted in support of the proposed development and has it appropriately addressed issues including but not limited to:
 - (a) Existing and proposed expansion of the Mother Parker's facility
 - (b) Reuse of the current vacant building on the adjacent property, previously occupied by "Closeout King", located at 2562 / 2550 Stanfield Road

(c) The "Tonolli Canada / Terrapure" facility at 1333 Tonolli Road

26. Does the proposed development appropriate implement the policies pertaining to land use compatibility found in Mississauga Official Plan Chapter 6 – Value the Environment?
27. Is the proposed development consistent with Mississauga Official Plan policies pertaining to the use of Class 4 designation, including but not limited to demonstrating that all possible measures of noise attenuation have been assessed for both the proposed development site and the stationary noise source, including building design and siting options for the proposed new noise sensitive use?
28. Have the necessary agreements, as required by Environmental Noise Guideline – Stationary and Transportation Sources – Approval and Planning (NPC-300), been executed between the applicant and the owners of any stationary sources, including but not limited to "Mother Parker's Tea & Coffee" at 2530 Stanfield Road, 2531 Stanfield Road and 2470 Stanfield Road.
29. Are the proposed residential units and amenity spaces (i.e. sensitive land uses) compatible with the surrounding manufacturing and industrial uses (i.e. major facilities) in terms of noise, vibration and air quality?
30. What, if any, impact should there be on the Tribunal's decision if AERMOD modelling predicts Mother Parker's facility will have exceedances of some contaminants, including NOX, as set out in provincial legislation and regulations? Environmental Protection Act; O. Reg. 419/05; PPS 2020, Policies 1.2.6.1; 1.2.6.2; D-Series Guidelines, Section 2.3.1; Mississauga OP, Policy 10.3.5
31. What weight, if any, should the Tribunal give to Mother Parker's air dispersion evidence regarding its existing facilities, if that the air dispersion modelling was undertaken using SCREEN 3 modelling as opposed to AERMOD modelling?
32. What, if any, impact should there be on the Tribunal's decision if the Provincial Noise Guideline's exclusionary limits are exceeded by Mother Parker's facility because as-of-right zoning permissions currently for 1000 & 1024 Dundas St. E. allow a noise sensitive use without height limitations? PPS, Policies 1.2.6.1; NPC-300 D-Series Guidelines, Section 2.3.1; Mississauga OP Policy 10.3.5
33. Can and should the Tribunal designate as Class 4, the lands known municipally as: 1000 & 1024 Dundas St. E.? PPS 2020, Policy 1.2.6.1; NPC-300; Mississauga OP, Policies 10.3.5, 6.10.1.6

ADEQUATE WATER & WASTEWATER SERVICES AND IMPACTS ON EXISTING INFRASTRUCTURE

34. Will the Regional sanitary sewer easement and infrastructure on the subject property be protected from negative impacts to the satisfaction of the Region?
35. Has the Functional Servicing Report been submitted with all necessary components (including multi-use demand table, hydrant flow test, corresponding drawings and other matters in accordance with the Region's Functional Servicing Report Criteria) and information regarding tenure of the development to determine whether the servicing is satisfactory to the Region? Have outstanding functional servicing report review fees been paid?

EMPLOYMENT LANDS

36. Should the Employment lands located south of the proposed development, including the Mother Parker's Lands, be protected from the introduction of sensitive land uses such as residential development that could jeopardize continued and expanded economic activity, jobs and manufacturing, including as a result of changes in processes, manufacturing techniques, expansions, or other increases in incompatible impacts with those sensitive uses.
37. Should there be an appropriate transition from sensitive land uses on the proposed development lands and Employment lands?
38. Should there be buffers containing non-sensitive land uses and a public road between the proposed development and employment areas (including areas of employment as set out in the Provincial Policy Statement), including the Mother Parker's Lands?
39. Should Employment Lands which are used for manufacturing and production be particularly protected from incompatible residential development?
40. If residential development is to be permitted, do the proposed Official Plan Amendment and Zoning By-law Amendment ensure appropriate mitigation of the potential adverse effects arising from the introduction of sensitive land uses on the Employment Areas and facilities, including the Mother Parker's Lands and operations, in the vicinity?

PLANNING, DESIGN, LANDSCAPE, PARKING & ACCESS ISSUES:

41. In addition to Official Plan policies, does the proposed development appropriately implement:
 - (a) The urban design guidelines and standards of the City of Mississauga, including but not limited to: Mississauga Standards for Shadow Studies, and Pedestrian Wind Comfort and Safety Studies
 - (b) The Dundas Connects Master Plan
42. Is the proposed development consistent with Chapters 5 and 9 of the Mississauga Official Plan regarding Urban Form and City Structure and does it represent an appropriate level of intensification and built form for this area?
43. Is the proposed development an appropriate built form for this section of the Dundas Corridor, and has sufficient information been provided to address compatibility with future residential development on adjacent properties as it relates to, but not limited to the following:
 - (a) building heights
 - (b) appropriate transition
 - (c) scale and proportions
 - (d) shadow impacts and sun access
 - (e) wind comfort and safety

- (f) impact on the public realm, including proposed Dundas Street transformer location and service route requirements
 - (g) setbacks (both above and below grade)
 - (h) separation distances between future towers
 - (i) unencumbered landscape buffers
 - (j) community amenities to support a residential population including, but not limited to, equally accessible communal open spaces, outdoor amenity areas, soft green space and landscape buffers to create and mitigate views
 - (k) vehicular and pedestrian connectivity to support a mixed use residential community, to improve and create options for access, to create a walkable, multi-modal community and to support a continuous retail frontage that enhances pedestrian activity along the Dundas frontage in support of the BRT
44. Is the floor area, design and setback of the commercial component appropriate to achieve and active mixed use frontage to promote pedestrian activity and enhance the Dundas BRT corridor?
45. Should reciprocal access agreements be provided to accommodate additional road and pedestrian network including a potential road at the rear of the property to improve connectivity and access for a future mixed use residential population?
46. What is the appropriate number and type of parking spaces proposed for the development and has an appropriate Parking Utilization Study been submitted with relevant proxy site survey data?
47. Are the proposed zoning standards appropriate, including but not limited to those pertaining to:
- (a) Removal of regulation requiring parking spaces to be unobstructed
 - (b) Removal of regulation requiring parking aisles to be unobstructed
 - (c) Combined residential and visitor parking requirements into one standard
 - (d) Removal of minimum amenity space requirement

ADDITIONAL OUTSTANDING ISSUES & REQUIRED INFORMATION

48. Is approval of the proposal premature until the following is provided:
- (a) New Functional Servicing Report that reflect the proposed 543 residential units whereas studies currently assume a proposed 462 units and address issues identified by City staff including but not limited to on-site stormwater management techniques
 - (b) New Traffic Impact Analysis that reflect the proposed 543 residential units whereas studies currently assume a proposed 462 units and address issues identified by City staff.

- (c) Phase 2 Environmental Site Assessment and reliance letter. If contamination is confirmed a Remedial Action Plan is required.
 - (d) Updated detailed concept plan to identify appropriate limits of the Bus Rapid Transit right-of-way, as requested by Metrolinx and the City Bus Rapid Transit Office
 - (e) Updated Shadow Studies to address the outdoor amenity areas and the calculation of sun access factor
 - (f) Updated Quantitative Wind Study to include appropriate mitigation and assess efficacy of recommended mitigation
49. Should the tribunal allow the appeal in whole or in-part it is proposed that an "H" holding symbol be applied for the following:
- (a) Delivery of environmental documentation, including certification letter for any land dedication
 - (b) Delivery of a storm sewer use by-law acknowledgement form
 - (c) Delivery of a Record of Site Condition including all supporting documentation and reliance letter
 - (d) Finalization of acceptable access arrangements to the satisfaction of the City
 - (e) Land dedication for the required Dundas Street West right-of-way widening to the satisfaction of the City of Mississauga
 - (f) Vehicular access easements with the adjacent lands to facilitate connectivity
 - (g) Delivery of an Executed Development Agreement
 - (h) Registration on title of an Environmental Easement for operational emissions as requested by Metrolinx
50. In the event that the Tribunal allows the appeal in whole or in part, should the Final Order be withheld pending the City Solicitor advising the Tribunal that the Owner and City have agreed to the final form of the Official Plan Amendment and Zoning By-law Amendment?

SUMMARY:

51. Does the proposed development represent good planning and is it in the public interest?

Attachment 3 – Order of Evidence

1. Applicants/Appellants
2. Dundas Landowners' Association
3. City of Mississauga
4. The Regional Municipality of Peel
5. Mother Parker's Tea & Coffee Inc.
6. Reply of Applicants/Appellants

Attachment 4 – Purpose of Procedural Order and Meaning of Terms

*A **party** is an individual or corporation permitted by the Tribunal to participate fully in the hearing by receiving copies of written evidence, presenting witnesses, cross-examining the witnesses of the other parties, and making submissions on all of the evidence. An **unincorporated group** cannot be a party and it must appoint one person to speak for it, and that person must accept the other responsibilities of a party as set out in the Order. Parties do not have to be represented by a lawyer and may have an agent speak for them. The agent must have written authorisation from the party.*

***NOTE** that a person who wishes to become a party before or at the hearing, and who did not request this at the case management conference (CMC), must ask the Tribunal to permit this.*

*A **participant** is an individual or corporation, whether represented by a lawyer or not, who may make a written submission to the Tribunal. A participant cannot make an oral submission to the Tribunal or present oral evidence (testify in-person) at the hearing (only a party may do so). Section 17 of the Ontario Land Tribunal Act states that a person who is not a party to a proceeding may only make a submission to the Tribunal in writing. The Tribunal may direct a participant to attend a hearing to answer questions from the Tribunal on the content of their written submission, should that be found necessary by the Tribunal. A participant may also be asked questions by the parties should the Tribunal direct a participant to attend a hearing to answer questions on the content of their written submission.*

A participant must be identified and be accorded participant status by the Tribunal at the CMC. A participant will not receive notice of conference calls on procedural issues that may be scheduled prior to the hearing, nor receive notice of mediation. A participant cannot ask for costs, or review of a decision, as a participant does not have the rights of a party to make such requests of the Tribunal.

***Written evidence** includes all written material, reports, studies, documents, letters and witness statements which a party or participant intends to present as evidence at the hearing. These must have pages numbered consecutively throughout the entire document, even if there are tabs or dividers in the material.*

***Visual evidence** includes photographs, maps, videos, models, and overlays which a party or participant intends to present as evidence at the hearing.*

*A **witness statement** is a short written outline of the person's background, experience and interest in the matter; a list of the issues which he or she will discuss, and a list of reports or materials that the witness will rely on at the hearing.*

*An **expert witness statement** should include his or her (1) name and address, (2) qualifications, (3) a list of the issues he or she will address, (4) the witness' opinions on those issues and the complete reasons supporting their opinions and conclusions and (5) a list of reports or materials that the witness will rely on at the hearing. An expert witness statement must be accompanied by an acknowledgement of expert's duty.*

*A **participant statement** is a short written outline of the person's or group's background, experience and interest in the matter; a statement of the participant's position on the appeal; a list of the issues which the participant wishes to address and the submissions of the participant on those issues; and a list of reports or materials, if any, which the participant wishes to refer to in their statement.*

Additional Information

A summons may compel the appearance of a person before the Tribunal who has not agreed to appear as a witness. A party must ask a Tribunal Member or the senior staff of the Tribunal to issue a summons through a request. (See [Rule 13](#) on the summons procedure.) The request should indicate how the witness' evidence is relevant to the hearing. If the Tribunal is not satisfied from the information provided in the request that the evidence is relevant, necessary or admissible, the party requesting the summons may provide a further request with more detail or bring a motion in accordance with the Rules.

The order of examination of witnesses is usually direct examination, cross-examination and re-examination in the following way:

- *direct examination by the party presenting the witness;*
- *direct examination by any party of similar interest, in the manner determined by the Tribunal;*
- *cross-examination by parties of opposite interest;*
- *re-examination by the party presenting the witness; or*
- *another order of examination mutually agreed among the parties or directed by the Tribunal.*