

Ontario Land Tribunal
Tribunal ontarien de l'aménagement
du territoire



ISSUE DATE: May 19, 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/Upper Tier: 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/Upper Tier: City of Mississauga /Region of Peel

OLT Case No.: OLT-23-000076

OLT Lead Case No.: OLT-22-000075

Heard: May 8, 2023, by Video Hearing

APPEARANCES:

Parties

Counsel

Ahmed Developments Inc. et al.

Peter Gross
Jessica Chen

City of Mississauga

Michael Minkowski

Mother Parkers Tea and Coffee Inc.

David Tang
Jesse White

Dundas Landowners' Association

Max Laskin

Region of Peel

Rachel Godley

MEMORANDUM OF ORAL DECISION DELIVERED BY ERIC S. CROWE ON MAY 8, 2023 AND ORDER OF THE TRIBUNAL

INTRODUCTION

[1] This was the first 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.

[5] The Sworn Affidavit of Service related to Notice and dated April 4, 2023, was marked as Exhibit 1.

PARTICIPANT STATUS REQUEST

[6] In response to the Notice, the Tribunal received one written request for Participant status.

[7] Nicholas Dell advised he was representing Harper Dell & Associates Inc. who advised that Harper Dell & Associates Inc. are not opposed to the appeals per se, however, Harper Dell & Associates Inc. wishes to reserve the right to continue to be circulated and be kept apprised of the appeal proceedings, as well as receive copies of the future policy document books submitted by each Party either via future Hearing or Settlement of these matters for their own records.

[8] The Tribunal has considered the submissions of Mr. Dell, was in receipt of and considered the contents of his statement. There were no objections raised by either Party to the Participant's request, therefore, the Tribunal grants Participant Status to Harper Dell & Associates Inc.

PARTY STATUS REQUESTS

[9] In response to the Notice, the Tribunal received three written requests for Party status.

Mother Parkers Tea and Coffee Inc. (“Mother Parker’s”)

[10] David Tang, counsel for Mother Parker’s, submits his client is the owner of properties municipally known as 2530 and 2531 Stanfield Road, and the occupant of 2470 Stanfield Road.

[11] Mr. Tang advised the proposed redevelopment has the potential to affect Mother Parker’s property, its operations and future development potential, by introducing sensitive residential uses much closer to the Mother Parker’s Lands than currently exist. The existing operations generate noise, traffic, and odors which may not be compatible with the introduction of sensitive residential uses on nearby or abutting properties.

[12] Both Mother Parker’s and the Appellant are appellants of and thus, Parties to the appeals before the Ontario Land Tribunal (“OLT”) of the City of Mississauga’s Official Plan Amendment (“OPA”) No. 141 (“OPA 141”), which will deal with the same issues of compatibility of any residential development proposed for the redevelopment site.

[13] Mr. Tang submits Mother Parker’s seeks Party Status to ensure that the Tribunal can properly hear its concerns, respond to any attempts to consolidate these appeals with the appeals of OPA 141 and provide the Tribunal with evidence to allow it to determine if the introduction of sensitive uses near its operations should be permitted, and if so, under what policies, conditions and standards.

Dundas Landowners Association (Association”)

[14] Max Laskin, counsel for the Association, an incorporated not-for-profit organization, represents small business owners of lands in the vicinity of Dundas Street East, generally between Cawthra Road and Dixie Road.

[15] Mr. Laskin contends his client has a direct interest in the appeals since his client members own lands in the immediate vicinity of the Subject Properties including 1030, 980, 918-922, and 888 Dundas Street East.

[16] Counsel advised his client, the Association, strongly supports the appeals and has a direct interest in the appeals, and the geographic proximity of its members satisfies the requirements for Party Status under the *Planning Act* and the Tribunal's *Rules of Practice and Procedure*.

[17] Further, the Association's involvement will not add issues or otherwise lengthen any hearing that may be required in respect of the appeals, meaning there is no prejudice to any other party.

Region of Peel (Region”)

[18] Rachel Godley, counsel for the Region of Peel, submits the Region is requesting Party Status to ensure the conformity of the Local OPA to the Region 's Official Plan. The Region also has outstanding comments for the ZBA and OPA application to address outstanding sanitary servicing upgrade and waste management plan requirements.

[19] The Tribunal has considered the submissions of counsel, was in receipt of and considered the contents of their statements. There were no objections raised by either Party to the requests for Party Status. The City requested that the incorporation documents of the Association be shared and that the Association may be better relegated to Participant

Status. The Tribunal received the Certificate of Incorporation for the Association dated June 29, 2022. The Tribunal finds the Association has an interest in the proceedings.

[20] The Tribunal granted Party Status to the following;

1. Mother Parkers Tea and Coffee Inc.
2. Dundas Landowners Association
3. Region of Peel

HEARING

[21] Peter Gross, counsel for Ahmed Developments Inc. et al. (the “Applicant/Appellant”), provided background to the application. He advised there have been continued discussions with the City and Mother Parker’s. Mr. Gross advised he had withdrawn his motion for discovery against Mother Parker’s, however, he would be seeking a Cost Motion in the future. Mr. Gross noted the Applicant/Appellant was in a position to set a hearing date from seven to nine days.

[22] Mr. Gross advised that he provided the Tribunal with a Draft Procedural Order (“DPO”) and Issues List (“IL”), with the understanding that with the new Parties added at this CMC, a further scoping of the issues would be required but could be completed expeditiously.

[23] Michael Minkowski, counsel for the City, requested that a second CMC be set to allow for the DPO and scoping of the IL since the Statutory Public Meeting of this appeal was only being commenced on this date. Mr. Minkowski contends, setting a hearing date now is premature with various issues still outstanding including the Noise and Air Quality studies and Traffic Impact studies that are still required to be peer reviewed. Mr. Minkowski also added that the City would not be available for any hearing dates in the fall of 2023 and only in 2024.

[24] Mr. Tang advised that he agrees with the City, that setting a hearing date is premature and setting a second CMC is more appropriate. Mr. Tang emphasized that the DPO and IL that was submitted to the Tribunal was only prepared as a preliminary document to assist in determining an appropriate length of the proceedings and on the assumption that a PO will be issued by the OLT and setting an appropriate date for finalization of all IL.

[25] Mr. Laskin advised it would be appropriate for the Tribunal to set a hearing date considering the DPO and IL with the understanding that a final PO and IL could be completed in a reasonable amount of time. Mr. Laskin contends there is no reason why the Tribunal cannot proceed with setting hearing dates.

[26] Ms. Godley, counsel for the Region, agreed with the City and Mother Parker's, that setting a hearing date would be premature since there are outstanding issues and the Planning Justification Report ("PJR") needed to be updated in relation to Air Quality study, Servicing report and sewer easement issues.

[27] Mr. Gross responded to the submissions of the other Parties, with which the Tribunal agrees, and submits the majority of issues raised were internal issues with the City and Region. Mr. Gross advised that the Tribunal has the authority to drive its own processes and not to delay these proceedings further.

[28] The Tribunal has considered all of the Parties' submissions and finds there will be no procedural fairness issues with any of the Parties by setting a second CMC to finalize the DPO and IL since there are more Parties added and considering the Statutory Public Meeting was to be held today May 8, 2023. In addition, the same reasoning applies for setting a hearing date which gives each Party an ample amount of time after the second CMC to prepare for the hearing.

[29] The Tribunal notes the City's counsel's submission that a Motion to Adjourn the hearing may be filed on or before the second CMC since counsel advised the Tribunal the City was not available for any hearings in the fall of 2023.

[30] The Tribunal finds that although the counsel for the City advised that the City would not be available for any hearings in the fall of 2023, the Tribunal finds this is unreasonable considering it may be up to four months where the City is unavailable. The Tribunal finds this would delay the proceedings even further and be prejudicial to the Applicant/Appellant since this appeal was based on a non-decision by City council in the first place. The Tribunal relies on OLT Act, subsection 12 (2) Fair, just and expeditious resolution.

MEDIATION

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

HEARING DATES

CMC

[32] The Tribunal directs that a second CMC will be held by video hearing commencing on **Friday, July 14, 2023 at 10 a.m.**

[33] The Tribunal directs also that a **nine day Hearing** will be held by video hearing commencing on **Monday, November 6 to 17, 2023 at 10 a.m.**

[34]]The hearings are scheduled to proceed by video as follows:

Friday, July 14, 2023 at 10 a.m. (one day hearing)

GoTo Meeting: <https://global.gotomeeting.com/join/687587165>

Access code: 687-587-165

Audio-only telephone line: +1 (647) 497-9373 or (Toll-Free) 1(888) 299-1889

Audio-only access code: 687-587-165

Monday, November 6 to 17, 2023 (nine day hearing)

GoTo Meeting: <https://global.gotomeeting.com/join/442599157>

Access code: 442-599-157

Audio-only line: +1 (647) 497-9391 or (Toll-Free) 1-888-455-1389

Audio-only access code: 442-599-157

[35] Parties and Participants are asked to log into the video hearing at least 15 minutes before the start of the event to test their video and audio connections.

[36] Parties and Participants are asked to access and set up the application well in advance of the event to avoid unnecessary delay. The desktop application can be downloaded at **GoToMeeting** or a web application is available:

<https://app.gotomeeting.com/home.html>

[37] Persons who experience technical difficulties accessing the GoToMeeting application or who only wish to listen to the event can connect to the event by calling into an audio-only telephone line.

[38] Individuals are directed to connect to the event on the assigned date at the correct time. It is the responsibility of the persons participating in the hearing by video to ensure that they are properly connected to the event at the correct time. Questions prior to the hearing event may be directed to the Tribunal's Case Coordinator having carriage of this case.

[39] No further notice will be given for the CMC or the Hearing.

DRAFT PROCEDURAL ORDER AND ISSUES LIST

[40] The Tribunal canvassed the Parties regarding the time needed to prepare a DPO and Issues List. On consent, the Tribunal directed that the complete DPO be provided to the Case Coordinator no later than **Friday, July 7, 2023**. Counsel for the Applicant/Appellant will coordinate and provide the DPO to the Tribunal by the appointed date. If this date cannot be achieved, Counsel for the Appellant is requested to advise the Case Coordinator as soon as this is reasonably known.

ORDER

[41] **THE TRIBUNAL ORDERS** that:

- a. The Member is seized of both matters (Case Management Conference and Hearing of the Merits) and may be spoken to related to case management.
- b. The directions in this Decision are so ordered.

“Eric S. Crowe”

ERIC S. CROWE
MEMBER

Ontario Land Tribunal

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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.