

Ontario Land Tribunal
Tribunal ontarien de l'aménagement
du territoire



ISSUE DATE: August 08, 2023

CASE (S): OLT-23-000281

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

Applicant/Appellant: 4Q Commercial WP Inc.
Subject: Request to amend the Official Plan – Failure to adopt the requested amendment
Reference Number: OZ OPA 22-22 W1
Property Address: 1580-1650 Dundas Street E
Municipality/UT: Mississauga/Peel
OLT Case No: OLT-23-000281
OLT Lead Case No: OLT-23-000281
OLT Case Name: 4Q Commercial WP Inc. v Mississauga (City)

PROCEEDING COMMENCED UNDER section 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
Reference Number: OZ OPA 22-22 W1
Property Address: 1580-1650 Dundas Street E
Municipality/UT: Mississauga/Peel
OLT Case No: OLT-23-000282
OLT Lead Case No: OLT-23-000281

PROCEEDING COMMENCED UNDER section 51(34) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended

Subject: Proposed Plan of Subdivision – Failure of Approval Authority to make a decision
Reference Number: 21T-M 22-4 W1
Property Address: 1580-1650 Dundas Street E.
Municipality/UT: Mississauga/Peel
OLT Case No: OLT-23-000283
OLT Lead Case No: OLT-23-000281

Heard: July 6, 2023 by Video Hearing

APPEARANCES:

Parties

Counsel

4Q Commercial WP Inc.

David Bronskill (*in absentia*)
Zachary Fleisher

City of Mississauga

Lia Magi

Toronto and Region Conservation
Authority

Barbara Montgomery

The Regional Municipality of Peel

Brett Baker (appearing for
Rachel Godley *in absentia*)

**MEMORANDUM OF ORAL DECISION DELIVERED BY C. HARDY ON JULY 6, 2023
AND ORDER OF THE TRIBUNAL**

[1] This Decision relates to appeals brought pursuant to s. 22(7), s. 34(11) and s.51(34) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended (“Act”) from the failure of the City of Mississauga (“City”) to make a decision within the statutory timeframes of the Act with respect to applications for an Official Plan Amendment (“OPA”), Zoning By-law Amendment (“ZBA”) and Draft Plan of Subdivision (“DPS”) respectively. The appeals have been filed by 4Q Commercial WP Inc. (“Appellant”) regarding properties known municipally as 1580-1650 Dundas Street East, Mississauga (“Subject Property”).

[2] The Subject Property is comprised of two parcels which are bisected by Mattawa Avenue with frontage along Dundas Street East. The Subject Property currently contains 2 large two-storey mixed-use buildings, 1 small one-storey commercial building and surface parking.

[3] The Appellant intends to redevelop the Subject Property with a new master planned community containing a public park, new public and private streets, pedestrian connections, privately owned publicly accessible open spaces and 6 new development blocks. The development blocks propose to include 5 tall buildings, 5 mid-rise buildings and 3 townhouse blocks which combined would result in a total of 3,027 new residential units.

[4] On July 6, 2023, the Tribunal held its first Case Management Conference (“CMC”), at which it addressed procedural issues, the identification of Parties and Participants and the scheduling of a second CMC.

Procedural Matters

[5] The Tribunal confirmed with the Parties that there were no issues with service of Notice for the CMC and as such, no further Notice is required. The Tribunal was in receipt of the Affidavit of Service of Renata Ribeiro sworn June 12, 2023, which was marked as Exhibit 1.

Requests for Status

[6] Prior to the CMC, the Tribunal received two written requests for Party status from Toronto and Region Conservation Authority (“TRCA”) and The Regional Municipality of Peel (“Region”).

[7] In its written request form, TRCA noted that the Subject Property is in close proximity to a natural hazard as it is adjacent to a valley corridor associated with Little Etobicoke Creek, which contains a steep slope and regulatory flood plain. TRCA provided comments on the OPA and ZBA applications in its role as a commenting authority and submitted that it will assist the Tribunal in ensuring that any decision under the Act will be consistent with the Provincial Policy Statement, 2020. TRCA further submitted that its request for Party status complies with the recently in-force s.1(4.1) of

the Act limiting conservation authorities to seeking Party status on natural hazard matters.

[8] In its written request form, the Region noted a number of outstanding concerns and submitted that it will assist the Tribunal in determining the issues before it. The Region also advised that it intends to call expert evidence in order to assist the Tribunal in making its decision on the appeals.

[9] Neither the Appellant nor the City objected to the requests of TRCA or the Region, and the Tribunal granted Party status to TRCA and to the Region on consent.

[10] Prior to the CMC, the Tribunal did not receive any requests for Participant status. In response to the Tribunal's inquiry, there were no other persons nor entities present at the CMC requesting Party or Participant status.

Opportunities for Settlement

[11] The Appellant and the City jointly advised the Tribunal that the City anticipates receiving instructions on how to proceed with the appeals following the City Council meeting scheduled for September 27, 2023.

[12] TRCA submitted that it is optimistic that its interests can be resolved with further discussions with the Appellant. TRCA and the Region submitted that Tribunal-led mediation would be a viable option in progressing the appeals.

[13] The Appellant submitted that it is hopeful that the City will determine that Tribunal-led mediation will be beneficial to progress the appeals. Once the City has received instructions, the Appellant will engage in discussions with all Parties to explore mediation and settlement opportunities.

Scheduling Second CMC

[14] The Parties advised that the City required additional time to allow City Council to provide directions and confirm proposed issues. As such, the Parties jointly requested that the Tribunal schedule a second CMC in October, 2023. The Parties agreed to work together to prepare a draft Procedural Order including Issues Lists to submit to the Tribunal prior to the second CMC.

[15] Upon hearing the submissions of the Parties, the Tribunal agreed that a second CMC is appropriate to efficiently progress the appeals. The Tribunal scheduled a second CMC by Video Hearing on **October 31, 2023** commencing at **10 am**.

[16] Parties and participants are asked to log in to the video hearing at least **15 minutes** before the start of the event to test their video and audio connections:

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

Access Code: 442-599-157

[17] 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](https://app.gotomeeting.com/home.html) or a web application is available:

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

[18] 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 in to an audio-only telephone line: +1 (647) 497-9391 or Toll Free: 1-888-455-1389. The access code is **442-599-157**.

[19] 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.

[20] After some discussion, the Parties agreed that on or before **October 23, 2023**, Issues Lists would be circulated between the Parties. At the same time, the Parties will indicate the estimated number of witnesses that they intend to retain and an estimate of the number of Hearing dates required.

[21] On or before **October 26, 2023**, the Appellant will submit a draft Procedural Order and Issues Lists for the Tribunal's review and approval at the second CMC. The Tribunal noted that the Parties are expected to attend the second CMC prepared to address all pre-Hearing procedural matters, including the setting of Hearing dates.

ORDER

[22] The Tribunal orders that Toronto and Region Conservation Authority is a Party in this proceeding.

[23] The Tribunal orders that The Regional Municipality of Peel is a Party in this proceeding.

[24] The Tribunal directs that all Parties provide to the Appellant and all other Parties their particularized issues, anticipated number of witnesses and expected number of Hearing dates on or before **October 23, 2023**.

[25] The Tribunal directs the Appellant to submit to the Case Management Coordinator a draft Procedural Order and Issues Lists on or before **October 26, 2023**.

[26] The Tribunal orders that a second Case Management Conference in this matter be held by Video Hearing on **October 31, 2023** at **10 a.m.**

[27] The Member is not seized, but will, however, remain available for Case Management subject to the Tribunal's calendar.

[28] No further notice will be given.

"C. Hardy"

C. HARDY
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.