|  |  |
| --- | --- |
|  |  |
| **Ontario Land Tribunal** |
| Tribunal ontarien de l’aménagement du territoire |

|  |  |  |  |
| --- | --- | --- | --- |
| **ISSUE DATE:**  | May 10, 2024 | **CASE NO(S).:** | OLT-24-001316 |

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

|  |  |
| --- | --- |
| Appellant | Glebe Community Association |
| Subject: | Proposed Official Plan Amendment |
| Description: | To permit the redevelopment of parts of Lansdowne Park with a mixed-use development including residential towers, retail podium, and event sports arena |
| Reference Number: | D01-01-23-0009 |
| Property Address: | 945 and 1015 Bank Street  |
| Municipality/UT: | Ottawa/Ottawa |
| OLT Case No: | OLT-23-001316 |
| OLT Lead Case No: | OLT-23-001316 |
| OLT Case Name: | Glebe Community Association v. Ottawa (City) |

**PROCEEDING COMMENCED UNDER** subsection 34(19) of the *Planning Act,* R.S.O. 1990, c. P. 13, as amended.

|  |  |
| --- | --- |
| Appellant | Glebe Community Association |
| Subject: | Zoning By-law |
| Description: | To permit the redevelopment of parts of Lansdowne Park with a mixed-use development including residential towers, retail podium, and event sports arena |
| Reference Number: | D02-02-23-0047 |
| Property Address: | 945 and 1015 Bank Street  |
| Municipality/UT: | Ottawa/Ottawa |
| OLT Case No: | OLT-23-001317 |
| OLT Lead Case No: | OLT-23-001316 |

|  |  |
| --- | --- |
| **Heard:** |  April 24, 2024, by Video Hearing |

|  |  |
| --- | --- |
| **APPEARANCES:** |  |
|  |  |
| **Parties** | **Counsel/Representative\*** |
|  |  |
| Glebe Community Association | Sylvain Rouleau |
| (“GCA”) | Carolyn Mackenzie\* |
|  |  |
| City of Ottawa (“City”) | Timothy Marc |
|  |  |
| Ottawa Sports and Entertainment Group (“OSEG”) | Mark Flowers *(in absentia)* Meaghan McDermid |

**MEMORANDUM OF ORAL DECISION DELIVERED BY GREGORY J. INGRAM ON April 24, 2024 AND ORDER OF THE TRIBUNAL**

**INTRODUCTION AND BACKGROUND**

1. This was the first Case Management Conference (“CMC”) concerning an Appeal by GCA (“Appellant”) of the City of Ottawa’s Official Plan Amendment No. 19 (“OPA”), and Zoning By-law No. 2023-510 pursuant to s. 17(24) and s. 34(19) of the *Planning Act* which would permit the redevelopment of the property Municipally known as Lansdowne Park at 945 and 1015 Bank Street in the City of Ottawa (“Subject Lands”).
2. The City’s redevelopment proposal is referred to as Lansdowne 2.0. Through the OPA and Zoning By-law Amendment (“ZBLA”) the City seeks to build two high-rise residential towers, a new north side stands, a new retail podium, and a new standalone Event Centre (sports arena), located predominantly below grade and adjacent to the east end zone. The proposed redevelopment will include demolishing the existing north side stands/arena complex and retail podium (“Proposed Development”).
3. To facilitate the Proposed Development, the OPA changes the designation for the Subject Lands to add an Area-Specific-Policy and the ZBLA allows an increase in building heights, designates an area for mixed-use and includes a holding symbol until a Heritage Impact Assessment is submitted for review and a Site Plan Control Application is approved.

**AFFIDAVIT OF SERVICE AND STATUS**

1. The Affidavit of Service was sworn on March 22, 2024, by Jennifer Bauman and confirms that the Notice was served and was marked as **Exhibit 1**. No further notice is required.
2. One Party status request was received by the Tribunal from the OSEG. OSEG is a major tenant of the Subject Lands. Their request was granted by the Tribunal with the consent of the other Parties.
3. Frank Johnson requested Participant status based on a long-standing interest in the appropriate development of the Subject Lands and as a nearby property owner. He also expressed concerns with the reduction of green space should the redevelopment proceed. The Tribunal granted Mr. Johnson Participant status with the consent of the Parties.

**MEDIATION**

1. The Parties were made aware of Tribunal-led mediation and indicated that they are not interested at this time but welcome ongoing discussions to resolve issues between the Parties.

 **HEARING PLANNING**

1. The Parties referred to Bill 185 in their submissions to the Tribunal and agreed that it may impact these proceedings in the future.
2. The Tribunal heard submissions from the Parties regarding the next steps concerning this case. In summary, the Parties anticipate calling between two to four witnesses and requested five days for a Hearing. It is anticipated that witnesses with expertise in land use planning, parks, architecture, and sustainability may be required.
3. The Appellant submitted a Procedural Order (“PO”) on consent of the Parties which was received and approved by the Tribunal and is found in **Schedule 1** below.
4. The Tribunal scheduled a **five-day** Hearing to commence on **Monday, October 7, 2024,** at **10 a.m.** by Video Hearing

**GoToMeeting:** [**https://global.gotomeeting.com/join/765631861**](https://global.gotomeeting.com/join/765631861)

**Access code: 765-631-861**

1. Parties and Participants are asked to log into the Video Hearings at least **15 minutes** before the start of the event to test their video and audio connections.
2. For all Video Hearings, the Parties and Participants are asked to access and set up the application well before the event to avoid unnecessary delay. The desktop application can be downloaded at [**GoToMeeting**](https://global.gotomeeting.com/install) or a web application is available: [**https://app.gotomeeting.com/home.html**](https://app.gotomeeting.com/home.html)**.**
3. 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. **(Toll-Free) 1 888-455-1389 or +1 (647) 497-9391. The access code is indicated as above.**
4. 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 Video Hearings 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.
5. The Member is not seized, and no further notice is required.

**ORDER**

1. **THE TRIBUNAL ORDERS** that:
2. A **five-day** Hearing will commence as per the details set out in paragraph [11] above; and
3. The Procedural Order, attached as **Schedule 1** to this Order, is approved and in full effect.

*“Gregory J. Ingram”*

GREGORY J. INGRAM

MEMBER

**Ontario Land Tribunal**

Website: [www.olt.gov.on.ca](http://www.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.

**SCHEDULE 1**



**CASE NO.(S):** OLT-23-001316

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

|  |  |
| --- | --- |
| Appellant | Glebe Community Association |
| Subject: | Proposed Official Plan Amendment |
| Description: | To permit the redevelopment of parts of Lansdowne Park with a mixed-use development including residential towers, retail podium, and event sports arena |
| Reference Number: | D01-01-23-0009 |
| Property Address: | 945 and 1015 Bank Street  |
| Municipality/UT: | Ottawa/Ottawa |
| OLT Case No: | OLT-23-001316 |
| OLT Lead Case No: | OLT-23-001316 |
| OLT Case Name: | Glebe Community Association v. Ottawa (City) |

**PROCEEDING COMMENCED UNDER** subsection 34(19) of the *Planning Act,* R.S.O. 1990, c. P. 13, as amended.

|  |  |
| --- | --- |
| Appellant | Glebe Community Association |
| Subject: | Zoning By-law |
| Description: | To permit the redevelopment of parts of Lansdowne Park with a mixed-use development including residential towers, retail podium, and event sports arena |
| Reference Number: | D02-02-23-0047 |
| Property Address: | 945 and 1015 Bank Street  |
| Municipality/UT: | Ottawa/Ottawa |
| OLT Case No: | OLT-23-001317 |
| OLT Lead Case No: | OLT-23-001316 |

**PROCEDURAL ORDER**

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**

1. The video hearing will begin on **Monday,** **October 7, 2024,** at **10 a.m**. at [**https://global.gotomeeting.com/join/765631861**](https://global.gotomeeting.com/join/765631861)

**Access Code: 765-631-861**

1. The parties’ initial estimation for the length of the hearing is **five 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.
2. 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).
3. The issues are set out in the Issues List 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.
4. 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.
5. The meaning of the terms used in this Procedural Order are identified in **Attachment 4.**
6. 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.
7. Any person who intends to participate in the hearing, including parties, counsel and witnesses, is expected to review the Tribunal’s [Video Hearing Guide](https://olt.gov.on.ca/appeals-process/video-hearing/), available on the Tribunal’s website.

**Requirements Before the Hearing**

1. 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 **Tuesday,** **July 9, 2024,** and in accordance with paragraph 23 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.
2. Expert witnesses in the same field shall have a meeting on or before **Wednesday,** **July 24, 2024,** and use their 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 **Friday,** **August 2, 2024**.
3. 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 14 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.
4. 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 14 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 15 below.
5. On or before **Tuesday,** **August 13, 2024**, 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 23 below.
6. On or before **Tuesday,** **August 13, 2024**, a participant shall provide copies of their written participant statement to the other parties and to the OLT case co-ordinator and in accordance with paragraph 23 below. A participant cannot present oral submissions at the hearing on the content of their written statement, unless ordered by the Tribunal.
7. On or before **Friday,** **August 30, 2024,** the parties shall confirm with the Tribunal if all the reserved hearing dates are still required.
8. Parties may provide to all other parties and the OLT case co-ordinator a written response to any written evidence within **Friday,** **September 6, 2024**, in accordance with paragraph 23 below.
9. On or before **Monday,** **September 16, 2024**, the parties shall provide copies of their visual evidence to all of the other parties in accordance with paragraph 23 below. If a model will be used, all parties must have a reasonable opportunity to view it before the hearing.
10. The parties shall cooperate to prepare a joint document book which shall be shared with the OLT case co-ordinator on or before **Monday,** **September 23, 2024**.
11. 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.*
12. 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 at least 7 days before the hearing that the written evidence is not part of their record.
13. The parties shall prepare and file a preliminary [hearing plan](https://olt.gov.on.ca/tribunals/lpat/lpat-process/hearing-plans/) with the Tribunal on or before **Monday,** **September 30, 2024** 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.
14. All filings shall be submitted electronically. 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*.
15. 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.**

**KEY DATES**

|  |  |
| --- | --- |
| **DATE** | **EVENT** |
| July 9, 2024 | Exchange of witness lists (names, disciplines and order to be called) |
| July 24, 2024 | Experts meeting prior to this date |
| August 2, 2024 | Agreed Statement of Facts |
| August 13, 2024 | Exchange of Witness Statements, summoned witness outlines, Expert Reports and Participant Statements |
| August 30, 2024 | Confirmation to Tribunal if all reserved hearing dates are still required |
| September 6, 2024 | Exchange of response to Witness Statements (if any) |
| September 16, 2024 | Exchange of visual evidence (if any) |
| September 23, 2024 | Finalize Joint Document Book |
| September 30, 2024 | Filing of preliminary Hearing Plan |
| October 7, 2024 | Hearing commences  |

**ATTACHMENT 1**

 **PARTIES AND PARTICIPANTS**

**PARTIES:**

|  |  |  |
| --- | --- | --- |
| **Appellant/Party** | **Counsel** | **Contact** |
| Glebe Community Association | Sylvain Rouleau | WeirFoulds LLP 66 Wellington Street West, Suite 4100, P.O. Box 35, TD Bank Tower,Toronto, Ontario, Canada. M5K 1B7 416-947-5016srouleau@weirfoulds.com  |
| Ottawa Sports and Entertainment Group (OSEG) | Mark Flowers  | Davies Howe LLP The 10th Floor425 Adelaide Street WestToronto, OntarioM5V 3C1416-263-4513markf@davieshowe.com  |
| City of Ottawa | Timothy Marc | City of Ottawa Legal Services 3rd Flr., Legal Services110 Laurier Ave. W.Ottawa, Ontario K1P 1J1613-580-2424 Ext: 21444timothy.marc@ottawa.ca  |

**PARTICIPANT:**

Frank Johnson

Fjohnson@ottawainstrumentation.com

613-255-4051

## ATTACHMENT 2

##

## ISSUES LIST

Issues List of the Glebe Community Association

1. Do the proposed Official Plan and Zoning By-law Amendments (the “Amendments”) have regard to Section 2 of the Planning Act, specifically (h), (i), (o), (p), (r), and (s) as it relates to the loss of public greenspace and parkland and the language of the Amendments as it relates to the proposed use and built form of the development?
2. Are the Amendments consistent with the Provincial Policy Statement (2020), specifically sections 1.1.1 (b), (c) and (i), 1.5.1 (b), and 1.8.1 (f)?
3. Save for the proposed Official Plan Amendment, do the Amendments conform to the City of Ottawa Official Plan, specifically sections 2.2.1(3), 4.4.1(9), 6.6.2.4, 7.1(4)(e)(ii) and (iii), and 7.1(6)?
4. Is the loss of public greenspace and parkland appropriate?
5. Do the Amendments, as approved, appropriately capture the proposed use and built form of the development?
6. In light of the above issues, are the Amendments in the public interest and do they represent good planning?

*Note: The identification of an issue on this list does not mean that all parties agree that such an issue, or the manner in which it is expressed, is appropriate or relevant for the proper determination of the appeals. The extent of the appropriateness and/or relevance of the issue may be a matter of evidence and/or argument at the hearing.*

**ATTACHMENT 3**

 **ORDER OF EVIDENCE**

City of Ottawa

Ottawa Sports and Entertainment Group (OSEG)

Glebe Community Association

City of Ottawa, in reply

**ATTACHMENT 4**

**DEFINITIONS**

*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*](https://olt.gov.on.ca/about-olt/law-policy/) *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.*