Ontario Land Tribunal
Tribunal ontarien de l'aménagement du territoire

ISSUE DATE: June 10, 2024

CASE NO(S).:

OLT-23-000290
OLT-23-000292
OLT-23-000293
OLT-22-003186
(Formerly PL090614)
OLT-24-000105
OLT-24-000120

PROCEEDING COMMENCED UNDER subsection 17(36) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellant:	Palermo Village Corporation
Appellant:	819655 Ontario Limited
Subject:	Proposed Official Plan Amendment No. 34 (OPA 34)
Municipality:	Town of Oakville
OLT Case No.:	OLT-23-000290
OLT Lead Case No.:	OLT-23-000290
OLT Case Name:	819655 Ontario Limited v. Halton (Regional Municipality)

PROCEEDING COMMENCED UNDER subsection 17(36) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellant:	Palermo Village Corporation
Subject:	Proposed Official Plan Amendment No. 37 (OPA 37)
Municipality:	Town of Oakville
OLT Case No.:	OLT-23-000292
OLT Lead Case No.:	OLT-23-000292
OLT Case Name:	Palermo Village Corporation v. Halton (Regional Municipality)

PROCEEDING COMMENCED UNDER subsection 17(36) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellant:	Palermo Village Corporation
Subject:	Proposed Official Plan Amendment No. 38 (OPA 38)
Municipality:	Town of Oakville
OLT Case No.:	OLT-23-000293
OLT Lead Case No.:	OLT-23-000293
OLT Case Name:	Palermo Village Corporation v. Halton (Regional Municipality)

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

Appellant:	Enirox Dundas 3015 Inc. (formerly Shell Canada Limited and then the Estate of Angus McKellar)
Appellant:	Palermo Village Corporation (formerly Newmark Developments Limited [Rosko/Finer Group])
Subject:	Proposed Official Plan Amendment No. 289 (OPA 289)
Municipality:	Town of Oakville
OLT Case No.:	OLT-22-003186
Legacy Case No.:	PL090614
OLT Lead Case No.:	OLT-22-003186
Legacy Lead Case No.:	PL090614
OLT Case Name:	Enirox Dundas 3015 Inc. (formerly Shell Canada Limited and then the Estate of Angus McKellar) v. Oakville (Town)

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

Appellant:	Enirox Dundas 3015 Inc. (formerly Shell Canada Limited and then the Estate of Angus McKellar)

Appellant:	Palermo Village Corporation (formerly Newmark Developments Limited [Rosko/Finer Group])
Appellant:	Enirox Dundas 3015 Inc. (formerly Shell Canada Limited)
Subject:	Proposed Official Plan Amendment No. 306 (OPA 306)
Municipality:	Town of Oakville
OLT Case No.:	OLT-22-003189
Legacy Case No.:	PL110155
OLT Lead Case No.:	OLT-22-003186
Legacy Lead Case No.:	PL090614
OLT Case Name:	Enirox Dundas 3015 Inc. (formerly Shell Canada Limited and then the Estate of Angus McKellar) v. Oakville (Town)

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

Applicant/Appellant:	Palermo Village Corporation
Subject:	Application to amend the Zoning By-law – Refusal of the application
Description:	To permit the development of a medium and high density mixed-use master-planned community consisting of a range and mix of residential, institutional, commercial, employment, Natural Heritage System and open space uses on 47 hectares of land containing a total of 6,890 residential units
Reference Number:	Z.1331.02
Property Address:	3069 Dundas Street West and 3278 Regional Road 25
Municipality/UT:	Town of Oakville/ Regional Municipality of Halton
OLT Case No.:	OLT-24-000105
OLT Lead Case No.:	OLT-24-000105
OLT Case Name:	Palermo Village Corporation v. Oakville (Town)

PROCEEDING COMMENCED UNDER subsection 51(39) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant and Appellant:	Palermo Village Corporation
Subject:	Proposed Plan of Subdivision – Refusal of the application
Description:	To permit the development of a medium and high density mixed-use master-planned community consisting of a range and mix of residential, institutional, commercial, employment, Natural Heritage System and open space uses on 47 hectares of land containing a total of 6,890 residential units
Reference Number:	24T-23002/1331
Property Address:	3069 Dundas Street West and 3278 Regional Road 25
Municipality/UT:	Town of Oakville/ Regional Municipality of Halton
OLT Case No.:	OLT-24-000106
OLT Lead Case No.:	OLT-24-000105

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

Applicant and Appellant:	Enirox Dundas 3015 Inc.
Subject:	Request to amend the Official Plan – Failure to adopt the requested amendment
Description:	To permit the development of 27-storey and 30-storey mixed-use residential buildings on a 3-storey podium consisting of 690 residential units.
Reference Number:	OPA.1331.01
Property Address:	3005 & 3015 Dundas Street West
Municipality/UT:	Town of Oakville/ Regional Municipality of Halton
OLT Case No.:	OLT-24-000120
OLT Lead Case No.:	OLT-24-000120
OLT Case Name:	Enirox Dundas 3015 Inc. v. Oakville (Town)

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

Applicant/Appellant:	Enirox Dundas 3015 Inc.
Subject:	Application to amend the Zoning By-law – Neglect to make a decision
Description:	To permit the development of 27-storey and 30-storey mixed-use residential buildings on a 3-storey podium consisting of 690 residential units.
Reference Number:	Z.1331.01
Property Address:	3005 & 3015 Dundas Street West
Municipality/UT:	Town of Oakville/ Regional Municipality of Halton
OLT Case No.:	OLT-24-000121
OLT Lead Case No.:	OLT-24-000120

Heard: May 08, 2024, by Video Hearing

APPEARANCES:

Parties	**Counsel**
Palermo Village Corporation	Patrick Harrington Alexander Suriano (*In Absentia)*
819655 Ontario Limited	Patrick Harrington Alexander Suriano (*In Absentia)*
Regional Municipality of Halton	Kelly Yerxa
Town of Oakville	Andrew Biggart Jennifer Huctwith
Enirox Dundas 3015 Inc.	Ian Andres David Bronskill *(In Absentia)*

Conservation Halton	Konstantine Stavrakos
Halton District School Board	Justine Reyes Brad Teichman *(In Absentia)*
3087OBR Inc.	Pitman Patterson Lee English

MEMORANDUM OF ORAL DECISION DELIVERED BY YASNA FAGHANI AND C. HARDY ON MAY 8, 2024 AND ORDER OF THE TRIBUNAL

INTRODUCTION

[1] This Hearing is the second Case Management Conference ("CMC") before the Tribunal, with respect to Official Plan Amendment Appeals ("OPA Appeals") filed pursuant to s.17(36) of the *Planning Act* ("Act") by 819655 Ontario Limited ("819655") and Palermo Village Corporation ("PVC"). The OPA Appeals relate to OPA 34 (OLT-23-000290), OPA 37 (OLT-23-000292) and OPA 38 (OLT-23-000293). This Hearing is also a further CMC with respect to appeals filed pursuant to s. 17(24) of the Act relating to OPA 289 (OLT-22-003186) including Child File OPA 306 (OLT-22-003189). At the first CMC for these OPA Appeals held on January 16, 2024 by a Panel differently constituted, these Appeals were consolidated.

[2] In addition, this Hearing is the first CMC with respect to the following matters:

a. OLT Case File No. OLT-24-000105 and OLT Case File No. OLT-24-000106 regarding Zoning By-Law Amendment and Draft Plan of Subdivision Appeals that were filed pursuant to s. 34(11) and s. 51(39) of the Act by PVC relating to the Town of Oakville's ("Town") refusal of its site-specific applications ("PVC Site-Specific Appeals"). The PVC Site-Specific Appeals relate to the development of a medium and high-density

mixed-use master-planned community consisting of residential, institutional, commercial and employment units at the property located at 3069 Dundas Street West and 3278 Regional Road 25 in the Town ("PVC Subject Site"). The proposed total residential units are 6,890 units; and

b. OLT Case File No. OLT-24-000120 and OLT Case File No. OLT-24-000121 regarding Official Plan Amendment and Zoning By-Law Amendment Appeals that were filed pursuant to s. 22(7) and s. 34(11) of the Act by Enirox Dundas 3015 Inc. ("Enirox") relating to the Town's failure to make a decision within the requisite timelines with respect to these site-specific applications ("Enirox Site-Specific Appeals"). These Enirox Site-Specific Appeals relate to the development of a 27 storey and 30 storey residential buildings with a three-storey podium which will consist of 690 residential units. The subject property is located at 3005 and 3015 Dundas Street West.

[3] The Affidavit of Service of Notice regarding PVC Site-Specific Appeals sworn by Sandra Marki on April 10, 2024 is marked as **Exhibit 1**. The Affidavit of Service of Notice regarding Enirox Site-Specific Appeals sworn by Mina Siskopoulos on April 9, 2024 and is marked as **Exhibit 2**. The Tribunal confirmed with Counsel that there were no known issues with service of Notice, and as such, no further notice is required.

PARTY/PARTICIPANT STATUS REQUESTS

[4] The Tribunal inquired with respect to the status of an entity known as “Newmark Developments Limited” found in the filed materials and listed as a Party to the OPA 289 and OPA 306 Appeals. Mr. Harrington, Counsel for PVC, advised that this entity had originated the Appeals many years ago and PVC is the successor in title of the PVC Subject Site. As such, PVC has now assumed ownership of the lands and Newmark Developments Limited can be removed from the Appearances list.

[5] At the first CMC of the OPA Appeals, Enirox was granted Party status in the Appeals of OPA 34, OPA 37 and OPA 38 and it was confirmed that Party status in OPA 289 and OPA 306 was transferred from Shell Canada Limited to Enirox. The Tribunal also confirmed that the Region of Halton (“Region”) had been granted Party status in OPA 289 and OPA 306 pursuant to a Motion Decision issued in November, 2009.

[6] The Tribunal received the following Party status requests:

a. Region requested Party status on all of the OPA Appeals (to the extent they were not already a Party) as well as the PVC Site-Specific Appeals and Enirox Site-Specific Appeals;
b. Halton District School Board (“HDSB”) requested Party status on all of the OPA Appeals and PVC Site-Specific Appeals. HDSB is tasked with delivering educational services to students who reside in the Region, including the Town. It has identified a need for an elementary school within the Draft Subdivision Plan. As such, it has a vested interest in the Appeals;

c. Enirox requested Party status on the PVC Site-Specific Appeals since its subject property is located to the southeast of the PVC Subject Site. Enirox submits potential impacts resulting from the PVC Site-Specific Appeals and therefore it has an interest in the PVC Site-Specific Appeals;

d. 3087OBR Inc. (“3087”) requested Party status on all of the OPA Appeals and PVC Site-Specific Appeals. It is the registered owner of lands municipally known as 3073 to 3087 Old Bronte Road in Oakville (“3087 Lands”). These lands are located to the east of the PVC Subject Site and are adjacent to it. 3087 is engaged in pre-consultation discussions with the Town regarding an upcoming application to redevelop the 3087 Lands. As an adjacent landowner, 3807 has a direct interest in the PVC Site-Specific Appeals; and

e. Conservation Halton requested Party status on all of the OPA Appeals as well as the PVC Site-Specific Appeals. It advised it has an interest in the applications to ensure the policies and land use designations are consistent with the Natural Hazard policies of the Provincial Policy Statement 2020, and that the applicable conservation authority legislative tests and regulations are met.

[7] All Parties consented to the Party status requests noted above and the Tribunal granted the requests.

[8] In addition to the Party status requests, there was one request for Participant status from the Oakville Community Association (“OCA”). Mr. Michael Reid, President of the OCA, advised that the organization wished to participate in the PVC Site-Specific Appeals and Enirox Site-Specific Appeals. He advised that he had the permission of the OCA Board to act on its behalf. No concerns were expressed with respect to the addition of OCA as a Participant. The Tribunal granted Participant status to OCA and

directed Mr. Reid to file a Confirmation of Representation Form with the Tribunal which he completed following the CMC. The Town agreed to include OCA on the circulation of all documentation relating to the PVC Site-Specific Appeals and the Enirox Site-Specific Appeals.

CONSOLIDATION AND CARVING OUT OF THE APPEALS

[9] Mr. Harrington, Counsel for PVC and 819655, expressed PVC's interest in consolidating the PVC Site-Specific Appeals with the OPA Appeals that had been initiated by his client. He further advised that 819655 has a separate Appeal with respect to lands unrelated to PVC and Enirox and are solely subject to OPA 34. As such, 819655 requested its Appeal be separated from the previously consolidated matters and proceed independently to a Site-Specific Merit Hearing. Mr. Harrington submitted that he was not aware of any added Parties wishing to shelter under 819655's issues in OPA 34, as it was solely concerned with height and the location of storm water management.

[10] In addition, Mr. Harrington provided fulsome submissions in support of his request that the Tribunal schedule Hearing dates for the Appeals and set dates for circulation and submission of a finalized Procedural Order ("PO") and Issues Lists ("IL"). He emphasized that a significant amount of time has passed since the commencement of his clients' initial Appeals, and they sought to avoid any further delays in progressing the Appeals. Further, he submitted that the potential upcoming changes to Bill 185 and its amendments may impact his clients' Appeal rights if no Hearing dates have been scheduled.

[11] Mr. Biggart, Counsel for the Town, disagreed with Mr. Harrington's requests regarding setting Hearing dates, consolidating the Site-Specific Appeals or separating

Parties from the previously consolidated matters. He submitted that it was premature to make any determination in this regard given the upcoming changes to the legislation in which clarity will be provided regarding the role of the Region and the Town. He requested scheduling of a further CMC in order to provide time for the added Parties to discuss any changes to the legislation, come up with appropriate ILs and have further discussions regarding consolidation and separation of Appeals.

[12] After considering the submissions of the Parties, the Tribunal declined to set Hearing dates, and scheduled a further CMC on **Thursday, August 1, 2024** at **10 a.m.** via Video Hearing. The Tribunal directed the Parties to prepare ILs and a PO in advance of the **Thursday, August 1, 2024** CMC. The Tribunal acknowledged receipt of a draft PO filed by PVC in advance of this CMC, however, the Tribunal did not review the draft PO with the Parties given the ruling that consolidation and the setting of Hearing dates is premature.

[13] The Tribunal directed the Parties to have discussions amongst themselves with respect to further consolidation of matters and the separation of Appeals prior to the next CMC. If disagreements arise, the Tribunal noted that a Motion could be requested by any Party at the next CMC.

MEDIATION AND SETTLEMENT

[14] The Tribunal raised the prospect of opportunities for Settlement discussions, including the use of Tribunal-assisted mediation. The Parties advised that this remained premature, and no discussions had yet taken place due to various outstanding issues.

[15] The Parties may make a written request to the Tribunal through the Case Coordinator if they wish to pursue Tribunal assisted mediation.

FURTHER CMC

[16] A Third CMC with respect to the OPA Appeals and a Second CMC with respect to the PVC Site-Specific Appeals and Enirox Site-Specific Appeals has been scheduled for **Thursday, August 1, 2024** at **10 a.m.**

[17] Parties 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:

GoToMeeting: https://global.gotomeeting.com/join/709076365

Access Code: 709-076-365

[18] Parties 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

[19] 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: **Toll-Free 1-888-299 1889** or **+1 (647) 497- 9373**. **The Access Code is as indicated above.**

[20] 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 Hearing 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.

ORDER

[21] The Tribunal Orders as follows:

a. That Party and Participant status is granted as follows:

i. Region of Halton is granted Party status on all Official Plan Amendment Appeals, the Palermo Village Corporation Site-Specific Appeals and Enirox Dundas 3015 Inc. Site-Specific Appeals;

ii. Halton District School Board is granted Party status on all Official Plan Amendment Appeals and Palermo Village Corporation Site-Specific Appeals;

iii. Enirox Dundas 3015 Inc. is granted Party status on the Palermo Village Corporation Site-Specific Appeals;

iv. 3087OBR Inc. is granted Party status on all Official Plan Amendment Appeals and the Palermo Village Corporation Site-Specific Appeals;

v. Conservation Halton is granted Party status on all Official Plan Amendment Appeals and Palermo Village Corporation Site-Specific Appeals; and

vi. Oakville Community Association is granted Participant status on the Palermo Village Corporation Site-Specific Appeals and the Enirox Dundas 3015 Inc Site-Specific Appeals.

b. A further Case Management Conference is scheduled to take place by Video Hearing on **Thursday, August 1, 2024,** at **10 a.m.**, and one (1)-day has been set aside. There will be no further notice.

[22] The Panel is not seized but may be contacted through the Case Coordinator should procedural issues arise.

"*Yasna Faghani*"

YASNA FAGHANI
MEMBER

"*C. Hardy*"

C. HARDY
MEMBER