

Ontario Land Tribunal
Tribunal ontarien de l'aménagement
du territoire



ISSUE DATE: November 14, 2024

CASE NO(S).:

OLT-24-000612

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

Applicant and Appellant:
Subject:

210 Calvin Street GP Inc.
Request to amend the Official Plan –
Failure to adopt the requested amendment
To permit the development of no more than
100 residential units

Description:

Reference Number:

UHOPA-20-013

Property Address:

210 Calvin Street

Municipality:

City of Hamilton

OLT Case No.:

OLT-24-000612

OLT Lead Case No.:

OLT-24-000612

OLT Case Name:

210 Calvin Street GP Inc. v. Hamilton
(City)

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

Applicant and Appellant:
Subject:

210 Calvin Street GP Inc.
Application to amend the Zoning By-law –
Refusal or neglect to make a decision
To permit the development of no more than
100 residential units

Description:

Reference Number:

ZAC-20-017

Property Address:

210 Calvin Street

Municipality:

City of Hamilton

OLT Case No.:

OLT-24-000613

OLT Lead Case No.:

OLT-24-000612

OLT Case Name:

210 Calvin Street GP Inc. v. Hamilton
(City)

Heard:

October 24, 2024 by Video Hearing

APPEARANCES:**Parties**

210 Calvin Street GP Inc.

City of Hamilton

Craigforth Inc.

Counsel

Anna Toumanians
Jennifer Meader (*in absentia*)
Meredith Baker (*in absentia*)

Peter Krysiak

George Limberis

**MEMORANDUM OF ORAL DECISION DELIVERED BY BITA M. RAJAEI ON
OCTOBER 24, 2024 AND ORDER OF THE TRIBUNAL**

[1] On October 24, 2024, the second Case Management Conference (“CMC”) took place before the Tribunal with respect to appeals under ss. 22(7) and 34(11) of the *Planning Act* (“Act”) by 210 Calvin Street GP Inc. (“Applicant”) resulting from the failure of the City of Hamilton (“City”) to make a decision within the statutory timeframes of the Act on applications for an Official Plan Amendment (“OPA”) and a Zoning By-law Amendment (“ZBA”). The purpose of the OPA and ZBA is to facilitate a 100-unit residential development.

[2] A first CMC took place on September 6, 2024, wherein it was confirmed that Notice had been adequately served and no further notice was required. The Affidavit of Service was marked as Exhibit 1. Moreover, Craigforth Inc. was granted Party status, and the following were granted participant status:

- a. Cal and Lorianne Mendola;
- b. Dan Stewart;
- c. David Pentland;
- d. Jim Enos;
- e. Kevin Dunn; and

f. Tandi Construction Ltd.

[3] The second CMC had been scheduled to allow the Parties time to finalize the Issues List (“IL”) and to schedule the Hearing.

[4] Prior to the second CMC, the Parties provided a draft Procedural Order (“PO”) and IL. These were reviewed and ratified by the Tribunal at the CMC. They are attached to this Decision and will guide these proceedings.

[5] The Tribunal raised the issue of mediation and settlement discussions. The Parties had not yet turned their mind to this, as they were focused on finalizing the IL, but planned to consider it. They were directed to advise the Tribunal in writing should they reach a settlement with respect to some, or all, of the issues prior to the Hearing, and should they wish to pursue Tribunal-assisted mediation, they may make a written request to the Tribunal through the Case Coordinator for those services.

STATUS REQUEST

[6] The Tribunal received a Participant status request from Dan Smillie, who raised concerns with the proposal, including that it would negatively impact the environment and Natural Heritage features, and it would increase traffic to an unacceptable degree. The Parties had no objections to the request. The Tribunal found that Mr. Smillie has an interest in the matter and will assist the Tribunal in understanding the potential impacts of the proposal on the local community. The Tribunal grants Participant status to Dan Smillie.

HEARING DETAILS

[7] Given the number of Parties, potential issues, and potential witnesses, the Tribunal agreed that a 12-day Merit Hearing would be sufficient. A Hearing has been scheduled to take place commencing on **Monday, October 27, 2025, at 10 a.m. to**

Wednesday, November 12, 2025, and excluding Tuesday, November 11, 2025 (a day on which the Tribunal is not sitting).

[8] On the applicable dates, the 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/687587165>

Access Code: 687-587-165

[9] 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>

[10] 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) 497-9373** or **(Toll Free): 1-888-299-1889**. **The access code is as indicated above.**

[11] 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.

ORDER

[12] **THE TRIBUNAL ORDERS** as follows:

- a. Participant status is granted to Dan Smillie.

- b. The Hearing in this matter is scheduled to take place as described above in this Decision.
- c. The Procedural Order and Issues List, attached as **Schedule A**, shall govern this proceeding.

[13] This Member is not seized but may be contacted through the Case Coordinator should procedural issues arise.

"Bita M. Rajae"

BITA M. RAJAE
MEMBER

Ontario Land Tribunal

Website: 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 A



Ontario Land Tribunal

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Ontario Land Tribunal

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

Applicant and Appellant:	210 Calvin Street GP Inc.
Subject:	Request to amend the Official Plan – Failure to adopt the requested amendment
Description:	To permit the development of no more than 100 residential units
Reference Number:	UHOPA-20-013
Property Address:	210 Calvin Street
Municipality:	City of Hamilton
OLT Case No.:	OLT-24-000612
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PROCEEDING COMMENCED UNDER subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant and Appellant:	210 Calvin Street GP Inc.
Subject:	Application to amend the Zoning By-law – Refusal or neglect to make a decision
Description:	To permit the development of no more than 100 residential units
Reference Number:	ZAC-20-017
Property Address:	210 Calvin Street
Municipality:	City of Hamilton
OLT Case No.:	OLT-24-000613
OLT Lead Case No.:	OLT-24-000612
OLT Case Name:	210 Calvin Street GP Inc. v. Hamilton (City)

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 **October 27, 2025** at 10:00 am at <https://global.gotomeeting.com/join/687587165>
3. The parties' initial estimation for the length of the hearing is **12** 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 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.
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 **June 30, 2025** 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 **July 21, 2025** 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 **July 29, 2025**.
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.
12. 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.
13. On or before **August 28, 2025**, 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.
14. On or before **August 28, 2025**, 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.
15. On or before **September 22, 2025** the parties shall confirm with the Tribunal if all the reserved hearing dates are still required.
16. On or before **October 13, 2025**, 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.
17. Parties may provide to all other parties and the OLT case co-ordinator a written response to any written evidence within **September 29, 2025** days after the evidence is received and in accordance with paragraph 22 below.
18. The parties shall cooperate to prepare a joint document book which shall be shared with the OLT case co-ordinator on or before **October 17, 2025**.
19. 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.*

20. 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.
21. The parties shall prepare and file a preliminary [hearing plan](#) with the Tribunal on or before **October 20, 2025** 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.
22. 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*.
23. 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.
24. A summary of the various filing dates is contained in **Attachment 4**.

This Member is not seized.

So orders the Tribunal.

ATTACHMENT 1
PARTIES & PARTICIPANTS

PARTIES

1. 210 Calvin Street GP Inc.

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Meredith Baker

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2. The City of Hamilton

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3. Craigforth Inc.

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PARTICIPANTS**1. Cal & Lorianne Mendola**

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Tel: 905.929.7783

Email: cedarsand@gmail.com**5. Jim Enos**

Tel: 905.902.6307

Email: enosjim@yahoo.com**6. Kevin Dunn**

Tel: 905.516.3676

Email: kevindunn@cogeco.ca**7. Tandi Construction Ltd.**

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ATTACHMENT 2 ISSUES LIST

City of Hamilton

1. Is the proposal consistent with the Provincial Policy Statement (2020), policies 1.1.1a), c), g), h) and i), 1.1.3.2b) and d), 1.1.3.4, 2.1.5, 3.1.1 b), 3.1.2 c)?

2. Does the proposal conform to A Place to Grow: Growth Plan for the Greater Golden Horseshoe (2019, as amended), specifically policies 2.2.1.2a) and e), 2.2.1.3d), 2.2.1.4f) and 4.2.2.6;

3. Is the proposal consistent with the Provincial Planning Statement (2024), policies 3.2.1, 3.3, 3.6.1, 3.6.8, 4.1 and 4.2 ?

4. Does the proposal and any requested site-specific zoning modifications conform with the Urban Hamilton Official Plan,
 - a) Residential Intensification policies of the UHOP, especially policies B.2.4.1.4 and B.2.4.2.2;
 - b) General Policies for Urban Housing Policies B.3.2.4.9;
 - c) Low and Medium Density residential policies within the neighbourhood section E.3.4 and E.3.5
 - d) Section B.3.3 Urban Design Policies
 - e) Residential Greenfield Design, specifically policies E.3.7.5 and E.3.7.6
 - f) Neighbourhood Designation Section E.3.0

5. Does the proposal conform with Section C.5.0-Infrastructure in the Urban Hamilton Official Plan, including but not limited to, policies C.5.3.6, C.5.3.13, C.5.3.14, C.5.3.17, C.5.4.3 and C.5.4.5 respecting connections to the existing municipal system and the provision of adequate municipal services?

6. Is there sufficient sanitary sewer capacity for the proposed plan?
7. Does the proposal comply with the Integrated Transportation requirements in Section C.4.0, including but not limited to sections 4.2 and 4.5 of the Urban Hamilton Official Plan?
8. Can storm water quality and quantity be managed appropriated by the design of the proposed development considering available capacity of the systems downstream?
9. Does the proposal satisfy the requirements to protect and enhance the natural heritage features within and adjacent to the property as per the natural heritage policies in the Urban Hamilton Official Plan and Provincial policy documents including but not limited to:
 - a) Provincial Planning Statement policies 4.1.1, 4.1.2, 4.1.3, 4.1.5, 4.1.6, 4.1.7, 4.1.8, and 4.2
 - b) Urban Hamilton Official Plan Section C.2.0 policies
10. Does the applicant's Environmental Impact Statement demonstrate that the features and functions of the Core Areas will not be negatively impacted including required setbacks as required under the Urban Hamilton Official Plan including but not limited to policies C.2.3, C.2.3.3, C.2.5.4, C.2.5.5, C.2.5.8, C.2.5.9, C.2.5.10, C.2.5.12, and C.2.5.13?
11. Does applicant's Environmental Impact Statement demonstrate that the boundaries of the Core Areas comply with the Urban Hamilton Official Plan policies including but not limited to policy C.2.2.2?
12. Has adequate consideration been given to the protection of trees as per Urban Hamilton Official Plan policy C.2.11.1 with respect to matters including but not limited to removal of private trees and the ecological impacts on the Core Areas?
13. Does the proposed Zoning By-law Amendment conform to Urban Hamilton Official Plan policy C.2.2.8 and avoid negative impacts?
14. Does the proposal conform with the Urban Hamilton Official Plan policies B.2.4.1.4 g) and E.3.5.8 b) in relation to sustainable building and design principles?

15. Does the proposed Official Plan Amendment and Zoning By-law Amendment represent good land use planning and is it in the public interest?
16. Does the proposal conform to the Hazard Land policies in section B.3.6.5 regarding the proposed development with the proposed Ancaster Creek Crossing?
17. Does the proposal comply with the City of Hamilton Waste Requirements for Design of New Developments and Collection (3.1.4.2) that continuous forward motion is to be provided for waste collection vehicles
18. Does the proposal comply with the City of Hamilton Waste Requirements for Design of New Developments and Collection (3.1.4) that acceptable turnaround areas are provided where roads terminate (dead-ends only permitted in temporary situations).

Craigforth Inc.

1. Will the proposed bridge access within the municipal right-of-way interfere with Craigforth's use and access to its lands? Will the proposed bridge prohibit the development of Craigforth's lands?
2. Does the proposal have appropriate regard to matters of Provincial interest set out in Section 2 f) and h) of the *Planning Act*?
3. Is the proposal consistent with the Provincial Policy Statement (2020) policies 1.1.1 a) and g), 1.1.3.2 a) and b), 1.6.1, and 1.6.3?
4. Is the proposal consistent with the Provincial Planning Statement (2024) policies 2.3.1.2 a) and b), 2.3.1.3, 3.1.1, 3.1.2, 3.6.1 d), and 6.2.1 a) and d)?
5. Does the proposal conform to the Urban Hamilton Official Plan policies B.2.4.1.4, B.2.4.2.2, C.5.3.14, C.5.3.17, and C.5.4.3?
6. Does the proposed Stormwater Management Plan for the proposal adequately protect Craigforth's lands from potential future run-off and/or flooding?

ATTACHMENT 3
ORDER OF EVIDENCE

1. 210 Calvin Street GP Inc.
2. The City of Hamilton
3. Craigforth Inc.
4. 210 Calvin Street GP Inc. in reply

ATTACHMENT 4
SUMMARY OF FILING DATES

EVENT	DATE
List of Witnesses	June 30, 2025
Expert Witness Meetings	July 21, 2025
Agreed Statement of Facts & Remaining Issues	July 29, 2025
Witness and Expert Witness Statements	August 28, 2025
Participant Statement	August 28, 2025
Confirm with Tribunal Reserved Hearing Dates	September 22, 2025
Reply Witness Statement	September 29, 2025
Visual Evidence	October 13, 2025
Joint Document Book	October 17, 2025
Hearing Plan	October 20, 2025
OLT Hearing Commences	October 27, 2025