

Ontario Municipal Board
Commission des affaires municipales
de l'Ontario



ISSUE DATE: December 15, 2017

CASE NO(S): PL161152

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

Applicant and Appellant: Fortress Carlyle Peter Street Inc.
Subject: Application to amend Zoning By-law No. 438-86 and 569-2013 - Refusal or neglect of City of Toronto to make a decision

Existing Zoning: RA
Proposed Zoning: Site Specific (To be determined)
Purpose: To permit the development of a 46-storey mixed-use building consisting of 435 dwelling units

Property Address/Description: 122-128 Peter Street and 357 Richmond Street West

Municipality: City of Toronto
Municipality File No.: 15 255425 STE 200Z
OMB Case No.: PL161152
OMB File No.: PL161152
OMB Case Name: Fortress Carlyle Peter St Inc. v. Toronto (City)

Heard: November 1, 2017 in Toronto, Ontario

APPEARANCES:

Parties

Counsel

Fortress Carlyle Peter Street Inc.	D. Artenosi
City of Toronto	J. Braun
401 Richmond Ltd.	M. Barrett
Ricki's Construction and Painting Inc.	A. Margaritis

Graywood Acquisitions Limited B. Smith
(Party for Mediation Only)

Peter Adelaide GP Inc. (Party for B. Smith
Mediation only)

**MEMORANDUM OF ORAL DECISION DELIVERED BY THOMAS HODGINS ON
NOVEMBER 1, 2017 AND ORDER OF THE BOARD**

INTRODUCTION

[1] This is the third Pre-hearing Conference (“PHC”) on an appeal by Fortress Carlyle Peter Street Inc. of the City of Toronto’s (“City”) failure to make a decision on an application to amend Zoning By-law Nos. 436-86 and 569-2013 to permit a 46 storey mixed-use development with 435 residential units at 122 -128 Peter Street and 357 Richmond Street West (“Site”).

[2] The Memorandums of Oral Decision and Orders of the Board from the first two PHCs are provided as Attachments 1 and 2 for ease of reference and continuity. The previous Decisions and Orders serve to, amongst other matters, identify the Parties, reference a Conservation Review Board case involving part of the Site, note that 358 Richmond Street West is now part of the development proposal and indicate that Board-assisted mediation was being sought .

[3] Board –assisted mediation is now scheduled for **Monday, February 12, 2018 at 10 a.m. at:**

**Ontario Municipal Board
655 Bay Street,
16th Floor
Toronto, ON M5G 1E5**

[4] This third PHC was originally scheduled prior to the confirmation of Board-assisted mediation and was intended to offer an opportunity for a status update.

[5] Upon request, and with consent of the Parties, Graywood Acquisitions Limited and Peter Adelaide GP Inc., which own property in the area, were granted Party status for the mediation and Participant status for the hearing.

[6] Daniel Artenosi advised that there are now additional heritage matters associated with the Site and that certain other initiatives by the City, including one related to tall buildings, may have relevance to this case and hearing. He requested, with the support of the other Parties, that the Board schedule both a fourth PHC and a hearing.

[7] The Board declined to schedule a hearing in the absence of the results of the Board-assisted mediation and a Procedural Order (“PO”) with Issues List. The Board agreed to note in its decision the Parties’ request for a ten day hearing in December 2018 and committed that the Board will make its best efforts to accommodate the requested timing.

[8] The Board granted the request to schedule a fourth PHC as set out in the Order. The purposes of the fourth PHC, as identified at this time, are to receive an update on any settlement or mediation, to discuss the scheduling of a hearing and case management issues associated with a hearing (such as the production of a PO) and any other relevant and necessary matters.

ORDER

[9] The Board orders as follows:

[10] Graywood Acquisitions Limited and Peter Adelaide GP Inc. are granted Party Status for the mediation and Participant status for the hearing.

[11] A fourth PHC shall take place on **Tuesday, April 3, 2018 at 10 a.m. at:**

**Ontario Municipal Board
655 Bay Street,
16th Floor
Toronto, ON M5G 1E5**

[12] The Parties and Participants are to receive a copy of this Decision and Order and no additional notice of the fourth PHC or the Board-assisted mediation is required.

[13] This Member is not seized.

“Thomas Hodgins”

THOMAS HODGINS
MEMBER

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Ontario Municipal Board
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ATTACHMENT 1

Ontario Municipal Board
Commission des affaires municipales
de l'Ontario



ISSUE DATE: June 01, 2017

CASE NO(S): PL161152

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

Applicant and Appellant:	Fortress Carlyle Peter Street Inc.
Subject:	Application to amend Zoning By-law No. 438-86 - Refusal or neglect of City of Toronto to make a decision
Existing Zoning:	RA
Proposed Zoning:	Site Specific (To be determined)
Purpose:	To permit the development of a 46-storey mixed-use building consisting of 435 dwelling units
Property Address/Description:	122-128 Peter Street and 357 Richmond Street West
Municipality:	City of Toronto
Municipality File No.:	15-255425 STE 20 OZ
OMB Case No.:	PL161152
OMB File No.:	PL161152
OMB Case Name:	Fortress Carlyle Peter St Inc. v. Toronto (City)

Heard: May 23, 2017 in Toronto, Ontario

APPEARANCES:

Parties

Counsel

Fortress Carlyle Peter Street Inc.	D. Artenosi and K. Oksenberg
City of Toronto	J. Braun
401 Richmond Ltd.	N. J. Pepino and M. Barrett
Ricki's Construction and Painting Inc.	J. Alati and A. Margaritis

MEMORANDUM OF ORAL DECISION DELIVERED BY H. JACKSON ON MAY 23, 2017 AND ORDER OF THE BOARD

[1] This was the first pre-hearing conference (the “PHC”) in the matter of an appeal to the Ontario Municipal Board (the “Board”) by Fortress Carlyle Peter Street Inc. (the “Applicant”), under s. 34(11) of the *Planning Act* of the failure of the City of Toronto (the “City”) to make a decision on an application for a zoning by-law amendment to permit the development of a 46 storey mixed use building with 435 dwelling units on the lands described above.

[2] The lands are currently occupied by one to three storey buildings containing commercial uses. At the time of the appeal, 122-124 Peter Street and 357 Richmond Street West were on the City’s Heritage Registry. Since that time the City has filed a Notice of Intention to Designate these properties. The Applicant has appealed this Notice to the Conservation Review Board under a separate process.

[3] A request for party status was made by 401 Richmond Ltd., who owns property directly to the west of the site. Ms. Pepino stated that her client is concerned about the proposed tower height and impacts to access, amongst other items. She indicated that her client would like a full block plan to be prepared for the area. Party status was also requested by Ricki’s Construction and Painting Inc., who own the north half of a semi-detached building at 120 Peter Street. Mr. Alati stated that his client’s property is the last remaining low rise building, and his client is concerned about the surrounding proposed buildings, amongst other items. There were no objections to granting party status these two entities. The Board was satisfied that both entities had valid concerns and party status was granted as requested.

[4] No requests were made for participant status.

[5] The Applicant indicated that since the appeal was filed they have had a number of discussions with the various stakeholders. The proposal is currently under review and revisions may be forthcoming. Mr. Artenosi indicated that should there be

revisions, they would be provided to the City within the next month or so. Mr. Artenosi indicated that his client may request Board assisted mediation in the future.

[6] Mr. Artenosi requested that a second PHC be scheduled in the fall. Ms. Braun indicated that the PHC should be scheduled after the Council meeting in the first week of October so that she may have instructions from Council before the next PHC. Mr. Artenosi also requested a status update with the Board by telephone conference call ("TCC") in the summer in order to provide the Board and all parties with an update on the matter.

ORDER

[7] The Board orders a status update by TCC is scheduled for **Tuesday July 18, 2017 at 9 a.m.** The call-in numbers are local (416)-212-8012 and Toll Free 1-866-633-0848 and the TCC code is 4779874. A second PHC is scheduled for **Wednesday, November 1, 2017 at 10 a.m.** The PHC will be held at:

**Ontario Municipal Board
655 Bay Street,
16th Floor
Toronto, ON**

[8] No further notice will be given.

[9] This Member is not seized.

"H. Jackson"

H. JACKSON
MEMBER

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ATTACHMENT 2

Ontario Municipal Board
Commission des affaires municipales
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ISSUE DATE: July 21, 2017

CASE NO(S): PL161152

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

Applicant and Appellant:	Fortress Carlyle Peter Street Inc.
Subject:	Application to amend Zoning By-law No. 438-86 - Refusal or neglect of City of Toronto to make a decision
Existing Zoning:	RA
Proposed Zoning:	Site Specific (To be determined)
Purpose:	To permit the development of a 46-storey mixed-use building consisting of 435 dwelling units
Property Address/Description:	122-128 Peter Street and 357 Richmond Street West
Municipality:	City of Toronto
Municipality File No.:	15-255425 STE 20 OZ
OMB Case No.:	PL161152
OMB File No.:	PL161152
OMB Case Name:	Fortress Carlyle Peter St Inc. v. Toronto (City)

Heard: July 18, 2017 by telephone conference call

APPEARANCES:

Parties

Counsel

Fortress Carlyle Peter Street Inc.	D. Artenosi
City of Toronto	J. Braun
401 Richmond Ltd.	N. J. Pepino
Ricki's Construction and Painting Inc.	J. Alati

MEMORANDUM OF ORAL DECISION DELIVERED BY H. JACKSON ON JULY 18, 2017 AND ORDER OF THE BOARD

[1] This was a status update by telephone conference call (“TCC”) in the matter of an appeal to the Ontario Municipal Board (the “Board”) by Fortress Carlyle Peter Street Inc. (the “Applicant”), under s. 34(11) of the *Planning Act* of the failure of the City of Toronto (the “City”) to make a decision on an application for a zoning by-law amendment to permit the development of a 46 storey mixed use building with 435 dwelling units on the lands described above.

[2] A previous Pre-hearing Conference (“PHC”) was held on May 23, 2017 to identify parties to this matter and to set procedural issues.

[3] The lands are currently occupied by one to three storey buildings containing commercial uses. At the time of the appeal, 122-124 Peter Street and 357 Richmond Street West were on the City’s Heritage Registry. Since that time the City has filed a Notice of Intention to Designate these properties. The Applicant has appealed this Notice to the Conservation Review Board (the “CRB”) under a separate process. Daniel Artenosi advised the Board at this TCC that the first PHC for the matter before the CRB is scheduled for tomorrow, July 19, 2017.

[4] Mr. Artenosi advised the Board that since the last PHC for this appeal, his client has acquired 359 Richmond Street, which is the western semi-detached portion of the building adjacent to 357 Richmond Street, which is part of his client’s lands. Now both of the semi-detached dwellings are owned by his client.

[5] On July 7, 2017, Mr. Artenosi’s clients made a with-prejudice settlement offer to all the parties, based on an amended proposal. Mr. Artenosi states that the revisions are significant and include the incorporation of 359 Richmond Street into the plan, the retention of 122-124 Peter Street, an approximate eight-storey height reduction of the proposed tower and a reduction in gross floor area. As part of the settlement, the Applicant has requested that all parties participate in a Board-assisted mediation.

[6] On this TCC, all parties expressed a willingness to participate in mediation, and indicated that the City's review comments on the amended plans for the proposed development would be helpful in that regard. The City indicated that the review comments are not yet available, and this may influence the projected timing for a future mediation.

[7] The Board directed the parties to contact the Case Coordinator to request a mediation assessment.

[8] A second in-person PHC was scheduled at the previous event. This PHC will be maintained. It is scheduled for **Wednesday, November 1, 2017 at 10 a.m.** The PHC will be held at:

**Ontario Municipal Board
655 Bay Street, 16th Floor
Toronto, Ontario**

[9] No further notice will be given.

[10] This Member is not seized.

"H. Jackson"

H. JACKSON
MEMBER

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