

**Local Planning Appeal Tribunal**  
Tribunal d'appel de l'aménagement  
local



**ISSUE DATE:** August 21, 2019

**CASE NO(S):**

PL170624

The Ontario Municipal Board (the "OMB") is continued under the name Local Planning Appeal Tribunal (the "Tribunal"), and any reference to the Ontario Municipal Board or Board in any publication of the Tribunal is deemed to be a reference to the Tribunal.

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

Applicant and Appellant:	Alterra-Finer Corktown Ltd.
Subject:	Request to amend the Official Plan - Failure of the City of Toronto to adopt the requested amendment
Existing Designation:	Mixed Use Areas
Proposed Designated:	Site Specific (To be determined)
Purpose:	To permit the construction of a 13 storey mixed use building containing 381 residential units, including 14 grade related townhouses with underground parking.
Property Address/Description:	18-32 Eastern Avenue and 2 Sackville Street
Municipality:	City of Toronto
Approval Authority File No.:	16 216777 STE 28 OZ
OMB Case No.:	PL170624
OMB File No.:	PL170624
OMB Case Name:	Alterra-Finer Corktown Ltd. v. Toronto (City)

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

Applicant and Appellant:	Alterra-Finer Corktown Ltd.
Subject:	Application to amend Zoning By-law No. 438-86 - Refusal or neglect of the City of Toronto to make a decision
Existing Zoning:	I1 D3
Proposed Zoning:	Site Specific (To be determined)
Purpose:	To permit the construction of a 13 storey mixed use building containing 381 residential units, including 14 grade related townhouses

Property Address/Description:	with underground parking. 18-32 Eastern Avenue and 2 Sackville Street
Municipality:	City of Toronto
Municipality File No.:	16 216777 STE 28 OZ
OMB Case No.:	PL170624
OMB File No.:	PL170625

**Heard:** May 28, 2019 in Toronto, Ontario

## **APPEARANCES:**

### **Parties**

### **Counsel**

Alterra-Finer Corktown Ltd.	C. Lantz
City of Toronto	M. Longo
York Condominium Corp. 389, Catherine Bray and Alan Potts	I. Tang
Robin Pope, Simon Schneiderman and Louise Lipman	A. Heisey

## **DECISION DELIVERED BY L.M. BRUCE AND PARTIAL ORDER OF THE TRIBUNAL**

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### **INTRODUCTION**

[1] Alterra-Finer Corktown Ltd. (“the Applicant”) has appealed the failure of the Council of the City of Toronto (“City”) to amend the City Official Plan and to rezone lands located at 18-32 Eastern Avenue and 2 Sackville Street (“subject property”) in order to allow a mixed-use development.

[2] The Tribunal was advised at the start of the hearing that a settlement between the City and the Applicant had been reached. This settlement arose from an extensive process of consultation with staff, the Councillor and the community from March 2016 through to April 2019. On April 16, 2019 City Council considered staff’s Request for Direction Report and adopted staff’s recommendation that Council accept the

Settlement Offer dated April 11, 2019 (Exhibit 1, Tab 9). As a result of the settlement there has been a modification to the original proposed development. The Applicant has asked that the appeal be allowed in part but that the Order be withheld subject to the satisfaction of conditions.

[3] The Board qualified and heard expert land use opinion evidence from Sasha Lauzon. The City was in attendance to support the settlement agreement but did not offer any witnesses. Alan Heisey attended the commencement of the hearing and indicated that his clients supported the settlement and that he did not intend to call any witnesses or make further submissions. Mr. Heisey was excused to attend a second hearing underway at the Tribunal on this date. Issac Tang also indicated that he did not intend to call any witnesses or make submissions and that his clients supported the settlement agreement.

## **SITE DESCRIPTION AND SETTING**

[4] The subject site, located on the north side of Eastern Avenue, between Sackville Street and Gilead Place consists of assembled properties generally occupied by commercial buildings and surface parking.

[5] The subject site is located in the Corktown neighbourhood which is located in the King Street-Parliament Street area ("King-Parliament"). The King-Parliament area is a large, diverse redevelopment area located east of Jarvis Street to the Don River, extending south of Queen Street to the St. Lawrence Neighbourhood and the Canadian National Rail Corridor (east of Parliament Street). Within the King-Parliament area, the Corktown neighbourhood has a distinct character and is subject to its own planning regime. Corktown was initially developed in the early 1800s and is characterized by cottages and rowhouses set along narrow north-south streets. Over time, properties on the edges of the neighbourhood have been redeveloped for larger industrial and automotive uses as well as some recent mid-rise mixed-use redevelopment.

[6] Ms. Lauzon provided photo evidence and a description of properties in the area.

Inglenook Community High School is located at 19 Sackville Street, immediately east of the proposed development. There is an autobody repair and car rental businesses on the property at the corner of Sackville Street and Eastern Avenue. On the south side of Eastern Avenue, across the street from the proposed development is a four-storey automobile dealership and service center. Directly adjacent to the subject site to the west is Gilead Place, a narrow mews-style street with commercial and residential uses. At the northwest corner of Eastern Avenue and Gilead Place is a two-storey commercial building and further west, at the corner of Trinity Street and Eastern Avenue is an eight-storey mixed use development.

[7] The subject property is generally rectangular in shape with an irregular rear lot line at the north westerly portion of the site. The subject site has an area of approximately 3638 square metres (“sq m”) with frontages as follows:

- 76 m on Eastern Avenue
- 59 m on Sackville Street (depth at easterly limit of property)
- 28 m on Gilead Place (depth at westerly limit of property)
- 15 m on the east-west portion of Corktown Lane
- 19 m on the north-south portion of Corktown Lane.

### **The Proposal**

[8] As noted earlier in this decision, the proposal that is before the Tribunal has been the subject of numerous modifications arising from discussions with the parties. Ms. Lauzon walked through the changes to the design that resulted in a reduction in scale and setbacks from the original proposal as well as changes to the design. The Tribunal’s had before it the design and plans shown in Exhibit 7.

[9] The proposal is for the construction of a 12-storey mixed use development with a building height, including mechanical penthouse, of 45.6 metres (“m”). The massing of the rear façade complies with a 45-degree angular plane from the north property line at a height of 10.5 m. This provides a gradual transition to the north. The compliance with the angular plane results in terracing along the north-easterly wing of the building, providing an average 3.1 m stepback at each level above the second floor. On the northwesterly wing, there is a large stepback above the fourth floor and further setbacks above the ninth, 10<sup>th</sup> and 11<sup>th</sup> floors. A two-storey townhouse component of the development will front onto Gilead Place, Corktown Lane and Sackville Street. The outdoor amenity space on the rooftop is located entirely on the south side of the mechanical penthouse facing Eastern Avenue. As part of the Settlement Agreement (Exhibit 5, page 79) additional provisions have been identified which will help to address privacy and overlook concerns, noise and light impacts.

[10] Vehicular access is provided off Sackville Avenue at the north end of the building.

### **Evidence and Analysis**

[11] Ms. Lauzon provided evidence that the proposed commercial and residential uses are appropriate and desirable. She opined that from a land use planning perspective the proposal is supportive of the Provincial Policy Statement, 2014 (“PPS”), the A Place to Grow: Growth Plan for the Greater Golden Horse Shoe, 2019 (“Growth Plan”) and the Toronto Official Plan since it promotes the intensification of underutilized sites within built-up urban areas, particularly in locations that are well served by municipal infrastructure, including public transit. She stated that it will result in a desirable form of mixed-use intensification within the Downtown Toronto Urban Growth Centre and implements land use permissions in the Mixed-Use areas designation of the Official Plan. She stated that from an urban design perspective, the proposal conforms with the built form and massing policies of the Official Plan and that while an amendment to the King-Parliament Secondary Plan is required to exceed the current

zoning height limit, the proposal is generally in keeping with the relevant urban design guidelines.

[12] It was Ms. Lauzon's opinion that the proposed building will fit harmoniously with the existing and planned built form context and will be compatible with the height and massing of existing and approved development in the periphery of the Corktown mixed use neighbourhood as well as the larger King-Parliament area in general. She stated that the proposal will result in an appropriately scaled building that frames Eastern Avenue and Sackville Street at good proportion and provides an appropriate transition to lower-scale development along Gilead Place to the northwest, along King Street to the north, along Sackville Street to the northeast and the community school to the east.

[13] It was Ms. Lauzon's opinion that it will have no unacceptable built form impacts and that the incremental shadow impacts created by the proposed building are limited, having regard for the site's location within an urban context.

[14] Ms. Lauzon summarized that the proposal represents good planning and is in the public interest in terms of land use and urban design.

### **Participant Concerns**

[15] Participant Dr. Kym Bird, a resident of Trinity Street, stated that the Corktown area is unique and that the proposed development does not compliment nor serve as a sensitive contrast to the area. She stated that the design is modernist in appearance and would diminish Corktown's special identity. She stated that Trinity Street has important heritage value and that it attracts tour buses. Further, it was her concern that this will be the first building of this type and will set a precedence that will have an adverse impact on Corktown. She also expressed concern that there will be shadowing affects and loss of skyview, including blocking of sunlight to the neighbouring high school. Dr. Bird also expressed concern that parking permits are at 90% capacity and that there will not be an opportunity to accommodate new cars.

[16] Dr. Frances Latchford who also resides on Trinity Street stated that there are many heritage buildings in the area, including the Inglenook Community High School. Dr. Latchford stated that the houses on Trinity Street were built in the 1800s. She stated that the proposed development of 12 or 13 storeys is radically at odds with the Zoning By-law, Official Plan and Secondary Plan and is insensitive to the Corktown area. She stated that the proposed development does not protect the Corktown identity and that the Applicant is “unwilling to compromise”. She stated that this private sector development should not determine the fate of Corktown. She asked that the Tribunal reject the proposal and give consideration to the design of a development which fits with what the community desires.

[17] Coralina Lemos lives immediately north of the property on King Street. She is a historian and Chair of the Corktown Heritage Committee. She has lived in the area since 1991 and participated in the development of the Secondary Plan. Ms. Lemos identified eleven historic listed properties, four that face King Street and seven cottage homes that line Trinity Street. In addition, there are two additional heritage properties that include Little Trinity Church and Enoch Turner Schoolhouse which are designated under the *Ontario Heritage Act*. She referenced the King-Parliament Secondary Plan that calls for new development in Corktown to consist of primarily small-scale infill development and building conversions that are sensitive to the existing character and form of the community. She took the Tribunal to section 3.1.5 of the Official Plan (Policy 26) which states that “New construction on, or adjacent to a property on the Heritage Register will be designed to conserve the cultural heritage values, attributes and character of that property and to mitigate visual and physical impact on it.” It was her opinion that the proposed building is not sensitive to the Inglenook Community High School. This she noted, was in contrast to the GBCA Architects Heritage Impact Assessment in which the opinion is stated that the new development represents an appropriate, reasonable and favourable development within its urban context. Ms. Lemos requested that development that goes forward should be done carefully and appropriately integrated into this historic community.

[18] Socrates Apallos, Chair of the Corktown Development Committee, Corktown Residents and Business Association stated that while they are encouraged that the Applicant reached a settlement with the immediate neighbours, the height and scale remain the same and this has implications for more than just the immediate neighbours. The Corktown Residents and Business Association in partnership with the St. Lawrence Neighbourhood Association protects and represents a broader community interest; they are not in support of the development and are concerned about precedence. He stated that this development does not echo the community's past.

[19] Suzanne Kavanagh, President of the St. Lawrence Neighbourhood Association stated that the area consists generally of small properties, including several heritage buildings, and is characterized by unique small scale, fine grained developments. The area is considered stable and gradual change is encouraged. New development should consist of small-scale infill development and building conversions that are sensitive to the existing character and form of the community. It was her opinion that this development at this height is out of context for this neighbourhood. She stated that Gilead Place is a special street and that the height is not appropriate given that Gilead Place has the look and feel of a laneway as opposed to a street.

[20] The Tribunal was asked by the participants to do a site visit to the area. This Member walked the area bounded by Trinity Street to the west, Sackville Street to the east, King Street to the north and Eastern Avenue to the south, including the street/laneway within these boundaries. It is a beautiful area with a unique character. The Tribunal notes that the subject properties have a very different feel, one that is distinct from the interior of the Corktown neighbourhood.

## **FINDINGS AND DISPOSITION**

[21] The Tribunal recognizes the unique character of Corktown and acknowledges the input of the participants on this matter. However, there was no evidence that the subject property, which the Tribunal observed is currently occupied by an autobody shop and parking areas, contributes to this character and that the construction of the



proposed mixed-use building on the subject site would detract from this character. The Tribunal was not presented with evidence demonstrating how the construction of this development on Eastern Avenue, would impact the character of the houses on Trinity Avenue which is not immediately adjacent to the proposed development.

[22] There have been several iterations of this development since it was first proposed. The parties (local residents and the York Condominium Corp. 389) who retained Mr. Heisey and Mr. Tang are no longer in opposition to this development. The Tribunal has reviewed the modified plans and notes the significant step down to the neighbourhood to the north of the subject property.

[23] The Tribunal accepts the planning opinion evidence of Ms. Lauzon and finds that the proposed development represents good planning by appropriately balancing potentially competing public policy considerations. The Tribunal agrees with Ms. Lauzon's opinion that the overarching Provincial and City policy direction is to optimize the use of urban land and infrastructure, while recognizing the need to consider built form impacts. This development is on Eastern Avenue, a main street that does not share the same heritage character described by the participants. While the Tribunal understands that the building will be visible from Trinity Street the Tribunal did not hear compelling evidence that explained how this would have significant adverse effects on the character. Further the Tribunal finds that the proposal is consistent with the PPS and conforms with the Growth Plan and the Official Plan, including the King-Parliament Secondary Plan, subject to the proposed amendment for height.

[24] Further, the Tribunal, in accordance section 2.1(1)(a) of the *Planning Act* has had regard to the decisions of City Council.

## **ORDER**

[25] The Tribunal orders that the appeal of Alterra-Finer Corktown Ltd. from the failure of the Council for the City of Toronto to make a decision with respect to the Official Plan Amendment and Zoning Bylaw Amendment applications for the properties located at

18-32 Eastern Avenue, 1 Gilead Place, 2 Sackville Street is allowed in part.

[26] The Tribunal approves in principle, the revised development proposal substantially in the form found in the Architectural Plans prepared by Teeple Architects, dated May 1, 2019 (Exhibit No. 7).

[27] The Tribunal will withhold its order on the Official Plan Amendment and Zoning By-law Amendment until the following conditions are satisfied:

- a. The Official Plan and Zoning By-law Amendment(s) have been finalized in a form mutually satisfactory to the City Solicitor, the Chief Planner and Executive Director, City Planning and the Owner, and have been provided to the Tribunal;
- b. The Tribunal has been advised by the City Solicitor that the Owner has submitted a revised Hydrogeological Report, to the satisfaction of the Executive Director, Engineering and Construction Services;
- c. The Tribunal has been advised by the City Solicitor that the Owner has entered into and registered a financially secured infrastructure agreement to the satisfaction of the Executive Director, Engineering and Construction Services and City Solicitor, for the design and construction of any necessary upgrades or required improvements to the existing municipal infrastructure, should any such upgrades or improvements be identified in the accepted Hydrogeological Report, at the sole cost and expense of the Owner;
- d. The Owner has entered into and registered on title, an agreement with the City pursuant to Section 37 of the *Planning Act* to the satisfaction of the City Solicitor, in consultation with the Chief Planner and Executive Director, City Planning and the Senior Manager, Heritage Preservation Services securing facilities, services and matters to be set forth in the Zoning By-law Amendment.

[28] The Tribunal may be spoken to in the event any matter should arise in connection with the implementation of this decision.

*“L.M. Bruce”*

L.M. BRUCE  
MEMBER

If there is an attachment referred to in this document,  
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**Local Planning Appeal Tribunal**

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