

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



ISSUE DATE: August 28, 2018

CASE NO(S): PL171169
PL180649

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: 2517015 Ontario Inc. (Format Group Inc.)
Subject: Request to amend the Official Plan - Failure of the City of Mississauga to adopt the requested amendment
Existing Designation: Low Density 1
Proposed Designated: Low Density II and Special Site policy
Purpose: To permit 2 detached dwellings units, 6 semi-detached dwelling units and 6 townhouse dwelling units.
Property Address/Description: 1190 & 1200 Lorne Park Road
Municipality: City of Mississauga
Approval Authority File No.: OZ 16/014 WZ
OMB Case No.: PL171169
OMB File No.: PL171169
OMB Case Name: 2517015 Ontario Inc. (Format Group Inc.) v. Mississauga (City)

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

Applicant and Appellant: 2517015 Ontario Inc. (Format Group Inc.)
Subject: Application to amend Zoning By-law No.0225-2007 - Refusal or neglect of the City of Mississauga to make a decision

Existing Zoning: R2-4
 Proposed Zoning: Site Specific (To be determined)
 Purpose: To permit 2 detached dwellings units, 6 semi-detached dwelling units and 6 townhouse dwelling units.

Property Address/Description: 1190 & 1200 Lorne Park Road
 Municipality: City of Mississauga
 Municipality File No.: OZ 16/014 W2
 OMB Case No.: PL171169
 OMB File No.: PL171170

PROCEEDING COMMENCED UNDER subsection 53(19) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellant: Tim Connelly and Ruth Connelly
 Applicant: 2517015 Ontario Inc. (Format Group Inc.)
 Subject: Consent
 Property Address/Description: 1190-1200 Lorne Park Road
 Municipality: City of Mississauga
 Municipal File No.: B038/18
 LPAT Case No.: PL180649
 LPAT File No.: PL180649
 LPAT Case Name: Connelly v. Mississauga (City)

PROCEEDING COMMENCED UNDER subsection 53(19) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellant: Tim Connelly and Ruth Connelly
 Applicant: 2517015 Ontario Inc. (Format Group Inc.)
 Subject: Consent
 Property Address/Description: 1190-1200 Lorne Park Road
 Municipality: City of Mississauga
 Municipal File No.: B39/18
 LPAT Case No.: PL180649
 LPAT File No.: PL180650

PROCEEDING COMMENCED UNDER subsection 53(19) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellant: Tim Connelly and Ruth Connelly
 Applicant: 2517015 Ontario Inc. (Format Group Inc.)
 Subject: Consent
 Property Address/Description: 1190-1200 Lorne Park Road

Municipality: City of Mississauga
Municipal File No.: B40/18
LPAT Case No.: PL180649
LPAT File No.: PL180651

Heard: August 7, 2018 in Mississauga, Ontario

APPEARANCES:

Parties

Counsel

2517015 Ontario Inc. (Format
Group Inc.)

Ira Kagan and Kristie Jennings

City of Mississauga

Rajan Kehar

Tim and Ruth Connelly
Andrew Davies

Ian Flett

**MEMORANDUM OF ORAL DECISION DELIVERED BY PAULA BOUTIS ON
AUGUST 7, 2018 AND ORDER OF THE TRIBUNAL**

INTRODUCTION

[1] This was the second Pre-hearing Conference (“PHC”) regarding zoning by-law amendment (“ZBLA”) and official plan amendment (“OPA”) appeals in Case File No. PL171169.

[2] These applications are intended to facilitate Format Group Inc.’s (“Format Group”) development of semi-detached dwellings and townhouses on the northerly portion of a parcel of land at 1190 and 1200 Lorne Park Road (“Subject Site”).

[3] Following the first PHC, the Tribunal directed the parties to prepare a Procedural Order (“P.O.”) and Issues List to allow for the matters to be set down for a hearing at a

second PHC. The parties were prepared with and did present a draft P.O. on consent, subject only to a question about the length of the hearing, discussed more fully below.

[4] On the Subject Site, to the south of the proposed semis and townhouses, a related consent application, being Case File No. PL180649, is intended to facilitate the severance of the property to allow for the development of three single detached homes fronting Garden Road (“Consent Application”). The Tribunal understood from Ira Kagan, Format Group’s counsel, that no zoning by-law amendment is required for this proposal and that it had specifically been reworked following the initial submission and response from the City for this purpose. Mr. Kagan advised that this proposal was supported by City staff and approved by the Committee of Adjustment.

[5] The Tribunal was advised by Mr. Flett that Tim and Ruth Connelly appealed the Consent Application decision and that Andrew Davies will be seeking party status in that appeal. Similarly, counsel for the City of Mississauga (“City”), Rajan Kehar, advised that the City would be seeking party status in that matter as well. All of these parties are parties to PL171169.

[6] The City and Ian Flett’s clients seek to have the ZBLA and OPA appeals (Case File No. PL171159) consolidated with or be heard together with the Consent Application (“Consolidation Motion”). This request is opposed by Format Group.

[7] The Consent Application is subject to new timing rules under the *Planning Act* (“Act”). It is subject to a six-month time limit to complete the matter, though this time line can be suspended if the Tribunal deems it necessary to secure a fair and just determination of the appeal. The ZBLA and OPA appeals, by contrast, are transition appeals and are not subject to any time requirements under the Act.

[8] After some discussion, the Tribunal concluded that since it was a contested request, the matter could only be resolved through a formal motion. This presented a

challenge as the Tribunal had limited options for a motion date, potentially creating a significant delay in the Consent Application.

[9] Following submissions, rather than waiting to the first available motion hearing date in December, the Tribunal concluded that the motion should proceed as a written motion, to be followed by a teleconference call (“TCC”) to allow for any questions the Tribunal may have and to allow the parties to make submissions.

[10] While the Tribunal can suspend the clock on the Consent Application appeal, and will still need to suspend it to facilitate the Consolidation Motion, the recent amendments to the Act seek to improve expedience in the conclusion of appeals to minimize prejudice that parties may suffer from a delay. Given this legislative goal, and because the Consent Application falls within those rules, the Tribunal seeks to address this motion as expeditiously as possible, while still ensuring the competing interest of procedural fairness is maintained. For these reasons, the Tribunal concluded a written motion was the most appropriate way to proceed.

[11] Of the prospective moving parties for the proposed Consolidation Motion, only the Connellys, as appellants, are already established parties in PL180649, in addition to Format Group Inc. The Connellys therefore have standing to bring the Consolidation Motion. The Tribunal does not anticipate opposition from the Applicant to the granting of party status to either of Andrew Davies or the City in PL180649. The Tribunal grants that status at least for the purposes of the Consolidation Motion and otherwise intends to confirm status for the appeal at the TCC scheduled below, subject to any submissions that may be raised by Format Group at that point.

[12] As resolved at the hearing, the following schedule applies to the Consolidation Motion:

- a. The Moving Parties (the City, the Connellys, and Mr. Davies) will file their records by September 21, 2018.

- b. The Format Group (Applicant/Respondent) will file its responding record by October 5, 2018.
- c. The Moving Parties will file a reply, if any, by October 12, 2018.
- d. The Tribunal will review the written materials on October 16, 2018.
- e. A TCC will be held on **October 18, 2018 at 9 a.m.** to allow for questions by the Tribunal and submissions by the parties. Individuals are directed to call **416-212-8012** or Toll Free **1-866-633-0848** on the assigned date at the correct time. When prompted, enter the code **8382912#** to be connected to the call. It is the responsibility of the persons participating in the call to ensure that they are properly connected to the call and at the correct time. Questions prior to the call may be directed to **Nazma Ramjaun**, the Tribunal's Case Coordinator, at **416-326-6796**.

[13] The Tribunal requests that the Moving Parties co-ordinate their efforts as much as possible to avoid duplication of materials within their records, or if feasible, that they prepare and file joint records.

[14] As noted at the PHC, the Tribunal raises for the consideration of the parties the question of notice of hearing for the Consent Application. The Consent Application is not typically subject to any pre-hearing procedure and it is possible that if the ZBLA/OPA and Consent Application appeals are to be heard together or consolidated, additional individuals may seek party or participant status at the return of the hearing for the first time. While participants would not likely be difficult to accommodate, the same may not be true for others who may seek party status, which status may be opposed and who may not have been subject to the P.O., and which parties may have no interest in the ZBLA/OPA matters. This issue, and a potential resolution to it, will need to be addressed.

[15] The Tribunal also notes that Mr. Kagan took the position that the Tribunal has no authority to consolidate these matters, as a combination of two legacy appeals and an appeal subject to the amended legislation; though he did not dispute that they could be heard together. The Tribunal does not immediately see the rationale for this conclusion, but makes no conclusion about its authority to consolidate the appeals at this juncture. However, the Tribunal anticipates this too will be addressed through the motion materials, should the Moving Parties seek a consolidation of the appeals rather than an order to have them heard together. In any event, consolidation has different implications than having matters heard together, and this should be considered in the motion materials as well if a consolidation is sought, particularly given the procedural issue noted in paragraph [14].

[16] To facilitate the possibility that the Consent Application may be heard together or consolidated with the ZBLA and OPA appeals, the parties submitted that the hearing dates for the ZBLA and OPA in Case File No. PL171169 should be set down for eight days rather than the initially proposed seven days. In any event, given the number of parties and participants and anticipated witnesses, the Tribunal concluded that it was more prudent to set the matter down for eight days.

[17] The hearing related to Case File No. PL171169 is to commence on **May 27, 2019 at 10 a.m.:**

**City Hall (Mississauga)
300 City Centre Drive
Mississauga, ON L5B 3C1**

[18] The appeals are scheduled for up to eight days of hearing. The Tribunal will not sit on June 5 or 6 and will recommence for a final day on June 7, 2019, if needed.

ORDER

[19] The Tribunal approves the draft P.O. as presented by the parties at the PHC for Case File No. PL171169, subject to revisions to account for the hearing dates now set

in accordance with paragraphs [17] and [18]. The Applicant is directed to finalize the P.O. and submit it for approval to the Tribunal by September 7, 2018.

[20] Should the ZBLA/OPA appeals be consolidated or be ordered to be heard together with the Consent Application, the Issues List and P.O. can be revised accordingly following the determination of that issue by the Tribunal.

[21] In respect of PL180649, the Tribunal formally postpones the prescribed timeline on that matter, which postponement is effective as of August 7, 2018.

[22] This Member is seized for the purposes of the Consolidation Motion. The parties are to adhere to the schedule for the Consolidation Motion as reflected in paragraph [12].

“Paula Boutis”

PAULA BOUTIS
MEMBER

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Local Planning Appeal Tribunal

A constituent tribunal of Environment and Land Tribunals Ontario

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