

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



ISSUE DATE: December 20, 2018

CASE NO(S): PL171206

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

Applicant and Appellant: CGIV Developments Inc.
Subject: Application to amend Zoning By-law No. 0225-2007 - Refusal or neglect of City of Mississauga to make a decision
Existing Zoning: C3 (General Commercial)
Proposed Zoning: RA5-Exception (Apartment Dwellings)
Purpose: To permit a 40 storey apartment building including ground level retail commercial uses
Property Address/Description: 3480 Hurontario Street
Municipality: City of Mississauga
Municipality File No.: OZ 17/005
OMB Case No.: PL171206
OMB File No.: PL171206
OMB Case Name: CGIV Developments Inc. v. Mississauga (City)

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

Applicant and Appellant: CGIV Developments Inc.
Subject: Request to amend the Official Plan - Failure of City of Mississauga to adopt the requested amendment
Existing Designation: Mixed Use
Proposed Designated: Residential High Density – Special Site
Purpose: To permit a 40 storey apartment building including ground level retail commercial uses
Property Address/Description: 3480 Hurontario Street

Municipality:	City of Mississauga
Approval Authority File No.:	OPA 17/005
OMB Case No.:	PL171206
OMB File No.:	PL180062

Heard: November 16, 2018 by telephone conference

APPEARANCES:

Parties

Counsel

CGIV Development Inc.	J. Alati and A. Margaritis
City of Mississauga	L. Magi
Region of Peel	R. Godley
Square One Development Corp.	V. MacLean

MEMORANDUM OR ORAL DECISION DELIVERED BY C.J. BRYSON ON NOVEMBER 16, 2018 AND ORDER OF THE TRIBUNAL

INTRODUCTION

[1] This was the second Pre-hearing Conference (“PHC”) regarding the appeal of the City of Mississauga’s (“City”) failure to render a decision on CGIV Development Inc.’s (“Appellant” and “Applicant”) requested amendments to the City’s Zoning By-law No. 0225-2007 and Official Plan (“OP”).

[2] The proposed development for 3480 Hurontario Street (“Property”) within the City of Mississauga envisions a 40 storey apartment building, with 360 units, a five storey podium inclusive of residential units on floors two through five, and retail and commercial uses at grade. The Property is currently occupied by a restaurant, zoned C3 – General Commercial and within a Mixed Use designation of the City’s OP. The Applicant requests a change in zoning to RA5 – Exception (Apartment Dwellings) and an OP use designation of Residential High Density.

[3] Counsel for Joseph Hacoheh, Virginia MacLean, requested that Mr. Hacoheh, the party previously identified and granted status at the first PHC, be corrected and replaced with Square One Development Corporation (“Square One”). Mr. Hacoheh informed the Tribunal that he previously attended at the first PHC to represent the interests of the corporate entity Square One, which should have been the properly identified Party granted status at the PHC. The Tribunal granted the request of Ms. MacLean without objection.

[4] The Parties provided the Tribunal with a draft Procedural Order (“PO”), inclusive of an Issues List, and together asked the Tribunal to schedule a two week hearing of the within appeals. The Tribunal directed the Parties to amend the draft PO with the addition of the order of evidence to be provided at the hearing and the location of the requested hearing.

[5] The revised PO is attached to this decision as Appendix I.

ORDER

[6] Against this background, the Tribunal ordered a 10 day hearing to commence on **Monday, March 2, 2020 at 10 a.m.** for disposition of all matters, to be held at:

**City of Mississauga
Municipal Hearing Room
300 City Centre Drive
Mississauga, ON**

[7] The Tribunal approves and orders issued the final PO, attached to this Decision as Appendix I.

[8] There will be no further notice of the scheduled hearing.

[9] This Member is not seized of the scheduled hearing.

“C.J. BRYSON”

C.J. BRYSON
MEMBER

If there is an attachment referred to in this document,
please visit www.elto.gov.on.ca to view the attachment in PDF format.

Local Planning Appeal Tribunal

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Local Planning Appeal Tribunal

ISSUE DATE:

CASE NO(S). PL171206

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

Applicant/Appellant: CGIV Developments Inc.
Subject: Refusal or neglect of City of Mississauga to make a decision on Application to amend Zoning By-law No. 0225-2007
Purpose: To permit a 40 storey apartment building
Property Address/Description: 3480 Hurontario Street
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Applicant/Appellant: CGIV Developments Inc.
Subject: Refusal or neglect of City of Mississauga to make a decision on Application to amend the Official Plan
Existing Designation: Mixed Use
Proposed Designation: Residential High Density – Special Site
Purpose: To permit a 40 storey apartment building
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The Tribunal may vary or add to these rules at any time, either on request or as it sees fit. It may alter this Order by an oral ruling, or by another written Order.

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Organization of the Hearing

1. The hearing will begin on March 2, 2020 at 10 a.m. at City Hall, Municipal Hearing Room, 300 City Centre Drive, L5B 3C1 in the Municipality of Mississauga.
2. The length of the hearing will be 10 days.
3. The parties and participants identified at the prehearing conference are listed in **Attachment 1**.
4. 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.
5. The purpose of the Procedural Order and the meaning of its Terms is attached as **Attachment 3**.
6. The order of evidence is listed in **Attachment 4** 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 consent or by Order of the Tribunal.
7. Any person intending to participate in the hearing should provide a telephone number to the Tribunal as soon as possible (*preferably before the prehearing conference.*) Any such person who will be retaining a representative should advise the other parties and the Tribunal of the representative's name, address and phone number as soon as possible.

Requirements Before the Hearing

8. A party who intends to call witnesses, whether by summons or not, shall provide to the Tribunal, the other parties and to the Clerk a list of the witnesses and the order in which they will be called. This list must be delivered at least 60 calendar days before the hearing.
9. 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 section 12. 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.
10. A witness or participant must provide to the Tribunal and the parties a witness or participant statement at least 45 calendar days before the hearing, or the witness or participant may not give oral evidence at the hearing.

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11. 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 section 12.
12. On or before January 17, 2020, the parties shall provide copies of their witness and expert witness statements to the other parties, the Tribunal and to the Clerk of Mississauga.
13. On or before February 17, 2020, the parties shall provide copies of their visual evidence to all of the other parties and the Tribunal. If a model will be used, all parties must have a reasonable opportunity to view it before the hearing.
14. Parties may provide to all other parties and file with the Clerk a written response to any written evidence within 10 days after the evidence is received.
15. 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.)
16. A party who provides a witness' written evidence 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.
17. Documents may be delivered by personal delivery, facsimile or registered or certified mail, or otherwise as the Tribunal may direct. The delivery of documents by fax shall be governed by the Tribunal's Rules (Rule 7) on this subject. Material delivered by mail shall be deemed to have been received five business days after the date of registration or certification.
18. 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.

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This Member is [not] seized.

So orders the Tribunal.

BEFORE:

Name of Member

)
)
)

Date:

TRIBUNAL REGISTRAR

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ATTACHMENT 1

LIST OF PARTIES AND PARTICIPANTS

Parties:

1. CGIV Developments Inc.
2. City of Mississauga
3. Regional Municipality of Peel
4. Square One Development Corporation

Participants:

1. BET Realty Limited
2. 3420 Hurontario Street Inc.
3. Khursheb Kutky

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ATTACHMENT 2

LIST OF ISSUES

City of Mississauga

PLANNING ACT

1. Does the development application have sufficient regard for the following matters of provincial interest:
 - a. orderly development of safe and healthy communities (ss. 2(h.))
 - b. appropriate location of growth and development (ss. 2(p.))
 - c. the promotion of built form that, (i) is well-designed, (ii) encourages a sense of place, and (iii) provides for public spaces that are of high quality, safe, accessible, attractive and vibrant (ss. 2(r.)).

2. Does the development application constitute good planning?

PROVINCIAL POLICY STATEMENT

3. Is the proposed development application consistent with the PPS, particularly with policies in 1.1.3, 1.6.6, 1.6.7 and 1.6.8?

GROWTH PLAN

4. Does the proposed development conform to the Growth Plan, particularly with the requirements of 2.2.2 as implemented through the Mississauga Official Plan?

MISSISSAUGA OFFICIAL PLAN

6. Does the application conform to MOP, including the applicable policies in 5.3, 5.4, 5.5, 7.6, 8.1, 8.4, 9.2, 9.2.1, 9.3.1, 9.5, Chapter 12, and 19.4?

HURONTARIO-MAIN STREET CORIDOR MASTER PLAN

7. Does the application conform to the Hurontario – Main Street Corridor Master Plan, including the Planning and Urban Design Policies of Section 7.3 regarding parking, pedestrian orientation and transition?

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TRAFFIC & PARKING

8. Will the proposed development result in unacceptable traffic impacts? If so, what if any traffic and/or road improvements are required to mitigate these impacts?
9. Is the proposed full-movement access onto Central Parkway appropriate?
10. Will the development proposal provide sufficient parking?
11. Can the site adequately and safely support the various modes of transportation and user requirements?

INFRASTRUCTURE & SITE SERVICING

12. Has the applicant submitted a satisfactory Functional Servicing Report?
13. Has the applicant sufficiently addressed and accounted for upgrades to municipal infrastructure required to accommodate the proposed development, including but not limited to the storm sewer and associated road and boulevard works?

Regional Municipality of Peel

1. Has the applicant submitted a satisfactory Waste Collection Plan?
2. Has the applicant submitted a Functional Servicing Plan?

Square One Development Corporation

1. Is the proposal in conformity with Policies 5.3, 5.4, 5.5, 8.1, 8.4, 9.2, 9.2.1, 9.3.1, 9.5, 19.4 and Chapter 12 of the Mississauga Official Plan?
2. Are the proposed site specific zoning regulations appropriate?
3. Is the westerly setback sufficient?

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ATTACHMENT 3:

PURPOSE OF THE PROCEDURAL ORDER AND MEANING OF TERMS

*The Tribunal recommends that the parties **meet to discuss this sample Order before the prehearing conference** to try to identify the issues and the process that they want the Tribunal to order following the conference. The Tribunal will hear the parties' comments about the contents of the Order at the conference.*

Prehearing conferences usually take place only where the hearing is expected to be long and complicated. If you are not represented by a lawyer, you should prepare by obtaining the Guide to the Local Planning Appeal Tribunal, and the Tribunal's Rules, from the Tribunal Information Office, 15th Floor, 655 Bay Street, Toronto, M5G 1E5, 416-327-6800, or from the Tribunal website at _____.

Meaning of terms used in the Procedural Order:

***Party** is an individual or corporation permitted by the Tribunal to participate fully in the hearing by receiving copies of written evidence, presenting witnesses, cross-examining the witnesses of the other parties, and making submissions on all of the evidence. If an **unincorporated group** wishes to become a party, it must appoint one person to speak for it, and that person must accept the other responsibilities of a party as set out in the Order. Parties do not have to be represented by a lawyer, and may have an agent speak for them. The agent must have written authorisation from the party.*

***NOTE** that a person who wishes to become a party before or at the hearing, and who did not request this at the prehearing conference, must ask the Tribunal to permit this.*

***Participant** is an individual, group or corporation, whether represented by a lawyer or not, who may attend only part of the proceeding but who makes a statement to the Tribunal on all or some of the issues in the hearing. Such persons may also be identified at the start of the hearing. The Tribunal will set the time for hearing this statement. **NOTE** that such persons will likely not receive notice of a mediation or conference calls on procedural issues. They also cannot ask for costs, or review of a decision as parties can. If a participant does not attend the hearing and only files a written statement, the Tribunal will not give it the same attention or weight as submissions made orally. The reason is that parties cannot ask further questions of a person if they merely file material and do not attend.*

***Written and Visual Evidence:** **Written evidence** includes all written material, reports, studies, documents, letters and witness statements which a party or participant intends to present as evidence at the hearing. These must have pages numbered consecutively throughout the entire document, even if there are tabs or dividers in the material. **Visual evidence** includes photographs, maps, videos, models, and overlays which a party or participant intends to present as evidence at the hearing.*

***Witness Statements:** A **witness statement** is a short written outline of the person's background, experience and interest in the matter; a list of the issues which he or she will discuss and the witness' opinions on those issues; and a list of reports that the witness will rely on at the hearing. An **expert witness statement** should include his or her (1) name and address, (2) qualifications, (3) a list of the issues he or she will address, (4) the witness'*

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opinions on those issues and the complete reasons for the opinions and (5) a list of reports that the witness will rely on at the hearing. A **participant statement** is a short written outline of the person's or group's background, experience and interest in the matter; a list of the issues which the participant will address and a short outline of the evidence on those issues; and a list of reports, if any, which the participant will refer to at the hearing.

Additional Information

Summons: A party must ask a Tribunal Member or the senior staff of the Tribunal to issue a summons. This request must be made before the time that the list of witnesses is provided to the Tribunal and the parties. (See Rule 13 on the summons procedure.) If the Tribunal requests it, an affidavit must be provided indicating how the witness' evidence is relevant to the hearing. If the Tribunal is not satisfied from the affidavit, it will require that a motion be heard to decide whether the witness should be summoned.

The order of examination of witnesses: is usually direct examination, cross-examination and re-examination in the following way:

direct examination by the party presenting the witness;

direct examination by any party of similar interest, in the manner determined by the Tribunal;

cross-examination by parties of opposite interest;

re-examination by the party presenting the witness; or

another order of examination mutually agreed among the parties or directed by the Tribunal.

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ATTACHMENT 4

ORDER OF EVIDENCE

1. CGIV Developments Inc.
2. City of Mississauga
3. Regional Municipality of Peel
4. Square One Development Corporation
5. Participants
6. Reply, if any.