

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



**ISSUE DATE:** August 10, 2020

**CASE NO(S):** PL190106

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:	MJJJ Developments Inc.
Subject:	Request to amend the Official Plan - Refusal of request by Town of Caledon
Existing Designation:	Prestige Industrial
Proposed Designated:	Prestige Industrial Exception
Purpose:	To permit an unenclosed hot mix Asphalt plant Accessory Open Storage
Property Address/Description:	Part of Lot 3, Concession 6
Municipality:	Town of Caledon
Approval Authority File No.:	POPA 19-02
OMB Case No.:	PL190106
OMB File No.:	PL190106
OMB Case Name:	MJJJ Developments Inc. v. Caledon (Town)

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

Applicant and Appellant:	MJJJ Developments Inc.
Subject:	Application amend Zoning By-law No. 2006-50 - Refusal of Application by Town of Caledon
Existing Zoning:	Agricultural (A1)
Proposed Zoning:	Site specific Prestige Industrial (MP-X)
Purpose:	To permit an unenclosed Asphalt plant and Accessory Open Storage
Property Address/Description:	Part of Lot 3, Concession 6
Municipality:	Town of Caledon
Municipality File No.:	RZ 18-04
OMB Case No.:	PL190106

OMB File No.: PL190107

**Heard:** August 5, 2020 by video hearing

**APPEARANCES:**

**Parties**

**Counsel**

MJJJ Developments Inc.

J. Meader

Town of Caledon

C. Barnett

Regional Municipality of Peel

R. Godley

Mars Canada Inc.

J. Cole (and S. Rosenthal in absentia)

Ontari Holdings Ltd.  
BoltCol Holdings South Inc.  
BoltCol Holdings North Inc.

P. Morley (and J. Pitman Patterson in absentia)

**MEMORANDUM OF ORAL DECISION DELIVERED BY MARGOT BALLAGH  
ON AUGUST 5, 2020 AND ORDER OF THE TRIBUNAL**

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**INTRODUCTION**

[1] This Decision and Order results from the second Case Management Conference (“CMC”) on the appeals by MJJJ Developments Inc. (the “Appellant”) of the decisions of the Town of Caledon (the “Town”) to refuse the Appellant’s applications to amend the Town’s Official Plan (“OP”) pursuant to s. 22(7) of the *Planning Act* (the “Act”) and to amend the zoning by-law pursuant to s. 34(11) of the Act in order to permit the Appellant to pursue proposed development on the property known municipally as 12415 Coleraine Drive (the “subject lands”).

[2] The Parties were represented at the CMC by counsel as noted.

The following Participants also attended the CMC: Gail Colton; Sherry Brioschi; Angela Panacci; and Herbert Lozano.

[3] David Burt attended the CMC and requested Participant status. He told the Tribunal that he had provided submissions at the Council meeting regarding the proposed development but had been unable to attend the first CMC on February 3, 2020, due to injuries he sustained in a motor vehicle accident. He told the Tribunal that he has an interest in the case because he lives fewer than three kilometres from the subject lands and is concerned about the possible impacts of the proposed asphalt plant. There were no objections to granting participant status to Mr. Burt by counsel for any of the parties. The Tribunal granted participant status to Mr. Burt and explained to him that, as a participant, he could file a written participant statement for consideration by the Tribunal in making its decision on the appeals.

[4] A few observers attended the CMC, including Samantha Dickson and Wayne Koethe.

[5] Jennifer Meader, counsel for the Appellant, confirmed that she is requesting that this case be consolidated with related case PL161306 as per Rule 16 of the Tribunal's *Rules of Practice and Procedure*. Chris Barnett, counsel for the Town, supported the request to consolidate the appeals, and no other party objected to consolidation.

[6] By way of background, on April 25, 2018, the Tribunal had issued a decision for PL161306 in which the Town's Zoning By-law Amendment No. BL-2016-100 was approved subject to the site-specific appeal by Dig-Con International Limited related to 12415 Coleraine Drive (the subject lands in PL190106) and without prejudice to a future application for the development of an asphalt plant.

[7] Ms. Meader explained that Dig-Con International Limited is a company related to the Appellant. She is counsel for both Dig-Con International Limited and the Appellant. She feels that it would be pragmatic to consolidate the site-specific appeal of the

publicly-initiated Zoning By-law Amendment No. BL-2016-100, having Case No. PL161306, with the appeal of the privately-initiated applications, having Case No. PL190106.

[8] Mr. Barnett noted that both PL161306 and PL190106 relate to the same boundary of land, being the subject lands, and both raise the same main issue, being what is the proper zoning for the subject lands. In his view, consolidation of the proceedings in PL161306 and PL190106 makes sense. However, he acknowledged the Tribunal's concern that PL161306 has not yet had a first CMC to ensure that all those with an interest in the proceeding have had proper notice. He also noted that the requirement for notice in PL161306 may be geographically broader than in the privately-initiated applications in PL190106.

[9] Neither Ms. Meader nor Mr. Barnett expected that such a consolidation of the appeals would result in the need for any additional hearing days.

[10] In order to ensure proper notice is given, the Tribunal scheduled a first CMC for PL161306, and a third CMC for PL190106, both CMCs to be heard together on the same day, at which time an order to consolidate the two cases could be considered by the Tribunal.

[11] The draft Procedural Order ("PO"), received by the Tribunal on July 28, 2020, was discussed. The Parties advised that they all had reviewed the draft PO and consented to its contents. The Tribunal directed Ms. Meader to implement a few revisions, most notably to revise the date for Participant Statements in paragraph 10 to be consistent with the date in the Memorandum of Decision and Order issued February 18, 2020, being November 2, 2020; and to include the Participants in Attachment 1 of the PO. Ms. Meader is asked to finalize the revised draft PO and file the updated version with the Tribunal, in advance of the next CMC, for consideration and approval at the next CMC.

[12] Although all the Parties consented to the terms in the draft PO, including the terms related to confidentiality, the Tribunal decided to defer approval of a final PO until the next CMC in the event a new party appears at the first CMC for PL161306 and raises any issue with the terms in the draft PO. The current Parties told the Tribunal that a final order on the PO was not yet needed because they had already consented to provide the Declaration and Undertaking as contemplated in the draft PO in order to receive what was considered to be confidential information from the Appellant, and did not feel they needed an order for this disclosure to occur in the meantime.

[13] At the request of the Participants, Mr. Barnett agreed to provide to them a copy of the latest draft PO which includes the draft issues list to assist them in preparation of meaningful participant statements.

## **ORDER**

[14] The Tribunal makes the orders as indicated in the paragraphs that follow.

[15] Further to the Memorandum of Oral Decision and Order issued on February 18, 2020, participant status is also granted to David Burt.

[16] A further CMC, being the first CMC for PL161306 and the third CMC for PL190106, is scheduled for **Friday, September 11, 2020 at 10 a.m.** to be held by video hearing. Parties and Participants are to participate with video and audio enabled. Join the event from a computer, tablet or smartphone **by using this link:** <https://global.gotomeeting.com/join/601835413>. When prompted, **enter the code 601-835-413#** to be connected to the hearing by video.

[17] Observers are to participate with audio only enabled. Join the event via telephone conference **by calling: + (647) 497-9391** or Toll Free **1 888 455-1389**. When prompted, **enter the code 601-835-413#** to be connected to the call.

[18] Individuals are directed to connect to the event on the assigned date approximately 15 minutes prior to the start of the hearing. It is the responsibility of the persons participating in the appeal 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.

[19] The purposes of the next CMC include, but are not limited to, the following:

- to consider party status and participant status for interested persons in PL161306;
- to consider an order to consolidate the proceedings in PL161306 and PL190106 under Rule 16, and the form of the consolidated hearing, if granted;
- to finalize the draft Procedural Order; and
- to further scope any issues and prepare for the hearing.

[20] A copy of this Memorandum of Oral Decision and Order shall be provided to all Parties and to the Participants.

[21] The Town shall provide proper notice for the first CMC for PL161306.

[22] Depending upon availability, this Member will continue to case manage this matter at the next CMC.

*"Margot Ballagh"*

MARGOT BALLAGH  
MEMBER

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please visit [www.olt.gov.on.ca](http://www.olt.gov.on.ca) to view the attachment in PDF format.

**Local Planning Appeal Tribunal**

A constituent tribunal of Ontario Land Tribunals

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