

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



ISSUE DATE: October 29, 2020

CASE NO(S): PL190106
PL161306

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:

Subject:

Existing Designation:

Proposed Designated:

Purpose:

Property Address/Description:

Municipality:

Approval Authority File No.:

LPAT Case No.:

LPAT File No.:

LPAT Case Name:

MJJJ Developments Inc.

Request to amend the Official Plan - Refusal
of request by Town of Caledon

Prestige Industrial

Prestige Industrial Exception

To permit an unenclosed hot mix Asphalt plant
Accessory Open Storage

Part of Lot 3, Concession 6

Town of Caledon

POPA 19-02

PL190106

PL190106

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:

Subject:

Existing Zoning:

Proposed Zoning:

Purpose:

Property Address/Description:

Municipality:

Municipality File No.:

MJJJ Developments Inc.

Application amend Zoning By-law No.
2006-50 - Refusal of Application by Town
of Caledon

Agricultural (A1)

Site specific Prestige Industrial (MP-X)

To permit an unenclosed Asphalt plant and
Accessory Open Storage

Part of Lot 3, Concession 6

Town of Caledon

RZ 18-04

LPAT Case No.: PL190106
LPAT File No.: PL190107

PROCEEDING COMMENCED UNDER subsection 34(19) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellant: Dig-Con International Limited
Subject: By-law No. 2016-100
Municipality: Town of Caledon
LPAT Case No.: PL161306
LPAT File No.: PL161306
LPAT Case Name: Dig-Con International Limited v. Caledon (Town)

Heard: October 23, 2020 by video hearing

APPEARANCES:

Parties

Counsel

MJJJ Developments Inc
Dig-Con International Ltd.

J. Meader

Town of Caledon

C. Barnett
E. Barz

Mars Canada Inc.

J. Cole (and S. Rosenthal in absentia)

Ontari Holdings Ltd.
BoltCon Holdings South Inc.
BoltCon Holdings North Inc.

J.P. Patterson
P. Morley
L. English

**MEMORANDUM OF ORAL DECISION DELIVERED BY BRYAN W. TUCKEY ON
OCTOBER 23, 2020 AND ORDER OF THE TRIBUNAL**

[1] This is the fourth Case Management Conference (“CMC”) regarding appeals by MJJJ Developments Inc. (“Appellant”) against the Town of Caledon (“Town”). The Town refused the Appellant’s applications to amend the Town’s Official Plan (“OP”) pursuant to s. 22(7) of the *Planning Act* (“Act”) and to amend the zoning by-law pursuant to s. 34(11) of the Act in order to permit the Appellant to develop an asphalt plant on property known as 12415 Coleraine Drive (“subject lands”).

[2] All parties were represented at the CMC by counsel as noted above.

[3] The Regional Municipality of Peel has withdrawn from these proceedings.

[4] The September 18, 2020 CMC established matters to be dealt with being: 1. To hear a possible motion by the Appellant for production; 2. To receive an update from the Town as to the ability to host an in-person hearing in these proceedings in February 2021 as previously scheduled in light of the evolving COVID-19 Pandemic restrictions related to public health and safety; and 3. To address other procedural issues that may arise.

[5] Counsel for the Appellant, Jennifer Meader, advised there would be no motion for production. The Town does not have the documents her client seeks.

[6] Counsel for the Town, Chris Barnett, spoke to the Town's ability to host an in-person hearing in February 2021. Mr. Barnett advised the Tribunal that public facilities in the Town are now closed. This includes the Albion Bolton Community Centre where the in-person hearing is presently scheduled. Unless issues around the COVID-19 Pandemic restrictions change significantly, an in-person hearing in the Town may not be possible. He is willing to evaluate options (such as a hybrid or modified in-person format) closer to the hearing date when regulations are clearer.

[7] The Tribunal is now only scheduling hearings using a video hearing format. Counsel was canvassed and agreed that this hearing could be converted to a video format. The Tribunal agrees and this hearing should be converted to a video format.

[8] The Procedural Order ("PO") remains in a draft form. Previous decisions of the Tribunal have ensured the key paragraphs of the draft PO are understood and adhered to. Ms. Meader has taken the lead on PO preparation and will recast the draft PO to meet the Tribunal's Procedural Order for Video Hearings. The "video" draft PO should be circulated to all parties for review and submitted to the Tribunal no later than **Friday, November 6, 2020**.

[9] Counsel for all parties have consented to the draft PO but are reluctant to have it approved and come into full force until the Tribunal has issued its decision on the written confidentiality motion scheduled to be heard on Tuesday, November 10, 2020 in case the decision on the motion materially affects the content of the draft PO. The Tribunal agrees to defer when the PO is approved and comes into full force and effect after the decision on the confidentiality motion has been issued.

[10] Should there be substantive changes to the PO resulting from the Tribunal's confidentiality order, counsel for the Appellant or any party will contact the Tribunal, revise and receive consent from all parties to any change and provide a revised PO to the Tribunal for approval.

[11] Mr. Barnett raised an issue related to a witness the Appellant added to the Witness List after the date prescribed by the PO. He requested an understanding of the issues this witness will be speaking to. The witness is listed as a Land Economist and there are no issues of this nature found on the Issues List.

[12] Ms. Meader noted the Town will be calling a witness to give evidence on the impacts this development may have on the established Economic Development framework for the Town by reducing the general attractiveness of the area which in turn would make it more difficult to attract employment opportunities. The issues are 6-9 of the Issues List.

[13] Ms. Meader confirmed the witness will limit evidence to those issues found in the Issues List. The Tribunal accepted the addition of the witness to the Appellant's Witness List.

[14] It was noted during the CMC that there remains considerable uncertainty about the final format of the February hearing. All agreed to convert to a video format but did feel it is an advantage for a hearing of this length to be in person if possible. A further CMC could be held in early January 2021 to determine if an in-person hearing could be held on this matter. The Tribunal agrees.

[15] Accordingly, the Tribunal Orders.

[16] That a CMC will be convened on **Tuesday, January 12, 2021 at 9 a.m. by telephone conference call.**

[17] Individual(s) 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 1006967#** to be connected to the call. It is the responsibility of the person(s) 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 the Tribunal's Case Coordinator having carriage of this case.

[18] The hearing is converted to a video hearing. Counsel for the Appellant will revise the draft PO to a video hearing format as prescribed by the Tribunal, circulate to all parties for review and submit the revised PO to the parties and Tribunal no later than **4:30 p.m. Friday, November 6, 2020.**

[19] The Tribunal will approve the final PO after a Tribunal decision is issued on a confidentiality matter and will come into full force and effect.

[20] The hearing is scheduled to proceed by video on **Monday, February 1, 2021 at 10 a.m.**

[21] 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/287099853>. When prompted, enter the code **287-099-853** to be connected to the hearing by video.

[22] Observers are to participate with audio only enabled. Join the event via telephone conference by calling: **+1 (647) 497 9391** or Toll Free **1 888 455 1389**. When prompted, **enter the code 287-099-853** to be connected to the call.

[23] Individuals are directed to connect to the event on the assigned date at the correct time. It is the responsibility of the persons participating in the hearing by video to ensure that they are properly connected to the event at the correct time.

[24] The Hearing is scheduled for 25 days. The hearing may be shortened as issues are resolved or settlement is achieved.

[25] Questions prior to the above hearing may be directed to the Tribunal's Case Coordinator having carriage of this case.

[26] The Appellant's Land Economist witness is added to the Witness List and testimony will be limited to those related to Economic Development found on the Issues List.

[27] No further notice will be given.

[28] The Tribunal Member is not seized.

"Bryan W. Tuckey"

BRYAN W. TUCKEY
MEMBER

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Local Planning Appeal Tribunal

A constituent tribunal of Ontario Land Tribunals

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