

**Ontario Land Tribunal**  
Tribunal ontarien de l'aménagement  
du territoire



**ISSUE DATE:** September 24, 2021

**CASE NO(S):** PL190608

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

|                               |  |
|-------------------------------|--|
| Applicant and Appellant:      | 9 Dawes Development Inc. and 25 Dawes Inc.   |
| Subject:                      | Application to amend Zoning By-law No. (438-86) - Refusal or neglect of City of Toronto to make a decision |
| Existing Zoning:              | I1 D1 (Industrial) under Zoning By-law 438-86  |
| Proposed Zoning:              | Site Specific (To be determined)   |
| Purpose:                      | To permit the redevelopment of the property with a mixed- use building including two residential towers    |
| Property Address/Description: | 9 Dawes Road and 25 Dawes Road   |
| Municipality:                 | City of Toronto  |
| Municipality File No.:        | 19 186473 STE 19 OZ  |
| OLT Case No.:                 | PL190608   |
| OLT File No.:                 | PL190608   |
| OLT Case Name:                | 9 Dawes Development Inc. and 25 Dawes Inc. v. Toronto (City)   |

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|                               |  |
|-------------------------------|--|
| Applicant and Appellant:      | 9 Dawes Development Inc. and 25 Dawes Inc.   |
| Subject:                      | Application to amend Zoning By-law No. (569-2013) - Refusal or neglect of City of Toronto to make a decision |
| Proposed Zoning:              | Site Specific (To be determined)   |
| Purpose:                      | To permit the redevelopment of the property with a mixed- use building including two residential towers      |
| Property Address/Description: | 9 Dawes Road and 25 Dawes Road   |
| Municipality:                 | City of Toronto  |
| Municipality File No.:        | 19 186473 STE 19 OZ  |
| OLT Case No.:                 | PL190608   |
| OLT File No.:                 | PL190609   |

**Heard:** July 27, 2021 by video hearing

**APPEARANCES:**

| <u><b>Parties</b></u>             | <u><b>Counsel/Representative*</b></u> |
|-----------------------------------|---------------------------------------|
| Minto (Dawes) GP Inc.             | J. Dawson<br>B. Schubert (Absent)     |
| City of Toronto                   | L. Bisset<br>M. Mahoney               |
| 6 Dawes Danforth Inc.             | D. Artenosi (Absent)<br>M. Cara       |
| Canadian Tire Corporation Limited | R. Howe                               |
| Dandaw Developments Limited       | M. Foderick                           |
| Jacob's Tent Inc.                 | D. Neligan (Absent)<br>J. Pappas      |
| Royal Canadian Legion Branch 11   | J. Paulin*                            |

**MEMORANDUM OF ORAL DECISION DELIVERED BY JATINDER BHULLAR ON  
JULY 27, 2021 AND ORDER OF THE TRIBUNAL**

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[1] Minto (Dawes) GP Inc. ("Applicant/Appellant") is appealing the failure of the City of Toronto ("City") to make decisions within the statutory timeframes on applications for amendments to the City's Zoning By-law No. 438-86 and the City's Comprehensive Zoning By-law No. 569-2013. The applications are to facilitate a proposed development on the property located at 9 and 25 Dawes Road.

[2] This Case Management Conference ("CMC") was conducted to finalize the draft Procedural Order ("PO") in these proceedings. At the CMC, the Tribunal reviewed a draft Procedural Order and Issues List.

[3] The Tribunal was informed by the Applicant that they have made a settlement

offer to the City and it has been accepted by the City. However, this offer is conditional upon one material matter to be resolved between the parties.

[4] The counsel for Canadian Tire Corporation Limited informed the Tribunal that based on the settlement details they request withdrawal from the proceedings, however, would like to be kept on the mailing list. This request was granted by the Tribunal.

[5] The parties advised that at least one week of hearing time can be released from the scheduled three-week hearing. As a contingency, should there be difficulties in finalizing a settlement, the parties advised that a hearing for two weeks should be retained, and a final PO should still be processed. Subsequent to this CMC, the parties provided the Tribunal with a revised PO.

[6] The Tribunal approves the PO and Issues List appended as Attachment 1 to this Decision.

[7] The technical details of the previously scheduled hearing remain unchanged.

[8] This Member may be approached for case management purposes.

[9] The directions in this decision are so ordered.

*“Jatinder Bhullar”*

JATINDER BHULLAR  
MEMBER

**Ontario Land Tribunal**

Website: [olt.gov.on.ca](http://olt.gov.on.ca) Telephone: 416-212-6349 Toll Free: 1-866-448-2248

The Conservation Review Board, the Environmental Review Tribunal, the Local Planning Appeal Tribunal and the Mining and Lands Tribunal are amalgamated and continued as the Ontario Land Tribunal (“Tribunal”). Any reference to the preceding tribunals or the former Ontario Municipal Board is deemed to be a reference to the Tribunal.



**Ontario Land Tribunal**  
Tribunal ontarien de l'aménagement  
du territoire

**Procedural Order**

**ATTACHMENT 1**

**Issue Date:**  
**PL190608**

**Case No.**

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

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| Municipality:                 | City of Toronto  |
| Municipality File No.:        | 19 186473 STE 19 OZ  |
| LPAT Case No.:                | PL190608   |
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| LPAT Case Name:               | 9 Dawes Development Inc. and 25 Dawes Inc. v. Toronto(City)  |

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

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| Proposed Zoning:              | Site Specific (To be determined)   |
| Purpose:                      | To permit the redevelopment of the property with a mixed-use building including two residential towers 9 Dawes & 25 Dawes Road |
| Property Address/Description: |  |
| Municipality:                 | City of Toronto  |
| Municipality File No.:        | 19 186473 STE 19 OZ  |
| LPAT Case No.:                | PL190608   |
| LPAT File No.:                | PL190609   |

1. The Tribunal may vary or add to the directions in this procedural order at any time by an oral ruling or by another written order, either on the parties' request or its own motion.

#### *Organization of the Hearing*

2. The hearing will begin on **November 8, 2021** at 10:00 a.m. as a Video Conference Call ("VCC"). As provided in paragraph 4, the hearing may be converted to an "in person" hearing.
3. The parties' initial estimation for the length of the hearing is 10 days. The parties are expected to cooperate to reduce the length of the hearing by eliminating redundant evidence and attempting to reach settlements on issues where possible.
4. The hearing may be converted to an in person hearing by the Tribunal on or before October 25, 2021 but only if all Parties consent to such conversion.
5. The parties and participants identified at the case management conference are set out in Attachment 1.
6. The issues are set out in the Issues List attached as Attachment 2. With the exception of removal or narrowing of the issues, 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.
7. The order of evidence shall be as set out in Attachment 3 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 the parties' consent, subject to the Tribunal's approval, or by Order of the Tribunal.

8. In the event that the hearing of this matter proceeds in a video hearing format, any person who intends to participate in the hearing, including parties, counsel and witnesses, is expected to review the Tribunal's Video Hearing Guide, available on the Tribunal's website (<https://olt.gov.on.ca/tribunals/lpat/>).

### *Requirements Before the Hearing*

9. A party who intends to call witnesses, whether by summons or not, shall provide to the Tribunal and the other parties a list of the witnesses and the order in which they will be called. This list must be delivered on or before **August 27, 2021** and in accordance with paragraph 20 below. A party who intends to call an expert witness must include a copy of the witness' Curriculum Vitae and the area of expertise in which the witness is prepared to be qualified.
10. 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 paragraph 12 below. 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.
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 paragraph 12 below. A party who intends to call a witness who is not an expert must file a brief outline of the witness' evidence, as in paragraph 12 below.
12. On or before **September 27, 2021**, the parties shall provide copies of their witness and expert witness statements to the other parties and to the LPAT case co-ordinator and in accordance with paragraph 20 below.
13. On or before **October 18, 2021**, the parties shall provide copies of their visual evidence to all of the other parties in accordance with section 20 below. If a model will be used, all parties must have a reasonable opportunity to view it before the hearing.

14. On or before **October 25, 2021** parties may provide to all other parties and the LPAT case co-ordinator a written response (including drawings and other visual material) to any written evidence and in accordance with paragraph 20 below.
15. The parties shall cooperate to prepare a joint document book which shall be filed with the Tribunal's case coordinator, or in the case of a video hearing, shall be uploaded to the LPAT's file share server, pursuant to the directions provided by the LPAT case co-ordinator, on or before **November 4, 2021**.
16. In the event of a video hearing, any documents which may be used by a party in cross examination of an opposing party's witness are encouraged to be uploaded to the LPAT's file share server, pursuant to the directions provided by the LPAT case co-ordinator, on or before **November 5, 2021**. Such documents shall be password protected and only be accessible to the Tribunal and the other parties if it is introduced as evidence at the hearing. Section 16 does not prevent parties from filing materials for cross-examination with the Tribunal after this date, for use at the hearing.
17. A person wishing to change written evidence, including witness statements, must make a written motion to the Tribunal in accordance with Rule 10 of the Tribunal's Rules.
18. A party who provides written evidence of a witness 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 prior to the hearing date that the written evidence is not part of their record.
19. All parties shall exchange, on or before **October 28, 2021**, an individual work plan indicating any preliminary matters to be addressed by that party, the estimated amount of time that will be required by that party for examination in chief and reply of each of its witnesses, to cross-examine other witnesses, and for that party's final submissions, and any constraints on the availability of witnesses. The Appellant shall compile and circulate to the parties a draft work plan based thereon, on or before **November 3, 2021**, which work plan shall contain the information set out in this paragraph 19. The parties shall advise the appellant of any disputed provisions of the draft work plan forthwith. A proposed draft work plan noting any provision still in dispute shall be filed with the Tribunal on or before **November 5, 2021**, and the Tribunal may hear submissions and will determine the final form of work plan on the first day of the hearing. The Tribunal may, at its discretion, change or alter the work plan at any time during the course of the hearing.

**20.** All filing shall be electronic and in hard copy. Electronic copies may be filed by email, an electronic file sharing service for documents that exceed 10MB in size, or as otherwise directed by the Tribunal. The delivery of documents by email shall be governed by the Rule 7.

**21.** 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.

**This Member is [not] seized.**

**So orders the Tribunal.**

BEFORE:

Name of Member:

Date:

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TRIBUNAL REGISTRAR



## **ATTACHMENT 1**

### **LIST OF PARTIES**

9 Dawes Development Inc., 25 Dawes Inc., and Minto (Dawes) GP Inc. (collectively, "Minto")

City of Toronto

6 Dawes Danforth Inc.

Dandaw Developments Limited

Jacob's Tent Inc.

Royal Canadian Legion Branch 11

## **ATTACHMENT 2**

### **LIST OF ISSUES**

Set out below are the issues of the respective parties to this proceeding. The inclusion of an issue on Attachment 2 is not an admission by any party of the relevance of the issue in question or the Tribunal's jurisdiction to deal with same.

#### **ISSUES LIST OF MINTO**

1. Does the proposed ZBA contribute to a land use pattern based on densities and a mix of uses which will efficiently use land, infrastructure and public service facilities, support active transportation and be transit supportive as a matter of good planning and as contemplated by directions set out in provincial policy?
2. Will the proposed ZBA help Toronto provide for a range and mix of housing options to meet the housing needs of current and future residents by: permitting and facilitating residential intensification; directing the development of new housing towards a location where appropriate levels infrastructure are or will be available; promoting a density for new housing which will make efficient use of land, infrastructure and public service facilities and establishing development standards which will help minimize the cost of housing as a matter of good planning and as contemplated by directions set out in provincial policy?
3. Will the proposed ZBA effectively serve to prohibit land uses and built-form that would adversely affect the achievement of transit-supportive densities in an area within walking distance of two higher order transit stations as a matter of good planning and as contemplated by directions set out in provincial policies?

4. Does the proposed ZBA help support housing choice through the achievement of the minimum density targets in the Growth Plan?

## ISSUES LIST OF THE CITY OF TORONTO

### Planning Act

1. Does the proposed development and Zoning By-law Amendment have appropriate regard for the matters of provincial interest as set out in Section 2(f) of the Planning Act?

### Provincial Policy Statement

2. Are the proposed development and the Zoning By-law Amendments consistent with the Provincial Policy Statement (2020), as required by Section 3(5)(a) of the *Planning Act*, including Section 1.6, reading the Provincial Policy Statement (2020) in its entirety and applying the relevant policies to this situation?

### Growth Plan

3. Do the proposed development and the Zoning By-law Amendments conform with, and not conflict with, A Place to Grow: Growth Plan for the Greater Golden Horseshoe (2020), as required by Section 3(5)(b) of the *Planning Act*, including Sections 3.2.1, 3.2.6, and 3.2.7, reading A Place to Grow: Growth Plan for the Greater Golden Horseshoe (2020) in its entirety and applying the relevant policies to this situation?

### Site-Specific Issues

4. Does the proposed development resolve issues related to development engineering such as functional services, groundwater, and stormwater management?
5. In light of the foregoing issues, do the proposed development and proposed Zoning By-law amendments represent *good planning*, and is approval of the proposal in the public interest?
6. In the event the Tribunal allows the appeals in whole or in part, what community benefits are appropriate pursuant to Section 37 of the *Planning Act*?
7. Are the form and content of the draft Zoning By-law Amendments to By-laws 438-86 and 569-2013 appropriate?

### Technical Issues

8. Does the development clearly demonstrate that there will be no increase in flows to the combined sewer system? Should the site's storm flows be diverted to existing storm sewer systems, and if so, do these existing systems have the capacity to accommodate the increased storm flows?

9. Do the reports from the appellant's engineer implement the MECP policy, and address the issue of storm flow as well as dry weather flows (both pre- and post-development)?
10. Can the site be serviced adequately by the existing watermain infrastructure available or will upgrades to the system be required?
11. Has the applicant submitted an appropriate Functional Servicing and Stormwater Management (FSR/SWM) Report?
12. Has the applicant submitted:
  - a. a FSR/SWM report meeting the Servicing Report Groundwater Summary checklist and the Hydrological Review Summary checklist requirements?  
and
  - b. a complete Servicing Report Groundwater Summary checklist and the Hydrological Review Summary checklist?

### **ISSUES LIST OF 6 DAWES DANFORTH INC.**

1. Is there adequate water, storm, sewer, hydro, gas and road capacity to service the proposal having regard to the planned function of the site and surrounding lands? If not, what upgrades are required to such services?
  
2. If upgrades are required, how should such upgrades be secured through the approvals for the development of the subject lands?

## **ISSUES LIST OF DANDAW DEVELOPMENTS LIMITED**

1. Does the application, or any proposed modifications to the application, predetermine the resolution of any of the policies of OPA 478 (the Main Street Study) currently under appeal to LPAT, including the Public Realm policies under section 2.1 (Streets and Block Network), 2.2 (Sidewalks and mid-block connections), 2.3 (Parks and Open Space), and 2.4 (Privately-Owned Publicly-Accessible Spaces)?”
2. Is there adequate water, storm, sewer, hydro, gas and road capacity to service the proposal having regard to the planned function of the site and surrounding lands? If not, what upgrades are required to such services?
3. If upgrades are required, how should such upgrades be secured through the approvals for the development of the subject lands?
4. Should the proposed rezoning be approved prior to the location of, and policies for the provision of, public realm infrastructure (roads and parkland) for the area having been finalized?
5. Have appropriate contributions to public realm infrastructure been secured for the proposed development?
6. Does the proposed development resolve issues related to transportation, including the appropriate amount of parking and loading spaces, as well as development engineering such as functional services, groundwater, and stormwater management?

### **ISSUES LIST OF JACOB'S TENT INC.**

1. Does the application, or any proposed modifications to the application, predetermine the resolution of any of the policies of OPA 478 (the Main Street Study) currently under appeal to LPAT, including the Public Realm policies under section 2.1 (Streets and Block Network), 2.2 (Sidewalks and mid-block connections), 2.3 (Parks and Open Space), and 2.4 (Privately-Owned Publicly-Accessible Spaces)?”



## **ISSUES LIST OF ROYAL CANADIAN LEGION BRANCH 11**

None

**ATTACHMENT 3**  
**ORDER OF EVIDENCE**

1. Minto
2. Parties in Support of Minto
3. City of Toronto
4. Parties in Support of City
5. Reply by Minto, if necessary