

Ontario Land Tribunal
Tribunal ontarien de l'aménagement
du territoire



ISSUE DATE: October 13, 2021

CASE NO(S): PL200201

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

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| Applicant and Appellant: | Burgess Heritage Group Inc. |
| Subject: | Request to amend the Official Plan - Failure of Town of Grimsby to adopt the requested amendment |
| Existing Designation: | Neighbourhood Commercial Areas |
| Proposed Designated: | Site Specific (To be determined) |
| Purpose: | To permit a 5-storey mixed use building |
| Property Address/Description: | 133 and 137 Main Street East |
| Municipality: | Town of Grimsby |
| Approval Authority File No.: | 26O-16-1901 |
| OLT Case No.: | PL200201 |
| OLT File No.: | PL200201 |
| OLT Case Name: | Burgess Heritage Group Inc. v. Grimsby (Town) |

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

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| Applicant and Appellant: | Burgess Heritage Group Inc. |
| Subject: | Application to amend Zoning By-law No. 14-45 - Refusal or neglect of Town of Grimsby to make a decision |
| Existing Zoning: | Neighbourhood Commercial |
| Proposed Zoning: | Site Specific (To be determined) |
| Purpose: | To permit a 5-storey mixed use building |
| Property Address/Description: | 133 and 137 Main Street East |
| Municipality: | Town of Grimsby |
| Municipality File No.: | 26Z-16-1904 |
| OLT Case No.: | PL200201 |
| OLT File No.: | PL200202 |

Heard: October 1, 2021 by video hearing (“VH”)

APPEARANCES:

Parties

Burgess Heritage Group Inc.
 (“Appellant”)

Town of Grimsby (“Town”)

Losani Homes (1998) Ltd.

Counsel

Johanna Shapira

Tom Halinski

Denise Baker

**MEMORANDUM OF ORAL DECISION DELIVERED BY K.R. ANDREWS ON
OCTOBER 1, 2021 AND ORDER OF THE TRIBUNAL**

INTRODUCTION

[1] This is the second Case Management Conference (“CMC”) of the Tribunal for Case No. PL200201, concerning an appeal by Burgess Heritage Group Inc. The Appellant is seeking an official plan amendment (“OPA”) and a zoning by-law amendment (“ZBA”) to permit the development of a 5-storey mixed use building on 133 and 137 Main Street East (the “subject site”). The site is currently occupied by a European Beech Tree and a 2.5-storey brick building designated under s. 29 of the *Heritage Act*, and is planned to be restored, relocated and incorporated within the development proposal. The development includes 148 residential units and 305 square metres of ground floor commercial.

[2] This case has been on hold pending changes to Ontario’s *Heritage Act* and a related heritage application by the Appellant. Changes to the legislation are now in place and the Appellant’s application has been submitted, but not determined by the Town. Nevertheless, an appeal of the heritage application is anticipated, and the parties agree that it would be most efficient to deal with the OPA, ZBA and heritage application in a consolidated hearing, given that the issues and evidence overlap significantly.

REQUEST OF STATUS

[3] On consent of the parties, the Tribunal granted party status to Losani Homes (1998) Ltd. (“Losani”). Losani owns lands and has a proposed development immediately next door to the subject site. That proposed development is also subject to an appeal to the Tribunal, being Case No. PL210286. Losani explained that their interest in the matter is limited to ensuring a coordinated effort to develop both properties, especially from an infrastructure standpoint.

[4] Ruxandra Bucataru attended the proceeding on behalf of the unincorporated group SaveMainStreet, which she stated has more than 460 Grimsby members and supporters, seeking participant status. On consent of the parties, the Tribunal granted participant status with Ms. Bucataru as the group’s representative.

MEDIATION AND SETTLEMENT

[5] The Tribunal explored the possibility of mediation and settlement with the parties. The parties confirmed that they continue to make efforts to scope the issues and resolve the matter.

PROCEDURAL ORDER AND ISSUES LIST

[6] Due to the fluid nature of this matter, given the outcome of the heritage application being still pending, the parties did not have a final version of a draft Procedural Order (“PO”) to provide the Tribunal. However, the Tribunal did receive a working copy.

[7] The parties proposed that a final copy be due March 15, 2022, which comes after the statutory time period associated with an appeal of the Appellant’s heritage

application. The parties indicated that they should have a clearer understanding of the full issues by that time.

THIRD CMC AND HEARING

[8] Upon request of the parties, the Tribunal set a third CMC to review the draft PO and possibly consolidate the current appeal with an appeal respecting the heritage application, commencing on **Friday, April 8, 2022 at 10 a.m.** by VH. No further notice is required for the hearing.

GoTo Meeting: <https://global.gotomeeting.com/join/309562133>
Audio-only telephone line: Toll-Free 1-888-299-1889 or +1 (647) 497-9373
Access Code: 309-562-133

[9] Upon request of the parties, the Tribunal set a 14-day hearing commencing on **Tuesday, October 18, 2022 at 10 a.m.** by VH. No further notice is required for the hearing.

GoTo Meeting: <https://global.gotomeeting.com/join/415268829>
Audio-only telephone line: Toll-Free 1-888-299-1889 or +1 (647) 497-9373
Access Code: 415-268-829

[10] Parties and participants are asked to log into the VH at least **15 minutes** before the start of the event to test their video and audio connections.

[11] Parties and participants are asked to access and set up the application well in advance of the event to avoid unnecessary delay. The desktop application can be downloaded at [GoToMeeting](#) or a web application is available:
<https://app.gotomeeting.com/home.html>.

[12] Persons who experience technical difficulties accessing the GoToMeeting application or who only wish to listen to the event can connect to the event by calling into an audio-only telephone line. The **Access Code** is **as indicated above**.

[13] 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 VH 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.

ORDER

[14] **The Tribunal Orders** that:

1. The date and particulars of a third CMC and hearing are set out above;
2. A draft PO is due to be filed with the Tribunal no later than March 15, 2022;
3. Losani Homes (1998) Ltd. is granted Party status;
4. Ruxandra Bucataru is granted Participant status as the representative for the unincorporated group SaveMainStreet; and
5. The Member is not seized but may be spoken to through the Case Coordinator if any issues arise.

"K.R. Andrews"

K.R. ANDREWS
MEMBER

Ontario Land Tribunal

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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.