

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



ISSUE DATE: December 21, 2020

CASE NO(S): PL200230

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:	Plazacorp Properties Ltd.
Subject:	Request to amend the Official Plan - Refusal of request by City of Mississauga
Existing Designation:	Residential Low Density
Proposed Designated:	Residential Medium Density
Purpose:	To permit 101 back-to-back stacked townhomes
Property Address/Description:	2512, 2522 & 2532 Argyle Road
Municipality:	City of Mississauga
Approval Authority File No.:	OZ 18/017
LPAT Case No.:	PL200230
LPAT File No.:	PL200230
LPAT Case Name:	Plazacorp Properties Ltd. v. Mississauga (City)

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

Applicant and Appellant:	Plazacorp Properties Ltd.
Subject:	Application amend Zoning By-law No. 225-2007 - Refusal of Application by City of Mississauga
Existing Zoning:	R3
Proposed Zoning:	RM9 - Exception
Purpose:	To permit 101 back-to-back stacked townhomes
Property Address/Description:	2512, 2522 & 2532 Argyle Road
Municipality:	City of Mississauga
Municipality File No.:	OZ 18/017
LPAT Case No.:	PL200230
LPAT File No.:	PL200231

Heard: November 6, 2020 by video conference call

APPEARANCES:

Parties

Counsel

Plazacorp Properties Ltd.

Mary Flynn-Guglietti
Kailey Sutton

City of Mississauga

Raj Kehar

DECISION DELIVERED BY G.C.P. BISHOP AND ORDER OF THE TRIBUNAL

[1] This was the first Case Management Conference (“CMC”) with respect to lands located at 2512, 2522 and 2532 Argyle Road in the City of Mississauga (the “City”). Plazacorp Properties Ltd. (the “Appellant”), applied for an Official Plan Amendment and an amendment to the Zoning By-law, both of which were refused by Council for the City and appealed to the Tribunal under s. 22(7) and 34(11) of the *Planning Act* respectively.

[2] A draft Procedural Order (“PO”) was supplied to the Tribunal in advance of this event. The PO included issues from the City and three other appellants whom had submitted requests for Party status. The Tribunal also reviewed Rule 8.1 of the *Rules of Practice and Procedure* regarding the role and obligations of a party. These parties explained that they could not locate a form for participant status but only party status. The consensus was that they wished to participate in this event and not be a party to the proceedings.

[3] To this end, Alvina Kiselewski, Judith Dsouza and Barbara Frank were granted participant status along with Javier Martinez and Lucia Nicoara, who were also in attendance.

[4] Mary Flynn-Guglietti, Counsel on behalf of the Appellant, indicated that four witnesses would be called in the areas of planning, transportation and storm water, one of which includes a summon of the City Planner. Raj Kehar, Counsel for the City, agreed with the areas of expertise required and three witnesses would be called in the

three areas of expertise, as stated above. Seven days have been set aside for a hearing on the merits.

[5] The hearing of the merits of the Appeal will be conducted over seven days by video hearing commencing **Monday, May 31, 2021 at 10 a.m.**

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

<https://global.gotomeeting.com/join/346342517>

Access code: 346-342-517

[7] 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](https://gotomeeting.com) or a web application is available:

<https://app.gotomeeting.com/home.html>

[8] 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: **1 (647) 497-9373 or Toll Free 1-888-299-1889**. The access code is **346-342-517**.

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

[10] The Affidavit of Service was received and marked as Exhibit 1 therefore no further notice is required.

[11] As part of the discussion, and for the benefit of the participants, on or before

Friday, April 16, 2021, a participant shall provide copies of their written participant statement to the parties and the Tribunal. This date will be inserted into the approved version of the PO.

[12] The parties requested a few weeks to finalize the PO, which has now been submitted, reviewed and approved by the Tribunal. The revised version of the PO is appended as Attachment 1.

[13] No other events were scheduled, other than the hearing on the merits. If an issue arises, the parties may contact the Case Coordinator to have a telephone conference call organized, as required.

[14] There will be no further notice.

[15] The Member is not seized.

[16] So Orders the Tribunal.

“G.C.P. Bishop”

G.C.P. BISHOP
VICE-CHAIR

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

Local Planning Appeal Tribunal

A constituent tribunal of Ontario Land Tribunals

Website: www.olt.gov.on.ca Telephone: 416-212-6349 Toll Free: 1-866-448-2248

LOCAL PLANNING APPEAL TRIBUNAL

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

Applicant and Appellant: Plazacorp Properties Ltd.
Subject: Request to amend the Official Plan - Refusal of request by City of Mississauga
Existing Designation: Residential Low Density
Proposed Designation: Residential Medium Density
Purpose: To permit 101 back-to-back stacked townhomes
Property/Address: 2512, 2522 & 2532 Argyle Road
Municipality: City of Mississauga
Approval Authority File No.: OZ 18/017
LPAT Case No: PL200230
LPAT File No.: PL200230
LPAT Case Name: Plazacorp Properties Ltd. v. Mississauga (City)

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

Applicant and Appellant: Plazacorp Properties Ltd.
Subject: Application amend Zoning By-law No. 225-2007 - Refusal of Application by City of Mississauga
Existing Zoning: R3
Proposed Zoning: RM9 - Exception
Purpose: To permit 101 back-to-back stacked townhomes
Property/Address: 2512, 2522 & 2532 Argyle Road
Municipality: City of Mississauga
Approval Authority File No.: OZ 18/017
LPAT Case No: PL200230
LPAT File No.: PL200231
LPAT Case Name: Plazacorp Properties Ltd. v. Mississauga (City)

PROCEDURAL ORDER

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 video hearing will begin on May 31, 2021 at 10:00 a.m. at <https://global.gotomeeting.com/join/346342517>
3. The parties' initial estimation for the length of the hearing is seven (7) 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 parties and participants identified at the case management conference are set out in **Attachment 1**.
5. 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.
6. 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.
7. Any person intending to participate in the hearing should provide a mailing address, email address and a telephone number to the Tribunal as soon as possible – ideally before the case management conference. Any person who will be retaining a representative should advise the other parties and the Tribunal of the representative's name, address, email address and the phone number as soon as possible.
8. 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 **March 26, 2021** (being a minimum of sixty-five (65) days prior to the hearing date) and in accordance with paragraph [22] 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. Expert witnesses in the same field may have a meeting on or before **April 1, 2021** (being a minimum of fifteen (15) days prior to the exchange of witness statements) and use best efforts to try to resolve or reduce the issues for the hearing. Following the experts' meeting

the parties must prepare and file a Statement of Agreed Facts and Issues with the LPAT case co-ordinator on or before **April 6, 2021** (being a minimum of ten (10) days prior to the exchange of witness statements).

11. 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 [13] 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.
12. 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 [13] 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 [13] below.
13. On or before **April 16, 2021** (being a minimum of forty-five (45) days before the hearing date), 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 [22] below.
14. On or before **April 16, 2021** (being a minimum of forty-five (45) days before the hearing date), a participant shall provide copies of their written participant statement to the other parties in accordance with paragraph [22] below. A participant cannot present oral submissions at the hearing on the content of their written statement, unless ordered by the Tribunal.
15. On or before **May 21, 2021** (being a minimum of seven (7) days prior to the hearing), the parties shall provide copies of their visual evidence to all of the other parties in accordance with paragraph [22] below. If a model will be used, all parties must have a reasonable opportunity to view it before the hearing.
16. Parties may provide to all other parties and the LPAT case co-ordinator a written response to any written evidence within fourteen (14) days after the evidence is received and in accordance with paragraph [22] below.
17. The parties shall cooperate to prepare a joint document book which shall be uploaded to the LPAT's file share server, pursuant to the directions provided by the LPAT case co-ordinator, on or before **May 14, 2021** (being at least fifteen (15) days prior to the hearing).
18. Any documents which may be used by a party in cross examination of an opposing party's witness shall be uploaded to the LPAT's file share server, pursuant to the directions provided by the LPAT case co-ordinator, **no later than the day before the cross examination**. 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.

19. 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 fifteen (15) days before the Tribunal hears the motion.
20. 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 seven (7) days before the hearing that the written evidence is not part of their record.
21. The parties shall prepare and file a hearing plan with the Tribunal on or before **May 3, 2021** with a proposed schedule for the hearing that identifies, as a minimum, the parties participating in the hearing, the preliminary matters (if any to be addressed), the anticipated order of evidence, the date each witness is expected to attend, the anticipated length of time for evidence to be presented by each witness in chief, cross-examination and re-examination (if any) and the expected length of time for final submissions. The parties are expected to ensure that the hearing proceeds in an efficient manner and in accordance with the hearing plan. The Tribunal may, at its discretion, change or alter the hearing plan at any time in the course of the hearing.
22. 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 email shall be governed by the Rule 7.
23. 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:

TRIBUNAL REGISTRAR

ATTACHMENT 1

LIST OF PARTIES

**Plazacorp Properties Ltd, owner of 2512, 2522 & 2532 Argyle Road
c/o Mary Flynn-Guglietti and Kailey Sutton**

MCMILLAN LLP

Brookfield Place, Suite 4400

181 Bay Street

Toronto, ON M5J 2T3

Tel: 416.865.7256

Fax: 416.865.7048

E: mary.flynn@mcmillan.ca & kailey.sutton@mcmillan.ca

City of Mississauga

c/o Raj Kehar

WEIRFOULDS LLP

Suite 10, 1525 Cornwall Road

Oakville, ON L6J 0B2

Tel: 416.947.5051

Fax: 905.829.2035

E: rkehar@weirfoulds.com

LIST OF PARTICIPANTS

ALVINA KISELEWSKI

Peel Condominium Corporation No. 96

2556 Argyle Road, Unit #505

Mississauga ON L5B 2H6

Tel: 905.615.8603

E: Akiselewski@hotmail.com

JUDITH DSOUZA

2556 Argyle Road, Unit #1203

Mississauga, ON L5B 2H6

Tel: 416.300.4872

E: judithmdsouza@yahoo.com

BARBARA FRANK

2556 Argyle Road, PH 8

Mississauga, ON L5B 2H6

Tel: 416.709.9535 or 905.279-9535

E: bfrankcommunication@gmail.com

LUCIA NICOARA

247 Consulate Road
Mississauga, ON L5B 3E7

Tel: ●

E: ●

ATTACHMENT 2 ISSUES LIST

The identification of an issue does not mean that all parties agree that such issues, or the manner in which the issue is expressed, is appropriate or relevant to the determination of the Tribunal at the hearing. The extent to which these issues are appropriate or relevant to the determination of the Tribunal at the hearing will be a matter of evidence and argument at the hearing.

ISSUES LIST OF THE CITY OF MISSISSAUGA

1. Would a decision to approve the official plan amendment and zoning by-law amendment have regard for matters of provincial interest under section 2 of the *Planning Act*, and in particular subsections 2(f), (h), (j), (n), (o), (p), (r)?
2. Would a decision to approve the official plan amendment and zoning by-law amendment have regard for City Council's decision on these applications dated March 4, 2020 pursuant to subsection 2.1 of the *Planning Act*?
3. Are the proposed planning instruments consistent with the Provincial Policy Statement, 2020, including but not limited to policies 1.1.1, 1.1.3, 1.4, 1.6.6.7, 1.6.7, 2.2 and 4.0?
4. Do the proposed planning instruments conform with the Growth Plan, 2020, including but not limited to policies 1.2.1, 2.2.1, 2.2.3., 2.2.4., 2.2.6, 3.2.2, 3.2.3 and 3.2.7?
5. Do the proposed planning instruments conform with the Region of Peel Official Plan including but not limited to policies 5.5.1 and 5.5.3, 5.8.1, 5.8.2, 5.8.3?
6. Do the proposed planning instruments conform with the City of Mississauga's Official Plan including but not limited to policies 4.5, 5.1, 5.3, 5.3.5, 5.4, 5.5, 6.4.2, 8.1, 8.2, 8.4, 8.5, 9.2, 9.2.1, 9.2.2, 9.3.5, 9.5.1, 9.5.2, 9.5.3, 16.1, 16.6, 19.4, 19.4.3, 19.4.11, 19.5, 19.8?
7. Is the proposal an overdevelopment of the subject site? Is it an appropriate location for the level of intensification proposed?
8. Does the proposal have regard for the Council-endorsed Dundas Connects Master Plan?

9. Does the proposal have regard for the City's Back to Back and Stacked Townhouse Urban Design Guidelines, and any other applicable urban design guidelines?
10. What are the appropriate zoning regulations for the proposed development? Are the proposed setbacks, building separations, landscape open space, amenity areas, built form and massing appropriate?
11. Does the the proposed road network including Dunbar Road and Argyle Road have sufficient capacity to service the proposed development? Are there any other concerns from a transportation, pedestrians, traffic safety or parking perspective?
12. Does the proposed development represent good planning?
13. Should any Order of the Tribunal approving any development on the subject site be withheld pending: i) execution of a development agreement; and ii) confirmation from the City that the proposed planning instruments are in form acceptable to the City's Planning Department and City Solicitor?
14. Should any Order of the Tribunal approving any development on the subject site be withheld pending execution of a section 37 agreement?

**ATTACHMENT 3
ORDER OF EVIDENCE**

1. Plazacorp Developments Ltd.;
2. City of Mississauga;
3. Plazacorp Developments Ltd. in Reply (if any).