

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



ISSUE DATE: March 11, 2021

CASE NO(S): PL200251

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

Appellant:	Annovator Developments
Appellant:	Orlando Corporation
Subject:	By-law No. 0121-2020
Municipality:	City of Mississauga
LPAT Case No.:	PL200251
LPAT File No.:	PL200251
LPAT Case Name:	Annovator Developments v. Mississauga (City)

Heard: March 3, 2021 via video hearing

APPEARANCES:

Parties

Counsel

Orlando Corporation

L. F. Longo

City of Mississauga

M. Minkowski

DECISION DELIVERED BY SUSAN de AVELLAR SCHILLER AND ORDER OF THE TRIBUNAL

[1] The City of Mississauga (“City”) adopted By-law No. 0121-2020 (“By-law”). Two appeals were filed: one by Annovator Developments (“Annovator”) and one by Orlando

Corporation (“Orlando”).

[2] This is the first Case Management Conference (“CMC”) in these matters. The Tribunal reviewed the Affidavit of Sean Kenney, being the Affidavit of Service declared December 21, 2020. The Tribunal was satisfied that Notice of this CMC was given in accordance with the Tribunal’s directions. The Tribunal marked the Affidavit of Service as Exhibit 1 in these proceedings.

[3] The Tribunal had before it no requests for either party or participant status in these proceedings.

[4] The City wished to scope both the Annovator appeal and that of Orlando and bring the remaining portions of the By-law into effect. The City has brought a motion, to be heard at this CMC, to do just that.

[5] Annovator withdrew its appeal prior to the motion being heard.

[6] The appeal filed by Orlando was focused and specific. For certainty, the City continued its motion to scope Orlando’s appeal. Orlando consents to the formal scoping of its appeal and to the result of bringing the remaining portions of the By-law into force and effect.

[7] The Motion Record included an Affidavit by Christian Binette, sworn January 8, 2021. Mr. Binette is a Candidate Member of the Ontario Professional Planners Institute who executed an Acknowledgment of Expert’s Duty form.

[8] Having read and considered the affidavit of Mr. Binette, and having considered the Motion and Orlando’s consent to the Motion, the Tribunal grants the Motion as follows:

1. The Appeal by Orlando is scoped to the following sections of By-law No. 0121-2020 only:

- (i) Paragraph 14: Table 5.2.1 – 01 to 03 Permitted Uses and Zone Regulations, Line 13.0;
 - (ii) Paragraph 17: Sections 5.2.3.1 (O2-1), 5.2.3.3 (O2-3), 5.2.3.4 (O2-4), 5.2.3.7 (O2-7), 5.2.3.8 (O2-8) and Paragraph 18: Sections 5.2.4.1 (O3-1), 5.2.4.2 (O3-2), 5.2.4.3 (O3-3), 5.2.4.7 (O3-7), 5.2.4.9 (O3-9) and 5.2.4.10 (O3-10) – Shared parking permitted on other lots;
 - (iii) Paragraph 17: Section 5.2.3.1 (O2-1), 5.2.3.3 (O2-3) and Paragraph 18: Sections 5.2.4.1 (O3-1), 5.2.4.3 (O3-3) and 5.2.4.3;
 - (iv) Paragraph 17: Sections 5.2.3.1 (O2-1), 5.2.3.8 (O2-8) and Paragraph 18: Sections 5.2.4.1 (O3-1), 5.2.4.7 (O3-7), 5.2.4.9 (O3-9);
 - (v) Paragraph 11: Section 5.1.3.7 – Uses Accessory to a Permitted Use in an 02 and 03 Zone;
 - (vi) Paragraph 17: Section 5.2.3 – O2 Exception Zones; and Paragraph 18: Section 5.2.4 – O3 Exception Zones;
 - (vii) Paragraph 17: Section 5.2.3.3.1 – O2 Exception Zones;
2. The Appeal by Orlando, as scoped above, shall only apply to the lands owned by Orlando which are identified as Orlando Corporation Property, Gateway Corporate Centre.
 3. The remainder of By-law No. 0121-2020 is declared in force and effect.

[9] The Tribunal discussed a draft procedural order with the parties. The parties advised the Tribunal that meetings and discussions were underway, and expected to continue, to narrow or settle the issues. The Tribunal is satisfied that if there is no narrowing or settlement that a four-day hearing is appropriate.

[10] The Tribunal set these matters down for a video hearing to commence at **10 a.m.** on **Tuesday, November 2, 2021**. Log in details for the video hearing will be sent under separate cover to the parties.

[11] In order to provide sufficient and appropriate time for the parties to engage in their discussions, the Tribunal directed the parties to advise the Tribunal not later than **Friday, July 30, 2021** whether:

1. Narrowing of the issues has not been successful and the full four days of hearing are required;
2. There has been a narrowing of issues, such that all four days would not be required; or
3. There has been a full settlement and only the first day of the hearing will be required.

[12] The Tribunal will take such actions as it considers appropriate once the requisite advice is received.

[13] As a result of the discussion at the CMC, noted above, the parties have submitted a further draft Procedural Order. The Procedural Order to govern these proceedings is found at Attachment 1 appended to this decision.

ORDER

[14] The Tribunal orders that:

1. The Appeal by Orlando Corporation is formally scoped to the following sections of By-law No. 0121-2020 only:
 - (i) Paragraph 14: Table 5.2.1 – 01 to 03 Permitted Uses and Zone Regulations, Line 13.0;
 - (ii) Paragraph 17: Sections 5.2.3.1 (O2-1), 5.2.3.3 (O2-3), 5.2.3.4 (O2-4), 5.2.3.7 (O2-7), 5.2.3.8 (O2-8) and Paragraph 18: Sections 5.2.4.1 (O3-

- 1), 5.2.4.2 (O3-2), 5.2.4.3 (O3-3), 5.2.4.7 (O3-7), 5.2.4.9 (O3-9) and 5.2.4.10 (O3-10) – Shared parking permitted on other lots;
- (iii) Paragraph 17: Section 5.2.3.1 (O2-1), 5.2.3.3 (O2-3) and Paragraph 18: Sections 5.2.4.1 (O3-1), 5.2.4.3 (O3-3) and 5.2.4.3;
 - (iv) Paragraph 17: Sections 5.2.3.1 (O2-1), 5.2.3.8 (O2-8) and Paragraph 18: Sections 5.2.4.1 (O3-1), 5.2.4.7 (O3-7), 5.2.4.9 (O3-9);
 - (v) Paragraph 11: Section 5.1.3.7 – Uses Accessory to a Permitted Use in an O2 and O3 Zone;
 - (vi) Paragraph 17: Section 5.2.3 – O2 Exception Zones; and Paragraph 18: Section 5.2.4 – O3 Exception Zones;
 - (vii) Paragraph 17: Section 5.2.3.3.1 – O2 Exception Zones;
2. The Appeal by Orlando Corporation, as scoped above, shall only apply to the lands owned by Orlando Corporation which are identified in the following map as Orlando Corporation Property, Gateway Corporate Centre:

**ORLANDO CORPORATION PROPERTY
GATEWAY CORPORATE CENTRE**



 **ORLANDO CORPORATION PROPERTY**

 **ORLANDO CORPORATION**
Canada's Premier Landlord of Industrial & Commercial Properties

POUND & STEWART
PLANNING CONSULTANTS & CITYPLANNERS
CITYPLAN+PORTAL
101_Plan_06-24-2023

[15] The Tribunal declares that the remaining portions of By-law No. 0121-2020 are in

force and effect.

[16] The Tribunal orders that the Procedural Order in these matters is as found at Attachment 1.

“Susan de Avellar Schiller”

SUSAN de AVELLAR SCHILLER
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

ATTACHMENT 1

<p>Local Planning Appeal Tribunal Tribunal d'appel de l'aménagement local</p>	 <p>The coat of arms of Ontario features a shield with a cross and a maple leaf. Above the shield is a crown. On either side of the shield are two figures: a moose on the left and a beaver on the right. Below the shield is a banner with the motto "FIDELIS". The word "Ontario" is written below the banner.</p>
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PROCEEDING COMMENCED UNDER subsection 34(19) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellant:	Orlando Corporation
Subject:	By-law No. 0121-2020
Municipality:	City of Mississauga
LPAT Case No.:	PL200251
LPAT File No.:	PL200251
LPAT Case Name:	Orlando Corporation 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 hearing will begin on **Tuesday, November 2, 2021** at 10:00 a.m. by video conference.
3. The parties' initial estimation for the length of the hearing is 4 days. The parties are expected to co-operate to reduce the length of the hearing by eliminating redundant evidence and attempting to reach settlements on issues where possible.
4. The parties 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. Subject to paragraph 3, 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 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

8. 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 **Wednesday, September 8, 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.
9. The parties shall have a meeting on or before **Friday, April 30, 2021** and a further meeting on or before **Wednesday, June 30, 2021** to explore a potential settlement of the issues.
10. The parties shall notify the Tribunal on or before **Friday, July 30, 2021** of the status of the settlement discussions between the parties including whether there has been a narrowing of the issues or a settlement on any issues between the parties.
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 **Friday, September 24, 2021**, the parties shall provide copies of their expert witness statements to the other parties and to the LPAT case co-ordinator and in accordance with paragraph 20 below.
14. On or before **Monday, 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.
15. 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 section 20 below.

16. The parties shall cooperate to prepare a joint document book which shall be shared with the LPAT case co-ordinator on or before **Friday, October 22, 2021**.
17. Any documents which may be used by a party in cross examination of an opposing party's witness shall be password protected and only be accessible to the Tribunal and the other parties if it is introduced as evidence at the hearing, pursuant to the directions provided by the LPAT case co-ordinator, on or before **Thursday, October 28, 2021**.
18. 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 15 days before the Tribunal hears the motion.*
19. 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 before the hearing that the written evidence is not part of their record.
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 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:

Susan de Avellar Schiller:

Date:

TRIBUNAL REGISTRAR

ATTACHMENT 1

LIST OF PARTIES AND PARTICIPANTS

LIST OF PARTIES

Orlando Corporation

c/o Leo Longo
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The Corporation of the City of Mississauga

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Mississauga, ON L5B 3C1
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ATTACHMENT 2

ISSUES LIST

1. Is a minimum 0.5 minimum Floor Space Index (FSI) an appropriate and desirable standard for the lands under appeal?
2. Should some exception zones for the lands under appeal have shared parking exceptions? Is it sufficient if the by-law permits shared parking on a shared lot, under Orlando's single ownership, where there are multiple exception zones and different permitted uses?
3. Should parking structures be permitted as a stand-alone permitted use – in particular for the O2-1, O2-3, O3-1 and O3-3 exception zones?
4. Should expansion of the existing RBC building fronting onto Hurontario Street be permitted beyond 10% of the Gross Floor Area (GFA)? Should the 10% GFA cap on expansions of existing buildings and/or structures be removed where it applies to Orlando properties under appeal?
5. Should the cap on a manufacturing facility as an accessory use be increased from 20% to 30% of GFA?
6. Should a regulation that permits existing uses (not otherwise included as a permitted use in an O2 or O3 zone) within buildings legally existing on the date of the passing of the By-law apply to all Orlando properties under appeal?
7. Is the reference to shared driveways in Line 5.2.3.3.1 of Table 5.2.3.3 (O2-3 zone) necessary when Line 21.3 of Table 5.2.1 is in place and permits the same?
8. Are Zoning By-law 0121-2020 and/or the matters raised in issues 1-7 above in conformity with and implement the Mississauga Official Plan?
9. Do Zoning By-law 0121-2020 and/or the matters raised issues 1-7 above conform to the Growth Plan and Region of Peel Official Plan, and are they consistent with the Provincial Policy Statement?

ATTACHMENT 3

ORDER OF EVIDENCE

1. Orlando Corporation
2. City of Mississauga
3. Reply – Orlando Corporation