

Ontario Land Tribunal
Tribunal ontarien de l'aménagement
du territoire



ISSUE DATE: October 28, 2021

CASE NO(S): PL210123

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

Applicant and Appellant: Sarah Properties Ltd.
Subject: Request to amend the Official Plan - Failure of the Town of Orangeville to adopt the requested amendment

Existing Designation: Employment Area
Proposed Designated: Low Density Multiple, High Density Residential Special and Neighbourhood Commercial

Purpose: To permit a mixed-used development consisting of 140 bungalow townhouses; three 8-storey apartment buildings containing 270 units; and three 140 squared metres of neighbourhood commercial uses

Property Address/Description: Blocks 62, 63 & 64, Registered Plan 7M-47
Municipality: Town of Orangeville
Approval Authority File No.: OPZ 5/19
LPAT Case No.: PL210123
LPAT File No.: PL210123
LPAT Case Name: Sarah Properties Ltd. V. Orangeville (Town)

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

Applicant and Appellant: Sarah Properties Ltd.
Subject: Application to amend Zoning By-law No. 22-90 - Refusal or neglect of the Town of Orangeville to make a decision

Existing Zoning: General Industrial (M1)
Proposed Zoning: Residential Fifth Density (R5), Multiple Residential High Density (RM2) Zone, Neighbourhood Commercial (C2) Zone, and Open Space – Conservation (OS2) Zone with Special Provisions

Purpose: To permit a mixed-used development consisting of 140 bungalow townhouses; three 8-storey apartment buildings containing 270 units; and three 140 squared metres of neighbourhood commercial uses

Property Address/Description: Blocks 62, 63 & 64, Registered Plan 7M-47

Municipality: Town of Orangeville

Municipality File No.: OPZ 5/19

LPAT Case No.: PL210123

LPAT File No.: PL210124

Heard: October 14, 2021 by video hearing (“VH”)

APPEARANCES:

Parties

Counsel/Agent*

Sarah Properties Ltd.

Patrick Harrington

Town of Orangeville

Andrew Biggart

Transmetro Limited/Cachet

Developments (Orangeville) Inc.

Marisa Keating

MEMORANDUM OF ORAL DECISION DELIVERED BY K.R. ANDREWS ON OCTOBER 14, 2021 AND ORDER OF THE TRIBUNAL

INTRODUCTION

[1] This is the second Case Management Conference (“CMC”) respecting an appeal by the Appellant following the Town’s neglect/failure to render a decision respecting an application for an Official Plan Amendment and a Zoning By-law Amendment for the lands described as Blocks 62, 63, and 64 on Registered Plan 7M-47, to facilitate a mixed-use development of 140 bungalow townhouses, three 8-storey apartment buildings, and three areas of 140 square metres of commercial uses.

REQUESTS FOR STATUS

[2] No one attended the CMC seeking status.

MEDIATION AND SETTLEMENT

[3] The parties indicated that they are open to settlement, but nothing is imminent.

PROCEDURAL ORDER AND ISSUES LIST

[4] The Tribunal received and reviewed a draft Procedural Order from the parties. Counsel for the Appellant promised to send a revised copy, reflecting hearing dates set at this CMC, to the Tribunal by October 22, 2021. The Tribunal received it, finds it acceptable, and the proceedings shall be governed by it (see Attachment 1).

HEARING

[5] Upon request of the parties, the Tribunal set a **3-week** hearing commencing on **Monday, October 31, 2022 at 10 a.m.** by VH, ending on and including Friday, November 18, 2022. The Tribunal notes that no proceeding will take place on **Friday, November 11, 2022**, and so the hearing consists of 14 actual hearing days during the scheduled 3-week period. No further Notice is required for the hearing.

[6] 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:

<https://global.gotomeeting.com/join/646467445>

Access Code: 646-467-445

[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](#) 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: **Toll-Free** [1 888 299 1889](tel:18882991889) or [+1 \(647\) 497-9373](tel:+16474979373). The **Access Code** is as indicated above.

[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 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

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

1. The date and particulars of the hearing are set out above;
2. The Procedural Order appended as Attachment 1 shall govern the proceedings; and
3. 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

Website: www.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.

SCHEDULE 1

Ontario Land Tribunal Tribunal ontarien de l'aménagement du territoire



ISSUE DATE:

CASE NO(S):

PL210123

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Municipality File No.: OPZ 5/19
LPAT Case No.: PL210123
LPAT File No.: PL210124

PROCEDURAL ORDER FOR VIDEO HEARING

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 **October 31, 2022** at 10:00 a.m., for a total of **14** hearing days (the Tribunal will not sit on November 11, 2022). Videoconference details are to be confirmed by the Tribunal. No further notice shall be required. All Parties shall attend the first day of the hearing.
3. While the parties' initial estimation for the length of the hearing is 14 hearing 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 identified at the first case management conference are set out in Attachment 1 to this Order.
5. The issues are set out in the Issues List attached as Attachment 2 to this Order. 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 **Monday, June 6, 2022** 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.

11. Expert witnesses in the same field shall have a meeting on or before **Thursday, June 30, 2022** 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 OLT case coordinator on or before **Friday, July 8, 2022**.
12. 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 14 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.
13. 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 14 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 14 below.
14. On or before **Friday, July 29, 2022**, the parties shall provide copies of their witness and/or expert witness statements to the other parties and to the LPAT case coordinator and in accordance with paragraph 22 below.
16. Parties may provide to all other parties and the OLT case coordinator a written response to any written evidence on or before **Friday, August 19, 2022** in accordance with section 22 below.
17. On or before **Monday, September 19, 2022**, the parties shall provide copies of their visual evidence to all of the other parties in accordance with section 22 below. If a model will be used, all parties must have a reasonable opportunity to view it before the hearing.
18. The parties shall cooperate to prepare a joint document book which shall be uploaded to the OLT's file share server, pursuant to the directions provided by the OLT case coordinator, on or before **Monday, October 17, 2022**.
19. A person wishing to change written evidence, including witness statements, must make a written motion to the Tribunal.
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 7 days before the hearing that the written evidence is not part of their record.
21. The parties shall prepare and file a draft hearing plan with the Tribunal on or before **Monday, August 29, 2022** 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:

ATTACHMENT 1

LIST OF PARTIES

1. Sarah Properties Inc. (Applicant/Appellant)

Patrick Harrington
Aird & Berlis LLP
416 863 1500
pharrington@airdberlis.com

2. The Town of Orangeville (Municipal Authority)

Andrew Biggart
Ritchie Ketcheson Hart & Biggart
416 622 6601 ext. 1003
abiggart@ritchieketcheson.com

3. Transmetro Limited / Cachet Developments (Orangeville) Inc. (Added Party)

Marisa Keating
Cassels Brock & Blackwell LLP
416 860 2978
mkeating@cassels.com

ATTACHMENT 2

ISSUES LISTS

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 Board at the hearing. The extent to which these issues are appropriate or relevant to the determination of the Board at the hearing will be a matter of evidence and argument at the hearing.

TOWN OF ORANGEVILLE

1. Does the proposed development have regard to the matters of provincial interest set forth in **Section 2 of the Planning Act**, specifically including but not limited to the following matters:
 - i. (f) the adequate provision and efficient use of communication, transportation, sewage and water services and waste management systems;
 - ii. (h) the orderly development of safe and healthy communities;
 - iii. (k) the adequate provision of employment opportunities;
 - iv. (l) the protection of the financial and economic well-being of the Province and its municipalities
 - v. (p) the appropriate location of growth and development;
 - vi. (q) the promotion of development that is designed to be sustainable, to support public transit and to be oriented to pedestrians;
 - vii. (r) the promotion of built form that,
 - i. is well-designed,
 - ii. encourages a sense of place, and
 - iii. provides for public spaces that are of high quality, safe, accessible, attractive and vibrant

2. Is the proposed development consistent with the **Provincial Policy Statement, 2020 (PPS, 2020)**, specifically including but not limited to the following policies:
 - i. Section 1.1.1 a), b), c), e) [*Healthy, liveable and safe communities...*]
 - ii. Section 1.1.2 [*Sufficient land shall be made available...*]
 - iii. Section 1.1.3.2 a), b) [*Land use patterns within settlement areas shall be based on...*]

- iv. Section 1.1.3.6 [*New development taking place in designated growth areas...*]
 - v. Section 1.1.3.7 [*Planning authorities should establish an implement phasing..*]
 - vi. Section 1.3.1 [*Planning authorities shall promote economic development ...*]
 - vii. Section 1.3.2 [*Employment Areas*]
 - viii. Section 1.4.3 b), c), d), [*...appropriate range and mix of housing types and densities...*]
 - ix. Section 1.6.6.1 [*Planning for sewer and water services shall...*]
 - x. Section 1.6.6.7 [*Planning for stormwater management shall...*]
 - xi. Section 1.6.7.1 [*Transportation systems should be provided...*]
 - xii. Section 1.7.1 a) [*Long-term economic prosperity should be supported...*]
 - xiii. Section 2.2.1 f) and i) [*...protect, improve or restore the quality and quantity of water by...*]
3. Does the proposed development conform to the **Growth Plan for the Greater Golden Horseshoe, 2019**, specifically including but not the following policies:
- i. Section 2.2.1.4 a), e), and g) [planning for growth - achievement of complete communities]
 - ii. Section 2.2.5 [Employment]
 - .1 [Economic competitiveness...]
 - .5 [Municipalities should designate and preserve lands...]
 - .6 [Upper and single-tier municipalities...]
 - .7 [Municipalities will plan for all employment areas...]
 - .9 [The conversion of lands...]
 - .10 [Notwithstanding policy 2.2.5.9...]
 - .14 [Outside of employment areas...similar number of jobs]
 - iii. Section 2.2.7.1 [New development taking place in designated greenfield...]

4. Does the proposed development conform to and maintain the intent and purpose of the **County of Dufferin Official Plan**; including but not limited to:
 - a. Growth Allocations (Section 3.2.2 and 3.5.3)
 - b. General Settlement Area Policies (Section 3.3.1)
 - c. Urban Settlement Areas (3.3.2)
 - d. New Greenfield Development (3.4.3)
 - e. Economic Development (3.6)
 - i. Locations of Economic Activity (3.6.1)
 - ii. Employment Land Conversions (3.6.2)
 - f. Community Design (3.9.1)
 - g. Source Water Protection (5.4.2)

5. Does the proposed development conform to and maintain the intent and purpose of the **Town of Orangeville Official Plan**, including but not limited to:
 - a. Does the proposed development appropriately implement the Goals of the Official Plan, particularly with respect to:
 - i. Housing (Section B2.2),
 - ii. Economic Growth (B2.3),
 - iii. Live/Work Balance (B2.19),
 - b. Does the proposed development appropriately implement the General Policies of the Official Plan, particularly with respect to:
 - i. Economic Growth (D1)
 - ii. Live/Work Balance (D9)
 - c. Does the proposed development meet the Employment Area policies of the Official Plan, particularly with respect to:
 - i. Goals (E3.1)
 - ii. The Conversion of Employment Lands (E3.8)

- d. Does the proposed development maintain the purpose and intent of Official Plan Amendment No. 100 (OPA 100) and resulting Area-Specific Policies of the Veteran's Way South Community Section E8.64 that apply to the subject lands
 - e. Does the proposed development meet the Transportation policies of the Official Plan, particularly with respect to:
 - i. Goals (G1);
 - ii. Road Classification (G3);
 - iii. General Road Policies (G5)
 - f. Does the proposed development meet the Municipal Services policies of the Official Plan and do adequate services currently exist to accommodate the proposed development. If not, what is required?
 - g. Does the proposed development appropriately implement the Implementation policies for Official Plan Amendments (I12) within the Official Plan?
6. Does the proposed development satisfy the applicable policies of the Credit Valley, Toronto and Central Lake Ontario (CTC) Source Protection Plan under the Clean Water Act, 2006, particularly with respect to the wellhead protection areas that apply to the subject lands (WHPA-B, WHPA-E, HVA, ICA-NaCl, WHPA-Q1/Q2) and specifically including but not limited to the following policies:
- a. REC-1 [Planning Policies for Protecting Groundwater Recharge...]
 - b. DEM-1 and DEM-2 [Water-taking within the Tier 3 Water Budget WHPA-Q1]
 - c. SAL-1 [Application of Road Salt – Risk Management Plan]
 - d. SAL-3 [Application of Road Salt – Salt Management Plan]
 - e. SNO-1 [Storage of Snow]
7. Does the proposed development appropriately address traffic impacts and access requirements under existing and future build-out conditions and would it be premature to approve the proposed development in advance of the full connection of Hansen Boulevard being completed (i.e. continuous connection between Veteran's Way and Blind Line)?
8. Does the proposed development respond appropriately to the existing and planned context of surrounding lands?
9. Does the proposed development comprise good urban design?
10. Does the proposed development represent good planning and is it in the public interest?

11. In the event that the appeals are allowed in whole or in part by the Ontario Land Tribunal (OLT), are the form and content of the draft Official Plan Amendment and amending Zoning By-law appropriate?
12. In the event that the appeals are allowed in whole or in part by the Ontario Land Tribunal (OLT), what conditions would be appropriate and should the Tribunal Order be withheld until the following conditions are satisfied?
 - a. The amending Zoning By-law is finalized in a form and content acceptable to the Town of Orangeville; and
 - b. An Official Plan Amendment is finalized in a form and content acceptable to the Town of Orangeville

D

ATTACHMENT 3

ORDER OF EVIDENCE

R

1. Sarah Properties Inc.
2. Town of Orangeville
3. Transmetro/Cachet
4. Sarah Properties Inc. (in reply)

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Ontario Land Tribunal

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