

ISSUE DATE:

Jan. 30, 2006

DECISION/ORDER NO:

0308



PL030412

Ontario Municipal Board
Commission des affaires municipales de l'Ontario

The Ontario Municipal Board has received appeals under subsection 17(36) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended, from a decision of the Minister of Municipal Affairs and Housing to approve in part, the new Official Plan for the City of Toronto, as adopted by By-law 1082-2002, to provide policy direction in the six municipalities of the former Metropolitan Toronto

MMAH File No. 20-OP-2002

OMB File Nos. See Attachment "1"

APPEARANCES:

Parties	Counsel*/Agent
City of Toronto	Bruce Ketcheson* Robert Balfour* R. Andrew Biggart*
Aga Khan Foundation Canada	Brad Teichman*
Cadillac Fairview Corporation Limited Canadian Tire Corporation Limited Canadian Tire Real Estate Limited (Lakeshore) Eminent Construction Limited Monarch Construction Limited Monarch Construction Limited and Water View Corporation Options for Homes Silvercore Inc. Greater Toronto Home Builders' Association and Urban Development Institute 1430649 Ontario Ltd. 2BRNOT2B Holdings 603613 N.B. Inc. (Malibu Investments Inc.) 640 Fleet Street Developments Limited, 650 Fleet Street Developments Limited, Fleet Boulevard Limited Bedford and Bloor Realty and Lantower Yonge Bloor Capital Inc	Steven Diamond* John Dawson* Cynthia MacDougall* Calvin Lantz*

Daniels Midtown Corporation Mattamy Bayview Limited Mount Sinai Hospital Plazacorp Properties Limited Riva Glade Holdings Inc. Wellesley Residences Corp. Yonge Crescent Development Limited Yorkville (2001) Limited Hanfrow Holdings G.P. Inc. Talon International Developers Inc. Meridian Residences Inc. Centre for Addiction and Mental Health 534078 Ontario Limited, Weintraub Holdings Limited, Samper Developments Limited, Jassder Developments Limited, Judidon Holdings Inc., Cardon Holdings Inc., Dadadon Holdings Inc., Ruthdon Holdings Inc. Piagga Limited 1356071 Ontario Inc. Artlea Holding Limited, Siper Investments Limited, H & R Properties Limited, 1012502 Ontario Limited Rosalind Bradford (David Sadja) 1160963 Ontario (Spadina) 887343 Ontario Inc. and 567485 Ontario Inc. 1160963 Ontario (Rosehill) Herron Gardens Inc. Wellington Park Residences Corp. Marca Development Corporation Wittington Properties Limited First Ontario Realty Corporation York University 1098748 Ontario Limited National Ballet School Bellwoods Centres for Community Living Inc. Wittington Properties Inc. Hyde Park Partnership Centre for Addiction and Mental Health	
CN Railway	Michael Hackl*
Toronto Anglican Diocese	Pitman Patterson*

Toronto Rehabilitation Institute	
Owens Corning Canada Inc. Tom Katirai	Harold Elston*
Kraft Canada Inc.	Dennis Trinaistich*
The National Club Gerrard Clonmore Developments Limited Tap-Steeles Investments Ltd. Steeles Markham Developments Limited The Conservatory Group of Companies Ringley Construction Ltd. (formerly Workplace Safety and Insurance Board)	Susan Rosenthal* Mark Flowers*
685 Keele Street Limited Home Depot of Canada Inc. Lissard Holdings Morningard Developments Limited Thoroughbred Developments Limited	Cathy Biesma
Edithvale Yonge Residents' Association, Lansing Community Association Inc., Silverview Homeowners' Association, South of Sheppard Preservation Group Inc., Willowdale Central Ratepayers' Association	George Belza
Ripley Area Residents Group Ltd. And Swansea Area Ratepayers Group Confederation of Resident and Ratepayer Associations (CORRA)	William Roberts*
Harbour Remediation and Transfer Inc. Lafarge Canada Inc. Ontario Realty Corporation and Hydro One Ontario Realty Corporation (90 Harbour Street & West Donlands) Ontario Restaurant Hotel and Motel Association, et. al The Roehampton Corporation Yonge-St. Clair Inc.	Signe Leisk*
5795 Yonge Street (1984) Limited Ivaco Inc.	Craig Parkinson*

Ministry of Municipal Affairs and Housing	Brenda Linington* Jess Fortner
Apco Industries Co. Limited Crompton Co./Cie Dow Chemical Canada Inc. Halltech Inc. Rohm and Haas Canada Inc. Valspar Canada Inc. Kolter Property Company	Andrew Jeanrie*
Urquhart Consortium Inc.	Art McIlwain
1255870 Ontario Limited	John Inglis*
1213763 Ontario Limited 18 Brownlow Holdings Ltd. 2BRNOT2B Holdings 940412 Ontario Limited, Adam Steiner et. al. Advent Health Care Corp. Avro Quay Limited Diamante Urban Corporation Duration Investments Ltd. MintoUrban Communities Inc. One City Hall Place Limited Pleasant View Holdings Ltd. Sun Life Assurance (Morningside Mall) Sun Life Assurance (Yonge) Sun Life Assurance Company of Canada(Lawrence and Morningside) Burnac Holdings Limited	Michael Kovacevic*
Participant	
Michael Rosenberg	

**MEMORANDUM OF ORAL DECISION FROM A PREHEARING CONFERENCE
HELD ON OCTOBER 26, 2005, DELIVERED BY S.W. LEE AND M. HUBBARD
AND ORDER OF THE BOARD**

This disposition deals with the continuation of the hearing phase that commenced on October 3, 2005.

At the start of this phase on October 3rd, the Board had been advised by City counsel that discussions were ongoing between the parties to resolve the Urban Design/Built Form and Tall Buildings issues. Accordingly, on consent, the Board had adjourned that portion of the hearing dealing with those matters to October 26th, 2005.

Following the adjournment, when the hearing recommenced on October 26th, the panel was advised that a settlement had been reached with respect to all remaining issues on the Issues List with the exception of the issues set of TDL Group McDonalds. The Board was then requested on consent to adjourn the hearing of the TDL issues, which were to be revised, by agreement of TDL and the City, to the next phase of the hearing anticipated to be scheduled sometime in January, 2006. The panel granted that request.

After dealing with the TDL matter, the City then filed with the Board a number of affidavits dealing with modifications to various policies of the new Official Plan presented as a result of settlements entered into the City.

The first set of modifications presented was set out in an affidavit of Mr. Paul Bain, a land use planner employed by the City, and previously qualified by the Board. This affidavit was marked as Exhibit 108. In this affidavit, Mr. Bain supported modifications to the Plan pursuant to the settlement reached amongst the City, UDI, GTHBA, as well as CORRA and the ratepayer groups identified within the affidavit as the Willowdale Residents' Associations. This settlement resolved challenges previously raised before the Board by Mr. Dawson, on behalf of GTHBA/UDI, related to certain modifications that were set out within an affidavit previously filed with the Board and marked as Exhibit 2A.

Having read Exhibit 108, and upon the consent of the City, UDI and GTHBA, and CORRA and the Willowdale Residents' Associations, the Board approves the modifications contained therein as set out in Exhibit "G" to Mr. Bain's Affidavit.

After dealing with that matter, the Board then received two affidavits addressing the settlement of issues related to Urban Design/Built Form and Tall Buildings. The modifications set out in these affidavits were supported by the City, GTHBA/UDI and the Conservatory Group. The affidavits were provided by Mr. Bain and by Mr. Leo deSorcy, a qualified urban designer, in the employ of the City of Toronto.

The Affidavit of Mr. Bain, sworn on October 21, 2005 and marked by the Board as Exhibit 109, addressed the settlement that had been reached amongst the parties with respect to the provision of outdoor amenity space. Having read the Affidavit of Mr. Bain, sworn on October 21, 2005, and upon the consent of the parties, the Board approves the modification to the Official Plan as set out in Exhibit "E" to Mr. Bain's Affidavit.

The Affidavit of Mr. deSorcy, sworn on October 25, 2005 and marked by the Board as Exhibit 110, addressed the issues surrounding the Urban Design policies within the Official Plan. Having read the Affidavit of Mr. deSorcy, sworn on October 25, 2005, and upon the consent of the parties, the Board approves, except as noted below, the modifications to the Official Plan as set out in Exhibit "D" to Mr. deSorcy's Affidavit. The parties to this settlement advised the Board that UDI and GTHBA continue to have concerns with respect to Policy 5 of Section 3.2.1. These appellants have concerns that their future issues concerning Section 37 may be prejudiced if the Board is to approve Policy 5 of Section 3.2.1 as it is currently modified in Mr. deSorcy's Affidavit. Therefore, the parties have agreed that this policy should not be approved at this time while the issue of UDI and GTHBA concerning implementation of Section 37 is still to be addressed at the Board. Once the issue of implementation is addressed by the Board at a future phase of the hearing, Policy 5 of Section 3.2.1, as currently agreed to amongst the parties, may require some future modification. On the consent of the parties, the Board withholds its approval of Policy 5 of Section 3.2.1, as proposed to be modified in the Affidavit of Mr. deSorcy.

A final matter addressed at the hearing was the approval of the modifications contained within Exhibit 104, which had been filed with the Board at an earlier phase in the hearing. The City advised the Board that, on consent of GTHBA and UDI, CORRA and the Willowdale Residents' Associations, the City was now seeking approval of the modifications as set out in Exhibit 104, which contains an Affidavit of Mr. Bain, sworn on August 26th, 2005. This Exhibit, and the proposed modification to the Official Plan set out therein, supersedes the modifications previously filed with the Board and marked as Exhibits 2 and 2A. Having read the Affidavit of Mr. Bain, sworn on August 26, 2005, and on the consent of all interested parties, the Board approves, except as noted below, the modifications to the Official Plan as contained in Exhibit "G" to the Affidavit of Mr. Bain.

The Board was advised that Policy 7 of Section 5.1.1 is currently subject to an appeal by GTHBA and UDI that will be heard at a later phase in the hearing. Therefore, on the consent of all interested parties, the Board does not approve that particular modification as set out in Exhibit "G" to the Affidavit of Mr. Bain, sworn on August 26, 2005.

In summary, the Board approves the modifications to the Official Plan as recommended in the Affidavit contained in Exhibit 104, with the exception of Policy 7 of Section 5.1.1, the Affidavit contained in Exhibit 108, the Affidavit contained in Exhibit 109 and the Affidavit contained in Exhibit 110, with the exception of Policy 5 of Section 3.1.2.

The Board so Orders.

"S.W. Lee"

S.W. LEE
EXECUTIVE VICE-CHAIR

"M. Hubbard"

M. HUBBARD
CHAIR

Attachments filed with original decision.