

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



ISSUE DATE: October 05, 2020

CASE NO(S): PL200183

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/Appellant:

Mattamy James Street Limited Partnership
Application to amend the Official Plan - Refusal or neglect of City of Burlington to make a decision

Subject:

Existing Designation:

Downtown Mixed Use Centre - Downtown Medium/High Density Residential Precinct Site Specific (To be determined)

Proposed Designation:

Purpose:

To permit the redevelopment of the subject lands with a seventeen-storey condominium apartment building

Property Address/Description:

2082,2086,2090 James Street

Approval Authority File No.:

505-07/17, 520-16/17

Municipality:

City of Burlington

LPAT Case No.:

PL200183

LPAT File No.:

PL200183

LPAT Case Name:

Mattamy James Street LP v. Burlington (City)

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

Applicant and Appellant:

Mattamy James Street Limited Partnership
Application to amend Zoning By-law No. 2020 - Refusal or neglect of City of Burlington to make a decision

Subject:

Existing Zoning:

DRM and DRM-3

Proposed Zoning:	Site Specific (To be determined)
Purpose:	To permit the redevelopment of the subject lands with a seventeen-storey condominium apartment building
Property Address/Description:	2082,2086,2090 James Street
Municipality:	City of Burlington
Municipality File No.:	505-07/17, 520-16/17
LPAT Case No.:	PL200183
LPAT File No.:	PL200184

PROCEEDING COMMENCED UNDER subsection 41(12) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Subject:	Site Plan
Property Address/Description:	2082,2086,2090 James Street
Municipality:	City of Burlington
LPAT Case No.:	PL200183
LPAT File No.:	PL200185

Heard: September 22, 2020 via video hearing

APPEARANCES:

Parties

Mattamy James Street Limited Partnership

City of Burlington

Regional Municipality of Halton

Counsel

S. Snider
S. Kaufman

B. Hurley

K. Yerxa

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

[1] Mattamy James Street Limited Partnership (“Mattamy”) wishes to develop a 17-storey condominium apartment building on three lots known municipally as 2082,2086,2090 James Street (“Subject Site”) in the City of Burlington (“City”). In

support of this ambition, Mattamy applied for an official plan amendment (“OPA”), an associated zoning by-law amendment (“ZBLA”) and a site plan. The City failed to make a decision on these applications within the statutory time period and Mattamy appealed the OPA and ZBLA, and referred the site plan, to this Tribunal. These three matters will be heard together but are not consolidated.

[2] This Case Management Conference (“CMC”) was the first appearance in this matter. The affidavit of service of the notice of this CMC was filed in advance by Mattamy, as required by the Tribunal. The Tribunal takes this affidavit of service in as Exhibit 1 in these proceedings.

[3] The Tribunal had two requests for party status and three requests for participant status.

[4] Requests for party status were received from the Regional Municipality of Halton (“Region”) and from the Halton Regional Police Service (“Police Service”). The Police Service was represented by counsel K. J. Kelertas.

[5] The Police Service identified its principal interest in the impact the proposed development may have on its emergency services communications. The Tribunal understands that the Police Service is of the view that these communications may be impaired with the application design. Following some discussion, the Region and the Police Service agreed that the Region would take up the Police Service issues and the Police Service would provide any necessary technical support for the Region to do so. On this basis, the Police Service withdrew its request for party status.

[6] There was no objection to the addition of the Region as a party to the OPA and ZBLA matters. Mattamy objected to the addition of the Region to the site plan referral. Since the matters are being heard together and since the Region’s proposed conditions for the site plan are usually presented by the City, the Region’s interests in the site plan matter may be met adequately without party status.

[7] The Tribunal added the Region as a party to the OPA and ZBLA matters and deferred the question of the addition of the Region to the site plan referral to allow an appropriate opportunity for counsel to meet and consider their positions. The Tribunal directs the parties to advise the Tribunal by Wednesday, October 14, 2020 whether there has been agreement between the Region and Mattamy on this question of party status in the site plan referral or whether an objection remains outstanding.

[8] The Tribunal heard no questions or objections regarding the three requests for participant status. The Tribunal added Norm Cheng and Nalini Rao as participants. The Tribunal added Burlington Lions Club #14925 (“Lions Club”), represented by Perry Bowker who is the Club’s secretary, as a participant. All participants are adjacent to, or near, the Subject Site. Participants’ concerns will be considered by the Tribunal through a review of written participant statements.

[9] The parties requested a hearing of the merits that is 15 days in length. The Tribunal is satisfied that 15 days is appropriate in this matter. Subsequent to this CMC, the Tribunal secured 15 hearing days for these proceedings. The hearing has been set to commence on **Monday, April 19, 2021, at 10 a.m.** as a video hearing.

[10] Parties are to participate with video and audio enabled. Join the event from a computer, tablet or smartphone **by using this link:** <https://global.gotomeeting.com/join/331731685>. When prompted, **enter the code 331-731-685** to be connected to the hearing by video.

[11] Observers are to participate with audio only enabled. Join the event via telephone conference **by calling: (647) 497 9391 or Toll Free 1 888 455 1389**. When prompted, **enter the code 331-731-685** to be connected to the call.

[12] 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.

[13] Although a draft Procedural Order (“PO”) was available, the parties asked for time to review and consider the PO and the Issues List it will contain. At the suggestion of the parties, the Tribunal directs the parties to file a revised PO, with an Issues List, by Wednesday, October 14, 2020.

[14] Issues on the Issues List must be phrased in a neutral manner, contain sufficient specificity for parties to know the case to be called, and must engage matters that are within the jurisdiction of the Tribunal to decide in the context of the matters before it in these proceedings. Any challenge to an issue placed on the Issues List must be grounded in these requirements and made known to the Tribunal when the PO and revised Issues List are filed. Parties are reminded that if they place an issue on the Issues List, they are expected to call evidence in support of that issue.

[15] The parties will continue to engage in discussions in the normal course and advise the Tribunal of any narrowing of the dispute.

[16] This the Order of the Tribunal.

“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

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