

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



ISSUE DATE: April 09, 2019

CASE NO(S): PL171234

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:	First Capital (Appleby) Corporation
Subject:	Request to amend the Official Plan - Failure of the City of Burlington to adopt the requested amendment
Existing Designation:	Community Commercial
Proposed Designated:	Site specific – <i>To be determined</i>
Purpose:	To permit two 17-storey residential condominium (apartment) buildings to be integrated with existing commercial development
Property Address/Description:	5111 New Street
Municipality:	City of Burlington
Approval Authority File No.:	505-01/14
OMB Case No.:	PL171234
OMB File No.:	PL171234
OMB Case Name:	First Capital Corporation 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:	First Capital (Appleby) Corporation
Subject:	Application to amend Zoning By-law No. 2020 - Neglect of the City of Burlington to make a decision
Existing Zoning:	CC1- 402
Proposed Zoning:	CC1 - Modified
Purpose:	To permit two 17-storey residential condominium (apartment) buildings to be integrated with existing commercial

Property/Address/Description:	development 5111 New Street
Municipality:	City of Burlington
Municipality File No.:	520-05/14
OMB Case No.:	PL171234
OMB File No.:	PL171235

Heard: April 2, 2019 in Burlington, Ontario

APPEARANCES:

Parties

Counsel

First Capital (Appleby) Corporation ("Applicant" / "Appellant")	Eileen Costello
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City of Burlington ("City")	Blake Hurley
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Loblaw Companies Limited ("Loblaw")	Barnet Kussner
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MEMORANDUM OF ORAL DECISION DELIVERED BY S. TOUSAW ON APRIL 2, 2019 AND ORDER OF THE TRIBUNAL

PROCEEDINGS

[1] This third Pre-hearing Conference ("PHC") was held to provide an update on the status of the applications.

[2] The Applicant seeks amendments to the City's Official Plan and Zoning By-law to permit two mixed use residential buildings on an existing commercial property known as the Appleby Mall. The Applicant is making further revisions to its plans and supporting technical studies for resubmission to the City in May 2019 in response to comments from the City and the community.

[3] Jeremy Skinner, a member of the local neighbourhood, is coordinating the input of the Participants in accordance with the Tribunal's direction from the first PHC that the

Participants endeavour to organize their concerns and select representative spokesperson(s) for the eventual hearing. The Participants held a community meeting to coordinate their comments on the Applicants' recent revisions. Mr. Skinner is reasonably confident that their submissions to the Applicant and the City represent most, if not all, of the Participants' issues.

[4] The Parties request a further PHC by telephone conference call ("TCC") in mid-summer after City staff has reported to and received instructions from City Council at its July 2019 session. The TCC is scheduled as set out below. Mr. Skinner and one or two other representatives of the Participants may attend the TCC if they wish. All Participants will continue to receive the written dispositions from each PHC.

[5] The Parties are aware that prior to scheduling a hearing on the merits, a Procedural Order ("PO") with detailed Issues List ("IL") is required. The Tribunal may also require a Work Plan for the hearing depending on the number of witnesses and anticipated length of the hearing.

[6] Loblaw did not appear, but its counsel advised the Tribunal following this PHC of its unintentioned absence and that it wishes to remain involved as a Party.

ORDER

[7] The Parties are directed to attend the next PHC with either a framework for settlement or, if proceeding to a disputed hearing, a draft PO and detailed IL to be provided to the Tribunal seven days before the PHC.

[8] The next PHC will be held by TCC at **9 a.m. on Friday, August 2, 2019**. Individuals are directed to call **416-212-8012** or Toll Free **1-866-633-0848** on the assigned date at the correct time. When prompted, enter the code **4779874#** to be connected to the call. If assistance is required at any time, press '0' for the operator. It is the responsibility of the persons participating in the call to ensure that they are

properly connected to the call and at the correct time. Questions prior to the call may be directed to Shane Taylor, the Tribunal's Case Coordinator, at 416-326-6780.

[9] No further notice will be given.

[10] This Tribunal Member is not seized but will continue to be involved for case management purposes, subject to the Tribunal's calendar.

"S. Tousaw"

S. TOUSAW
MEMBER

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

Local Planning Appeal Tribunal

A constituent tribunal of Tribunals Ontario - Environment and Land Division
Website: www.elto.gov.on.ca Telephone: 416-212-6349 Toll Free: 1-866-448-2248