

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



ISSUE DATE: May 05, 2021

CASE NO(S): PL200388

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:	Pickering Harbour Company Ltd.
Subject:	Request to amend the Official Plan - Refusal of request by City of Pickering
Existing Designation:	Marina Areas
Proposed Designated:	Mixed Use Areas - Community Node
Purpose:	To permit two (2) fifteen (15) storey mixed-use buildings
Property Address/Description:	591 Liverpool Road
Municipality:	City of Pickering
Approval Authority File No.:	OPA 19-001/P
LPAT Case No.:	PL200388
LPAT File No.:	PL200388
LPAT Case Name:	Pickering Harbour Company Ltd. v. Pickering (City)

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

Applicant and Appellant:	Pickering Harbour Company Ltd.
Subject:	Application amend Zoning By-law No. 2520 - Refusal of Application by City of Pickering
Existing Zoning:	Waterfront – “(H) 03B-2”
Proposed Zoning:	Community Node – “CN”
Purpose:	To permit
Property Address/Description:	591 Liverpool Road
Municipality:	City of Pickering
Municipality File No.:	A 05/19
LPAT Case No.:	PL200388
LPAT File No.:	PL200389

Heard: February 1, 2021 by video hearing

APPEARANCES:

Parties

Counsel

Pickering Harbour Company Ltd.	Jane Pepino and Matthew Helfand
City of Pickering	Quinto Annibale and Mark Joblin
Regional Municipality of Durham	Robert Woon
Toronto and Region Conservation Authority	Barbara Montgomery
2388116 Ontario Inc.	Mark Flowers

MEMORANDUM OF ORAL DECISION DELIVERED BY M.A. SILLS ON FEBRUARY 1, 2021 AND ORDER OF THE TRIBUNAL

[1] The was the first Case Management Conference (“CMC”) in regard to the appeals of Pickering Harbour Company Ltd. (“PHC”) from the refusal of Council of the City of Pickering (“City”) to adopt amendments to the Official Plan and Zoning By-law No. 2520 for the lands municipally known as 591 Liverpool Road (the “PHC Lands”).

[2] The PHC Lands are approximately 80 hectares (“ha”) in area and comprise lands and waters in Frenchman’s Bay and Lake Ontario. PHC owns and operates the Frenchman’s Bay Marina and boat storage area. There is a City-owned parking lot approximately 2.42 ha in area adjacent to the PHC Lands (505 Liverpool Road).

[3] The PHC Lands are designated Waterfront Areas in the Region of Durham Official Plan (“ROP”) and Natural Area and Marina Area in the City’s Official Plan (“COP”), and zoned Waterfront Area, “(H) O3B-2” by Zoning By-law No. 2520.

Background to the Development Proposal

[4] In April 2019, PHC submitted applications for an OPA and ZBA to facilitate the development of two, twenty-three storey mixed use buildings on the PHC Lands and the municipally-owned (505) Liverpool Road property. The original proposal features 498 apartment units, approximately 1,900 square metres (“sq m”) of grade related commercial uses, a total of 539 parking spaces (resident, visitor and commercial), a pedestrian promenade through the development site and a public boardwalk along the waterfront.

[5] On March 11, 2020, a revised development proposal was submitted which included two fifteen-storey mixed use buildings with a gross floor area of 48,840 sq m. The revised proposal excluded the City-owned lands at 505 Liverpool Road, and incorporated a mix of uses including 377 residential units; 1,400 sq m of commercial uses at grade; and 625 sq m of public assembly/event hall space.

[6] On July 27, 2020, City Council refused the applications, and on August 28, 2020, that decision was appealed to the Local Planning Appeal Tribunal (“LPAT”).

Requests for Party and Participant Status

[7] The Tribunal received a number of Request Forms for Party and Participant status in advance of this CMC, and grants status as follows:

[8] Without objection, party status is granted to: 1) Regional Municipality of Durham; 2) Toronto and Region Conservation Authority; and 3) 2388116 Ontario Inc.

[9] The Tribunal considered the requests by Al Norrie and Phillip Perrin for party status and determined that they are more appropriately conferred participant status.

[10] Without objection, participant status is granted to: 1) Glenn Brown; 2) Nina Dhir; 3) Ray Davies for Ontario Power Generation Inc.; 4) Joan Gatto; 5) Jordan Gatto; 6)

Elizabeth Iwata; 7) Chris Nelson; 8) Al Norrie; 9) Jeff O'Donnell; 10) Adrian Patrascu; 11) Phillip Perrin; 12) Yvonne Polonsky; 13) Dan Shire for Pickering Naturalists; and 14) David Steele.

[11] Participants are required to submit a written statement outlining their concerns about the proposal by a date to be established in the Procedural Order. The Tribunal encourages participants to focus their written submission to the specific aspects of the development proposal that are of concern to them as a property owner and a member of the community. Participants are not expected or intended to provide a planning policy analysis, environmental and/or technical reports and evidence. That role and responsibility lies with the various expert witnesses that will be called by the parties.

[12] The Tribunal acknowledges receipt of a multi-page (234) petition circulated on Facebook that lists 10,499 names of individuals identifying as residents of various municipalities in Ontario and other provinces in Canada. However, as explained at the CMC, decisions of the Tribunal are evidence-based and a petition bears no weight in the determination of an appeal of a planning application.

[13] Ms. Pepino advised that her client is preparing to submit a revised proposal in an further attempt to address concerns that have been identified. The revised proposal is anticipated to be submitted to the City before the end of June 2021. The City and the parties will then have an opportunity to review the revised proposal over the summer months, and before a second CMC is held in about **mid-September 2021**. Thereafter, it is estimated that a hearing on the merits could occur in the first few months of 2022, subject to the availability of the Tribunal calendar. Ms. Pepino further confirmed her client is supportive of engagement in mediation.

[14] Mr. Annibale, while indicating that he is not opposed to mediation, underscored that his client has not given him direction to agree to mediation at this point.

[15] The Tribunal will expect the parties to work diligently and collaboratively in the coming months to establish a clear direction on how this matter will proceed. To that

end Ms. Pepino will take the lead in preparing a Draft Procedural Order for submission to the Tribunal at the next CMC. Ms. Pepino is to contact the Case Coordinator for the scheduling of a second CMC at the appropriate time.

[16] In the meantime, the Case Coordinator can also be contacted should the assistance of the Tribunal be required.

[17] This Member will continue with the case management of this file.

“M.A. Sills”

M.A. SILLS
VICE-CHAIR

If there is an attachment referred to in this document,
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Local Planning Appeal Tribunal

A constituent tribunal of Ontario Land Tribunals

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