

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



ISSUE DATE: June 05, 2019

CASE NO(S): PL171373

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

Applicant and Appellant: Unipetro Investments Inc.
Subject: Application to amend Zoning By-law No. 270-2004 - Neglect of the City of Brampton to make a decision “Agricultural - A”, “Residential Estate Two - RE2” and “Floodplain (F)”
Existing Zoning: “Office Commercial - OC Special Sections”
Proposed Zoning: “Office Commercial - OC Special Sections”
Purpose: To permit the development of office, retail and hotel uses
Property Address/Description: 7929 Mississauga Road
Municipality: City of Brampton
Municipality File No.: T04W15.027
OMB Case No.: PL171373
OMB File No.: PL171373
OMB Case Name: Unipetro Investment Inc. v. Brampton (City)

Heard: February 6, 2019 in Brampton, Ontario

APPEARANCES:

Parties

Counsel/Representative*

Unipetro Investments Inc.	Michael Melling, Hannah Bahmanpour
City of Brampton	Matthew Rea
Regional Municipality of Peel	Rachel Godley

Metrus Central Properties Limited	Aaron Kurts
2438284 Ontario Inc.	Harinder Gahir
Credit Valley Conservation Authority	Dorothy Di Berto*

DECISION DELIVERED BY ANNE MILCHBERG AND ORDER OF THE TRIBUNAL

[1] This was the first Pre-hearing Conference (“PHC”) on an appeal under Section 34(11) of the *Planning Act* (“Act”) by Unipetro Investments Inc. (“Applicant”; “Appellant”; “Unipetro”). The City of Brampton (“City”) had failed to make a decision on a Zoning By-law Amendment (“ZBA”) application within the time frame specified in the Act.

[2] The subject lands are located at 7929 Mississauga Road, and have a site area of 6.69 hectares. Proposed is a ZBA to permit approximately 10,400 square metres (“m²”) of retail uses; a six-storey, 8,400 m² hotel and conference centre; and 17,668 m² of office space. The overall development is proposed to be phased.

[3] The subject lands are designated as “Office and “Open Space” in the City’s Official Plan (“OP”), and are within Sub-Area 40-2 of the Bram West Secondary Plan (“Secondary Plan”).

[4] On consent of Unipetro and the City, the Tribunal granted requested Party status to the Regional Municipality of Peel (“Region”), Metrus Central Properties Limited (“Metrus”), 2438284 Ontario Inc. (“2438284”), and the Credit Valley Conservation Authority (“CVCA”).

[5] The Region advised the Tribunal that it may have an issue with the proposed access on Steeles Avenue West, and possibly on Mississauga Road as well. They are both Regional roads. At the time of this PHC, Regional planning staff had not yet completed their review of the proposed development; therefore, their concerns were still at a formative stage.

[6] The CVC's concerns and interests relate to natural heritage and natural hazards, as the planned site access on Mississauga Road will cross a watercourse regulated by the CVC.

[7] 2438284 owns a small piece of property adjacent to the subject lands, and is interested in obtaining an arrangement whereby there is shared access from its site and the subject lands to Steeles Avenue West.

[8] Counsel for 2438284 has indicated that they do not intend to call witnesses at the hearing, and would only make a case through cross-examining the witnesses of the other Parties if Unipetro's internal road plans change in a way that do not meet 2438284's interests.

[9] Metrus owns property abutting the subject lands to the east. Counsel for Metrus advised the Tribunal that Metrus and the Appellant are contemplating a shared access route to Steeles Avenue West, to be located on their shared side lot line. Metrus does not intend to raise issues or call witnesses at a contested hearing unless the planned access road is impacted, and requested that it ought not to be subject to a requirement to provide an issues list. The other Parties did not object to this.

PROCEDURAL ORDER ("PO")

[10] In providing a draft of the PO to the Tribunal at the PHC, the City and the Appellant asked the Tribunal to rule on two disputes that they were unable to resolve in the draft.

[11] One dispute pertained to whether or not the Parties should be ordered by the Tribunal to prepare a Joint Document Book in advance of the hearing and to cost-share in its productions. The Appellant has asked for a Joint Document Book and cost sharing; the City is opposed to this request, as the Tribunal's *Rules of Practice and Procedure* do not require the production of a Joint Document Book.

[12] While a Joint Document Book is a convenience for the Tribunal and saves on paper and printing costs, the Tribunal does not consider it to be a requirement in this matter, and is unwilling to force the City to involuntarily participate in what is typically a voluntary, consensual exercise undertaken by Parties. The Parties are welcome to cooperate on the production of a Joint Document Book if they wish.

[13] The other dispute between the Appellant and the City pertained to whether it was appropriate for the City to keep in its Issues List the qualifying words “including but not limited to” before enumerating the policy sections which it deems to be at issue in the City’s OP and in the Secondary Plan. The Appellant considers the language “including but not limited to” to be too open-ended, which does not give the Appellant certainty regarding the scope of the City’s issues. At the same time, the Tribunal surmises that the City wants the flexibility to add more OP and Secondary Plan sections to the list if the need arises. Given that the hearing is not scheduled to begin until July, 2020, it is indeed possible that changes in scope could be sought.

[14] The Tribunal finds for the Appellant, which needs certainty and finiteness to the issues in order to prepare for the hearing. At the same time, as the hearing is not scheduled to begin until July, 2020, the Tribunal has time to consider requests from the City, on consent of the other Parties, to amend the lists of OP and Secondary Plan policies cited in its Issues List. Likewise, other Parties may request amendments to their Issues Lists on consent. Should the Parties not agree on changes in scope, they should bring Motions forward by no later than **Friday, May 1, 2020**.

[15] The finalized PO for the contested hearing is Attachment 1 to this Decision, and its content reflects the Tribunal’s findings noted above.

[16] The Tribunal orders a hearing of 15 days duration, commencing **Monday, July 6, 2020 at 10 a.m.** at:

**West Tower
WT-2A Training Room (2nd Floor)
41 George Street South
Brampton, ON L6Y 2E1**

[17] This Member is not seized.

[18] No further notice is required.

"Anne Milchberg"

ANNE MILCHBERG
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

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