

Ontario Land Tribunal
Tribunal ontarien de l'aménagement
du territoire



ISSUE DATE: May 11, 2022

CASE NO(S).: OLT-22-002889
(Formerly PL180367)

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

Applicant and Appellant: Subject:	Rice Commercial Group Developments Limited Application to amend Zoning By-law No. 97-50 – Refusal or neglect of the Town of East Gwillimbury to a make a decision
Existing Zoning:	Rural (RU)
Proposed Zoning:	Open Space 1 (O1-X), Environmental Protection (E1-X) Residential Urban (R5-X) and Multiple Residential (RM1-X)
Purpose:	To permit the development of 15 two-storey single detached dwellings and 16 two-storey townhouse dwellings on four subdivision blocks and a pumping station will also be built
Property Address/Description:	19572 Centre Street
Municipality:	Town of East Gwillimbury
Municipality File No.:	ZBA 17-03
OLT Case No.:	OLT-22-002889
Legacy Case No.:	PL180367
OLT Lead Case No.:	OLT-22-002889
Legacy Lead Case No.:	PL180367
OLT Case Name:	Rice Commercial Group Developments Limited v. East Gwillimbury (Town)

PROCEEDING COMMENCED UNDER subsection 51(34) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant and Appellant: Subject:	Rice Commercial Group Developments Limited Application to amend Zoning By-law No. 97-50 – Refusal or neglect of the Town of East Gwillimbury to a make a decision
Existing Zoning:	Rural (RU)

Proposed Zoning: Open Space 1 (O1-X), Environmental Protection (E1-X) Residential Urban (R5-X) and Multiple Residential (RM1-X)

Purpose: To permit the development of 15 two-storey single detached dwellings and 16 two-storey townhouse dwellings on four subdivision blocks and a pumping station will also be built

Property Address/Description: 19572 Centre Street

Municipality: Town of East Gwillimbury

Municipality File No.: 19T-17003

OLT Case No.: OLT-22-002890

Legacy Case No.: PL180526

OLT Lead Case No.: OLT-22-002889

Legacy Lead Case No.: PL180367

Heard: April 27, 2022 by Video Hearing

APPEARANCES:

Parties

Counsel

Rice Commercial Group
Developments Limited
("Applicant")

K. Stitt
I. Kagan

Town of East Gwillimbury
("Town")

D. Sinclair

Regional Municipality of York
("Region")

B. Ogunmefun

MEMORANDUM OF ORAL DECISION DELIVERED BY S. TOUSAW ON APRIL 27, 2022 AND INTERIM ORDER OF THE TRIBUNAL

INTRODUCTION

[1] This settlement hearing was convened for the Applicant's appeals to the absence of decisions by the Town on applications for Zoning By-law Amendment ("ZBA") and draft Plan of Subdivision ("SUB") for a residential development in the community of Mount Albert.

[2] All Parties agree with the proffered ZBA, SUB, and SUB conditions.

[3] The Parties' request differs from the usual submissions heard at a settlement hearing. The Parties request that the Tribunal provide a written disposition of its findings arising from today's hearing, but not issue an Order on the appeal, other than to direct the Parties to file, within six months, their request for an Order or their request for further time as may be necessary.

[4] This unusual request arises from the terms of settlement among the Parties. As noted, the Parties all agree on the final form of the documents under appeal. The Region, however, as the provider of water and wastewater services, requires three "pre-conditions" be resolved before a Tribunal Order is issued: the completion of the Region's Mount Albert Water Resource Recovery Facility Optimization Study ("Study"); the Applicant pay its fair share of the costs of the upgrade recommended by the Study; and the Applicant pay its fair share of water supply scope work. The Region clarified that the Study is now completed, leaving the remaining two requirements to be addressed.

[5] For the reasons set out below, the Tribunal finds that the ZBA and SUB, with conditions, are suitable for approval, but no Order will issue except to direct the Parties to advise the Tribunal of their requested Order following clearance of the Region's pre-conditions.

EVIDENCE AND FINDINGS

[6] The Applicant called Natalie Boodram, Registered Professional Planner, whom the Tribunal qualified to provide opinion evidence in land use planning. Ms. Boodram's oral and written evidence was accepted and unchallenged by the Region and the Town. The Tribunal summarizes Ms. Boodram's testimony as follows.

[7] The lands affected by these applications have a new municipal address of 19658 Centre Street as a result of a consent application approved by the Town that reconfigured the lands now covered by this ZBA and SUB. The total property covered by the SUB is 33.7 hectares (“ha”) with frontage on Centre Street, while the area for residential development covered by the ZBA is limited to approximately 2 ha within the north boundary of the settlement of Mount Albert, to be accessed via King Street.

[8] The planned residential development will consist of 15 detached dwellings, backing onto the rear yards of existing dwellings in the subdivision to the south, and 14 townhouse dwellings across the internal private street from the detached dwellings. Access will be gained from King Street over lands to be purchased by the Applicant from the Town, thus connecting a private street within the site to King Street. The Applicant will seek the Town’s approval for a Plan of Condominium for the residential component of the site in due course.

[9] Fundamental to the land use conformity of this proposal is that the residential development is confined to the designated settlement area within Mount Albert, while the abutting open space, storm water management, natural areas, and adjacent buffers are all located outside the settlement area and designated for protection. This development boundary and the requirement for protection of the adjacent natural areas are consistent throughout all relevant planning documents engaged under the *Planning Act* (“Act”):

- Provincial Policy Statement, 2020;
- A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2020;
- Greenbelt Plan, 2017;
- Lake Simcoe Protection Plan, 2009;
- Region of York Official Plan; and,
- Town of East Gwillimbury Official Plan.

[10] Ms. Boodram opines, with reference to the policy and guideline documents in Exhibits 1 and 2, the photographs and maps in Exhibit 3, and her attested written evidence in Exhibit 4, that the ZBA and SUB with conditions satisfy all statutory requirements. The location, scale, access and servicing for the dwelling units are an appropriate extension of the residential area to the south, with the resulting density and townhouses contributing to the provision of housing in support of the population growth expectations for the Region and the Town. The protection of adjacent natural areas retains their function and the associated benefits to natural and human systems. The thorough list of conditions to the proposed SUB, and the Region's pre-conditions, have due regard to the requirements of s. 51(24) of the Act. Ms. Boodram concludes that the resulting development represents good planning.

[11] On the uncontested and thorough evidence provided by Ms. Boodram, the Tribunal finds that the ZBA and the SUB with conditions are suitable for approval, on the findings that they: have suitable regard to the provincial interests of s. 2 of the Act; reflect the related decisions and documents considered by the Town per s. 2.1(1) of the Act; conform with or are consistent with all of the statutory planning documents listed in para. 9 above; and represent good planning in the public interest.

[12] At the request of the Parties, an Order on the ZBA and SUB is withheld pending: the Parties' confirmation that the Region's pre-conditions have been satisfied; and the Parties' request for a Final Order.

INTERIM ORDER

[13] The Tribunal Orders that, within six months of the date of this Decision, the Parties either: file their request for an Order, including the wording and the attachments for the Order sought; or request additional time, with reasons, for such filing.

[14] This Member will remain seized for the consideration of issuing a Final Order.

“S. Tousaw”

S. TOUSAW
MEMBER

Ontario Land Tribunal

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The Conservation Review Board, the Environmental Review Tribunal, the Local Planning Appeal Tribunal and the Mining and Lands Tribunal are amalgamated and continued as the Ontario Land Tribunal (“Tribunal”). Any reference to the preceding tribunals or the former Ontario Municipal Board is deemed to be a reference to the Tribunal.