March 28, 2024

To Whom It May Concern:

**RE: NOTICE OF AMENDED APPLICATIONS & CASE MANAGEMENT CONFERENCE AT ONTARIO LAND TRIBUNAL ("OLT")**
**OLT Case Nos. OLT-23-000161 & OLT-23-000162**
**109, 115, 133 Bridgeport Road East and 30 Weber Street North**
**Appeal by 115 Bridgeport Inc. and 1648386 Ontario Ltd.**

## Background

On August 19, 2022, the City of Waterloo received Official Plan Amendment No. 40 and Zoning By-law Amendment Z-22-10 submitted on behalf of 115 Bridgeport Inc. and 1648386 Ontario Ltd. (the "**Applications**"). The Applications were intended to permit a mixed-use, multi-tower development on lands known municipally as 109, 115, 133 Bridgeport Road East and 30 Weber Street North (see attached location map). On February 16, 2023, the Applications were appealed to the OLT by 115 Bridgeport Inc. and 1648386 Ontario Ltd. (the "**Appellants**") in accordance with Sections 22(7) and 34(11) of the Planning Act which permit the Appellants to appeal if no decision is rendered by the City within the prescribed timeframe (the "**Appeals**").

**These matters are now before the OLT for determination.**

An **initial Case Management Conference was held on July 13, 2023**. At that time, parties were identified as the City of Waterloo, the Region of Waterloo and the Appellant. No additional requests for party or participant status were received. **A hearing was scheduled to commence on February 20, 2024.**

## Amended Applications

The Appellants have advised that they intend to amend the development concept and Applications currently before the OLT on Appeal. A summary of the Amended Applications is provided below. As a result of the Amended Applications, **the OLT hearing previously scheduled in this matter to start on February 20, 2024 was cancelled, and is to be rescheduled**.



**Waterloo City Centre | 100 Regina Street South, PO Box 337 STN Waterloo, Waterloo, ON, N2J 4A8**

**P.** 519.886.1550 | **F.** 519.747.8760 | **TTY.** 1.866.786.3941 | **www.waterloo.ca**

The City of Waterloo is committed to providing accessible formats and communication supports for persons with disabilities. If another format would work better for you, please contact **Development Planning** at **1.519.747.8752** or TTY at **1.866.786.3941.**

*Please consider the environment before printing this letter.*

## Further OLT Case Management Conference

The OLT will be holding a further Case Management Conference ("**CMC**") by video:

**AT:** 10:00 am
**ON:** April 19, 2024
**ACCESS:** https://global.gotomeeting.com/join/719383509
Access Code: 719-383-509
(see OLT Notice of CMC (Appendix "B))

This courtesy notice is being circulated to all landowners and other interested parties that received notice of the initial CMC in these matters, held on July 13, 2023.

The purpose of the upcoming CMC is to determine details for the rescheduled hearing, including identifying any additional parties or participants that may be permitted by the OLT. Any requests for party or participant status must be made in writing and filed with the OLT at least 10 days in advance of the CMC. Requests will be heard and decided by the OLT at the CMC.

Any person who has questions about or wishes to participate in the CMC, should contact:

**Hannah Nastic**
**Case Coordinator/Planner, Ontario Land Tribunal**
**(647) 633-1761 or hannah.nastic@ontario.ca**

## Revised Development Concept

Key changes to the development concept, as circulated by the Appellants, are summarized below. **The following is a summary only**. For more detail, please refer to the revised plans and updated studies submitted by the Appellants, which are available on the City's website: 109, 115, 133 Bridgeport Rd E and 30 Weber St N (OPA-40, Z-22-10) | EngageWR. Refer to the "Revised Plans and Studies".

| | **Original Submission** (August 2022) | **Revised Submission** (January 2024) |
|---|---|---|
| Built Form | • 3 towers on shared podium<br>• Parking internal to building<br>• Ground floor commercial space oriented to the corners of Weber St/Bridgeport Rd and Weber St/Royal St<br>• Connected parking structure | • 3 towers on shared podium<br>• Parking internal to building with limited surface parking along easterly lot line<br>• Ground floor commercial space oriented to the Weber St/Royal St corner<br>• Connected parking structure |
| Total Units & Bedrooms | 622 units<br>785 bedrooms | 706 units *(+84 units)*<br>1,014 bedrooms *(+229 bedrooms)* |
| Density (Post Road Widening Conveyance) | 670 bedrooms/ha | 870 bedrooms/ha |

| | | |
|---|---|---|
| Unit Mix | 1 bed units: 459 (74%)<br>2 bed units: 163 (26%) | 1 bed units: 404 (57.2%) *(-55 units)*<br>2 bed units: 296 (42%) *(+133 units)*<br>3 bed units: 6 (0.8%) *(+6 units)* |
| Building Height | Tower A: 25 storeys, 81m<br>Tower B: 24 storeys, 78m<br>Tower C: 22 storeys, 72m<br>Park. Struc.: 6 storeys, 20m | Tower A: 35 storeys, 115m *(+10 storeys, 34m)*<br>Tower B: 24 storeys, 80m *(+2m)*<br>Tower C: 19 storeys, 63m *(-3 storeys, 9m)*<br>Park. Struc.: 8 storeys, 25m *(+2 storeys, 5m)* |
| Commercial Space | 342.9 sqm | 645 sqm *(+302.1 sqm)* |
| Amenity Area | 4,221 sqm | 6,741.4 sqm *(+2,520.4 sqm)* |
| Parking | 569 spaces<br><br>Proposed Parking Rates:<br>• Residential: 0.8 spaces/unit<br>• Visitor: 0.1 spaces/unit<br>• Non-residential: 2.4 spaces/100 sqm of Building Floor Area | 619 spaces *(+50 spaces)*<br><br>Proposed Parking Rates:<br>• Residential: 0.75 spaces/unit<br>• Visitor: 0.1 spaces/unit<br>• Non-residential: 2.4 spaces/100 sqm of Building Floor Area |

**Amended Applications**

To implement the revised development concept, the Appellants are proposing changes to the original Official Plan Amendment (OPA No. 40) and Zoning By-law Amendment (Z-22-10) applications appealed to the OLT (the "**Amended Applications**"). A summary of the Amended Applications is attached as **Appendix "A"**.

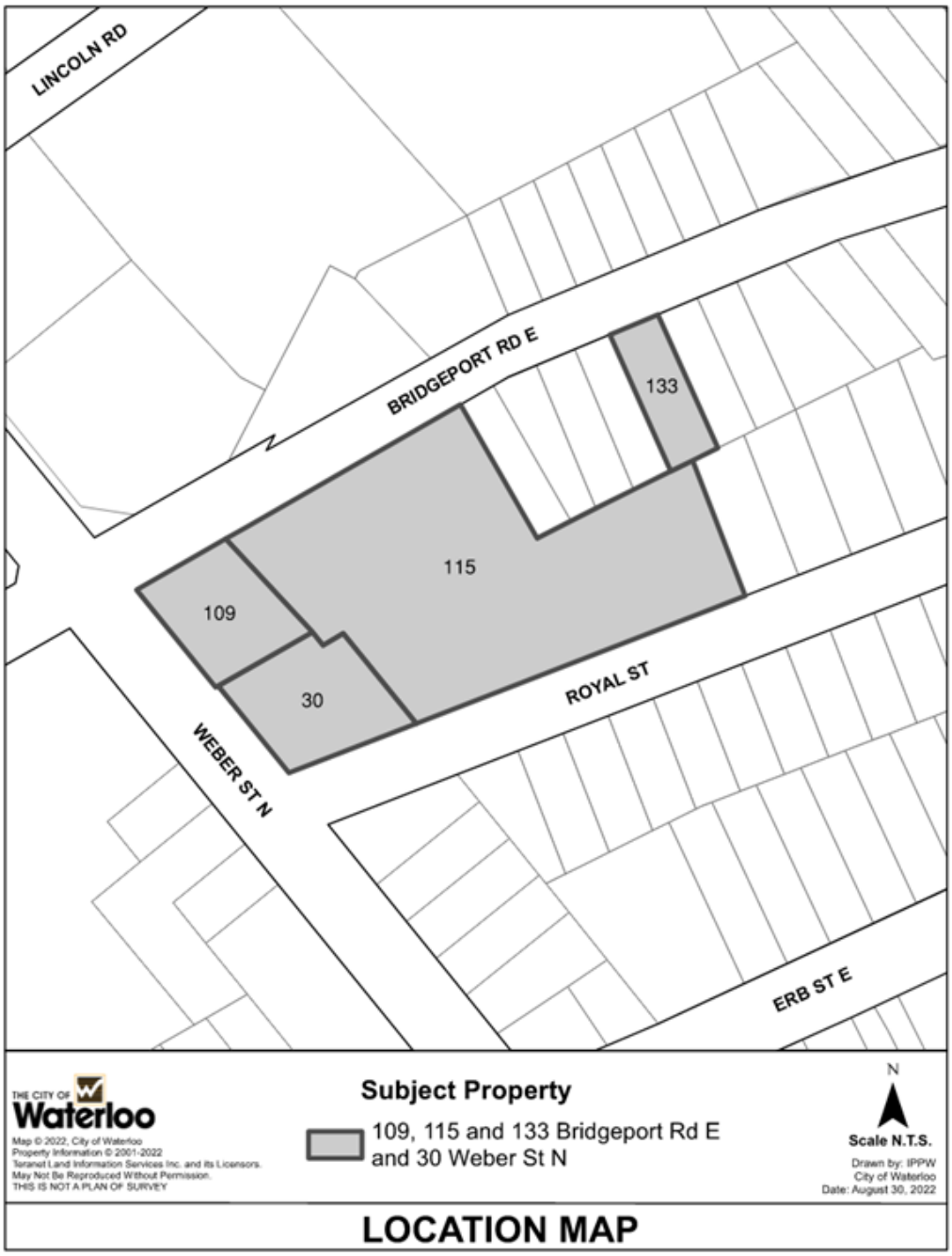
**Comments**

**These matters remain before the OLT for determination**. Any person wishing to make submissions directly to the OLT regarding the Amended Applications may seek party or participant status as described above. Any requests for party or participant status will be decided by the OLT.

Sincerely,

**Wendy Fisher, MA, MCIP, RPP**
**Senior Development Planner**
Development Planning
Integrated Planning & Public Works
City of Waterloo
**P:** 519.747.8544 **F:** 519.747.8523 **TTY:** 1.866.786.3941
**E:** wendy.fisher@waterloo.ca

**Location Map**



Appendix "A"

**SUMMARY OF AMENDED APPLICATIONS**

The following is a **summary** of the changes proposed in the **Amended Applications**.

For more detail, including the revised plans and updated studies submitted by the Appellants, please visit the City's website: 109, 115, 133 Bridgeport Rd E and 30 Weber St N (OPA-40, Z-22-10) | EngageWR. (Refer to "Revised Plans and Studies" under "Supporting documents")

Information regarding existing zoning regulations for the subject lands can be found on the City's website at: 109, 115, 133 Bridgeport Rd E and 30 Weber St N (OPA-40, Z-22-10) | EngageWR. (Refer to "Summary of Amended Applications and existing zoning regulations" under "Supporting documents")

For more information, you may also contact the City's Planning Department, as follows:

**Wendy Fisher, MA, MCIP, RPP**
**Senior Development Planner**
Development Planning
Integrated Planning & Public Works
City of Waterloo
**P:** 519.747.8544 **F:** 519.747.8523 **TTY:** 1.866.786.3941
**E:** wendy.fisher@waterloo.ca

## Summary of Amended Applications

**Note:** Amendments that are underlined are additional new or revised amendments proposed by the Amended Applications. Amendments that are not underlined were included in the original applications.

**Revised Official Plan Amendment:**

A. Re-designate a portion of the subject lands from Mixed-Use Medium High Density Residential to Mixed-Use High Density Residential (Schedule 'A' of the Official Plan);

B. Re-designate a portion of the subject lands from Medium High Density, 40 metres to High Density, 81 metres (Schedule 'B1' of the Official Plan); and

C. Establish a new Specific Provision Area (Schedule 'A6' of the Official Plan) to:

1. Permit the following maximum building heights:
   - Tower A: 35 storeys and 115 metres, inclusive of the podium
   - Tower B: 24 storeys and 80 metres, inclusive of the podium
   - Tower C: 19 storeys and 63 metres, inclusive of the podium
   - Parking Structure: 8 storeys and 25 metres.

2. Permit a maximum density for the combined lands of 870 bedrooms per hectare after road widening conveyances.

**Revised Zoning By-law Amendment:**

A. Rezone 109 Bridgeport Rd E and 30 Weber St N from (Holding) Mixed-Use Community Commercial ((H)C1-40) to (Holding) Mixed-Use Community Commercial ((H)C1-81);

B. Rezone the westerly portion of 115 Bridgeport Rd E from (Holding) Residential Mixed Use 40 ((H)RMU-40) to (Holding) Residential Mixed-Use 81 ((H)RMU-81); and

C. Establish the following site specific regulations:

**Building Heights**

1. Permit the following REVISED maximum building heights:
   - Tower A: 35 storeys and 115 metres, inclusive of the podium
   - Tower B: 24 storeys and 80 metres, inclusive of the podium
   - Tower C: 19 storeys and 63 metres, inclusive of the podium
   - Parking Structure: 8 storeys and 25 metres

**Density**

2. Permit a REVISED maximum density of 870 bedrooms per hectare for the combined lands (post road widening conveyances).

**Tower Regulations**

3. Permit a maximum horizontal tower dimension of 44 metres for Tower A up to and including the 27th floor.

4. Establish the following minimum tower separation requirements:
   - 19 metres between Tower B and Tower C
   - 20 metres between Tower A and Tower C
   - 20 metres between Tower A and Tower B

5. Exempt the parking structure from all tower regulations in the RMU zone.

**Parking**

6. Establish REVISED minimum parking requirements as follows:
   - Residential Use: 0.75 spaces/dwelling unit
   - Visitor Use: 0.1 spaces/dwelling unit
   - Non-Residential Use: 2.4 spaces/100 square metres of building floor area

7. Permit a portion of the ground floor structured parking to be located behind the bicycle room within the easterly portion of the parking structure.

8. For the purposes of Section 7.10.10 (Structured Parking on the First Storey in the RMU zone), secure bicycle parking shall be included in the list of uses identified in Section 7.10.10.a).

9. Permit the loading space requirements to be satisfied with 1 Type B loading space.

**Other**

10. Permit a street line setback of 2.5 metres for floors 2 to 6 for a portion of the building closest to the corner of Royal Street and Weber Street.

11. Exempt the development from Section 3.S.5 ('Split Zoning').

12. Establish a minimum landscaped open space for the combined lands of 27% of the lot area.

Appendix "B"

**Ontario Land Tribunal**

655 Bay Street, Suite 1500
Toronto ON M5G 1E5
Telephone: (416) 212-6349
Toll Free: 1-866-448-2248
Website: olt.gov.on.ca

**Tribunal ontarien de l'aménagement du territoire**

655 rue Bay, suite 1500
Toronto ON M5G 1E5
Téléphone: (416) 212-6349
Sans Frais: 1-866-448-2248
Site Web: olt.gov.on.ca

**PROCEEDING COMMENCED UNDER** subsection 22(7) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

| | |
|---|---|
| Applicant and Appellant: | 115 Bridgeport Inc. and 1648386 Ontario Ltd. |
| Subject: | Request to amend the Official Plan – Failure to adopt the requested amendment |
| Description: | To permit the development of a mixed-use residential and commercial development |
| Reference Number: | OPA 40 |
| Property Address: | 109, 115, 133 Bridgeport Road E and 30 Weber Street N |
| Municipality/UT: | City of Waterloo |
| OLT Case No.: | OLT-23-000161 |
| OLT Lead Case No.: | OLT-23-000161 |
| OLT Case Name: | 115 Bridgeport Inc. and 1648386 Ontario Ltd. v. Waterloo (City) |

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

| | |
|---|---|
| Applicant and Appellant: | 115 Bridgeport Inc. and 1648386 Ontario Ltd. |
| Subject: | Application to amend the Zoning By-law – Refusal or neglect to make a decision |
| Description: | To permit the development of a mixed-use residential and commercial development |
| Reference Number: | Z-22-10 |
| Property Address: | 109, 115, 133 Bridgeport Road E and 30 Weber Street N |
| Municipality/UT: | City of Waterloo |
| OLT Case No.: | OLT-23-000162 |
| OLT Lead Case No.: | OLT-23-000161 |

The Ontario Land Tribunal ("Tribunal") will conduct a **Case Management Conference (CMC)** by **Video Conference** for this matter.

The event will be held:

**AT: 10:00 AM**

**ON:** **April 19th, 2024**

**AT:** **https://global.gotomeeting.com/join/719383509**
**Access code: 719-383-509**

The Tribunal has set aside **one (1) day** for this matter.

The event will be held using GoToMeeting. The appellant(s), applicant, municipality or approval authority, and those persons who intend to request party or participant status, are asked to log into the video hearing through the link provided above at least **15 minutes** before the start of the event to test their video and audio connections. All persons are expected to access and set-up the application well in advance of the event to avoid unnecessary delay. The desktop application can be downloaded at GoToMeeting. A web application is also available: https://app.gotomeeting.com/home.html. A compatible web browser for this service is Chrome.

Persons who experience technical difficulties accessing the GoToMeeting application or who only wish to listen to the event can connect to the event by calling into an audio-only telephone line: **1-888-299-1889 (Toll Free)** or **+1 (647) 497-9373.** The access code is **719-383-509.**

Event dates are firm – adjournments will not be granted except in the most serious circumstances, and only in accordance with the *Tribunal's Rules of Practice and Procedure* Rule 17 on adjournments.

This event is conducted under Rule 20 of the Tribunal's Rules. Rule 20.2 sets out how a party may object to the Tribunal conducting this event electronically. Any party, or any person who intends to seek party status, may object to the Tribunal holding this event by video by filing an objection with the Tribunal's Case Coordinator. The objection must be received by the Tribunal **at least 20 days** before the date of the CMC and must be copied to the other parties. All contact information is included in Schedule A.

If you do not attend the CMC, the Tribunal may proceed in your absence and you will not be entitled to any further notice of these proceedings. The Tribunal may finalize the list of appellants, parties and/or participants at this CMC, and may order that no additional appellants, parties and/or participants be added or included in this proceeding, without leave of the Tribunal.

**SUBMISSION REQUIREMENTS**

If a person intends to refer to a document at the CMC that is not in the Tribunal's case file, the document is expected to be pre-filed electronically with the Tribunal **at least 10 days** before the date of the CMC, unless another filing date is specified in the Tribunal's Rules. All pre-filed documents shall be served on the other parties electronically. All contact information is included in Schedule A.

Submissions larger than **10MB** must be transferred to the Tribunal's Case Coordinator using an electronic file sharing link/service. Please see Schedule B for further submission requirements.

The purpose of the CMC is set out in Rule 19.1 of the Tribunal's Rules. The CMC will deal with preliminary issues, that include the following:

- **Identification of parties -** these persons have the right to participate throughout by presenting evidence, questioning witnesses, and making final arguments. In order for the Tribunal to determine your status for the hearing, you or your representative should attend the CMC and ask to be added as a party. Groups, whether incorporated or not, who wish to become parties should name a representative. Parties do not need to be represented by lawyers or agents.
- **Identification of participants -** persons who do not wish to participate throughout the hearing may attend the hearing and provide a written statement to the Tribunal.
- **Identification of issues**.
- **Possibility of settlement and/or mediation of any or all of the issues** – the panel will explore with the parties whether the case before the Tribunal and the issues in dispute are matters that may benefit from mediation. Mediation is a voluntary process that encourages all sides in a dispute to get a better understanding of each other's positions and fully explore and negotiate options for a mutually acceptable settlement of all or some of the issues in dispute. The panel may direct, upon consent of the parties, that some or all of the issues in dispute proceed to mediation.
- **Start date of the hearing.**
- **Duration of the hearing.**
- **Directions for pre-filing of witness lists, expert witness statements and written evidence.**
- **The hearing of motions.**
- **Draft Procedural Order** – parties are expected to meet before the CMC to consider a draft Procedural Order, as per Rule 19.2 (see Sample Procedural Order on the website at https://olt.gov.on.ca/forms-submissions/).
- **Such further matters as the Tribunal considers appropriate.**

Everyone should come prepared to consider specific dates for proceedings in this matter.

All persons who wish to participate in this matter are expected to be prepared should the Tribunal convert the CMC to a settlement conference, a motion for procedural

directions, or a preliminary hearing, where evidence or formal statements or submissions may be heard. Even when no settlement is reached, the Tribunal may proceed to make a final decision on any evidence received during the conference.

**PARTY OR PARTICIPANT STATUS REQUEST:**

Persons other than the appellant(s), applicant, municipality or approval authority who wish to participate in the proceeding, either as a party or as a participant, are expected to file a written status request with the Tribunal to outline their interest in the proceeding.

The Party Status Request Form and Participant Status Request and Participant Statement Form are available on the Tribunal's website (https://olt.gov.on.ca/forms-submissions/) and are to be used to assist with the preparation of the request. If you are requesting status, this form must be provided at least 10 days in advance of the Case Management Conference to:

- The assigned Tribunal Case Coordinator **Hannah Nastic at Hannah.Nastic@ontario.ca**
- The municipality and the approval authority on the same day as it is emailed to the Tribunal Case Coordinator.
- The Applicant and the Appellant(s) on the same day as it is emailed to the Tribunal Case Coordinator.

The contact information for the parties is included in Schedule A.

The status request will be reviewed and considered by the presiding Member at the CMC. It will also assist the Tribunal in organizing the hearing event. **Attendance by the requestor, or their representative, at the CMC is required for all status requests**.

Persons who are granted **party status** may participate fully in the proceeding (see Rule 8).

Persons who are granted **participant status** may only participate in writing by way of a participant statement. This statement is expected to be provided 10 days advance of the CMC as part of the status request (see above) and sets out their position in the matter (see Rule 7.7).

Only persons who are granted party or participant status by the Tribunal at the CMC are permitted to participate in any further hearing event that is convened by the Tribunal for this appeal.

**FURTHER DIRECTIONS**

Tribunal proceedings are open to the public and all documents filed in a proceeding will be included in the Tribunal's public file (except those documents that may be deemed confidential in accordance with the Ontario Land Tribunal's Rule 22.1.

The Tribunal shall issue a disposition following the Hearing that will set out the directions of the Tribunal. A copy of this decision may be obtained from the Tribunal's website (https://olt.gov.on.ca/decisions/) by referencing the above case number. Please review the Tribunal's Rules for relevant information.

We are committed to providing accessible services as set out in the *Accessibility for Ontarians with Disabilities Act, 2005*. If you have any accessibility needs, please contact our Accessibility Coordinator as soon as possible by emailing OLT.COORDINATOR@ontario.ca. If you require documents in formats other than conventional print, or if you have specific accommodation needs, please let us know so we can make arrangements in advance.

Pour recevoir des services en français, veuillez communiquer avec la Tribunal au 1-866-448-2248/(416) 212-6349 ou OLT.COORDINATOR@ontario.ca.

For general information concerning the Tribunal, visit our website at https://olt.gov.on.ca or you may contact the Tribunal's offices at 1-866-448-2248 or local (416) 212-6349.

DATED at Toronto, this 14th day of March, 2024.

Euken Lui
Acting Registrar

**SCHEDULE A**

Please provide materials electronically to the assigned Tribunal Case Coordinator **Hannah Nastic** at **Hannah.Nastic@ontario.ca**

On the same day that documents are submitted to the Tribunal, electronic copies are to be submitted to:

Applicant/Appellant [Representative]:
115 Bridgeport Inc. and 1648386 Ontario Ltd.
c/o Jennifer Meader
jmeader@tmalaw.ca

Municipality [Representative]:
City of Waterloo
c/o Susan Smith
Susan.Smith@waterloo.ca

## SCHEDULE B

## INSTRUCTIONS FOR ELECTRONIC PRE-FILING SUBMISSIONS

### Submission requirements to organize the video hearing

If a person intends to refer to a document at the video hearing (for clarity, any document that is not in the Tribunal's case file), it is expected to be pre-filed electronically with the Tribunal at **least 10 days** before the date of the video hearing and provided to all parties. The deadline applies unless otherwise specified in the Rules.

Submission emails **under 10MB** in size may be emailed directly to the assigned Tribunal Case Coordinator. Emails **larger than 10MB** must be transferred to the Tribunal's Case Coordinator using an electronic file sharing link/service to avoid sending documents across multiple email parts. Where appropriate, documents are to be submitted in .pdf format.

### Naming convention

To assist the Tribunal and the adjudicator during the event, it is important that all submissions are **paginated and labelled appropriately** to clearly identify the content of each document. Where a document contains numerous sections, each section is to be indexed to a table of contents.

Additionally, clearly identify and separately tab the relevant sections that will be relied upon for quicker reference. The entirety of the policy documents (e.g. the PPS, Planning Act, Official Plans, Zoning By-laws, etc.) are not required unless deemed necessary to be presented by the parties or as otherwise directed by the Tribunal.

Parties are asked to adhere to the following naming convention: **case number_party role_ document type_date of hearing event.**

For example: PL123456_Applicant_Notice of Motion_Jan 1, 2020

Please see Rules 7.1 and 7.2 for the standard document submission requirements.

**EXCERPTS FROM TRIBUNAL RULES OF PRACTICE AND PROCEDURE**

**RULE 7**

**DOCUMENTS, EXHIBITS, FILING, SERVICE**

**7.1 Form of Documents** Unless otherwise directed by the Tribunal, every document filed or introduced by a party or participant in a proceeding before the Tribunal shall be legible and prepared on letter size paper (8 ½" x 11"), except for large documents such as plans, surveys or maps, and, where bound together with other documents, shall have each page numbered consecutively, throughout the entire text or within tabs, including any graphic content. Wherever possible, an electronic copy of the document must also be filed with the Tribunal, identically numbered as the paper document.

**7.2 Other Exhibits** Large graphic or other such types of visual evidence should not be glued to foam or other boards. They shall be on paper and be removed from the boards following the hearing event, and folded to 8 ½" x 11". Three-dimensional models must be photographed and the photographs must be introduced with the model. Visual evidence must be reviewed by the other parties before the hearing event or by an earlier date if set out in a procedural order.

**7.3 Copies of Documents for Parties and the Municipal Clerk** A party who intends to introduce a document as evidence at a hearing event shall provide a copy of the document to all the parties at the beginning of the proceeding or by an earlier date if that is required by the terms of a procedural order or otherwise directed by the Tribunal. If the document is an official plan, those parts of the plan to be referred to at the hearing event should be distributed to the parties, and a copy of the entire plan must be made available to the Tribunal Member(s). If the Tribunal orders that the Municipal Clerk keep copies of documents for public inspection, they do not need to be certified copies, unless a party objects that they are not authentic copies.

**7.4 Prefiling of Witness Statements and Reports** If the hearing is expected to last more than 5 days, the Tribunal may require that parties calling expert or professional witnesses serve on the other parties any expert witness statements and reports prepared for the hearing, at least 30 days in advance of the commencement of the hearing, unless otherwise directed by the Tribunal. The Tribunal may in its discretion, or at the request of a party, also make this prefiling order for hearings expected to last fewer than 5 days. The expert witness statement must contain:

a) An executed acknowledgment of expert's duty form (attached to these Rules) and the expert's qualifications;
b) The issues the expert will address, their opinions on these issues, the reasons That support their opinions and their conclusions; and
c) A list of the reports or documents, whether prepared by the expert or by someone else, that the expert will refer to at the hearing.

The expert's complete report may be filed instead of this statement if it contains the required information.

An expert may not be permitted to testify if this statement or report is not served on all parties when so directed by the Tribunal.

**7.5 <u>Duty of the Expert Witness</u>** It is the duty of every expert engaged by or on behalf of a party who is to provide opinion evidence at a proceeding under these Rules to acknowledge, either prior to (by signing the acknowledgment form attached to the Rules) or at the proceeding, that they are to:

a) Provide opinion evidence that is fair, objective and non-partisan;
b) Provide opinion evidence that is related only to the matters that are within the expert's area of expertise;
c) Provide such additional assistance as the Tribunal may reasonably require to determine a matter in issue;
d) Not to seek or receive assistance or communication from any third party, except technical support, while giving oral evidence in examination in chief, while under cross-examination, or while in reply; and
e) Acknowledge that these duties prevail over any obligation owed by the expert to the party by whom or on whose behalf he or she is engaged.

**7.6 <u>Other Witnesses</u>** The Tribunal may also require that a witness who is not presenting expert evidence provide a witness statement. A witness statement should contain:

a) A short-written outline of the person's background experience and interest in the matter;
b) A list of the issues that they will discuss; and
c) A list of reports or materials that they will rely on at the hearing.

The Tribunal may decline to allow the witness to testify if this statement is required by the Tribunal and has not been provided to the other parties.

**7.7 <u>Participant Statements</u>** A person who wishes to participate in a proceeding as a participant, shall file a written participant statement that sets out their position on the appeal and issues of the proceeding, together with an explanation of their reasons in support of their position. A participant may only make submissions to the Tribunal in writing unless otherwise provided for by an Act or regulation.

**7.8 <u>Amendment of Documents</u>** Documents filed with the Tribunal can only be amended with the consent of the parties or by order of the Tribunal. The Tribunal may

require that the person requesting an amendment do so by way of a motion under Rule 10.

**7.9 Copies of Tribunal Documents** A person may examine any document, including electronic documents, filed with the Tribunal and copy it after paying the Tribunal's fee, unless a statute, a Court Order, an order of the Tribunal or these Rules provide otherwise.

**7.10 Return of Exhibits** Exhibits of all types introduced at a hearing will be kept for 180 days after the Tribunal decision issues. The person introducing an exhibit may ask for its return after this time, and it may be given back if the Tribunal agrees. If no such request is made, the exhibit becomes the property of the Tribunal and may be archived.

**7.11 Service by Personal Service or Electronic Service** Where any document is required to be served or filed, including the one commencing a proceeding or a motion or providing notice, it shall be served by personal service, registered mail or electronically (unless a statute or the Tribunal requires another method of service) and shall be sent to:

a) The party's representative, if any;
b) Where the party is an individual and is not represented, to that party directly, where that party has provided an address for service and/or an e-mail address;
c) Where that party is a corporation and is not represented, to the corporation directly, to the attention of an individual with apparent authority to receive the document;
d) Where served on or filed with a local board or commission, or any department, ministry or agency of the federal, provincial or municipal government, to an individual with apparent authority to receive the document; or
e) Where served on or filed with the Tribunal, to the Registrar, or the assigned administrative staff.

Subject to Rule 7.12, if a document is served by e-mail, then service is effective on the date of service.

**7.12 If Served Electronically After 4:30 p.m.** Any document served electronically after 4:30 p.m. is deemed to have been served on the next business day.

**7.13 Proof of Electronic Service** A confirmation printout received by the sender is proof of the full transmission and receipt of the electronic service.

## RULE 8

## ROLE AND OBLIGATIONS OF A PARTY

**8.1 <u>Role and Obligations of a Party</u>** Subject to Rule 8.2 below, a person conferred party status to a proceeding before the Tribunal may participate fully in the proceeding, and by way of example may:

a) Identify issues raised in a notice of appeal for the approval of the Tribunal;
b) Bring or respond to any motion in the proceeding;
c) Receive copies of all documents and supporting information exchanged, relied upon or filed in connection with any hearing event conducted in the proceeding;
d) Present opening and closing submissions at the hearing;
e) Present and examine witnesses and cross-examine witnesses not of like interest;
f) Claim costs or be subject to a costs award when ordered by the Tribunal; and
g) Request a review of the Tribunal's decision or order as set out in Rule 25.

**8.2 <u>Power of Tribunal to Add or Substitute Parties</u>** The Tribunal may add or substitute a party to a proceeding when that person satisfies any applicable legislative tests necessary to be a party and their interest may be transferred or transmitted to another party to be added or substituted provided their presence is necessary to enable the Tribunal to adjudicate effectively and completely on the issues in the proceeding.

**8.3 <u>Non-Appellant Party</u>** A party to a proceeding before the Tribunal which arises under any of subsections 17(24) or (36), 34(19) or 51(39) of the *Planning Act* who is not an appellant of the municipal decision or enactment may not raise or introduce a new issue in the proceeding. The non-appellant party may only participate in these appeals of municipal decisions by sheltering under an issue raised in an appeal by an appellant party and may participate fully in the proceeding to the extent that the issue remains in dispute. A non-appellant party has no independent status to continue an appeal should that appeal be withdrawn by an appellant party.

**8.4 <u>Common Interest Class</u>** Where the Tribunal is of the opinion that more than one party is of common interest with another party or other parties, the Tribunal may, on its own initiative or on the request of any party, appoint a person of that class of parties to represent the class in the proceeding.

## RULE 17

## ADJOURNMENTS

**17.1 <u>Hearing Dates Fixed</u>** Hearing events will take place on the date set unless the Tribunal agrees to an adjournment. Adjournments will not be allowed that may prevent the Tribunal from completing and disposing of its proceedings within any applicable prescribed time period.

**17.2 <u>Requests for Adjournment if All Parties Consent</u>** If all of the parties agree, they may make a written request to adjourn a hearing event. The request must include the reasons, a suggested new date, and the written consents of all parties. However, the Tribunal may require that the parties attend in person or convene an electronic hearing to request an adjournment, even if all of the parties consent. The consenting parties are expected to present submissions to the Tribunal on the application of any prescribed time period to dispose of the proceeding.

**17.3 <u>Requests for Adjournment without Consent</u>** If a party objects to an adjournment request, the party requesting the adjournment must bring a motion at least 15 days before the date set for the hearing event. If the reason for an adjournment arises less than 15 days before the date set for the hearing event, the party must give notice of the request to the Tribunal and to the other parties and serve their motion materials as soon as possible. If the Tribunal refuses to consider a late request, any motion for adjournment must be made in person, at the beginning of the hearing event.

**17.4 <u>Emergencies Only</u>** The Tribunal will grant last minute adjournments only for unavoidable emergencies, such as illnesses so close to the hearing date that another representative or witness cannot be obtained. The Tribunal must be informed of these emergencies as soon as possible.

**17.5 <u>Powers of Tribunal upon Adjournment Request</u>** The Tribunal may,

a) Grant the request;

b) Grant the request and fix a new date or, where appropriate, the Tribunal will schedule a case management conference on the status of the matter;

c) Grant a shorter adjournment than requested;

d) Deny the request, even if all parties have consented;

e) Direct that the hearing proceed as scheduled but with a different witness, or evidence on another issue;

f) Grant an indefinite adjournment, if the Tribunal finds no substantial prejudice to the other parties or to the Tribunal's schedule and the Tribunal concludes the request is reasonable for the determination of the issues in dispute. In this case, a party must make a request, or the Tribunal on its own initiative may direct, that the hearing be rescheduled or resumed as the case may be;

g) Convert the scheduled date to a mediation or case management conference; and
h) Make any other appropriate order.

## RULE 19

## CASE MANAGEMENT CONFERENCES

**19.1 <u>Case Management Conference</u>** At the request of a party, on its own initiative or as may be required by legislation or regulation, the Tribunal may direct parties to participate in a case management conference conducted by a Member of the Tribunal, which can include settlement conferences, motions or preliminary hearing matters, such as to:

a) Identify the parties and participants;

b) Determine the issues raised by the appeal;

c) Narrow the issues in dispute;

d) Identify facts or evidence the parties may agree upon or on which the Tribunal may make a binding decision;

e) Obtain admissions that may simplify the hearing, which may include the examination of persons by the Tribunal as part of the conference;

f) Provide directions for exchange of witness lists, witness statements, expert witness statements and reports, for meetings of experts including to address the disclosure of information such as the disclosure of the information that was not provided to the municipality before council or the approval authority made its decision that is the subject of the appeal, and for further disclosure where necessary;

g) Provide directions to the parties to file a hearing plan to outline how the hearing will proceed, the order of witnesses, or the anticipated time for submissions to ensure the Tribunal sets aside sufficient time in its hearing calendar to dispose of the issues;

h) Discuss opportunities for settlement, including possible use of mediation or other dispute resolution processes;

i) Fix a date, place and format for the hearing and estimate its length, and encourage the parties to agree upon the dates for any procedural steps;

j) Discuss issues of confidentiality, including any need to hold a part of the hearing in the absence of the public or to seal documents;

k) Address the production and cost sharing of joint document books; and

l) Deal with any other matter that may assist in a fair, just, expeditious and cost-effective resolution of the issues.

**19.2 <u>Sample Procedural Order and Meeting Before Case Management Conference</u>** Where the parties are known before the case management conference, they are expected to discuss the matters set out in Rule 19.1 and present a draft procedural order to the Tribunal for its approval. Sample procedural orders are listed in the Index to these Rules.

**19.3 Serving Notice of a Conference** The Tribunal will determine the notice requirements for a Case Management Conference and any directions to serve a Notice of Case Management Conference that provides the time, place and format of the conference. The directions may include a notice to all persons or authorities entitled by legislation or regulation. The person, municipality or approval authority who is issued the direction must serve this notice on those persons entitled to notice of the conference and provide an affidavit to the Tribunal, at or prior to the conference, to prove service of the notice.

**19.4 Tribunal Member Presides** The Tribunal's Chair will assign at least one Member of the Tribunal to conduct the conference.

**19.5 Public Attendance at a Case Management Conference** A case management conference held in person will be open to the public. A case management conference held by electronic hearing will be open to the public where practical. Despite the general principle of public open sessions, where circumstances prevail that may require confidentiality, in the discretion of the presiding Tribunal Member, part or all of the conference may be conducted in *camera*.

**19.6 Conversion from One Procedure to Another** The Tribunal Member may, at any time, conduct a procedural discussion, initiate a motion, inquire into a preliminary matter, or convert the conference into a hearing. The Tribunal will state in the notice of a case management conference that the parties are expected to arrive prepared for a procedural and settlement conference as well as a preliminary hearing, where evidence or formal statements or submissions may be heard. Even if no settlement is reached, the Tribunal may proceed to make a final decision on any evidence received during the conference.

**19.7 Results of Failure to Attend a Conference** If a party fails to attend the conference or by authorized representative, the Tribunal may proceed without that party. The non-attending party is not entitled to notice of subsequent hearing events in the proceedings.

**19.8 Tribunal Order Following** The Tribunal Member conducting the case management conference will issue an order that may decide any of the matters considered at the conference and provide procedural directions for any subsequent hearing event.

**19.9 Hearing Member Bound** The Tribunal Member conducting the hearing or any subsequent hearing event is bound by the order resulting from the case management conference unless that Member is satisfied that there is good reason to vary the order.

**19.10 Methods of Holding Hearing Events** The Tribunal may direct in an order following a conference that hearing events in a proceeding be held by a combination of written, electronic or in person hearing events.

## RULE 20

## ELECTRONIC HEARINGS

**20.1 Hearing Events by Teleconference or Videoconference** The Tribunal may hold a hearing event by electronic hearing, such as by teleconference or videoconference, for the determination of any issue in the proceeding. Where the Tribunal directs that a hearing event be held by electronic hearing, the Tribunal may direct a party to make the necessary arrangements and to give notice of those arrangements to the Tribunal and other parties.

**20.2 Objection to the Electronic Format** A party who objects to a hearing event being held as an electronic hearing shall notify the Tribunal and all other parties of its objection within the time period specified in the notice of the electronic hearing. The objecting party shall set out the reasons why the electronic hearing is likely to cause the objecting party significant prejudice.

**20.3 Response to Notice of Objection** The Tribunal may request a written response from other parties to the objection of an electronic hearing within a time period set out by the Tribunal.

**20.4 Procedure When Objection is Received** If the Tribunal receives an objection to hold a hearing event by electronic hearing, it may:

a) Accept the objection, cancel the electronic hearing, and schedule an in person or written hearing; or
b) If the Tribunal is satisfied, after considering any responding submissions that no significant prejudice will result to a party, then the Tribunal will reject the objection and proceed with the electronic hearing.

**20.5 Directions for the Electronic Hearing** The Tribunal may direct the arrangements for the electronic hearing or designate an approved location for videoconference to protect the integrity of the hearing process, including the security and confidentiality of evidence as necessary.

**20.6 Videoconferences** The Tribunal shall pre-approve all arrangements for conducting a hearing event by videoconference, including the pre-filing and exchange of motion materials, documents, written submissions or any visual and written evidence, and the locations for the conference. Any information, statement or material intended to be filed as an exhibit at a videoconference shall be pre-filed with the Tribunal and provided to all parties in accordance with the Tribunal's directions or procedural order for conducting a hearing event by videoconference.

**20.7 The View of the Camera** A party's representative or a witness in a videoconference shall be in view of the camera, with minimal visual obstructions, in the course of their presentations or submissions to the Tribunal. Where a witness is being

examined or cross-examined, there shall be a view of the witness, counsel protecting the witness, and the person conducting the examination or cross-examination. Any document that may be referred to by parties or their witnesses shall be visible and legible to the Tribunal and all other parties to the conference, either by the camera or by referring to a copy of the document exchanged in accordance with the Tribunal's directions.

June 1, 2021