

Ontario Land Tribunal
Tribunal ontarien de l'aménagement
du territoire



ISSUE DATE: October 05, 2023

CASE NO(S): OLT-21-002260

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

Applicant/Appellant: Edenshaw Elizabeth Development Limited
Subject: Request to amend the Official Plan – Failure to adopt the requested amendment
Description: To permit a 22-storey residential building
Reference Number: OPA/OZ 20/006
Property Address: 42-46 Park Street East and 23 Elizabeth Street North
Municipality/UT: Mississauga/Peel
OLT Case No.: OLT-21-002260
OLT Lead Case No.: OLT-21-002260
OLT Case Name: Edenshaw Elizabeth Developments Limited v. Mississauga (City)

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

Applicant/Appellant: Edenshaw Elizabeth Development Limited
Subject: Application to amend the Zoning By-law – Refusal or neglect to make a decision
Description: To permit a 22-storey residential building
Reference Number: OPA/OZ 20/006
Property Address: 42-46 Park Street East and 23 Elizabeth Street North
Municipality/UT: Mississauga/Peel
OLT Case No.: OLT-21-002261
OLT Lead Case No.: OLT-21-002260

PROCEEDING COMMENCED UNDER subsection 41(12) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant/Appellant:	Edenshaw Elizabeth Development Limited
Subject:	Site Plan
Description:	To permit a 22-storey residential building
Reference Number:	SP 22-12
Property Address:	42-46 Park Street East and 23 Elizabeth Street North
Municipality/UT:	Mississauga/Peel
OLT Case No.:	OLT-22-002649
OLT Lead Case No.:	OLT-21-002260

Heard: July 10-21, 2023 by Video Hearing

APPEARANCES:

Parties

Counsel

Edenshaw Elizabeth Developments Ltd.

Mark Flowers
Grace O'Brien

City of Mississauga

Andrew Biggart

Park 52 Apartments Ltd.

Matthew Lakatos-Hayward
David Bronskill (*in absentia*)

DECISION DELIVERED BY C. HARDY AND ORDER OF THE TRIBUNAL

[Link to Order](#)

[1] Edenshaw Elizabeth Developments Ltd. (“Appellant”) applied to the City of Mississauga (“City”) with respect to three applications (together, “Applications”) for an Official Plan Amendment (“OPA”), Zoning By-law Amendment (“ZBA”) and Site Plan Approval (“SPA”) to permit the redevelopment of the properties municipally known as 42-46 Park Street East and 23 Elizabeth Street North, Mississauga (“Subject Property”). The City failed to render decisions on the Applications and the Appellant appealed pursuant to ss. 22(7), 34(11) and 41(12) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended (“Act”).

[2] The Applications currently before the Tribunal would facilitate the construction of a 24-storey residential building comprised of an 18-storey tower atop a six-storey podium, three one-storey townhouses and an underground parking garage. The proposal consists of 274 dwelling units and 177 parking spaces.

PRELIMINARY MATTERS

[3] The appeals were governed by a detailed Procedural Order (“PO”) and Issues List (“IL”) which were established at a Case Management Conference (“CMC”) held on July 12, 2022 before a panel differently constituted. At the CMC, the Tribunal granted Park 52 Apartments Ltd. (“Park 52”) Party status on consent of all Parties. Prior to the commencement of the Hearing, Park 52 advised the Parties and the Tribunal that it did not intend to call any witnesses and would maintain its Party status to monitor any proposed revisions to the Applications.

[4] At the commencement of the Hearing, Counsel for Park 52 advised the Tribunal that its interest would be focused on evidence relating to urban design. As such, Counsel for Park 52 requested permission to attend the proceedings on days in which the urban design experts would be providing *viva voce* evidence and be excused for the remaining Hearing days. The Tribunal granted the request on consent of all Parties.

SITE CONTEXT

[5] The Subject Property is located on the northeast corner of Park Street East and Elizabeth Street North. It is rectangular in shape, with a lot area of 1,792.10 square metres, frontage of 33.62 metres on Park Street East and frontage of 53.34 metres on Elizabeth Street North. The Subject Property is an assembly of four properties and currently contains four two-storey single detached dwellings and two one-storey detached garages, none of which will be retained as part of the proposed redevelopment.

[6] The Subject Property is located within an existing residential apartment neighbourhood which forms part of the Port Credit GO Major Transit Station Area (“MTSA”) as defined in the Growth Plan for the Greater Golden Horseshoe (“Growth Plan”) and is approximately 150 metres south of the Port Credit GO Station. The Subject Property is also located within walking distance to the future intermodal stop on the Hazel McCallion Light Rail Transit line (“LRT”), which has an anticipated completion date scheduled for fall, 2024.

[7] Located immediately adjacent to the Subject Property to the east is a six-storey apartment building, to the north is an 11-storey apartment building, to the west is a 13-storey apartment building with surface parking and to the south is a detached dwelling. Park 52 is a Party to these proceedings and represents the six-storey building to the east of the Subject Property.

[8] The City of Mississauga Official Plan (“City OP”) locates the Subject Property within both an Intensification Corridor and the Port Credit Community Node (“PCCN”). There are four distinct precincts in the PCCN, with the Subject Property being located within the Central Precinct, which contains a mix of apartment buildings ranging from five to 27 storeys, in addition to some smaller buildings. The Port Credit Local Area Plan (“PCLAP”) identifies the Subject Property as a tall building site and the PCLAP Height Schedule prescribes a maximum height of 15 storeys for the Subject Property.

[9] The Subject Property is currently zoned RA2-48 (apartments) which permits the existing detached and duplex dwellings, as well as accessory structures, in addition to the base zone permissions for an apartment building up to eight storeys and a Floor Space Index range of 0.5 to 1. However, as noted above, the PCLAP permits a building up to a maximum of 15 storeys in height, pursuant to its Height Schedule.

[10] The Subject Property is well serviced by a variety of transit options. The Port Credit GO Station entrance is located 150 metres north of the Subject Property and GO train service currently operates on a 30-minute delivery window during rush hour. The local City MiWay bus service has a bus stop located at the corner of the Subject

Property and a terminal at the GO Station. As previously noted, the LRT is currently under construction, and scheduled for completion in the fall, 2024. An LRT stop is located 250 – 330 metres from the Subject Property and will connect to the Lakeshore West GO Transit Line, Milton GO Transit Line, Mississauga Transit Way, Zum Transitway, MiWay bus routes and future higher order transit along Dundas Street.

APPLICATIONS AND PROPOSED DEVELOPMENT

[11] The Appellant submitted applications for an OPA and ZBA to permit a 22-storey building, which were deemed complete on June 23, 2020. The Appellant appealed the non-decision of the City to the Tribunal on November 18, 2021.

[12] On December 22, 2021 the Appellant submitted an SPA application to the City, which was appealed to the Tribunal on March 8, 2022.

[13] On February 24, 2023, the Appellant submitted a revised proposal responding to comments received from the City and various external agencies.

[14] The revisions propose to redevelop the Subject Property with a 24-storey residential building that is 87.99 metres in height. The proposal includes an 18-storey tower atop a six-storey podium, three one-storey townhouses and a one-storey underground garage entrance. A number of revisions were also made to the building setbacks at podium level, stepbacks above the podium and tower separation distances (“Proposed Development”). As noted in the Planning Justification Report Addendum (Exhibit 2, Tab 71), the key goal of the revised design was to achieve a 25 metre tower separation to the building to the east, in the event that the property to the east is redeveloped with a tall building in the future.

[15] The Proposed Development will contain 274 dwelling units, 177 total vehicular parking spaces (150 resident and 27 visitor) and 215 total bicycle parking spaces (193 long-term residential and 22 short-term visitor).

[16] The SPA, which is currently before the Tribunal, was revised subsequent to the experts meeting on March 31, 2023, to incorporate additional tower separation distances.

[17] The OPA, which is currently before the Tribunal, proposes to amend the PCLAP Height Schedule maximum height permission from 15 storeys to 24 storeys. The land use designation for the Subject Property will remain the same.

[18] The ZBA, which is currently before the Tribunal, proposes to amend the zoning from RA2-48 (apartment) to RA5-Exception (apartment) to permit the Proposed Development.

HEARING

[19] Prior to the Hearing, the Parties agreed on certain facts and scoped various issues, which resulted in only the relevant and required experts being called to provide evidence. This Decision includes oral testimony and material found in the various expert witness statements, and reply witness statements, located in the Joint Witness Statement Book (Exhibit 3).

[20] The IL appended to the PO set out 18 issues, some of which contained a number of sub-issues. At the commencement of the Hearing, the Parties jointly advised the Tribunal that issue 13 was redundant, and that they had reached a consensus on how to move forward with a number of the sub-issues contained within issue 16.

[21] The Tribunal had the benefit of testimony from the following four experts called by the Appellant:

- Blair Scorgie in the area of Planning and Urban Design;
- Audric Montuno in the area of Landscape Architecture;

- Nixon Chan in the area of Transportation; and,
- David Sajecki in the area of Land Use Planning.

[22] The Tribunal also had the benefit of testimony from the following five experts called by the City:

- Yang Huang in the area of Urban Design;
- Kate Allan in the area of Landscape Architecture;
- Mark Mueller in the area of Transportation Planning;
- Luisa Galli in the area of Land Use Planning; and,
- David Ferro in the area of Land Use Planning.

[23] On consent of the Parties, all nine experts were duly affirmed and qualified by the Tribunal to give expert opinion evidence in their respective specializations. All nine experts executed an Acknowledgement of Expert's Duty, which can be found appended to their respective witness statements.

[24] The Parties were in agreement that the Subject Property is currently underutilized, and that some degree of intensification is appropriate – the question at the centre of the proceedings regarded the appropriate scale of intensification. For the Tribunal, the crux of the dispute between the Parties was whether the Proposed Development has been designed to fit into the existing and/or planned context of Port Credit. The primary issues in dispute, when looking at the context, were an assessment of the appropriate level of intensification, the adequacy of the proposed landscaped buffers and the proposed parking rate. These issues were addressed in relation to the remaining issues on the IL and are analyzed below.

Legislative Regime

[25] The OPA, ZBA and SPA, which will facilitate the Proposed Development, are subject to several relevant Provincial and Municipal planning policies. The Tribunal must be satisfied with all aspects of the planning documents in rendering its decision. Whether the Proposed Development, including the proposed uses, have appropriate regard for, are consistent with and conform to Provincial and Municipal planning policy is a paramount consideration.

[26] In particular, the Tribunal must be satisfied that the proposed OPA, ZBA and SPA have regard for matters of Provincial interest set out in s.2 of the Act, are consistent with the Provincial Policy Statement, 2020 (“PPS”) and conform with the Growth Plan. The OPA and ZBA must conform with the Peel Region Official Plan (“Region OP”), City OP, PCLAP and City of Mississauga Zoning By-law 0225-2007 (“ZBL”).

[27] Following submission of the Applications, the Region adopted a new Official Plan on April 28, 2022. Pursuant to the Agreed Statement of Facts – Planning and Urban Design (Exhibit 6), the Parties agree that the applicable document with which the proposed instruments must conform with in these appeals is the Region OP (September 2021 consolidation).

[28] The Tribunal must also have regard for the decision of Municipal Council, and the information considered by it. In this case, the appeals were brought as a result of a non-decision by City Council however, it is noted that City Council did not support the Applications and on March 2, 2022 instructed City legal to attend the Hearing and oppose the Applications.

Intensification

[29] Throughout the Hearing, the Parties stressed that intensification of the Subject Property itself is not in dispute – the Subject Property is optimally located for some form

of intensification. The dispute centred around the appropriate level of intensification for the Subject Property.

The Appellant's Position

[30] The Appellant argued that the Proposed Development optimizes the use of existing land and infrastructure. The policy directives in the PPS, Growth Plan and Region OP provide clear direction to Municipalities to optimize the significant public investment made into infrastructure, and that Municipalities should be directing increased transit-supportive intensification to areas that are in close proximity to MTSAs.

[31] The Appellant argued that the Proposed Development optimizes the significant public investment in infrastructure. The Growth Plan works from an intensification first approach and provides clear direction to make the best use of existing infrastructure. The Proposed Development is located in close proximity to three higher-order transit corridors. Further, the Appellant argued that intensification near these transit stations will maximize the number of people using transit.

[32] The Subject Property is located in a MTSA and the Growth Plan sets a minimum density target of 160 people and jobs per hectare ("pj/h") for MTSAs. The Appellant argued that 160 pj/h is a minimum target and that Municipalities are encouraged to exceed this target. Mr. Sajecki opined that, in this case, exceeding the minimum density target is appropriate given that the Subject Property is optimally located for intensification based on its close proximity to existing infrastructure, public service facilities, existing amenities and access to transit. Further, Mr. Sajecki opined that the City OP and PCLAP do not currently conform to the Growth Plan since they do not properly implement the minimum density targets in locations where the focus should be on intensification.

[33] The Subject Property is located within the Port Credit Community Node, an *Intensification Corridor* and a MTSA. In this regard, the Appellant highlighted s. 5.5.1 of

the City OP which states that “(t)he focus for intensification will be Intensification Areas, which are ...Community Nodes, ... *Intensification Corridors* and *Major Transit Station Areas*”. The Appellant acknowledged that optimization does not mean “the sky is the limit” and that it must be balanced against other considerations, including an assessment of impacts resulting from optimization. The Appellant submitted that the Proposed Development has been thoughtfully planned to achieve a balance between optimization and impacts.

[34] The City OP sets out the City Structure which forms the basis of the urban hierarchy. It states that Community Nodes will provide a similar mix of uses as Major Nodes, but with lower densities and heights. Section 5.3.3 of the City OP sets out policies relating to Community Nodes, including that they be served by frequent transit services and developed to encourage active transportation. The general height range for Community Nodes is two to four storeys however, different heights may be established in Local Area Plans. The PCLAP has implemented this by establishing heights for Port Credit ranging from two to 22 storeys, depending on the precinct. The Subject Property is located in the Central Residential Precinct where the PCLAP has established heights in the range of two to 15 storeys.

[35] The Appellant argued that the Port Credit Community Node is distinct from other Community Nodes as it includes a large existing apartment neighbourhood with many buildings in excess of four storeys in height, including some in the Central Residential Precinct. The examples in the Central Residential Precinct that the Appellant relied upon include 70 Park Street (27 storeys), 28 Ann Street (under construction and approved at 22 storeys) and 30 High Street (16 storeys). Additionally, the Appellant argued the Mr. Ferro, the City’s Planner, is supporting a development proposal with a building height of 29 storeys at 88 Park Street East. The Appellant pointed to these examples in support of its argument that exceeding building heights of 15 storeys can maintain the Port Credit Community Node character and will not result in changing the Port Credit Community Node designation to a Major Node or Downtown Node, which

the Appellant acknowledged could only be permitted through a Municipal comprehensive review.

[36] Throughout the hearing, the Parties frequently brought the Tribunal to policy 10.1.2 of the PCLAP, which sets out the criteria one must satisfy when additional height is being sought. The Parties were in agreement that policy 10.1.2(e) and 10.1.2(f) were not applicable in this case. For ease of reference policy 10.1.2 states:

10.1.2 Heights in excess of the limits identified on Schedules 2A and 2B within the Community Node precincts and Mainstreet Neighbourhood precinct may be considered through a site specific Official Plan Amendment application, subject to demonstrating, among other matters, the following:

- (a) The achievement of the overall intent, goals, objectives of this Plan;
- (b) Appropriate site size and configuration;
- (c) Appropriate built form that is compatible with the immediate context and planned character of the area;
- (d) Appropriate transition to adjacent land uses and buildings, including built form design that will maximize sky views and minimize visual impact, overall massing, shadow and overlook;
- (e) Particular design sensitivity in relation to adjacent heritage buildings; and
- (f) Measures to limit the amount of additional vehicular and traffic impacts on the Port Credit transportation network.

[37] Overall, Mr. Sajecki opined that the Proposed Development implements the goals and vision for Port Credit, and in particular, the Central Residential Precinct and meets the intent of the PCLAP. In relation to the criteria set out in policy 10.1.2, Mr. Sajecki testified that the Proposed Development achieves the overall intent, goals and objectives of the PCLAP. He noted that the PCLAP does not intend for Port Credit to be static, but to accommodate intensification that fits within the existing and planned character. He opined that the Proposed Development achieves this as it adds to the existing apartment neighbourhood, while at the same time fitting into the evolving urban waterfront village.

[38] The Appellant submitted that the Act authorizes landowners to file an OPA to seek different heights and densities than those that are permitted. In this case, the City OP and the PCLAP contain policies which contemplate site specific OPA applications, subject to the satisfaction of certain criteria. The Appellant argued that this is what the Appellant has done in this case and the proposed OPA satisfies the criteria set out in policy 10.1.2.

[39] The Appellant submitted that the PCLAP envisions the highest heights will be located near the GO station and the future LRT station. The heights will transition downwards from this point towards the Credit River, Lake Ontario, established residential neighbourhoods and the Main Street area. Mr. Huang opined that transition is not linear rather, there are a variety of ways to achieve transition which do not mandate that all tall buildings are required to be clustered in one location. In this case, there are a number of buildings in the Central Residential Precinct and the Community Node that preclude a strict linear transition of heights. Mr. Scorgie agreed and noted that transition can be achieved while allowing for punctuations in the skyline for key locations, provided that the general trend is a downward transition.

[40] With respect to transition, Mr. Ferro referred to “gateway” locations and these gateways in the Community Node are appropriate for buildings exceeding 15 storeys. The Appellant argued that gateways are not identified in the PCLAP, and that the City’s argument suggesting that allowing a tall building on the Subject Property would destabilize the Precinct is pure speculation. The approval of the Proposed Development would not impact other sites.

[41] In addition to the landscaped buffers, the Appellant drew the Tribunal to a number of urban design techniques utilized in the Proposed Development, which provide for appropriate transition to adjacent property lines and buildings. For example, there is a proposed reveal at the seventh storey to reduce the massing of the building and provide a clear separation of massing between the podium and the tower.

[42] The Appellant noted that, if approved, the Proposed Development will be the tallest building in the Port Credit Community Node, however, it is in keeping with sections 10.2 and 10.2.2 in the PCLAP which state that the greatest heights in the Community Node are to be in close proximity to the GO Station and the future LRT transit stop. Further, the Central Residential Precinct has "...potential for intensification, primarily in the immediate vicinity of the GO station and will have the highest building heights in Port Credit". As noted above, the Subject Property is located in close proximity to the GO Station itself, including the primary and secondary entrances.

[43] The Appellant argued that there is no requirement to demonstrate "need" to meet the criteria set out in policy 10.1.2, nor is there a test for "need" in the PPS or Growth Plan for intensification in settlement areas. The Appellant relied upon *Patterson v. Vaughan (City)*, 2021 CarswellOnt 9822 where the Tribunal found that "(t)he test is not need. Rather, it is whether the redevelopment is appropriate in terms of the other applicable policies, goals and requirements." The Appellant argued that the City's evidence demonstrating that the minimum density targets of 160 pj/h could be met without approving increased height and density in the Community Node should not be persuasive. The minimum density targets are *minimums* (emphasis added), and Municipalities are encouraged to exceed these minimum targets, irrespective of need.

[44] Further, the Appellant argued that the City's Housing Action Plan states that the City OP structure supports the Province's target of building 120,000 additional residential units in the City by 2031. The Proposed Development will provide greater housing options and a development pattern that will minimize the cost of housing and facilitate compact form. The Subject Property is one of the best locations for this growth as it is a Community Node and a MTSA. The Appellant submitted that it is committed to building new housing units in the City, which assists the City in achieving the Province's target.

[45] The Appellant argued that the City has failed to demonstrate that the quality of life of residents in adjacent buildings will be negatively impacted if the Proposed

Development is permitted. The Proposed Development will have a width of 33.62 metres on the Park Street frontage, which is virtually identical with that which was approved by the City at 28 Ann Street. With respect to separation distances, the Port Credit Built Form Guidelines (“PCBFG”) recommends building separation distances for buildings that exceed six storeys to be 35 - 40 metres. The Proposed Development will create a separation distance of approximately 25 – 29 metres from the tower to adjacent buildings to the north and west. A significant amount of time was spent discussing the separation distance to the six-storey building to the east, which would be approximately 20 metres. The Appellant argued that the PCBFG do not apply as this building does not exceed six storeys. Additionally, the Appellant argued that Park 52 is a Party to the proceedings and is not opposing the Proposed Development, including the setbacks and separation distances. The Appellant brought the Tribunal to a number of examples of residential developments in the Central Residential Precinct where the City has approved separation distances of less than 35 - 40 metres. The Appellant argued that all of the above supports the Tribunal finding that the City has not demonstrated any adverse impacts resulting from decreased separation distances and setbacks. Further, the Appellant argued that the proposed separation distances achieve a functional building with a smaller tower floor plate.

[46] In terms of shadowing, the Appellant argued that only one sub-criterion of the City’s Terms of Reference has not been met however, in conducting a shadow study for a hypothetical 15-storey building, which would be permitted as of right, the Appellant argued that the same sub-criterion would still not be met. Mr. Scorgie explained that the proposed building is oriented in a north-south direction, which assists in mitigating any adverse impacts associated with shadowing and decreased sky views. As such, the Appellant argued that the Proposed Development does not pose any adverse impacts as it does not affect shadows cast in any meaningful way.

[47] With respect to views and privacy, the Appellant similarly argued that the Proposed Development does not pose any adverse impacts. The Appellant posed a hypothetical six-storey building, which would be permitted as of right, and argued that

views from the balconies of adjacent buildings would be similar to those experienced if the Proposed Development is permitted.

[48] The Appellant argued that the City failed to demonstrate any irreparable harm would result from the Proposed Development. While Municipalities have the legal authority to manage growth and planning, policies also allow applications to amend zoning and Official Plans. The Appellant has done exactly this, and the Proposed Development is an appropriate level of intensification for the Subject Property.

The City's Position

[49] The City argued that applicable policy documents direct that a building of the size and scale of the Proposed Development be directed away from the Subject Property. The Proposed Development does not respect the urban hierarchy, nor enhance the character or skyline of Port Credit.

[50] The City argued that the Proposed Development is not consistent with the PPS. While the PPS does promote intensification in settlement areas, the intent of the PPS is not to promote unrestricted residential heights and densities rather, it directs Municipalities to implement policies that set out appropriate parameters for intensification. The City argued that the City OP and the PCLAP are consistent with the PPS intensification policies and that the Proposed Development is not consistent with the development standards related to height and density, set out in the PCLAP.

[51] The City maintained that the PPS directs planning authorities to identify appropriate locations for transit-supportive development. Mr. Ferro confirmed that the PCLAP allows for intensification up to 15 storeys in height, which he opined is transit-supportive development. However, he also noted that the PCLAP incorporates policies to ensure that the surrounding context is considered which he opined has not been achieved with the Proposed Development.

[52] The Parties agreed that the Growth Plan policies establish a minimum density target of 160 pj/h for MTSAs. Ms. Galli opined that the City OP conforms with the Growth Plan. She testified that the Subject Property is located in a higher order transit corridor in the Port Credit Community Node, which identifies a density of 100-200 pj/h. Further, she noted that the PCLAP sets out detailed policies regarding how the area should develop. The City argued that the Appellant did not put forward any evidence to demonstrate that the PCLAP policies cannot achieve the minimum density targets. As such, the City argued that no changes are required to the PCLAP on a site specific basis in order for it to conform to the Growth Plan, and that the appeals should be dismissed on this point alone.

[53] Ms. Galli responded to Mr. Sajecki's evidence that the Proposed Development would assist the City in meeting its housing target. Ms. Galli agreed that any redevelopment of the Subject Property would assist the City in meeting this goal, however, she opined that amendments to the City OP are not required in order to reach housing targets as they can be met with the policies that are currently in place. Mr. Ferro also agreed with Mr. Sajecki in this regard, but noted that meeting minimum density targets is only one factor to be considered when assessing applications. In this case, there were many other reasons which, when considered as a whole, led to the City's failure to approve the Applications.

[54] The City stressed the importance of the urban hierarchy and emphasized that the highest heights and densities are to occur in the Downtown. From here, heights will transition down to the Major, and then from the Major Node they will transition down further to the Community Node. The distinguishing feature between a Major Node and a Community Node is that a Community Node will have lower densities and heights. The City argued that the height of the Proposed Development will result in a change to the urban hierarchy, and the City OP states that "...any proposed changes to the urban hierarchy will not be permitted unless considered through a municipal comprehensive review". The City structure is important as it assists in the determination of how the City and Region plan infrastructure and amenities, and the policies that guide planning. As

noted above, the Subject Property is located within a Community Node, which, pursuant to the urban hierarchy, is intended to receive growth, albeit with lower heights and densities than a Major Node and the Downtown.

[55] The City pointed to the objectives set out in the PCLAP, noting that there is a clear direction to ensure the greatest heights and densities be in close proximity to the GO station and the future LRT. Further, the City argued that heights need to reflect an appropriate transition towards the "...Credit River, Lake Ontario Shoreline, the mainstreet area and surrounding neighbourhoods." The objectives make it clear that the highest heights must be in close proximity to the GO station and the LRT, rather than in the location of the Subject Property.

[56] With respect to the criteria set out in policy 10.1.2 of the PCLAP, the City submitted that the Appellant has failed to satisfy criteria (a) – (d) inclusive. Mr. Ferro testified that the Proposed Development does not demonstrate "...the achievement of the overall intent, goals, objectives of this Plan", and as such, does not satisfy policy 10.1.2(a). He noted that the purpose of the Height Schedules in the PCLAP are to ensure new development respects the community context, which is to accommodate intensification within the Community Node. Mr. Ferro opined that permitting the Proposed Development in this location will destabilize heights in the Community Node. If permitted, this would be the tallest building in Port Credit, which does not respect the policy direction aimed at having heights transition from the peak to the Credit River. In effect, this proposal would break the transition plane.

[57] With respect to policy 10.1.2(b) of the PCLAP, the City submitted that the landscape and urban design evidence demonstrated that the Proposed Development results in too large a building on too small a site. This result does not demonstrate an "...appropriate site size and configuration", as required under this criterion. Mr. Huang testified that the Subject Property is considered a small site based on the PCBFG. The Appellant contends that the site falls into a "small site" by only 7.9 square metres, however, Mr. Huang opined that it is the dimensions that matter in this case. The 33.62

metre frontage along Park Street East poses the most significant challenge in terms of compatibility and planned character. He opined that the Subject Property is not suitable for a tall building in this context. During cross-examination, Mr Huang agreed that the City approved a development at 28 Ann Street which does not meet the requirements for a tall building site, as it has similar frontage to the Subject Property. Mr. Huang noted that while it does have similar frontage, 28 Ann Street was larger in area and has retail at grade, as opposed to residential at grade, resulting in different uses. Mr. Ferro agreed with Mr. Huang and noted that the cumulative impacts on the two sites are different.

[58] The City submitted that the Appellant has not demonstrated that the Proposed Development is an appropriate built form that is compatible with the planned and existing character of the area, and as such, does not meet policy 10.1.2(c). The Proposed Development will be nine storeys higher than any other building in the immediate area, and the planned context requires the highest heights to be located between the GO entrance and the LRT to the east. Mr. Sajecki testified that the planned character ensures that buildings in the Central Residential Precinct maintain the two to 15 storey height range. He testified further that the City does permit higher heights in the area where the GO and the LRT converge, however, the Subject Property is not located in this convergence area.

[59] With respect to policy 10.1.2(d), a number of the City's experts opined that this criterion was not met by pointing to different policies. The City argued that the Appellant failed to meet the requirements set out in the PCLAP regarding separation distances. The character in Port Credit has generous separation distances between tall buildings. The City noted that Mr. Scorgie's evidence comparing Port Credit to Toronto, in support of decreased separation distances, is not helpful and does not respect the existing and planned character of generous separation distances in Port Credit. The PCBFG do not specify a minimum separation distance for buildings below six-storeys, such as 52 Park Street. Mr. Huang opined that despite the inapplicability of the minimum separation distances in the PCBFG, the residents of 52 Park Street (located to the east of the

Subject Property) are entitled to a reasonable level of sunlight, views, and privacy and this is an important consideration for urban design. Under cross examination, Mr. Huang agreed that if residents in adjacent buildings wanted to access sunlight they could go outside, however, the City argued that this is not representative of good urban design.

[60] Mr. Huang took the Tribunal to the shadow studies completed by the City to demonstrate that intensification is not prohibited on the Subject Property. He submitted that the level of intensification will impact adjacent residents, and this needs to be considered when designing buildings. In this case, the elongated shape of the Proposed Development has a “wall effect”, which does not limit shadow impacts on adjacent buildings.

[61] With respect to privacy and views, Mr. Huang reviewed his renderings with the Tribunal that demonstrated that the Proposed Development will overcrowd the sky views of residents in adjacent buildings. The City argued that the Appellant’s submissions that an eight-storey building, which is permitted as of right, would result in similar impacts is not persuasive. The City noted that there were too many assumptions in the Appellant’s hypothetical to make it a useful comparison, and further, that a hypothetical building resulting in adverse impacts should not be used as justification to approve a proposed building, which will create similar adverse impacts.

Landscaped Buffers and Amenity Space

[62] The Parties agreed that the proposed south and west landscaped buffers on the Elizabeth Street North and Park Street East frontages of the Subject Property are appropriate.

[63] The landscaped buffers that were in contention were the east and north buffers adjacent to 52 Park Street and 49 Queen Street.

[64] Along the east property line, the landscaped buffer is proposed to be 0.86 metres wide for 38.7 metres (72%). In addition, there is a proposed loading access, gas meter and vent along 14.7 metres (28%) of the property line.

[65] Along the north property line, the landscaped buffer is proposed to be 4.67 metres wide for 20.1 metres (60%). In addition, there is a proposed loading access, transformer and vent for 13.5 metres (40%), garage structure below grade for 25.5 metres (76%) and overhead balconies above grade for 23.0 metres (68%) along the north façade of the building extending within 2.4 metres of the north property line.

[66] For ease of reference, the following is the ZBL definition of landscaped buffer:

means a continuous, open, unobstructed width of land substantially parallel to and adjoining a lot line that is intended for the growth and maintenance of plant material including trees, shrubs and other landscape features such as retaining walls. The landscaped buffer may include signage, utility easement and lighting and may be traversed by a driveway and/or walkway, the angle of which must be at least 60E but no greater than 120E measured from the applicable lot line.

The Appellant's Position

[67] The Appellant argued that the residents in the adjacent buildings have a direct view into greenspace, which will not be altered by the Proposed Development. There will be fencing and/or a building wall along the north and east property lines, combined with grade differentials which have the cumulative effect of preventing the “back-of-house” activities at the Proposed Development from view.

[68] The Appellant acknowledged that it is challenging to achieve the minimum required landscaped areas in an urban setting where intensification is contemplated, which is why the proposed site-specific permissions are being requested. During cross-examination, Mr. Scorgie agreed that the requirement in policy 2.4.9 of the PCBFG for a minimum of 30% landscape area for sites in the Central Residential Precinct is not met. He noted that the proposed landscape area is limited to 16% due to a combination of the size of the Subject Property and the size of the Proposed Development.

[69] The Appellant submitted that the ZBL definition of “landscaped buffer” is broad and provides that it is “intended for growth of plant material”, however, it does not specify the types or sizes of plantings. Further, other landscape features can be included in the landscaped buffer, such as a “utility easement” and a “driveway”, which would contemplate movement of vehicles within the landscaped buffer.

[70] The Appellant pointed out the development at 21 Park Street East as an example of a development which received the City’s approval without any landscaped buffer on the east side and containing an above grade utility structure within the landscaped buffer on the west side.

[71] During his *viva voce* evidence, Mr. Montuno opined that the proposed plantings in the north landscaped buffer are appropriate, including the large shade trees proposed to be planted under the balconies of the proposed building. However, he did agree that substitutions could be made to the species if the City requested alternative plantings.

[72] The Appellant stressed that Park 52 is a Party to these proceedings and did not express any objection or concern with the proposed landscaped buffer adjacent to its property.

The City’s Position

[73] The City maintained that there were too many fixes required to the proposed landscaping to make it workable and that the only resolution was for the Appellant to “go back to the drawing board”.

[74] The City contends that the ZBL requires a minimum depth for a landscaped buffer along a lot line to be 3 metres. Ms. Allan explained that the City uses the Site Plan Application Process Guidelines (“SPA Guidelines”) document when reviewing site plan applications and noted that it is a checklist for applicants to use to ensure the requirements are being met.

[75] Ms. Allan's testimony reviewed many deficiencies with the proposed landscaped buffers. She pointed to the lack of open green landscape space at grade, the location of a transformer within a buffer and the presence of an exhaust fan, which results in the buffer not being continuous on the north edge. To illustrate her concerns, Ms. Allan took the Tribunal to examples of appropriate landscaped buffers in an urban environment and explained that the City strives to achieve these types of ideal landscaped buffers, which are appropriate widths and contain thriving and layered plant materials. Ms. Allan explained that one issue with the proposed landscaped buffer is the planting of canopy trees in locations that do not receive enough sunlight or have appropriate soil depth. She explained that this was not good landscape architecture practice as the plants would be in competition for sunlight and water and as such, would not thrive.

[76] Ms. Allan referred to the SPA Guidelines and noted that they set out minimum standards for soil volume for trees and vegetation. Ms. Allan opined that the underground garage slab will be a constraint that will prevent the proposed trees from reaching appropriate soil depth or volume. She disagreed with Mr. Montuno that these issues could be addressed at the building permit stage. Ms. Allan distinguished the comparison projects raised by the Appellant noting that they had features that were distinct from this proposal, such as internal loading and garbage storage, wider and continuous landscaped buffers and at grade outdoor amenity uses.

[77] During cross-examination, Ms. Allan noted that substituting different plantings would not cure all of the deficiencies with the proposed landscaping. She summarized that in addition to alternative plantings, the proposed soil depth and volume were insufficient, the landscaped buffer was not continuous and the growing conditions around the Proposed Development were not appropriate.

[78] The City argued that the proposed landscaped buffers have a myriad of problems, including but not limited to: lack of sunlight; non-continuous buffer; and potential height of trees impacting balconies. The City reminded the Tribunal that Mr.

Montuno acknowledged that he was engaged to design the landscape after the building had already been designed. He alluded to doing the best he could with what he was provided. The City argued that this is not appropriate landscape design as landscaped buffers are important elements, which are specifically addressed in the policies.

Parking Rate

[79] There was consensus in the Agreed Statement of Facts – Transportation (Exhibit 8) that the Subject Property is a candidate for reduced parking requirements as set out in policy 8.4.3 of the City OP. The parking rate set out in the ZBL for Precinct 1 (where the Subject Property is located) is 0.8 spaces per unit (“s/u”) for residents and 0.2 s/u for visitors, for a total of 1 s/u.

[80] There was also consensus among the Parties that the proposed bicycle parking spaces exceed the recommended rates in the City Cycling Master Plan for residential spaces and meets the recommended rates for visitor spaces. As such, the evidence relating to parking focused on vehicle parking rates.

The Appellant’s Position

[81] The Appellant submitted that the Growth Plan directs development in MTSA’s will be supported by providing reduced parking standards, where appropriate. The Region OP further supports reducing dependency on vehicles through the provision of a range of transportation services. The City OP also allows for consideration of reduced minimum parking requirements to reflect transit service levels. In addition, given that underground parking has associated up front and ongoing costs associated with it, the Appellant argued that Provincial and Municipal objectives of reducing the cost of housing are supported through the reduction of parking rates, where appropriate.

[82] As set out above, the Subject Property is located in close proximity to three modes of transit which the Appellant argues support its proposed parking rates of 0.55 s/u for residents and 0.1 s/u for visitors, for a total of 0.65 s/u. The Appellant submitted

that the ZBL visitor rate of 0.2 s/u applies universally to almost all locations in the City, regardless of the proximity of higher order transit. In addition, the City initially supported a reduced visitor rate of 0.1 s/u, which is consistent with other approved developments in the area, however, the required visitor rate for the Proposed Development was ultimately not reduced. The Appellant presented data on visitor parking usage at proxy locations which indicated that visitor usage averaged at 0.06 s/u at 70 Park Street East and 0.09 s/u at 1 Hurontario Street. The Appellant argued that the proxy data, combined with the proximity of the Subject Property to higher order transit, support the proposed reduced rate of 0.1 s/u for visitor parking.

[83] The same proxy data was collected by the Appellant for residents and found that the average parking rate for residents was 0.91 s/u. The Appellant argued that this rate does not accurately capture the context of the Proposed Development or future parking demand once the LRT opens.

[84] The Appellant submitted that the best proxy site for comparison is 28 Ann Street, which is similar in context to the Proposed Development. The City approved a residential parking rate of 0.57 s/u at 28 Ann Street, and the Appellant noted that 36 spaces remained available for purchase after two-and-a-half years of sales. During cross examination, the City brought Mr. Chan to the City's Terms of Reference for Parking Utilization Studies for Site Specific Applications ("Parking TOR") which are to be used to justify parking reductions of more than 10% from the ZBL standards. The City mandates required information when using sales data to demonstrate parking demand, as Mr. Chan did with 28 Ann Street. Mr. Chan acknowledged that he did not consider or include a number of the pieces of required information, which are set out in the Parking TOR.

[85] Mr. Chan acknowledged in cross examination that the residential demand at the proxy sites showing an average of 0.91 s/u exceeds the ZBL parking rate of 0.8 s/u, and further, that his proposed rate of 0.55 s/u would result in a shortfall of parking for four out of 10 residents. However, he relied upon the Hurontario LRT Benefits Case

Analysis, published in March, 2016, which found that existing transit mode share is expected to increase by 25% by 2031 with the addition of the LRT. As such, Mr. Chan used this data as the basis for his calculation which resulted in the proposed 0.55 residential s/u as an appropriate parking rate for the Proposed Development. Mr. Chan was questioned during cross examination about the accuracy of the report which he had relied upon since it was published in 2016 and was based on the LRT including a downtown loop which has now been eliminated. Mr. Chan explained that the elimination of the downtown loop of the LRT may impact the modal split; however, he maintained his opinion that the estimated 25% increase in transit mode share is a low estimate and that his proposed parking rate is accurate.

[86] The Appellant argued that parking rates should be adapted for future needs and shift residents away from automobile dependence. Mr. Chan opined that the ZBL rates are not representative of the current or future parking demands in the Central Residential Precinct and the proposed total rate of 0.65 s/u is appropriate.

The City's Position

[87] The City recently completed a detailed complex review of off-street parking requirements, which included input from stakeholders and engaged outside consultants. The result was a new off-street parking regime in the City and a by-law that was enacted by Council, without any appeals, and came into effect on June 8, 2022.

[88] Mr. Mueller testified that the City developed a parking precinct approach to take into consideration the context in different areas of the City. The Subject Property falls within Precinct 1 due to the availability of transit and the high density land uses.

[89] With respect to visitor parking, Mr. Mueller maintained his recommendation for 0.2 s/u for visitors. During cross examination, Mr. Mueller agreed that the ZBL rate of 0.2 s/u for visitors was a city-wide standard and as such, would apply to a proposed building located in close proximity to transit and also to a proposed building that is not within walking distance to transit. However, he questioned Mr. Chan's research as

lacking sufficient information about whether there was available street parking at the proxy sites, whether the street parking, if available, was free or paid and the impact that commercial and retail parking in the proxy sites had on the availability of parking. As such, Mr. Mueller explained that the City could not rely on this data to support a reduced visitor parking rate.

[90] Mr. Mueller testified that the applicable standard of 0.8 s/u for residents is the lowest parking requirement in the City because it recognizes that the Subject Property is well served by transit. Mr. Mueller maintained that 0.8 s/u for residents is appropriate and highlighted that rates have recently been updated by the City and reflect the most recent information available. He noted that 0.8 s/u was determined taking into account current and future transit, like the LRT, and is less than the observed demand, as demonstrated by some of Mr. Chan's proxy sites. This indicates that the City is reducing requirements to provide for a better modal split and to encourage residents to decrease their reliance on automobiles.

[91] Mr. Mueller spoke to the Parking TOR and explained that it outlines requirements for those seeking parking reductions which aim to ensure staff have a consistent and unbiased approach to reviewing materials submitted by applicants. Mr. Mueller rejected Mr. Chan's proxy data and noted that unpurchased parking spaces at 28 Ann Street do not support a decreased parking rate. This merely demonstrates the demand to *purchase* parking (emphasis added), not the demand *for* (emphasis added) parking. Additionally, the use of 28 Ann Street as a proxy site is misleading. It is currently under construction and as such, actual parking demand is unknown since there are no residents living in the building. Further, the sales data used by Mr. Chan was limited and did not conform to the Parking TOR resulting in the City having insufficient information in order to make an assessment based on this proxy site.

[92] During cross examination Mr. Mueller acknowledged that reduced parking would reduce development costs, which would result in a reduction in the cost of housing. Further, he agreed that the converse is also true – each parking space a developer

provides has a capital cost and an ongoing maintenance cost, all of which are borne by owners of the building.

[93] The City supports the concept of reduced parking to encourage a modal split, but given the recent ZBL update to parking rates, justification is required to support reduced rates. The City argued that the Appellant has failed to provide sufficient data to support its proposed parking rate.

FINDINGS

[94] As a starting point, the Subject Property is a *prima facie* candidate for intensification. This was not in dispute, and based on the evidence presented, the Tribunal agrees.

[95] Additionally, and also not in dispute, the Subject Property is currently underutilized. The surrounding context of the Subject Property would be compatible with some form of intensification given the apartment buildings surrounding the Subject Property to the west, north and east.

[96] The Parties provided submissions and argument on the role of the PCBFG. The PCBFG are “just guidelines”, however, they do advance the implementation of the PCLAP. The Tribunal recognizes that the PCGFB do not carry the same weight as the policies set out in the City OP or PCLAP. As such, the Tribunal considered the PCBFG as guidelines and gave them the appropriate weight.

[97] The location of the Subject Property in close proximity to the GO station, MiWay bus stop and future LRT make it a prime candidate for intensification, however, this is one of many factors to consider when assessing the development potential of a site. The Tribunal must also consider other equally relevant factors such as the size of the site, the existing and planned context of the site and proposed scale of the building.

[98] The Tribunal finds that the Applications fail to conform with the City OP and the PCLAP. In particular, the Applications:

- fail to provide gradual transition of scale;
- fail to provide adequate separation distances resulting in impacts to adjacent properties;
- fail to have a well thought out landscape plan to provide adequate landscaped space;
- do not constitute good planning; and
- are not in the public interest.

[99] The Tribunal agrees with the City that the Subject Property is an appropriate location for transit-supportive development. The policies currently in place allow for a building up to 15-storeys as of right, which would assist the City in reaching its minimum density targets. The Proposed Development would be the tallest building in Port Credit on what is defined as a small lot, and the Tribunal finds that the result would be the overdevelopment of a small site with excessive height and massing. The Tribunal acknowledges Minister Clark's letter raised by the Appellant wherein the Minister supported no restrictions on height for lands within delineated MTSA's or Protected MTSA's, however, the letter is not policy and does not address the Proposed Development. As such, the Tribunal did not find the letter of assistance in determining the issues before it.

[100] The Subject Property is underutilized in its current form and given that housing is a Municipal, Provincial and Federal priority, the Tribunal finds that the Subject Property should be intensified. However, the Proposed Development is too ambitious for the Subject Property and the proposal seeks to maximize the site, as opposed to optimize the site. One must look at what is best on a site, not what is the most and, in this case,

the Tribunal finds that the Proposed Development is too large for the size of the site. The Tribunal was persuaded by the City's evidence that it can meet and/or exceed the minimum density target of 160 pj/h without the need for an amendment to the policies in the PCLAP on a site specific basis.

[101] Further, the proposal does not provide adequate transition and fails to conform to the existing or planned context in Port Credit. The Tribunal agrees with Mr. Scorgie that transition can be achieved while allowing for punctuations in the skyline for key locations, however, the Tribunal was not persuaded by the Appellant that the Subject Property can be considered a key location. The site is not located in a gateway location, nor is it at the convergence of the GO Station and future LRT.

[102] The PPS and the Growth Plan contain policies to optimize urban land supply. The Proposed Development is an attempt to maximize the development potential on the Subject Property through excessive height, reduced parking ratios, decreased setbacks and stepbacks and a failure to meet the intent of the PCLAP policies. The Tribunal agrees with the City that the OPA is not consistent with the policy objective of the PPS to permit growth where it can be accommodated, taking into account the area. The proposed maximization of the Subject Property does not constitute good land use planning, nor does it incorporate good urban design initiatives.

[103] The weight of the evidence presented is such that the Tribunal preferred the evidence of the City's landscape architect to that of the Appellant's landscape architect. Based on the evidence presented, the Tribunal finds that the proposed landscaped buffers, soil depths and plantings are not sufficient. The Appellant's landscape architect acknowledged that these types of adjustments could be made at the site plan stage and further, that he was open to discussing changes to the proposed plantings with the City. The Tribunal finds that the proposed landscaping appears to have been an after-thought and as such, it would be premature for the Tribunal to approve the proposed Site Plan, which includes the landscape and grading plans.

[104] Further, the Appellant's urban design expert agreed under cross-examination that the size of the Subject Property, combined with the size of the proposed building, limit the available space to provide landscaping. The result is that the minimum requirement of 30% landscaped area cannot be met. The Appellant's proposal achieves 16% landscaped area, which reinforces the finding that the Proposed Development is too large for the small site.

[105] The Tribunal was persuaded by the visitor parking rate reduction submissions of the Appellant. The Tribunal preferred the evidence of the Appellant's parking experts and agreed that the City-wide standard for visitor parking does not recognize the proximity of the Subject Property to available transit. The proposed visitor parking rate of 0.1 s/u was supported by the proxy data and the submissions of the Appellant and Mr. Chan.

[106] While the Tribunal was also persuaded by the Appellant's argument that a reduced resident parking rate is supportable, the evidence demonstrated that the proposed resident rate of 0.55 s/u is low. It is significant that 28 Ann Street, a very similar development, has an approved rate of 0.57 s/u, and after conducting sales for two-and-a-half years continues to have spaces for purchase available. However, the validity of the use of 28 Ann Street as a proxy site is compromised given that Mr. Chan did not follow the Parking TOR when using sales data in support of a reduced parking rate. Despite this, the Tribunal was not persuaded by the City's evidence that no reduction is appropriate. Incentivizing housing availability in intensification areas by keeping costs lower with reduced parking rates is supportive of Provincial and Municipal objectives of promoting development standards that minimize the cost of housing.

[107] The PPS directs the management of growth to Municipal authorities and the City has taken this direction and established a well thought out planning policy for Port Credit as a whole. The Applications are not consistent with the policies for urban intensification set out in the PPS and do not similarly conform with the Growth Plan and Region OP. The City demonstrated to the Tribunal that there has been a fulsome

process undertaken, which has resulted in the policies and urban hierarchy found in the PCLAP. The Tribunal found it significant that the City OP contemplates changes to the city structure only through a Municipal comprehensive review. The City is currently undergoing a Municipal comprehensive review process and the Tribunal finds it significant that the Port Credit Community Node is slated to remain unchanged.

[108] The proposed OPA and ZBA would facilitate a building that is too large for the site and would result in an outcome that is in conflict with the policies set out in the City OP. Further, the Applications do not fit into the planned context as envisaged by the PCLAP. While the Appellant took the Tribunal to a number of examples of tall buildings in Port Credit, the Tribunal agrees with the City that they are either in locations that are compatible with the height or they pre-exist the PCLAP.

[109] The Tribunal finds that the Applications seek to maximize the location of the Subject Property but fail to address other important land use planning considerations. This is a case where the Appellant is attempting to maximize, rather than optimize, the Subject Property. The Tribunal agrees with the Appellant that the Subject Property can support a building, this is but one consideration in the assessment of a development application. There are other important factors which must also be considered, including but not limited to, the size of the lot, the existing context of the entire area and the planned context. In this regard, the Proposed Development is too ambitious for the Subject Property.

[110] In determining this matter, the Tribunal prefers the evidence and opinions provided by the City's experts. The Tribunal was not persuaded by the evidence and opinions provided by the Appellant's experts. The Tribunal was not presented with evidence that was compelling enough to deem a change to the planned context of the proposed magnitude to be appropriate. Although well presented, the expert evidence presented by the Appellant was not sufficiently compelling to have it preferred by the Tribunal. The Tribunal finds that the Appellant has not demonstrated that the Proposed Development is an appropriate form of intensification. The Tribunal finds that the

Applications fail to have sufficient regard for Provincial interests with respect to the orderly development of safe and healthy communities, contrary to s.2 of the Act. Rather, the Tribunal finds that each proposed amendment to the as of right permissions has the potential to be the “tipping point” and cumulatively, the result is a building that is too large on a small site.

The Tribunal was tempted to encourage the Parties to engage in one further attempt to resolve the disputed issues, however, it was apparent to the Tribunal that directing further negotiations would be fruitless given the Tribunal’s understanding of the attempts to date to reconcile the cumulative excesses presented by the Proposed Development. Therefore, the Tribunal will not approve the Proposed Development, and wholly dismisses the appeals. In doing so, the Tribunal encourages the Parties to work together to achieve an appropriate scale of intensification that fits within the context of Port Credit.

ORDER

[111] **THE TRIBUNAL ORDERS** that the appeals are dismissed.

“C. Hardy”

C. HARDY
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.