

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



**ISSUE DATE:** October 31, 2023

**CASE NO(S):**

OLT-22-002950

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

Applicant/Appellant: L & B Aurora Inc.  
Subject: Application to amend the Zoning By-law –  
Refusal to approve the application  
Description: To permit the development of a 6-storey  
apartment building containing 150 residential  
units  
Reference Number: ZBA-2019-01  
Property Address: Northeast corner of John West Way and  
Wellington Street East (unaddressed)  
Municipality/UT: Town of Aurora  
OLT Case No.: OLT-22-002950  
OLT Lead Case No.: OLT-22-002950  
OLT Case Name: L & B Aurora Inc. v. Aurora (Town)

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

Referred by: L & B Aurora Inc.  
Subject: Site Plan  
Description: To permit the development of a 6-storey  
apartment building containing 150 residential  
units  
Reference Number: SP-2020-05  
Property Address: Northeast corner of John West Way and  
Wellington Street East (unaddressed)  
Municipality/UT: Town of Aurora  
OLT Case No.: OLT-22-002951  
OLT Lead Case No.: OLT-22-002950

**Heard:** October 23, 2023 by Video Hearing

**APPEARANCES:**

**Parties**

L & B Aurora Inc.

Town of Aurora

**Counsel**

A. Jeanrie  
S. Brazzell (*in absentia*)

C. deSereville  
D. Baker (*in absentia*)

**MEMORANDUM OF ORAL DECISION DELIVERED BY S. DIXON ON OCTOBER 23, 2023 AND ORDER OF THE TRIBUNAL**

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[Link to Final Order](#)

**INTRODUCTION**

[1] This Decision and Order arises from appeals filed by L & B Aurora Inc. (“Appellant”) pursuant to sections 34(11) and 41(12) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended (“Act”), concerning Zoning By-law Amendment (“ZBA”) and Site Plan Approval (“SPA”) applications (together, “Applications”) in the Town of Aurora (“Town”) for lands at the northeast corner of John West Way and Wellington Street East, legally described as Concession 1E, Part Lot 81 (“Subject Lands”). The Subject Lands do not currently have a municipal address.

[2] The Applications seek to facilitate the development of a six-storey rental apartment building by rezoning the Subject Lands from “Shopping Centre Commercial (C4)” and “Environmental Protection (EP)” to “Mixed Residential Commercial (C6)” and “Environmental Protection (EP)”, with site-specific exceptions to permit dwelling units on the first storey, a personal service shop, and various other site-specific standards.

[3] Town staff recommended approval of the Applications in principle, subject to certain conditions. Town Council refused the Applications.

## **SETTLEMENT**

[4] The Applications were revised following the cooperative efforts of the Parties and a settlement was reached prior to the Hearing. In support of the settlement, the Tribunal was in receipt of a sworn Affidavit from Joanna Fast (retained by the Appellant), which was marked as Exhibit 1. Ms. Fast is a Registered Professional Planner and a Principal at Evans Planning. She has been practicing land use planning for approximately 18 years and has been previously qualified by the Tribunal to provide expert opinion evidence on matters pertaining to same.

[5] At the Hearing, Ms. Fast provided oral evidence with reference to Exhibit 1, including an overview of the site area and context, the proposed development facilitated by the Applications, her planning analysis, responses to concerns raised by the public, and her summary recommendations.

## **SITE CONTEXT**

[6] The Subject Lands are currently vacant, with an approximate site area of 0.89 hectares, a frontage of 95.1 metres on John West Way, and a frontage of 102.8 metres on Wellington Street East.

[7] The area surrounding the Subject Lands consists of commercial and industrial uses to the south and west, with the closest uses to the Subject Lands consisting of multi-unit plazas and a car dealership. To the north and east of the Subject Lands is an open space area which includes a branch of the East Holland River and the Nokiidaa Trail (also known as the Tom Jones Trail). Further north of the site are townhouse and semi-detached dwellings, the Aurora Senior's Centre, and the Town's Municipal Offices.

[8] The Subject Lands are located approximately 775 metres east of the Aurora GO Station. Several York Region Transit routes operate adjacent to the Subject Lands, providing connections to higher-order and inter-regional transit options.

[9] Ms. Fast proffered that several existing apartment developments of similar heights are located on John West Way and Wellington Street East, with further intensification anticipated in the area surrounding the Aurora GO Station.

### **REVISED PROPOSAL**

[10] Ms. Fast advised the Tribunal that the proposed development facilitated by the revised Applications will:

- a) Contain 149 residential units with a proposed mix of 65 one-bedroom units, 73 two-bedroom units, and 11 three-bedroom units;
- b) Contain a 73 square metre commercial unit on the ground floor, adjacent to the main building entrance;
- c) Provide 42 parking spaces at-grade and 140 parking spaces below-grade;
- d) Provide a pedestrian connection to the Nokiidaa Trail – which runs through the adjacent open space area – at the northwest limit of the site;
- e) Provide an urban square at the intersection of John West Way and Wellington Street East, which will function as an active community meeting place with decorative paving, a trellis, seating areas and plantings;
- f) Include a rooftop amenity area with a green roof, planters, barbeque facilities, seating areas and a play area;

- g) Remove the Subject Lands from the floodplain, in accordance with cut and fill works approved by the Lake Simcoe Region Conservation Authority;  
and
- h) Remove invasive plant species and incorporate restorative plantings to improve the quality of the adjacent open space area.

[11] In Ms. Fast's opinion, the Applications will provide for a vibrant, pedestrian-oriented mixed-use development that represents an appropriate form of intensification that will support local businesses, community facilities, and amenities. She further opined that the Applications protect and enhance adjacent environmental features.

## **PLANNING ANALYSIS**

[12] In Ms. Fast's opinion, the Applications have regard for the matters of provincial interest set out in s. 2 of the Act – particularly matters 2(a), 2(f), 2(h), 2(j), 2(p), 2(q), and 2(r) – and are consistent with the Provincial Policy Statement, 2020, conform with the Growth Plan for the Greater Golden Horseshoe, 2019, as amended, conform with the York Region Official Plan, 2010 and the York Region Official Plan, 2022, and conform with the Town Official Plan.

[13] In support of her opinion, Ms. Fast proffered that the Applications will:

- a) Provide for the long-term protection of the environmental areas on and adjacent to the Subject Lands;
- b) Efficiently use existing sewage, water and transportation systems, with no need for extensions or upgrades to the municipal system beyond the limits of the Subject Lands;

- c) Reflect the orderly development of a safe and healthy community;
- d) Provide a form of housing that will contribute to a diversified supply of housing options and offer an alternative to home ownership within the Town;
- e) Provide a transit-supportive development in a location that allows for the efficient use of existing infrastructure and access to public transit with inter- and intra-regional connections;
- f) Support pedestrian access to several community amenities, local services, commercial opportunities, and recreational activities;
- g) Facilitate an attractive development in an urban form on a vacant, underutilised site at a key intersection within the Urban Area and Built Boundary of the Town; and
- h) Meet the urban design policies of the Town, including through the provision of visual articulation, a pedestrian-oriented building that animates the street frontages, visually screened parking areas, and an enhanced streetscape.

## **FINDINGS**

[14] Based on the uncontroverted expert opinion evidence of Ms. Fast, the Tribunal finds that the Applications, as amended, satisfy all required statutory tests, represent good planning, and are in the public interest. The Tribunal has had regard to the decisions of the Town related to this planning matter, including the Town's initial refusal of the Applications and subsequent endorsement of the settlement presented to the Tribunal.

**ORDER**

[15] **THE TRIBUNAL ORDERS** that the appeals are allowed in part and By-law No. 6000-17 of the Town of Aurora is hereby amended as set out in **Attachment 1** to this Order. The Tribunal authorises the municipal clerk for the Town of Aurora to assign a number to this by-law for record keeping purposes.

[16] **THE TRIBUNAL ORDERS** that the appeal pursuant to subsection 41(12) of the *Planning Act* is allowed in part and the site plan prepared by Keith Loffler McAlpine Architects, dated July 25, 2023, is approved as set out in **Attachment 2** to this Order, subject to the conditions set out in **Attachment 3** to this Order.

[17] The Tribunal may be spoken to in the event the Parties require the Tribunal's assistance regarding the implementation of the Order above, including the fulfilment of the conditions of site plan approval.

*"S. Dixon"*

S. DIXON  
MEMBER

**Ontario Land Tribunal**

Website: [www.olt.gov.on.ca](http://www.olt.gov.on.ca) Telephone: 416-212-6349 Toll Free: 1-866-448-2248

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.

## ATTACHMENT 1

### The Corporation of the Town of Aurora

#### By-law Number -23

#### **Being a By-law to amend By-law Number 6000-17, as amended, respecting the lands municipally known as the Northeast corner of John West Way and Wellington Street East (File No. ZBA-2019-01).**

**Whereas** under section 34(1) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended (the “Planning Act”), zoning by-laws may be passed by the councils of local municipalities to prohibit and regulate the use of land, buildings and structures;

**And whereas** on June 27, 2017, the Council of The Corporation of the Town of Aurora (the “Town”) enacted By-law Number 6000-17, as amended (the “Zoning By-law”), which Zoning By-law was appealed to the Ontario Municipal Board (the “OMB”);

**And whereas** on January 29, 2018, the OMB made an order, in accordance with subsection 34(31) of the Planning Act, providing that any part of the Zoning By-law not in issue in the appeal shall be deemed to have come into force on the day the Zoning By-law was passed;

**And whereas** the OMB and the Local Planning Appeal Tribunal (the “LPAT”) is continued under the name Ontario Land Tribunal (the “OLT”), and any reference to the Ontario Municipal Board or OMB or Local Planning Appeal Tribunal or LPAT is deemed to be a reference to the OLT;

**And whereas** on October 31, 2023, the Tribunal issued a Memorandum of Oral Decision and Order, under OLT Case No. OLT-22-002950 (the “Order”) approving an amendment to the Zoning By-law respecting the lands municipally known as the Northeast corner of John West Way and Wellington Street East, following an appeal pursuant to section 34(11) of the Planning Act;

**Now therefore the Zoning By-law is amended by the OLT as follows:**

1. The Zoning By-law is hereby amended to replace the “Community Commercial C4 (427) Exception Zone” and “Environmental Protection EP Zone” zoning categories applying to the lands shown on Schedule “A” attached hereto and



forming part of this By-law with “Mixed Residential Commercial C6 (XXX) Exception Zone” and “Environmental Protection (EP) Zone”.

2. The Zoning By-law be and is hereby amended to add the following:

**Section 24.XX Mixed Residential Commercial C6 (XXX) Exception Zone**

<b>Parent Zone:</b> C6 <b>Exception No.:</b> XXX	<b>Map:</b> 3	<b>Previous Zone:</b> C4 (427)	<b>Previous By-laws:</b> 5544-13
<b>Municipal Address:</b> Northeast corner of John West Way and Wellington Street East			
<b>Legal Description:</b> Concession 1E Part Lot 81			
<b><u>24.XX.1 Permitted Uses</u></b>			
The uses permitted in accordance with Section 9.1 of Zoning By-law No. 6000-17, plus the following uses: <ul style="list-style-type: none"> <li>• Dwelling units within the first storey</li> <li>• Personal Service Shop</li> </ul>			
<b><u>24.XX.2 Zone Requirements</u></b>			
Notwithstanding the provisions of Section 9.2 of Zoning By-law No. 6000-17, the following standards shall apply:			
Minimum Floor Area, Commercial	70 square metres		
Minimum Rear Yard	16.0 metres to the building 7.5 metres to the parking structure		
Maximum Height	23 metres and in no case greater than 6 storeys		
<b><u>24.XX.3 Amenity Area</u></b>			
A minimum amenity area of 13.5 square metres per dwelling unit shall be provided. The required amenity area can be provided interior and exterior to the building.			
<b><u>24.XX.4 Parking Standards</u></b>			

Notwithstanding the provisions of Section 5.4 of Zoning By-law No. 6000-17, parking shall be provided at a rate of 1.2 spaces per dwelling unit. A minimum of 20% of spaces provided are required for visitor and commercial parking.

#### **24.XX.5 Yard Encroachments**

Notwithstanding the provisions of Section 4.20 of Zoning By-law No. 6000-17, a decorative canopy connecting to the Urban Square may encroach up to 0 metres from any lot line.

3. This By-law shall come into full force subject to compliance with the provisions of the Planning Act, and subject to compliance with such provisions, this By-law will take effect from the date of the Order.
4. If a building permit that is necessary for the development has not been issued under the *Building Code Act, 1992*, S.O, 1992, c.23, as amended, for any building or structure so authorized by this By-law within five (5) years from the enactment of this By-law, then this By-law shall automatically repeal and if so repealed, the zoning of the lands shall revert to the underlying zoning permissions.

**Pursuant to the Order of the Ontario Land Tribunal issued on the 31<sup>st</sup> day of October 2023, under OLT Case No. OLT-22-002950.**

**Explanatory Note****Re: Zoning By-law Number XXXX-23****By-Law Number XXXX-23 has the following purpose and effect:**

To amend By-law Number 6000-17, as amended, being the Zoning By-law in effect in the Town of Aurora, to rezone the subject lands from “Community Commercial C4 (427) Exception Zone” and “Environmental Protection (EP) Zone” to “Mixed Residential Commercial C6 (XXX) Exception Zone” and “Environmental Protection EP Zone” in accordance with Zoning By-law No. 6000-17, as amended.

The rezoning will permit a six-storey mixed-use apartment building on the subject lands.

**Schedule "A"**

**Location:** Northeast corner of John West Way and Wellington Street East;  
Concession 1E Part Lot 81



Lands rezoned from "Community Commercial C4 (427) Exception Zone" and "Environmental Protection (EP) Zone" to "Mixed Residential Commercial C6 (XXX) Exception Zone" and "Environmental Protection EP Zone"





**ATTACHMENT 3****The Town of Aurora's Conditions of Site Plan Approval****Site Plan Application (SP-2020-05)  
2570254 Ontario Limited (L&B Aurora Inc.)  
Northeast Corner of John West Way and Wellington Street East  
CON 1E PART LOT 81 RS65R13645 PART 4**

**The following conditions shall be satisfied by the Owner of the Lands (the "Owner") prior to the release for registration of the Site Plan (the "Plan").**

**Planning Division**

1. The final Site Plan prepared by Keith Loffler McAlpine Architects (KLMA) Inc. dated July 25, 2023, with respect to the creation of a 6-storey residential building of 149 units, and the associated conditions of Site Plan Approval, may be amended to the satisfaction of the Planning Division if revisions are required to implement or integrate any recommendations resulting from studies required as a condition of Site Plan approval. Further, minor redline revisions to the Site Plan may also be required.
2. That prior to execution of the Site Plan Agreement, the lands shall be appropriately zoned by a zoning by-law that has come into effect in accordance with the provisions of the *Planning Act R.S.O. 1990, c. P.13*, as amended.
3. That the Owner be required to enter into a Site Plan Agreement with the Town of Aurora to address requirements of the Town and external agencies, including but not limited to, provision for payment by the Owner of all applicable fees, easement requirements, securities, cash-in-lieu of parkland and any other financial obligations.
4. That prior to the execution of the Site Plan Agreement, the Owner agrees to provide the required reports and plans and satisfy any outstanding technical comments as provided by the Town and external agencies to the satisfaction of the Director of Planning and Development Services.

5. A clause shall be added to the Site Plan Agreement stating that the Owner shall carry out or cause to be carried out the recommendations of the studies prepared in support of the development, including but not limited to the recommendations of the Green Development Report and Environmental Impact Study.

#### Development Engineering

6. That prior to execution of the Site Plan Agreement, the Owner agrees to address all comments and technical matters and provide final Engineering Plans, reports, updated Cost Estimates, securities and fees relating to the proposed development to the satisfaction of the Town, including but not limited to updated cost estimates for Engineering works, bulk water fees, the preparation of a construction management plan, functional servicing report, stormwater management plan, salt water management plan, hydrogeological monitoring, and utility plans, and to carry out the recommendations of such reports as required.

#### Operations Division

7. A clause be added to the Site Plan Agreement, to the satisfaction of the Town, that the Owner acknowledge that no securities be released until Public Works has had a chance to inspect what was constructed to ensure benching and water connections have been completed to the satisfaction of the Town's Operations Division.
8. A clause be added to the Site Plan Agreement that the Owner acknowledges to comply with the Town's Backflow Prevention By-law to the satisfaction of the Town's Operations Division.

#### Parks

9. That prior to execution of the site plan agreement, the Owner agrees to provide final landscape drawings and Cost Estimates relating to the proposed development to the satisfaction of the Parks Division.
10. That the Owner shall agree in the Site Plan Agreement to grant any easements required for trail purposes to the Town.

11. A clause shall be added to the Site Plan Agreement stating that the Owner shall carry out or cause to be carried out a tree protection plan to the satisfaction of the Parks Division, as required.

#### Traffic

12. That prior to execution of the Site Plan Agreement, the Owner agrees to address all comments and technical matters and provide final reports and plans relating to the proposed development to the satisfaction of the Town, including but not limited to a detailed Transportation Demand Management Checklist and Cost Estimate, and a Traffic Management Plan, with the recommendations of which to be implemented by the Owner.

#### **External Agencies:**

##### Central York Fire Services

13. That prior to execution of the Site Plan Agreement, the Owner agrees to address any comments and technical matters relating to the proposed development, to the satisfaction of Central York Fire Services.
14. The Owner agrees to maintain emergency vehicle access during construction.

##### Lake Simcoe Region Conservation Authority ("LSRCA")

15. That prior to the execution of the site plan agreement, the following shall be prepared to the satisfaction of the LSRCA and Town:
  - A detailed storm water management report inclusive of water budget (Hydrogeological Assessment) to satisfy 4.8-DP and 6.40 DP of the LSPP.
  - A detailed erosion control plan
  - A detailed grading plan
  - A detailed restoration plan
  - A detailed Edge Management plan
  - Detailed landscape plans



16. That prior to the execution of the Site Plan Agreement, the Owner shall pay all development fees to the LSRCA in accordance with the approved Fees Policy under the Conservation Authorities Act.
17. That prior to the execution of the Site Plan Agreement, the following shall be undertaken to the satisfaction of the LSRCA, in accordance with the Phosphorus Offsetting Policy:
  - Phosphorus budget
  - Compensatory measures if required
18. That prior to the execution of the Site Plan Agreement, the following shall be undertaken to the satisfaction of the LSRCA, in accordance with the Ecological Offsetting Policy:
  - Ecological Offsetting Report
  - Compensatory measures if required
19. That the owner shall agree in the Site Plan Agreement to carry out, or cause to be carried out, the recommendations and requirements contained within the plans and reports as approved by the LSRCA and the Town.
20. That the owner shall agree in the Site Plan Agreement to retain a qualified professional to certify in writing that the works were constructed in accordance with the plans and reports as approved by the LSRCA and the Town.
21. That the owner shall agree in the Site Plan Agreement to ensure that proper erosion and sediment control measures will be in place in accordance with the approved Grading and Drainage Plan, and Erosion and Sediment Control Plan prior to any site alteration or grading.
22. That the owner shall agree in the Site Plan Agreement to grant any easements required for storm water management purposes to the Town.
23. That the Owner shall agree in the Site Plan Agreement to obtain a permit from the LSRCA under Ontario Regulation 179/06 for any site alteration or development within the Regulated Area.

24. That the Owner shall agree in the Site Plan Agreement to maintain all existing vegetation up until a minimum of 30 days prior to any grading or construction on-site in accordance with 4.20b.-DP of the Lake Simcoe Protection Plan.
25. That the Owner shall agree in the Site Plan Agreement to indemnify and save harmless the Town and LSRCA from all costs, losses, damages, judgements, claims, demands, suits, actions, or complaints resulting from any increased flooding or erosion to property and people as a result of the approved storm water management scheme. The Owner shall obtain and maintain in full force and effect during the term of this Agreement general liability insurance with respect to the storm water management works and system.

#### Canada Post

26. The Owner agrees to supply, install and maintain a centralized mail room facility to Canada Post's specifications.