

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



**ISSUE DATE:** January 25, 2022

**CASE NO(S).:** OLT-21-001127

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

**Applicant and Appellant:** King West Crossing Limited & DV Trillium Group Inc.  
**Subject:** Request to amend the Official Plan - Failure of the City of Hamilton to adopt the requested amendment  
**Existing Designation:** 'Urban Corridor' on Schedule E - Urban Structure of the Urban Hamilton Official Plan ("UHOP") and 'Mixed Use - Medium Density' on Schedule E1 - Urban Land Use Designations  
**Proposed Designated:** Urban Site-Specific Area in the UHOP  
**Description:** To permit an additional 19 storeys atop the multiple dwelling building and an additional 2 storeys atop the hotel  
**Property Address:** 354 King Street West, Hamilton  
**Municipality:** City of Hamilton  
**Municipality Reference No.:** UHOPA-20-003  
**OLT Lead Case No.:** OLT-21-001127  
**OLT Case No.:** OLT-21-001127  
**OLT Case Name:** King West Crossing Limited & DV Trillium Group Inc. v. Hamilton (City)

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

**Applicant and Appellant:** King West Crossing Limited & DV Trillium Group Inc.  
**Subject:** Application to amend Zoning By-law No. 05-200 - Neglect of the City of Hamilton to make a decision  
**Existing Zoning:** Transit Oriented Corridor Mixed Use Medium Density (TOC1) with exception 295  
**Proposed Zoning:** Site Specific Exemption  
**Description:** To permit an additional 19 storeys atop the multiple dwelling building and an additional 2 storeys atop the hotel  
**Property Address:** 354 King Street West, Hamilton

Municipality: City of Hamilton  
Municipality Reference No.: ZAC-20-008  
OLT Lead Case No.: OLT-21-001127  
OLT Case No.: OLT-21-001128

**Heard:** January 12, 2022 by Video Hearing

## **APPEARANCES:**

### **Parties**

### **Counsel**

King West Crossing Limited &  
DV Trillium Group Inc.

Denise Baker

City of Hamilton

Patrick MacDonald

## **MEMORANDUM OF ORAL DECISION DELIVERED BY CARMINE TUCCI ON JANUARY 12, 2022 AND ORDER OF THE TRIBUNAL**

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[1] This is the first Case Management Conference (“CMC”) for this case.

[2] The purpose of the CMC was to receive status updates from both parties to organize the hearing of these appeals.

## **OVERVIEW**

[3] The Applications sought to permit additional storeys atop the previous site plan, which approved a six (6) storey multiple dwelling and a ten (10) storey hotel to be constructed on 354 King Street West (“Subject Property”), in the City of Hamilton (“City”).

[4] Specifically, the Applications sought approval for an additional 19 storeys atop the multiple dwelling building and an additional two (2) storeys atop the hotel, bringing the total heights to 25 storeys (77.2 metres (“m”)) and 12 storeys (41.78 m), respectively, along with other modifications to the Zoning By-law regarding parking and modifications

to the minimum rear yard, interior side yard, principal entrance location, and driveway accesses.

[5] The additional storeys would facilitate the development of 236 more residential units and 28 additional hotel suites.

[6] On December 18, 2020, the Applications were amended to allow them to be considered in phases.

[7] The first phase dealt with the additional two storeys on the hotel portion of the Subject Property ("Phase 1"). The effect of the approval of Phase 1 of the Application would be to add a site-specific policy for a portion of the Subject Property to permit the maximum 12 storey building height for the hotel and to modify the Transit Oriented Corridor Mixed Use Medium Density (TOC1, 295) zone to deem the lot as one lot for zoning purposes, to permit a height of 41.78 m (12 storeys) and to reduce the required parking for a hotel use.

[8] The second phase of the Application deals with the additional 19 storeys atop the multiple dwelling to permit a total of 25 storeys and an additional 236 residential units ("Phase 2").

[9] On May 4, 2021, a recommendation report went forward to the City's Planning and Development Committee, which recommended the approval of the Phase 1 portion of the Applications, and the associated planning instruments.

[10] This recommendation was approved by Council on May 12, 2021 and the appeal period has since expired without any appeals having been filed.

[11] The amendments to the City's Official Plan and Zoning By-law for the Phase 1 portion of the Subject Property are now in force and effect.

[12] The Subject Property is designated 'Urban Corridor' on Schedule E - Urban Structure of the Urban Hamilton Official Plan ("UHOP") and 'Mixed Use - Medium Density' on Schedule E1 - Urban Land Use Designations.

[13] The Official Plan Amendment ("OPA") is required to establish an Urban Site-Specific Area in the UHOP to permit the total height of 25 storeys for the multiple dwelling building.

[14] The Subject Property is currently zoned 'Transit Oriented Corridor Mixed Use Medium Density (TOC1)' with exception 295 under the City Zoning By-law No. 05-200, as amended.

[15] The Zoning By-law Amendment ("ZBA") is required to create a site-specific exception for the Subject Property, which will amend the minimum required interior side yard setback, the minimum and maximum building heights, the minimum number of permitted vehicle accesses, a regulation related to the orientation of a principal building entrance, and parking requirement for the multiple dwelling.

## **NATURE OF THE APPEALS**

[16] The City failed to make a decision on the Phase 2 Applications within the statutory time periods (120 days).

[17] The Tribunal heard through Denise Baker that she has requested a detailed Issues List from the City.

[18] The City has acknowledged the request and will submit an Issues List restricted to Land Use Planning and Design by February 11, 2022.

[19] Both Parties will be calling two witnesses each and have requested a five-day hearing. The Tribunal received a Participant status application from Wayne MacPhail. Mr. MacPhail represents a neighbourhood group named Strathcona Shadow Dwellers.

[20] The Tribunal canvassed both Counsel for King West Crossing Limited & DV Trillium Group Inc. (the “Applicant/Appellant”) and Counsel for the City, there were no objections to the granting of Participant Status to Mr. MacPhail.

[21] The Tribunal granted Participant Status to Mr. MacPhail.

[22] Ms. Baker informed the Tribunal that she will complete and submit an updated Procedural Order.

[23] The Tribunal hereby schedules a Video Hearing of these appeals on **Monday June 20, 2022**, commencing at **10 am**. Five (5) days has been set aside.

[24] Parties and participants are asked to log into the Video Hearing at least **15 minutes** before the start of the event to test their video and audio connections:

<https://global.gotomeeting.com/join/979388733>

**Access code: 979-388-733**

[25] Parties and participants are asked 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](https://app.gotomeeting.com/home.html) or a web application is available:

<https://app.gotomeeting.com/home.html>

[26] 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(647) 497-9373 or Toll Free 1(888) 299-1889**. The **access code** is **979-388-733**.

[27] Individuals are directed to connect to the event on the assigned date at the correct time. It is the responsibility of the persons participating in the hearing by video to ensure that they are properly connected to the event at the correct time. Questions prior to the hearing event may be directed to the Tribunal's Case Coordinator having carriage of this case.

[28] No further notice will be given.

[29] The Member is seized.

[30] So Orders the Tribunal.

*"Carmine Tucci"*

CARMINE TUCCI  
MEMBER

**Ontario Land Tribunal**

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

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