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GREATER TORONTO & HAMILTON AREA

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NRU's 23rd Annual
Review

AUDITOR GENERAL RECOMMENDS PROVINCE ESTABLISH FORMAL MZO APPLICATION AND REVIEW PROCESS

ENHANCING GOVERNMENT TRANSPARENCY

Marc Mitanis

At least two planning and public policy consultants are echoing recommendations from Ontario's Auditor General that the province establish a formal application and review process for minister's zoning orders,

as the provincial government's use of the controversial tool has increased sharply in recent years.

On December 1, Auditor General of Ontario **Bonnie Lysyk** released a [value-for-money audit on land-use planning in the Greater Golden Horseshoe](#), which identified opportunities to better align planning processes with the objectives of the *Planning Act* and the *Growth Plan for the Greater Golden Horseshoe*. According to the audit,

Ontario's municipalities are facing challenges implementing the policies of the Growth Plan due to numerous changes to provincial planning legislation, inadequate guidance from **Ministry of Municipal Affairs and Housing** staff, and the increasing use of minister's zoning orders (MZO) to expedite development. MZOs are a tool established under the *Planning Act* that allows the Minister of Municipal Affairs and Housing to unilaterally regulate the land use and

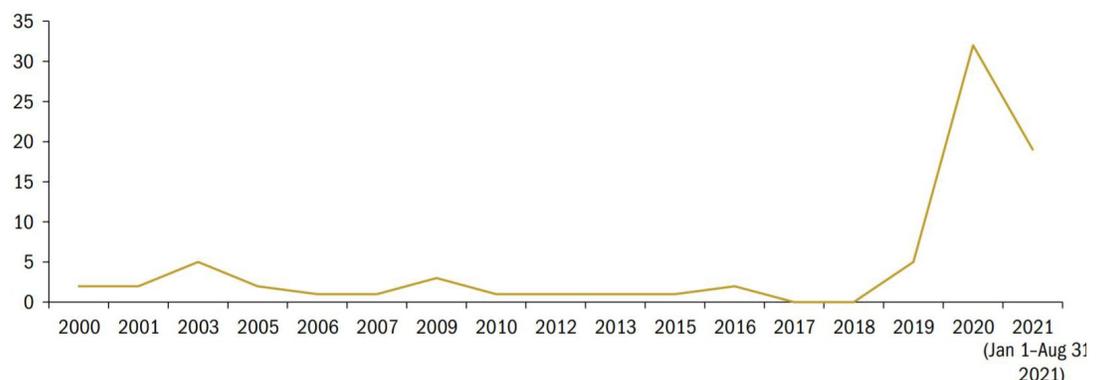
zoning regulations of any property in Ontario.

The Auditor General says MZOs—which do not require public consultation and cannot be appealed to the **Ontario Land Tribunal**—undermine the goals of the Growth Plan, disrupt normal planning processes, and evade the public's right to consultation in land use planning. The Auditor General also found that there are no established criteria against which the Minister

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Graph showing Minister's Zoning Orders (MZOs) issued between January 2000 and August 31, 2021. Under the Planning Act, Minister's Zoning Orders allow the provincial Minister of Municipal Affairs and Housing to regulate the land use of any property in Ontario. The use of MZOs has rapidly accelerated since the 2018 election, with a total of 44 MZOs being issued between March 2019 and March 2021. In her 2021 annual report, Auditor General of Ontario Bonnie Lysyk recommended that a formal application and review process should be established to clearly determine how MZO requests can be made, and which criteria the Minister will use to evaluate MZO requests.

SOURCE: OFFICE OF THE AUDITOR GENERAL OF ONTARIO



UPCOMING DATES

DECEMBER

22 Durham Regional Council, 9:30 a.m.

Oakville Special Planning & Development Council, 6:30 p.m.

JANUARY

10 Ajax General Government Committee, 1:00 p.m.

Barrie General Committee, 7:00 p.m.

Brock Committee of the Whole, 10:00 a.m.

Clarington General Government Committee, 9:30 a.m.

Mississauga Planning & Development Committee, 6:00 p.m.

Oshawa Development Services Committee, 1:30 p.m.

Pickering Planning & Development Committee, 7:00 p.m.

Scugog General Purpose & Administration Committee, 1:30 p.m.

Whitby Council Public Meeting, 7:00 p.m.

11 Aurora General Committee, 7:00 p.m.

Burlington Community Planning, Regulation & Mobility Committee, 9:30 a.m.

Durham Region Planning & Economic Development Committee, 9:30 a.m.

East Gwillimbury Special Council, 10:00 a.m.

Hamilton Planning Committee, 9:30 a.m.

GETTING AHEAD OF TRAFFIC



Rob Jowett

The Town of Oakville is planning a series of improvements to its public transit network as it contemplates the return of transit ridership to pre-pandemic levels and plans for increased population growth in Oakville in the longer term.

At its meeting December 20, Town of Oakville council endorsed seven new transit priority projects that are meant to expand and improve transit service across the town and to neighbouring regions and to reduce the town's carbon emissions. The town's seven priorities include establishing the Trafalgar Road and Dundas Street bus rapid transit lines, building the Palermo Transit Terminal, improving connections to and through midtown, establishing regional express rail on the Lakeshore West GO train line, expanding its existing on-demand transit services, and electrifying its bus fleet.

Town of Oakville transportation and engineering director **Jill Stephen** told *NRU*

that traffic has been returning to pre-pandemic levels over the past several months, which means that Oakville roads are becoming very congested. She notes that road widenings are not possible on most Oakville roads, meaning that the town has to find alternative ways to reduce congestion as the town's population grows. While this planning work does not take the impacts of more recent public health restrictions and likely impacts on road traffic into consideration, most of these projects are long-term and would need to be undertaken, regardless of short-term changes to traffic patterns.

"Building our way out of congestion with new roads

isn't an option," says Stephen. "We're really turning our focus towards more sustainable modes of transportation and really making sure that people have the option to travel by different means."

Stephen says one of the town's top priorities is expanding transit service to underserved areas of the town, especially areas like midtown, which is rapidly growing. Midtown Oakville is a provincially-designated urban growth centre (UGC) that has been planned for dense development. This area of Oakville will see 23 per cent of the town's currently planned intensification.

Based on a density target of

CONTINUED PAGE 3 ■

Building our way out of congestion with new roads isn't an option. We're really turning our focus towards more sustainable modes of transportation and really making sure that people have the option to travel by different means.

- Jill Stephen



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GETTING AHEAD OF TRAFFIC

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200 persons and jobs per hectare, the 103-hectare area will accommodate around 12,000 residents and 8,000 workers. The UGC also hosts the Oakville GO station and Trafalgar Road runs through its centre, making it the focal point for several of the town's new transit priorities. While currently the area is well-served by **Oakville Transit**, improvements are needed to accommodate the needs of the thousands of new residents and workers that will move into the area.

"Transit services that bring people into midtown, into the GO service, [that] are going to allow for that transit-oriented community-type developments [that the town wants to see built in the UGC] are really going to be critical," says Stephen.

Stephen says the town is planning to move the bus loop at the GO Station to the east side of Trafalgar Road and to build a flyover road parallel Trafalgar to connect to the new bus loop, allowing buses to access the loop without crossing Trafalgar and cutting off traffic. She says the town also wants to extend the bus platform so that riders can access the east side bus loop without having to cross Trafalgar directly.

Regional express rail service, which entails two-way all-day 15-minute GO train service, is also a priority for midtown as people will be both leaving and arriving there in the mornings and evenings either to work in midtown or to commute to other areas like downtown Toronto. **Metrolinx** is responsible for GO train service improvements, so the town cannot realize this goal directly, but Stephen says the town is working with Metrolinx to arrange service improvements as quickly as possible.

The town is also pursuing the development of bus rapid transit (BRT) services

on Trafalgar Road and Dundas Street, which is also a Metrolinx priority. The Dundas BRT would run 48-kilometres from Kipling Station in Toronto to Highway 6 in Hamilton, and the route for the Trafalgar Road BRT is still being studied, with the town recommending that the provincial government convert existing High-Occupancy Vehicle (HOV) lanes on Trafalgar Road into BRT lanes. Both the Dundas Street and the Trafalgar Road BRT routes have been identified in Town of Oakville and **Halton Region** planning documents and in Metrolinx's regional transportation plan *The Big Move*.

"[BRT] is going to take a real partnership approach and a real involvement by all levels of government to make those a success," says Stephen. "They're not just serving a very local

need, they're providing that inter-regional connection as well."

The town is planning to develop the Palermo Transit Terminal in the historic Palermo hamlet to meet an anticipated increased need for public transit in the area as new developments increase the population of north Oakville. The terminal would tie into the Dundas BRT and would help residents to access the GO train and other regional transit routes. A site for the terminal is still being

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Aerial photo map of the Oakville Urban Growth Centre (UGC), a focal point for growth in midtown Oakville and the centre of the town's planned transit upgrades. The 103-hectare UGC area includes the Oakville GO Station and is being planned to accommodate around 12,000 residents and 8,000 workers.

SOURCE: TOWN OF OAKVILLE



GETTING AHEAD OF TRAFFIC

CONTINUED FROM PAGE 3

determined and the town has allocated \$21.45-million in its 2022 capital budget for land acquisition.

While many municipalities have considered or have begun experimenting with on-demand transit service, Oakville already offers it in two different forms. One is a specialized transit service called “care-A-van”, which allows persons with disabilities to book door-to-door transit service. The other is called “Home to Hub” and uses smaller capacity buses to allow residents to book customized

travel between their home and the nearest transit hub. Stephen says these services are especially meant to serve residents in North Oakville, which does not have as much traditional transit service as the rest of the town and where there are fewer residents that need or that would use transit, meaning that it would be very expensive for the town to set up bus routes through that area.

“We’re continuing to look at all the different ways that we can offer that on-demand service, putting the right size of vehicle out there to provide that service,” says Stephen. “You don’t use a 40-foot bus when a van will do, you don’t use a van when the sedan will do. We put the right vehicle to the right level of service to meet the demand that we’re trying to meet.”

The town now plans to expand its on-demand service by quickly introducing it to newly-built communities and to communities with historically low transit demand, replacing conventional transit service during off-peak times when demand is very low, using on-demand to support traditional transit service and as a first and last-mile transit option, and providing on-demand transit on an interim basis for some traditional transit routes to help bring people back to transit service safely. Stephen says the town also plans to improve its on-demand transit app to make the service more accessible for people.

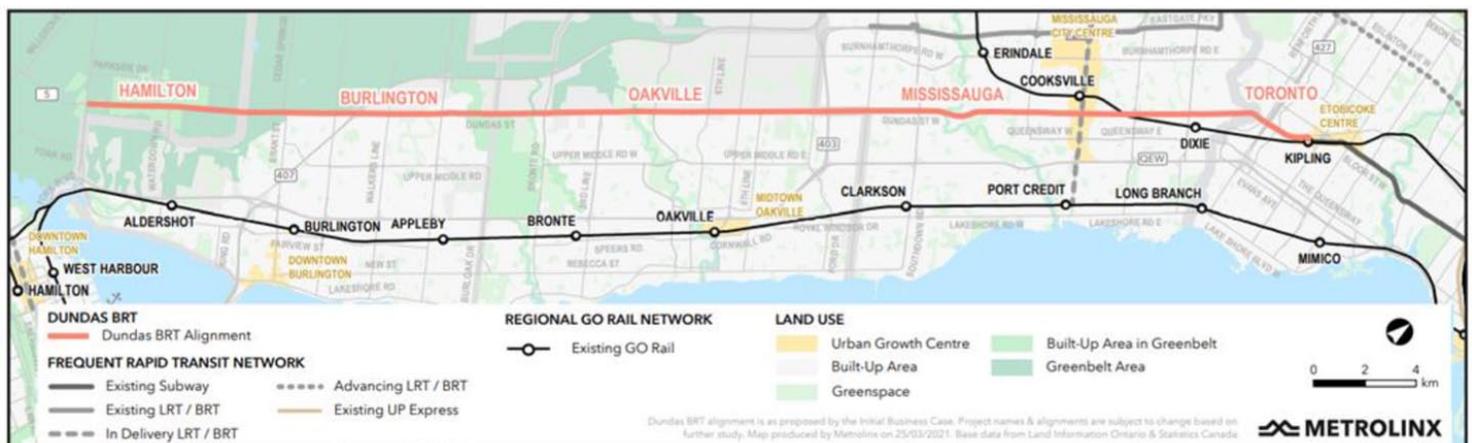
The town is also planning to electrify its transit fleet in order to reduce carbon emissions. The town is currently working to acquire new buses and to build charging infrastructure to allow an electric fleet to operate properly. The town plans to complete the switch from diesel to electric buses by 2036.

“We expect to sign

our agreements for the infrastructure in the first quarter of next year, and then we’ll start to coordinate our rollout for the fleet, as well as for the charging infrastructure,” says Stephen. “So, that will be that will be a very tangible next step that our residents will see next year.”

Map of the potential Dundas BRT route, which would run 48-kilometres from Kipling Station in Toronto to Highway 6 in Hamilton. The BRT has been identified in local and regional planning documents but necessary infrastructure work still needs to be committed to in order to realize the route.

SOURCE: TOWN OF OAKVILLE



REPURPOSING A DOWNTOWN LANDMARK



Mark Mitanis

A neglected historic Newmarket property will be transformed into a boutique hotel in support of the vitality of the town's heritage Main Street and the prosperity of the retail businesses of downtown Newmarket.

Earlier this month, **Streetcar Developments** and **Dream Unlimited Corp.** completed the acquisition of a historic former post office and customs house at 180 Main Street in downtown Newmarket with the intention of transforming the vacant property into a boutique hotel. The designated heritage property located at the corner

of Main Street and Park Avenue was constructed in 1915 and most recently accommodated a seniors' residence.

Newmarket Mayor **John Taylor** said the possibility of the development of a boutique hotel in downtown Newmarket has been on his radar for a

number of years. Taylor said the hotel project will preserve and restore a local heritage landmark, help support retail businesses along downtown Newmarket's Main Street, and contribute to the endurance of a vibrant and active downtown atmosphere.

"The vision is to have a

very vibrant, flourishing, and active downtown that preserves the historic nature of downtown." Taylor told *NRU*. "This project will continue to build the brand of downtown Newmarket, and the **Town of Newmarket** as a destination where interesting and exciting

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Rendering of a boutique hotel proposed at the historic former post office and clock tower building at 180 Main Street in downtown Newmarket. Streetcar Developments and Dream Unlimited Corp. formally closed on its acquisition of the property last week. The development team intends to renovate the interior of the building and to install a single-storey addition to the rear and top of the property to accommodate a rooftop event space. The building most recently functioned as a seniors' residence.

SOURCE: STREETCAR DEVELOPMENTS



REPURPOSING A DOWNTOWN LANDMARK

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and progressive things are happening.”

Streetcar Developments’ president and founder **Les Mallins** said **York Region** currently lacks a boutique hotel, a gap in the tourism and hospitality market that this project attempts to fill.

“Newmarket and all of the 905 area doesn’t really have what I would classify as a unique boutique hotel, so it seemed like a bit of a gap in the 905 market, and this feels like the right building in the right part of the right town,” Mallins told *NRU*.

The approach to the revitalization of the building at 180 Main Street will be similar to another adaptive reuse project recently undertaken by Streetcar and Dream at the Broadview Hotel in Toronto. That project saw the 1893-built heritage building and former hotel, boarding house, and strip club transformed into a boutique hotel with a rooftop bar. The 180 Main Street development will include a similar addition on the rear of the property, with a rooftop event space providing panoramic views of the town. The modest addition will allow the preserved brick-faced

historic building to shine, said Mallins, who suggested that a conversion of the building into a private residential development would contradict the property’s original public-oriented function.

“The worst thing that can happen to a building like this is that it sits in a prominent part of the Main Street—the most active and most interesting and historically relevant street in a town—and it remains vacant for prolonged periods of time,” Mallins told *NRU*. “I would say the second worst thing that could happen is it gets repurposed into a private residence, because this was a public building. An unfortunate outcome would be turning this into a condo or an office building where it’s only the property owners and their guests that would get to interact with the building and enjoy it. The reason a hotel is a great outcome for this is because it invites the public in, it can be the cultural core of Newmarket if we do it right. Bringing these buildings back to public use is really the best-case scenario for a property like this.”

Heritage preservation is what makes downtown

Newmarket special and interesting, and the protection of heritage assets can attract visitors to the area, said Taylor.

“We can’t let our major assets slide, and in the downtown, heritage is one of our major assets,” Taylor told *NRU*. “Downtown has that really interesting, historic Main Street feel, but we’re also infusing it with energy and something that is newer and different than the rest of it. Partnering with Streetcar and Dream, who have a track record with boutique hotels and historic buildings, certainly makes us a lot more comfortable moving forward.”

Newmarket town council has granted early approval of property tax deferrals and municipal fee waivers to support the development of the project through the Newmarket Historic Downtown Community Improvement Plan, which provides financial support to property owners to encourage downtown redevelopment and building restoration. Every dollar invested by the Town into the program generates four times the private-sector investment.

“This is one of those moments where the municipality can be bureaucratic and slow or entrepreneurial and nimble. We chose the latter,” Mayor Taylor told *NRU*. “We decided to move quickly and to grant incentives while [Streetcar and Dream] were still [closing on the property]. We can’t

risk losing this incredible opportunity. And we wanted to demonstrate to them that we’re serious about partnerships.”

The boutique hotel project requires site plan and minor variance approvals, which Mallins hopes can be obtained from the town within the next four months. Opening of the hotel is currently planned for the spring of 2023. 🌱

CONFLICT OF LAND USE INTERESTS



Rob Jowett

The **Town of Caledon** is appealing to the provincial government for help in stopping the development of an OLT-approved asphalt plant in Bolton that the town believes would have extremely negative effects on surrounding businesses in the area.

At its meeting December 14, Town of Caledon council voted to request a Minister's Zoning Order (MZO) from the provincial **Ministry of Municipal Affairs and Housing (MMAH)** that would block the approval of an asphalt plant at 12415 Coleraine Drive in Bolton.

MJJJ Developments proposed the hot mix asphalt plant in 2018 along with a two-storey office building, which the town rejected in 2019. MJJJ Developments appealed the ruling to the **Ontario Land Tribunal (OLT)**, which ruled in favour of the development on October 22.

The 2.78-hectare site at 12415 Coleraine Road had been designated for agricultural uses, and MJJJ proposed it be rezoned as prestige industrial. The site is in a prestige industrial area with many other industrial uses around it; however,

the town does not consider an asphalt plant to be a compatible use for the area and does not allow this land use within the prestige industrial zone.

"There are no industrial areas zoned for an asphalt plant in Caledon," Town of Caledon development review services acting manager **Stephanie McVittie** told *NRU* in a statement. "It is considered a prohibited use in our zoning by-law."

Given that hot mix asphalt plants are not permitted within Caledon's prestige industrial zone, the OLT ruling came as a surprise, Wards 3 and 4

councillor **Jennifer Innis** told *NRU*. Innis says the plant is an inappropriate use in the area because fumes from the plant are likely to have an adverse effect on nearby businesses that have operated in the area for a long time.

"In that area, there was great opposition [to the plant]," says Innis. "I didn't have one business that said to me that they wanted this in that particular area. And residents were opposed as well."

One of the businesses that would be affected is the food production company **Mars Canada**, which operates a distribution centre around

100 metres from the proposed plant and a newly-built warehouse around 300 metres away. Mars Canada general manager **Chantal Templeton** told *NRU* that the company may have to move at least its closest operations away from the plant so it does not

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Location of MJJJ Development's OLT-approved hot mix asphalt plant at 12415 Coleraine Drive in Bolton. The Town of Caledon is requesting an MZO from the province to halt development of the plant, the fumes from which would likely have adverse effects on surrounding businesses, according to the Town.

SOURCE: TOWN OF CALEDON
PREPARED BY: SGL PLANNING



LAND USE INTERESTS

CONTINUED FROM PAGE 7

contaminate the food supply.

“The chemicals and odours that would be emitted by the plant would likely be absorbed by the products that are sitting there [in the nearby distribution facilities] and would accumulate over time. And that would mean that those products would not be saleable, or usable,” says Templeton. “We might either have to destroy impacted product, or in the worst-case scenario, cease operations from that site.”

Templeton told *NRU* that Mars has operated in Caledon for over 30 years and the town is central to its operations, including hosting the company’s corporate headquarters. She says the company is committed to staying in Caledon, where it has invested over \$200-million since 2008.

Innis says that with the OLT ruling, the town has limited options for stopping the plant. She notes the decision has been appealed to the **Ontario Divisional Court** but that she is not confident that the court will rule in the town’s favour as the OLT has already ruled in favour of MJJJ. She says the best option for the town now is to obtain an MZO from the provincial government, as that overrules all other planning

policy and decisions.

“We’re looking at every tool that’s within the toolbox of the planning act that’s available to us to do right by our businesses that have a significant investment into our community, as well as our residents,” says Innis. “Typically, [MZOs are] used to permit uses, but they can also be used to prohibit uses. And so, that’s really what we’re looking for today from the province.”

Innis says that the town has not yet spoken with MMAH staff, so they are unaware of whether or not they will receive the MZO. She says that if the Ontario divisional court rules in favour of MJJJ and the province denies the MZO, there will be no way for the town to stop the asphalt plant from being constructed. She adds that given the provincial government’s stated commitments to economic development, they should block the asphalt plant and preserve existing investments in the town made by companies like Mars.

“If this plant goes through... I have immense concerns that we will lose great corporate citizens like Mars Canada who have been in our community for years and who continue to reinvest

and to build and to grow larger within our community,” says Innis. “That impacts not only Caledon, but the **Region of Peel**, and potentially could impact the province of Ontario, because some of these businesses are not small- and medium-sized mom-and-pop shops. Some of them are our

national and international corporations.”

Legal representatives for MJJJ Developments and parent company Dig-Con International declined to comment for this article. 🌱



TORONTO • GREATER TORONTO & HAMILTON AREA

Senior Reporter, NRU Publishing Inc.

NRU Publishing Inc. is a small, Toronto-based publishing company, established in 1997 and is privately owned. With a mandate to share news about the people, development activities, policy changes, and services of municipal government related to urban planning, it offers a limited circulation news service. Two newsletters are distributed electronically to subscribers by email on a weekly basis, ensuring the news is current, concise, relevant, and timely.

We are seeking to fill a full-time position for a Senior Reporter for our two publications, *Novae Res Urbis – City of Toronto* (published Fridays, 50 weeks per year) and *Novae Res Urbis – Greater Toronto and Hamilton Area* (published Wednesdays, 50 weeks per year).

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ENHANCING TRANSPARENCY

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assesses requests for MZO.

“Our audit found that the recent rise in the use of and lack of transparency in issuing MZOs is inconsistent with good land-use planning principles and the purposes of the *Planning Act* and *Places to Grow Act, 2005*, which are to provide for planning processes that are fair; encourage cooperation and co-ordination among various interests; and recognize the decision-making authority and accountability of municipal councils in planning,” the report reads.

According to Ministry of Municipal Affairs and Housing staff, any landowner or municipality in the province may request an MZO through any means, either verbally or in writing. Of the 44 MZOs issued by the Ministry from March 2019 to March 2021, 12 MZOs were initiated by the province to fast-track provincial initiatives such as long-term care homes and affordable housing projects, 26 MZOs were requested by municipal councils, and six MZOs were requested directly by development companies. Of the 26 MZOs requested by municipal councils, 14 of the requests were made on behalf of development companies who owned the property for which the MZO was sought.

But public policy consultant and **State of the City Inc.**

founder **Brian Kelcey** said that the absence of a formal process that establishes clear criteria for how MZO requests and decisions are to be made engenders natural skepticism of the government’s intentions.

“The Minister has chosen to issue MZOs in a way that reinforces the fact that there’s no process,” Kelcey told *NRU*. “Even the simple step of adding some clear criteria and an explanation for why a particular project or rezoning is eligible for an MZO would have [gone] and could still go a long way towards reducing totally understandable cynicism about how these orders are being deployed.”

Kelcey said MZOs are often being used to support municipal efforts to build affordable housing, especially in low-density residential areas where there is likely to be local resistance to multi-unit housing development.

“But the lack of proactive transparency compromises the province’s ability to use MZOs in that way, because it creates natural cynicism over what the government’s thinking was. It’s a very powerful regulatory tool that can and often has been used for good,” Kelcey told *NRU*. “It shouldn’t have to

be a big ask for the Minister’s office to put out a page of explanation as to how and why a project fits the criteria and what the process was for getting there, every time they’re making a decision to rezone [land].”

Wilton Consulting Group principal and lead consultant **Bronwynne Wilton** says MZOs should only be issued in unique situations and when a public good is being accomplished, such as a recent MZO issued to rehabilitate a quarry property in Guelph. Issued in early December, the MZO accelerates the closure of the Dolime Quarry in the **Township of Guelph/Eramosa**, and rezones the property to permit a residential development on the site. The province says the project will deliver much-needed housing to the area and will allow the **City of Guelph** to protect the groundwater under the site.

“I think MZOs should only be used very rarely and when there is that public good piece attached [on development] that needs to happen very quickly,” Wilton told *NRU*. “But there should be a process in terms of who can request MZOs and the criteria with which the Minister would actually decide whether or not to approve the request.”

Wilton is particularly concerned about the potential of MZOs to negatively impact agricultural land, wetlands, and natural heritage systems in the province, including the Duffins Creek wetland in Pickering. An

MZO was granted in October 2020 to permit a proposed warehouse development on the provincially-significant wetland as part of the larger Durham Live development [See *‘Discord in Durham’ NRU GTHA October 28, 2020 edition*]. But the MZO was revoked by the province earlier this year following sustained public pressure.

“We’re losing just under 200 acres of prime farmland in Ontario every day. And once it’s paved over, you’re not going to reclaim it as agricultural land anytime,” Wilton told *NRU*. “That’s where I think the whole process is completely flawed—by not allowing that time and space to look at some of those other important resources in the province, such as farmland, wetlands, and forested areas.”

The Auditor General’s report notes that it is unclear what factors the Minister considered in deciding whether to issue MZOs. The Auditor General also could not determine how the Minister, in his evaluation of MZO requests, balanced matters of provincial interest—such as protecting natural areas and agricultural land—with provincial priorities such as expanding housing supply and stimulating the economy.

Of the 44 MZOs issued between March 2019 and March 2021, the Auditor General found that 13 MZOs permitted development in areas that may not have

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ENHANCING TRANSPARENCY

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existing or planned municipal services such as water and wastewater systems. The Auditor General also found that 17 of the 44 MZOs issued between March 2019 and March 2021 facilitated development projects by the same seven development companies.

The lack of transparency in how MZO decisions are made is contrary to the purposes of the *Planning Act* and good land-use planning principles, the report notes, adding that the existing decision-making process opens up the Ministry to criticisms of conflict of interest and unfairness.

To address these concerns, the Auditor General recommended that the Ministry establish a formal application and review process outlining the types of matters for which interested parties can request an MZO, and detailing the criteria the Minister will use to determine whether or not to issue an MZO. Further, when MZOs are issued, the Ministry should publicly communicate who made the request, the factors that were considered in the Minister's decision, and the reasons why the development cannot proceed through the normal planning process, says the Auditor General. In

its response to the Auditor General's report, Ministry of Municipal Affairs and Housing (MMAH) staff said that the government is using MZOs to accelerate the development of critical projects outside of the Greenbelt, such as affordable housing, health-care facilities, and long-term care homes.

Ministry of Municipal Affairs and Housing spokesperson **Matt Carter** said MZOs have helped accelerate the creation of over 3,700 long-term care beds, over 49,000 housing units, and over 46,000 new jobs.

"All MZOs issued by our government on non-provincially owned lands come at the request of the local municipality and with support of elected officials on council," Carter told *NRU*. "We have been clear that our expectation is for local councils to do their due diligence—including consult in their communities, connect with conservation authorities, and engage with potentially affected Indigenous communities—before a request for an MZO comes to the Minister for consideration."

Carter said MZOs kick-start the development approvals process by ensuring red tape does not interfere with much-needed local projects. He added that municipalities

maintain authority for other planning approvals, including site plan approvals and building permit issuance. However, amendments to the *Planning Act* through *Bill 197, the COVID-19 Economic Recovery Act, 2020*, grants the Minister authority to address site plan matters on a proposed development for which an MZO has been issued, effectively removing a municipality's site plan responsibilities [See *'Maintaining Control of Site Plan Matters' NRU GTHA January 27, 2021 edition*].

But Kelcey said that if the province was serious about its goals to expedite critical projects like affordable housing, it would pursue regulatory amendments to existing planning laws, such as exempting municipal decisions on affordable housing projects from appeal to the **Ontario Land Tribunal**.

"If the province was sincere about the goals when it talks about MZOs, and I believe sometimes they are, then they would take the time to fix the parts of the process that the MZO is designed to outflank, rather than using the MZO very occasionally to outflank them," Kelcey told *NRU*. "If the goal of the MZO in roughly half of cases is to help cities get social and affordable housing approved without having to be subjected to an appeal, change the damn rules so that social and affordable housing is not subject to appeal."

To reduce dependence

on MZOs for expediting provincial or municipal priority projects, the Auditor General recommends that the Ministry work with municipalities to identify and implement ways to streamline existing land use planning processes while complying with the due diligence and public consultation requirements of the *Planning Act*.

In response to the Auditor General, the Ministry said recent legislative changes are intended to streamline the land use planning process and get critical housing projects to market faster. Amendments to the *Planning Act* brought into effect by the adoption of *Bill 108, the More Homes, More Choice Act, 2019*, reduce the time municipalities are allotted to make decisions on a development application before an appeal can be launched [See *'Sweeping Changes' NRU GTHA May 3, 2019 edition*].

"We are proud of the partnerships we have developed with municipalities, and we will continue to work with them to utilize the tools we have provided to address local challenges in their communities," Carter told *NRU*. 🌱

TOP-10 DEVELOPMENT LAW FIRMS



Peter Pantalone

ANRU is pleased to present our readers with the results of the 23rd annual rankings of the top-10 planning and development law firms operating in the GTHA. It was another busy year for **Ontario Land Tribunal (OLT)** appeals, and this year saw the issuance of many significant decisions concerning a wide range of planning and development matters throughout the region.

During this year's reporting window, NRU wrote about Tribunal decisions pertaining to large and small-scale development proposals, Official Plans and Secondary Plans, Interim Control By-laws, alterations to heritage properties, land use compatibility issues, expropriations and land compensation claims, development charge by-laws and by-laws to amend the composition of municipal councils, among other issues.

The breadth of matters that now fall within the jurisdiction of the Ontario Land Tribunal requires planning and development lawyers to demonstrate expertise and competency in dealing with an extraordinary array of policy and legal frameworks, and our annual law review is a testament to this. Planning

lawyers, we salute you!

This year, a few notable changes to the appeals regime stood out. The unprecedented frequency with which the current provincial government has been issuing Minister's Zoning Orders (which are, for the most part—but not always—granted with the blessing of the applicable municipality) has turned conventional planning processes inside out and has permitted certain development projects to proceed on an expedited basis, with reduced consultation requirements and no avenue for appeal.

Other elements of the changing planning and appeals context include recent legislative and policy changes, such as amendments to the *Ontario Heritage Act* and related processes for designating cultural heritage resources, in addition to an impending transition from the *Section 37* community benefit regime to the forthcoming Community Benefit Charge framework.

Meanwhile, in keeping with the Attorney General's mandate to expedite the appeals process for the newly-constituted Ontario Land Tribunal, the Tribunal has been operating at a nearly full complement

of members, allowing certain matters—including settlements and case management conferences—to take place more quickly and more efficiently.

Against the backdrop of this changing regulatory and administrative context, appeals continue to move ahead, resulting in a steady issuance of decisions, providing ample fodder for NRU's weekly OLT News segment.

While the stage is set for several significant hearings in the new year, such as, for example, appeals of Burlington's new Official Plan and related policy amendments to relocate its Urban Growth Centre, the eleventh-hour withdrawal of the much-anticipated Glen Abbey Golf Course redevelopment appeal on the eve of a scheduled 19-week hearing reminds us all that if planning is anything, it is always full of surprises.

We hope that you enjoy reading this year's iteration of the GTHA planning and development law ranking, and we wish all of our readers a safe and healthy holiday season and look forward to continuing to deliver concise and informative summaries of OLT decisions in the new year.

WeirFoulds^{L.L.P.}

1 [5] WeirFoulds

Solicitors: **Denise Baker**, (Lia Boritz), **John Buhlman**, **Alyssa Clutterbuck**, **Jeff Cowan**, **Chantal deSereville**, **Bruce Engell**, (Aisling Flarity), **Sean Foran**, **Micah Goldstein**, **Raj Kehar**, **Barnet Kussner**, **Gregory Richards**, **Sylvain Rouleau** and **Christopher Tzekas**.

WeirFoulds returns to the top spot in this year's ranking with involvement in over 30 separate planning appeals throughout the GTHA over this year's decision reporting window. As in prior years, the firm continues to represent a mix of private developer clients, residents' groups and neighbourhood associations, and municipalities across a range of appeals.

Several substantial files were resolved or advanced this year through the work of the WeirFoulds team, including appeals filed against the **City of Vaughan's** OPA 47 & 48 for the former Copper Creek Golf Club lands (acting for Vaughan) and against the **City of Richmond Hill's** Yonge-Bernard Key Development Area Secondary Plan (acting for Richmond Hill).

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In Hamilton, WeirFoulds represented a developer who prevailed over the City to obtain approvals for a nine-storey mid-rise development at 600 James Street North, near the West Harbour GO station. Additional accomplishments of note for the team are settlements reached on behalf of developer clients for: infill redevelopment of a former garden centre along the Lakeshore in Oakville, for two seven-storey apartment buildings beside Aldershot GO station, and for a seniors' living campus on the outskirts of Downtown Burlington.

Cases: Representing Fairway Hills Community Association (PL171084 – Baker, Kehar); representing West End Homebuilders Association (PL171450 – Baker) (S); representing College Mississauga Holdings Ltd. (DC190025 – Baker) (S); representing the City of Vaughan (PL111184 – Engell) (S); representing the City of Vaughan (PL190339 – Kussner) (V); representing J&B Developments (PL190517 – Baker, deSereville) (V); representing West End Home Builders' Association (PL190525 – Baker, deSereville) (S); representing the City of Brampton (PL180276 –

Kussner) (S); representing the Town of Caledon (PL190619 – Kehar); representing Parcel Developments Inc. (PL190359 – Baker); representing Losani Homes (PL180991 – Baker, Kehar); representing the City of Brampton (PL171478 – Kussner); representing the City of Brampton (PL141189 – Kussner, Engell); representing Vogue Wycliffe (Oakville) Ltd. (PL200232 – Baker) (S); representing West End Home Builders' Association (DC190022 – Baker, Kehar); representing the City of Richmond Hill (PL180073 – Kussner, Kehar) (S); representing Loblaw Properties Ltd. (PL171234 – deSereville) (S); representing IMH 145 & 147 Wellington Ltd. (PL200238 – Kehar, Baker, Clutterbuck, deSereville) (S); representing Ontario Stone, Sand & Gravel Association (MM170072 – Buhlman); representing City of Mississauga (PL200230 – Kehar); representing multiple appellants (PL200150 – Baker, deSereville); representing the Town of Oakville (PL200331 – Kehar) (S); representing 1085 Clearview GP Inc. (PL190378 – Baker) (V); representing the City of Vaughan (PL200260 – Engell); representing the City of Vaughan (PL170151 – Baker); representing the Town of Oakville (PL200333 – Baker);

representing Spruce Partners Inc. and Amico Properties Inc. (PL190468 – Baker) (S); representing Neamsby Investments Inc. (PL200159 – Baker); representing the Estate of Manuel Haralambus (LC180003 – Kehar, Foran); representing the Town of Ajax (PL180017 – Engell); representing multiple appellants (PL210040 – Baker); representing Barakaa Developers Inc. (PL190386 – Kehar) (V); representing the Town of Ajax (PL210028 – Engell); representing Pine Street Burlington Corp. (PL200648 – Baker); and representing Demetry Tselepakis (PL200573 – Baker) (V).

AIRD BERLIS

2 [3] Aird & Berlis

Solicitors: **Meaghan Barrett, Maggie Bassani, Eileen Costello, Laura Dean, Patricia Foran, Jasmine Fraser, Ajay Gajaria, Tom Halinski, Patrick Harrington, Matthew Helfand, Kim Kovar, Leo Longo, John Mascarin, David Neligan, John Pappas, Jane Pepino, Andrea Skinner, Sidonia Tomasella, Peter Van Loan, Christopher Williams and Steven Zakem.**

Moving into the penultimate spot is law review regular, **Aird & Berlis**, which continues to be involved in a large number of complex planning appeals across the GTHA.

The firm represented a landowner who had obtained approval from the **City of Hamilton** to build 16 and 18

storey towers near **McMaster University**; a nearby landowner appealed the approval but Aird & Berlis successfully defended and upheld the approval at the Tribunal.

Acting for developer **First Capital**, the firm helped secure a settlement approval for a three-tower development on the Appleby Mall site in Burlington. Other significant wins include securing approvals on behalf of a developer for an infill residential subdivision in Whitby, and successfully representing a Brampton developer whose council-approved residential subdivision was appealed by several local residents.

Aird & Berlis also acted as counsel to **Peel Region and King Township** in several appeal proceedings related to municipally-initiated planning instruments and private development appeals.

Cases: representing multiple appellants (PL171450 – Neligan); representing Orlando Corporation (PL190103 – Longo) (S); representing Peel Region (PL190371 – Longo, Neligan) (S); representing Peel Region (PL180037 – Longo) (S); representing Bolton Option 3 Landowners Group (PL170058 – Harrington) (S); representing Mac Mor of Canada Ltd. (PL190557 – Bassani, Pepino); representing King Township (PL190494 – Halinski, Dean) (S); representing Rutherford Commercial Holdings Ltd.

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and Loblaw Properties Ltd. (PL130754 – Costello); representing C. & D. Acchione (PL190619 – Harrington); representing Plaza Imports Ltd. (PL180816 – Harrington) (✓); representing Toronto-Guild Investments Ltd. (PL200057 – Skinner) (✓); representing Orlando Corporation (PL171478 – Longo, Helfand); representing Orlando Corporation (PL141189 – Longo, Helfand); representing 7181 Dufferin Inc. (PL200219 – Costello, Pappas); representing Granite REIT and Magna International Inc. (PL140839 – Skinner) (S); representing King Township (PL171272 – Halinski) (S); representing Yonge MCD Inc. (PL180073 – Foran, Harrington) (S); representing First Capital (PL171234 – Costello) (S); representing Halton Region (PL170735 – Neligan) (S); representing 336 Kings Ridge Inc. (PL200067 – Harrington); representing East Valley Farms Ltd. and Whitby Con Seven Developments Ltd. (PL101409 – Skinner); representing Garden Homes (Markham) Inc. (PL171232 – Harrington) (S); representing King Township (PL171438 – Halinski); representing Development Group (100 SAW) Inc. (PL200260 – Halinski); representing 7553 Islington

Holding Inc. (PL170151 – Harrington); representing Orlando Corporation (PL200251 – Longo); representing 2366885 Ontario Inc. (PL171333 – Harrington); representing Barbertown Ventures Inc. (PL190589 – Foran, Helfand); representing Oakville Developments (2010) Inc. (PL200333 – Skinner); representing 830460 Ontario Ltd. (PL170981 – Foran, Helfand) (✓); representing Pickering Harbour Company Ltd. (PL200388 – Pepino, Helfand) (✓); representing Binbrook Heritage Developments (PL170981 – Neligan) (S); representing 1692310 Ontario Ltd. (PL171032 – Harrington); representing multiple appellants (PL210040 – Harrington, Longo); representing King Township (PL210009 – Halinski) (✓); representing King Township (PL200556 – Halinski); and representing King Township (PL210117 – Halinski).



3 [1] Davies Howe LLP

Solicitors: **John Alati, Kimberly Beckman, Jamie Cole**, (Zachary Fleisher), **Mark Flowers, Kyle Gossen, Ava Kanner, Samantha Lampert, Alex Lusty, Andy Margaritis**,

Meaghan McDermid, Michael Melling, Robert Miller, Grace O'Brien, Aaron Platt, Susan Rosenthal, Christopher Sivry, Daniel Steinberg and Andrew Valela.

Davies Howe holds on to a spot in our top-three after another busy year that brought successful outcomes in several complex appeal proceedings. Representing **JD Development Group**, the firm obtained an approval for a 269-unit townhouse development on a vacant retail plaza near Steeles Avenue and Markham Road, that was opposed by a nearby landowner.

Through the Vaughan Official Plan appeals, Davies Howe represented **Fisch Group** and **Vogue Investments** and secured mid- and high-rise development entitlements for lands along the Thornhill Centre Street Corridor.

Perhaps the most interesting of the firm's cases reported this year is an ongoing appeal on behalf of a developer for a residential subdivision in the Hamlet of Claremont in North Pickering, a case that was recently escalated to the Ontario Divisional Court to determine the applicability of the "Clergy Principle" to the developer's applications. The Divisional Court affirmed the relevance of the Clergy Principle to the appeal as it pertains to the planning framework through which to assess the applications (which had originally been filed in the 1990s), as well as affirming

its relevance to the Tribunal's decision-making processes more broadly.

Cases: representing ClubLink (PL171084 – Flowers, Gossen); representing Dorsay (Residential) Developments (PL180368 – Gossen) (S); representing 809017 Ontario Ltd. (PL141189 – Alati, Valela); representing Mars Canada Inc. (PL190106 – Rosenthal, Cole); representing Claremont Development Corporation (PL171210 – Alati, Lusty); representing Amacon Development (City Centre) Corp. (DC190025 – Rosenthal, Lusty) (S); representing Fielding Chemical Technologies (PL190221 – McDermid, Cole) (X); representing Osmington Inc. (PL190371 – Flowers) (S); representing The Bridge, A Markham Community Church (PL180180 – Margaritis) (S); representing JD Development Group (PL180244 – Platt, Lusty) (S); representing Overiver Holdings (PL111184 – Melling, Cole) (S); representing Fisch Group and Vogue Investments (PL111184 – Flowers, Fleisher) (S); representing Block 42 Landowners Group (PL111184 – Melling, Margaritis) (S); representing Gwen and Romas Krilavicius (PL200047 – Lusty) (✓); representing multiple appellants (PL170058 – Melling, Cole) (S); Representing H&L Tile Inc. and Ledbury Investments (PL140839 – Flowers); representing Richmond

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Hill Retirement Inc. and Oakridge Gardens Retirement Partnership (PL180073 – Flowers, Alati, Platt) (S); representing 70 Taunton Storage GP Corporation (PL200190 – Platt, Lusty) (V); representing Auto Complex Ltd. (PL200260 – Melling); representing Sarno Holdings Corporation (PL170151 – McDermid); representing Sean Mason Homes (Essa Road) (PL180671 – Gossen) (V); representing 2599587 Ontario Ltd. (PL200293 – Flowers); representing Millford Development Ltd. (PL200469 – Flowers); representing 2388116 Ontario Inc. (PL200388 – Flowers); representing Twenty Road East Landowners Group (PL200609 – Rosenthal, Lampert); representing Shelson Properties and Corville Construction (PL200159 – Alati, Margaritis); representing Medallion Developments (Castlefields) Ltd. (PL180017 – Platt); representing multiple appellants (PL210040 – Platt, Melling, Lampert, Lusty); representing Nobleton York Holdings (PL200556 – McDermid); and representing JOISS Holdings Inc. (PL210023 – Fleisher) (S).

Turkstra Mazza

Hamilton London Toronto

4 [2] Turkstra Mazza

Solicitors: **John Anthony Cleworth, Shelley Kaufman, Paul Mazza, Jennifer Meader, Nancy Smith, Scott Snider, Anna Toumanians and Herman Turkstra.**

Hailing from The Hammer, the **Turkstra Mazza** team has established itself as one of Southern Ontario's preeminent planning and municipal law practices and is a common fixture in *NRU's* OLT News. This year, *NRU* reported on several exciting decisions involving lawyers from Turkstra Mazza, including:

- A win on behalf of **Silvestri Homes** that defended an approval for a six-storey apartment building that was approved by Hamilton city council but subsequently appealed by the Lakewood Beach Community Council;
- A settlement on developer **Graydon Banning** for a 330-unit residential development in North Oakville; and
- A win on behalf of **Partacc Gate Kennedy Developments** whose proposal for a 360-unit residential subdivision at the southeast corner of

Kennedy Road and Mayfield Road in Brampton was approved by city council but subsequently appealed by the North Brampton Neighbours Association.

Among the firm's other ongoing appeals is a case where Turkstra Mazza is representing **2090572 Ontario Ltd.** and **The Highlands Residents Association**, who have appealed a decision of the **City of Welland** to approve a 1,150-unit subdivision on a former private golf course at 289 Daimler Parkway. The appeal has withstood an unsuccessful motion to dismiss brought by the developer, and a hearing on the merits is scheduled to commence in April, 2022.

Cases: Representing Aryeh Construction Limited (PL180368 – Meader) (S); representing multiple appellants (PL171450 – Smith, Meader, Toumanians) (S); representing MJJJ Developments Inc. (PL190106 – Meader); representing Silvestri Homes (PL190056 – Snider, Toumanians) (V); representing Penta Properties and Palletta International (PL190287 – Snider, Toumanians); representing Aryeh Construction (PL190476 – Meader); representing North West Brampton Landowners Group (PL190371 – Kaufman) (S); representing Cale Oncea (PL190478 – Toumanians) (V); representing John and Eva Vuckovic (PL190477 – Toumanians) (S); representing

Harbour West Neighbours Inc. (PL190517 – Turkstra) (X); representing Mattamy James Street LP (PL200183 – Snider, Kaufman) (S); representing Penta Properties and Upper Centennial Developments Ltd. (PL170991 – Toumanians); representing Vince & Laura MacDonald (PL200227 – Toumanians) (S); representing Burnt Log Management Inc. (PL170473 – Snider) (S); representing 2362302 Ontario Inc. (PL170473 – Snider) (S); representing Graydon Banning (PL170735 – Meader) (S); representing Silverwood Homes Inc. (PL171179 – Toumanians); representing Old Lakeshore (Burlington) Inc. (PL200092 – Snider); representing Paletta International Corporation (PL020959 – Snider); representing Lakeshore (Burlington) Inc. (PL200040 – Snider); representing multiple appellants (PL200150 – Smith, Snider); representing 2628934 Ontario Inc. (PL190551 – Snider) (V); representing 418 Waldemar Inc. (PL200579 – Snider, Toumanians); representing 2090572 Ontario Ltd. and The Highlands Residents Association (PL200293 – Snider, Toumanians); representing 2372577 Ontario Inc. and 2407184 Ontario Inc. (PL200524 – Meader) (V); representing J.A.N. Group Inc. (PL171383 – Snider); representing Old Lakeshore (Burlington) Inc. (PL200557 – Snider, Toumanians); representing

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Mattamy (Halton Hills) Ltd. (PL200159 – Snider, Meader); representing Cento Homes & Renovations Inc. (PL210071 – Meader); representing multiple appellants (PL210040 – Smith, Meader, Snider, Kaufman); representing Willow Valley Holdings Inc. (PL210024 – Toumanians); representing Partacc Gate Kennedy Developments Inc. (PL200070 – Snider, Toumanians) (✓); and representing Marc Rosso Homes Inc. (PL200348 – Meader) (✓).



5 [6] Borden Ladner Gervais

Solicitors: **Andrew Baker, Emma Blanchard, Katie Butler, Liviu Cananau, F.F. (Rick) Coburn, Jonathan Cocker, Lauren Daniel, Lee English, Simon Fung, Barbora Grochalova, Gabrielle Kramer, Julie Lesage, Piper Morley, Pitman J. Patterson, Aaria Rahim, Laura Robinson, Frank Sperduti, Isaac Tang, Stephen Waqué** and **Robert Wood**.

Borden Ladner Gervais (or **BLG**, for short) advances into the fifth spot in this year's GTHA ranking. With broad expertise in planning and municipal, expropriation and

environmental law, the BLG team has been representing a diverse group of clients in a range of appeals that have come before the OLT.

For several years, BLG has been counsel to the **City of Vaughan** and to **York Region** in appeals of the Vaughan Official Plan (2010) and subsets of that appeal including the Vaughan Mills Centre Secondary Plan, which led to several settlements endorsed by the Tribunal over the past year. BLG represented **Boltcol South Holdings** in appeal proceedings relating to an urban boundary expansion for the Bolton Rural Service Centre, and achieved settlements on behalf of **Mohawk College** concerning its appeals of the **City of Hamilton's** adoption of new development charge by-laws.

Although *NRU* does not generally report on planning matters beyond the GTHA, this year we wrote about BLG's involvement in the Chateau Laurier expansion in Ottawa, which elicited significant public concern about the future of the iconic heritage property. Representing owner **Capital Hotel GP**, the firm helped to secure a settlement approval for minor variances to allow for a contemporary addition to the rear side of the historic building.

Cases: Representing Halton Region (PL171084 – Tang, Butler); representing the City of Markham (PL180368 – Patterson, Morley) (S); representing Ontari Holdings Ltd., Bitcol Holdings South, and Bitcol Holdings North (PL190106 – Patterson, Morley); representing Metrolinx (LC160045 – Baker); representing Halton Region (PL190287 – Butler); representing the City of Markham (PL190476 – Patterson, Morley); representing Durham District School Board and Durham Catholic District School Board (DC200001 – Baker); representing the City of Vaughan (PL111184 – Coburn) (S); representing Boltcol South Holdings (PL170058 – Patterson, Morley) (S); representing Metropolitan Square Inc. (PL190473 – Patterson, Butler); representing Wilstar Management Ltd. (PL180816 – Patterson, Butler) (X); representing the City of Vaughan and York Region (PL140839 – Coburn, Patterson) (S); representing BH Properties Ltd. (PL200300 – Tang, Lesage) (✓); representing Mohawk College (DC190022 – Fung, Morley) (S); representing the City of Vaughan (PL160978 – Patterson); representing 2472498 Ontario Inc. (Tang, Butler); representing the City of Markham (PL200381 – Baker); representing Halton Region (LC170017 – Lesage); representing April Investments Ltd., 527079 Ontario Ltd.,

Trans County Development Corporation Ltd. (PL200333 – Lesage); representing Capital Hotel GP (PL190522 – Blanchard) (S); representing Halton Region (PL200159 – Tang, English); representing Ashley Heritage Joint Venture and 840966 Ontario Ltd. (LC180003 – Sperduti, Morley); and representing 7069367 Canada Inc (21-022 – Kramer, Grochalova).



6 [8] Loopstra Nixon

Solicitors: **Quinto Annibale, Steven Ferri, Alyssa Granato, Mark Joblin, Mandy Ng, Brendan Ruddick** and **Alexandra Whyte**.

Loopstra Nixon finishes up the year with another string of successful outcomes before the Tribunal.

In two successful appeals related to the Vaughan Official Plan (2010) the firm represented **MCN (Pine Valley) Inc.** and **Coco Paving** and **CRH Canada**. The MCN appeal concerned the proposed OP policies for Block 42, a 500-hectare area along the north boundary of Vaughan where future development is anticipated. Through a settlement with the City, revised language was incorporated into the Block 42 policies and related official plan (OP) mapping to clarify the extent of natural heritage features and to secure the application of 30-metre buffers to existing

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provincially-significant wetlands.

The Coco Paving/CRH appeal concerned proposed OP policies relating to the properties at 10351-10475, which presently accommodate industrial/employment uses but would have been subject to new low-rise residential land use designations. A settlement reached with the City allows for the continuation of the existing industrial/employment uses, subject to certain land use compatibility criteria.

Loopstra Nixon also represented **Bolton North Hill Landowners Group** in its appeal of Peel ROPA 30, contributing to a settlement reached among the parties that increases the urban boundary for the Bolton Rural Services Centre by 245 developable hectares to accommodate over 11,000 residents and 3,600 jobs. In Richmond Hill, the firm also represented **TSMJC Properties** in its appeal of the Yonge-Bernard KDA Secondary Plan to secure land use permissions for future development on its property at 10909 Yonge Street.

Cases: Representing the City of Pickering (PL171210 – Annibale); representing the City of Mississauga (PL190221 – Joblin) (X); representing MCN (Pine

Valley) Inc. (PL111184 – Ferri) (S); representing Coco Paving and CRH Canada (PL111184 – Ferri) (S); representing the Township of Uxbridge (PL150909 – Annibale, Ruddick) (S); representing Bolton North Hill Landowners Group (PL170058 – Annibale, Ferri, Ruddick) (S); representing Scugog Township (PL190530 – Joblin) (S); representing West Rutherford Properties Ltd. (PL130754 – Annibale); representing Ozner Corporation (South) (PL130753 – Annibale, Ruddick); representing Rutherford Land Development Corporation (PL140839 – Ruddick) (S); representing TSMJC Properties Inc. (PL180073 – Annibale, Ruddick) (S); representing 1386146 Ontario Inc. (MM170072 – Ferri, Ng); representing Schickedanz Brothers (PL200014 – Joblin) (X); representing Jessica Ferri (PL171438 – Ferri, Ng); representing Mizrahi Constantine (180 SAW) Inc. (PL200260 – Annibale); representing Uxbridge Township (PL200240 – Annibale); representing the City of Pickering (PL200388 – Annibale, Joblin); representing Southwest Georgetown Landowners Group (PL200159 – Annibale, Joblin); representing the

Town of Uxbridge (PL200328 – Joblin) (S); representing Medallion Developments (PL171389 – Annibale, Ruddick); recommending the City of Pickering (PL210028 – Annibale, Joblin); representing Aldo Mirigello and Luigi D’Alessandro (PL210009 – Ferri, Ng) (V); representing multiple appellants (PL200556 – Ferri); and representing Sycamore Construction Ltd. and 2395959 Ontario Inc. (PL210117 – Annibale).

Goodmans™

7 [7] Goodmans

Solicitors: Ian Andres, Anne Benedetti, David Bronskill, Zachary Fleisher, Tom Friedland, Joseph Hoffman, Roslyn Houser, Robert Howe, Matthew Lakatos-Hayward, Max Laskin, Allan Liebel, Catherine Lyons and Mark Noskiewicz.

Goodmans maintains its spot in seventh place for another year. Significant appeals that the firm was involved in over the past year include representing **RioTrin Properties** in securing approvals for 25-storey mixed-use development near Mississauga City Centre that was opposed by the City and by a local chemical manufacturer. RioTrin prevailed after a 13-day hearing.

In another big victory, Goodmans represented developer **Triple Crown Line Developments** and obtained approval for a massive development in Caledon

comprising 545 single-detached dwellings, future apartment buildings, and parks, open space and other supporting infrastructure.

In an Oakville appeal, the firm represented **Empress Capital Group** and secured a settlement approval for a seven-storey hotel located near Dorval Drive and the QEW.

Other notable successes include achieving a settlement for the **Durham Region Home Builders’ Association** concerning its appeal of a new development charge by-law adopted by Oshawa, and achieving a win for a developer to build 102 stacked and back-to-back townhouses in Mississauga’s Rathwood-Applewood Community Node, following a contested hearing at which the **City of Mississauga** appeared in opposition.

Cases: Representing the Town of Oakville (PL171084 – Howe, Lyons); representing 9720618 Canada Inc. (PL171287 – Bronskill); representing RioTrin Properties (Burnhamthorpe) Inc. (Benedetti, Laskin) (V); representing Triple Crown Line Developments (Bronskill, Andres) (S); representing Toys R Us Canada (PL111184 – Hoffman); representing Durham Region Home Builders’ Association (DC190045 – Howe) (S); representing Reserve Properties (PL180721 – Bronskill); representing Waste Management of Canada Corporation (PL190466 –

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Noskiewicz) (S); representing King Ridge Developments Inc. (PL200190 – Bronskill) (S); representing Calloway REIT (Whitby NE) Inc. (PL200190 – Bronskill) (X); representing McGinley Bros. Inc. (PL180366 – Bronskill); representing Core FSC Lakeshore GP Ltd. (PL200092 – Lakatos-Hayward); representing multiple appellants (PL200150 – Bronskill, Houser, Lakatos-Hayward); representing Empress Capital Group (PL200331 – Bronskill) (S); representing Toys R Us Canada (PL200260 – Houser); representing Habitat for Humanity (PL200359 – Lakatos-Hayward); representing Core FSC Lakeshore LP (PL200557 – Andres, Bronskill); representing 4005 Hickory Drive Ltd. (PL171205 – Laskin) (V); representing Elfrida Landowners (PL200609 – Hoffman); representing various appellants (Bronskill, Houser, Lakatos-Hayward); and representing Ace Developments Ltd. (PL200454 – Bronskill).



8 [4] Kagan Shastri

Solicitors: **Ira Kagan, Kristie Jennings** and **Paul DeMelo**.

Kagan Shastri's dynamic trio of planning and development lawyers comfortably maintains a spot in our list of the top-10 GTHA firms.

In a big decision issued in June, the firm represented a group of developers that had applied for and been granted Official Plan Amendments (OPA 47 & 48) to develop a portion of lands occupied by the Copper Creek Golf Course in Vaughan. The OPAs were appealed by an adjacent developer and residents of a newly-constructed estate subdivision who did not want additional residential development to occur adjacent to their properties. The appellants lost, and OPA 47 and 48 were upheld by the Tribunal as a result of Kagan Shastri's advocacy.

In another notable case, the firm represented **Block 47-1 Landowners Group** and **Block 47-2 Landowners Group** in their appeals for official plan amendments (OPAs) for lands in Brampton's Highway 427 Industrial Secondary Plan area. After complex negotiations with the various other parties, a settlement was achieved for a development framework for the Block 47-1 and Block 47-2 lands to permit low- and medium-density residential

development and supporting infrastructure, and to define natural heritage features.

Cases: Representing Times Group (PL180368 – Kagan) (S); representing National Homes (Brant) (PL180331 – Kagan, Jennings) (S); representing Times Group (PL190476 – Kagan, Jennings); representing Pala Builders (PL180253 – DeMelo) (S); representing Yonge-Steeles Landowners Group (PL111184 – Kagan); representing Kirby 27 Developments Ltd., East Kleinberg Developments Inc. and 1045501 Ontario Ltd. (PL190339 – Kagan, Jennings) (V); representing Block 47-1 Landowners Group and Block 47-2 Landowners Group (PL180276 – Kagan, Jennings) (S); representing S.F. Coleraine Holdings (PL141189 – Jennings); representing Dogliola Developments (PL180073 – Kagan, Jennings) (S); representing Martillac Estates (PL170735 – DeMelo) (S); representing Block 18 Landowners Group and Block

18 Properties Inc. (PL160978 – Jennings); representing Block 41 Landowners Group (PL200135 – Kagan, Jennings); representing Yonge-Steeles Landowners Group Inc. (PL200260 – Kagan); representing Jai Flora (PL200352 – Jennings) (V); representing Nimalharan Nagarajah (PL200516 – DeMelo) (S); representing Gordon Mason (PL210027 – DeMelo, Jennings) (V); and representing Pickering Developments Inc. (PL210028 – Kagan).



9 [9] Overland

Solicitors: **Daniel Artenosi, Natalie Ast, Michael Cara, Christopher Tanzola** and **Brad Teichman**.

Holding steady at ninth place is **Overland LLP**, another smaller firm that punches well above its weight in the GTHA planning and development

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world. Over the past year, the firm represented developer **Sorbara** and obtained a settlement approval for development permissions for a 12-storey building located along the Thornhill Centre Street Corridor.

Representing **Stateview Homes (High Crown Estates)** Overland helped to achieve a settlement approval for a 48-unit townhouse development at 13211 Keele Street in **King Township**. In **Scugog Township**, the firm represented a developer who had been granted approval for a proposal consisting of 16 semi-detached and one single-detached dwellings, which was subsequently appealed by a neighbour. A settlement was ultimately reached and was approved by the Tribunal.

Overland remains involved in an ongoing appeal for a large-scale mixed-use development at the corner of Yonge Street and Steeles Avenue West in Vaughan, as well as in a range of other active appeals throughout the GTHA.

Cases: Representing Sorbara Group (PL111184 – Tanzola) (S); representing Yonge & Steeles Developments Inc. (PL111184 – Ast); representing Stateview Homes (High Crown

Estate) (PL190494 – Tanzola, Ast) (S); representing Oxnard Port Perry Inc. (PL190530 – Teichman) (S); representing Caveze Investments Ltd. (PL171478 – Artenosi, Cara); representing Caveze Investments Ltd. (PL141189 – Artenosi, Cara); representing I.B.L. Container Refurbishing Ltd. (PL200298 – Teichman); representing Yonge & Steeles Development Inc. (PL200260 – Artenosi, Ast); representing Gurpreet Gill (PL180316 – Cara) (S); representing HDSB & HCDSB (PL200159 – Teichman); representing Whitby Brock Estates Inc. (PL200651 – Tanzola, Cara); representing Bernard Cassar (PL200429 – Artenosi) (S); and representing Stateview Homes (High Crown Estates) Inc. and Yellow Horizon Homes Ltd. (PL200556 – Ast).

Ritchie Ketcheson
Hart & Biggart
LLP

10 [10] Ritchie Ketcheson Hart & Biggart

Solicitors: **R. Andrew Biggart, John R. Hart, Christina Kapelos, Bruce C. Ketcheson** and **John C. Ritchie**.

Finishing up the top-10 is **Ritchie Ketcheson Hart & Biggart**, which is known predominantly for its work

acting as counsel to several municipalities throughout the GTHA across a range of planning appeals. The firm represented the **Town of Aurora** in an appeal by a town resident against Aurora's passage of a by-law to divide the Town into six new municipal wards—the appeal was dismissed, and the by-law, as adopted by council, prevailed.

The firm won another victory for the Town of Aurora in a minor variance appeal to permit new homes to be built on a heavily-wooded site. The variances were refused after the Tribunal found that the appellant had not minimized the environmental impacts of their proposal.

Ritchie Ketcheson Hart & Biggart represented the **City of Burlington** and successfully quashed a motion brought by resident Anne Marsden seeking a ruling that a meeting of the City in which planning instruments for the Downtown Burlington Urban Growth Centre were adopted was not lawfully constituted. The firm disputed this claim on behalf of Burlington and the motion by Marsden was denied.

Cases: Representing the City of Burlington (PL180721 – Biggart); representing Zancor Homes (Bolton) (PL170058 – Biggart) (S); representing the Town of Aurora (PL200238 – Biggart) (S); representing the City of Hamilton (PL171179 – Biggart); representing the Town of Whitchurch-Stouffville

(PL200014 – Biggart) (V); representing the City of Burlington (PL020959 – Biggart); representing the City of Burlington (PL200150 – Biggart) (X); representing the Town of Aurora (PL190254 – Biggart) (V); representing the City of Burlington (PL200015 – Biggart) (V); representing the Town of Aurora (MM200018 – Biggart) (V); representing Orangeville Railway Development Corporation (PL171032 – Hart); representing the City of Mississauga (PL200429 – Biggart) (S); and representing the City of Hamilton (PL171389 – Kapelos).

THE NEXT 10 FIRMS...

11 [11] Thomson, Rogers;
12 [13] Osler, Hoskin & Harcourt;
13 [16] Wood Bull;
14 [17] Gardiner Roberts;
15 [N/A] Municipal Law Chambers;
16 [N/A] McMillan;
17 [N/A] Devine Park;
18 [N/A] Parente, Borean;
19 [N/A] Fogler, Rubinoff;
20 [12] Davis Webb.

OLT NEWS

YONGE-BERNARD KDA SECONDARY PLAN APPROVED

In a December 15 decision, OLT Vice-Chairs **Gillian Burton** and **Douglas Colbourne** approved the remainder of the **City of Richmond Hill's** Yonge-Bernard Key Development Area Secondary Plan, subject to modifications, following a Phase 2 hearing that took place July, 2021.

The Yonge-Bernard KDA Secondary Plan (and implementing zoning by-law 111-17) applies to lands in the vicinity of Yonge Street and Bernard Avenue/

Canyon Hill Avenue. The plan implements an area-specific planning framework to achieve a planned density of 200 residents and jobs per hectare as the area has been delineated by **York Region** as a Major Transit Station Area.

A Phase 1 hearing of the Secondary Plan appeals was held earlier to deal with concerns around permitted heights and densities, new roads, and some site-specific settlements, among other matters. The Tribunal issued its decision on the Phase 1 of the appeals on February 26, 2021.

The Phase 2 hearing concerned an appeal by **TSMJC Properties Inc.** for

the southeast secondary plan quadrant, appeals by **Richmond Hill Retirement Residences** and **North Elgin Centre** for the northeast quadrant, matters pertaining to the secondary plan “Greenway System”, and an appeal by **Frank DiPede** for the northwest quadrant.

TSMJC owns a commercial plaza at 10909 Yonge Street, and has an active development application to permit redevelopment of a portion of this property for 19 and 24 storey towers. In the Phase 1 hearing, TSMJC proposed further site-specific secondary plan modifications to help bring further clarity

and certainty to the Plan as it relates to the TSMJC lands, and the City's planning witness supported these additional modifications.

Richmond Hill Retirement Residences proposes to intensify its property at 70 Bernard Avenue by adding a second multi-storey retirement home to the site. Additional amendments to the secondary plan are required to permit the new building to be located within a five-metre buffer zone from the north property line—which abuts a **TRCA**-regulated drainage ditch—rather than the required distance of a 10-metre buffer. This modification was

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LAW REVIEW METHODOLOGY

Our end-of-year tradition at NRU examines the legal side of planning and development in the GTHA, focusing primarily on cases that came before the Local Planning Appeal Tribunal (LPAT - as it was then known), Ontario Land Tribunal (OLT) and other courts and tribunals and were reported in the GTHA edition of NRU between August 1, 2020 and July 31, 2021.

How the information is collected—NRU tracked each

of the law firms mentioned in the GTHA edition of NRU over a one-year period. Then we determined the firms most frequently mentioned and sorted through their projects and hearings. Some firms were involved in a variety of developments across the GTHA, while others have particular associations to major clients.

Determining the top 10—Balancing the number and complexity of appeals, the diversity of issues, and the success of outcomes is NRU's most difficult task. The review

does not account for cases we do not know about. Hence, there is some degree of subjectivity in the ranking.

The Listing—Lawyers that are part of the planning and development law team in each of the top-10 ranked firms are noted. Names in parentheses indicate lawyers who were previously with the firm, but left prior to NRU's 2020/21 reporting window.

The client, LPAT/OLT case number, and relevant solicitor(s) are noted for each contributing case. In cases that

involved an LPAT/OLT decision where there was a clear winner, loser, or settlement, the appropriate symbol (✓) or (X) OR (S) follows the case description. If there was no clear win/loss/settlement, or the matter involved a prehearing or was still ongoing by July, 2021, no symbol appears. A square bracket after this year's ranking containing a number indicates the firm's placement in last year's NRU ranking.

OLT NEWS

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supported by the City.

North Elgin Centre sought many modifications to the secondary plan to facilitate development of a multi-building mixed-use development on its lands at the northeast corner of Yonge & Bernard, in accordance with a “Concept Plan” submitted to the City. Although it had raised 50 discrete issues on the Phase 2 hearing issues list, North Elgin Centre informed the Tribunal that it would not be calling witnesses to provide evidence in support of its issues.

In response to North Elgin Centre’s many issues, City and TRCA witnesses testified that they could not support its proposed secondary plan modifications in the absence of a complete development application submission for the site. The Tribunal declined to approve North Elgin Centre’s proposed modifications and reprimanded it for raising 50 issues and then failing to defend them with expert evidence.

With respect to the Greenway System, the entirety of the secondary plan area is located within the *Oak Ridges Moraine Conservation Plan* and the north-easterly portion contains a drainage ditch that conveys part of the Rouge River. Witnesses for TRCA testified that a Greenway System designation

is appropriate for the hazard lands adjacent to the ditch, with acceptable buffer and access allowances to enable TRCA and City staff to maintain access to the flood and slope hazards. The Tribunal agreed and maintained the Greenway Systems designation.

Lastly, Frank DiPede sought modifications to permit his 0.298-hectare property in the northwest quadrant, located on the north side of Naughton Drive, to be developed with an eight-storey mid-rise building. He sought amendment to the “Neighbourhood Edge” designation along a portion of his lands to permit additional height transition and flexibility while continuing to adhere to a 45-degree angular plane to the surrounding neighbourhood. The City supported the modifications.

The Tribunal approved all of the City-proposed modifications to the secondary plan and implementing by-law, which included the site- and quadrant-specific modifications agreed to with certain appellants in the Phase 2 hearing. The Tribunal also dismissed the North Elgin Centre appeal and ruled that the secondary plan as proposed by the City in its latest iteration should come into force and effect on the

North Elgin Centre lands with no further modifications.

Solicitors involved in this decision were **Raj Kehar (WeirFoulds)** representing the City of Richmond Hill, **Jason Cherniak (Cherniak Law)** representing **Yonge-Bernard Residents’ Association**, **Ira Kagan** and **Kristie Jennings (Kagan Shastri)** representing **Dogliola Developments Inc.**, **Sarah Turney (Fasken Martineau)** representing **10870 Yonge Street Limited**, **Jeffrey Streisfield (Land Law)** representing North Elgin Centre Inc., **Barbara Montgomery** representing Toronto & Region Conservation Authority, **Mark Flowers** and **Robert Miller (Davies Howe)** representing Richmond Hill Retirement Inc. and **Oakridge Gardens Retirement Partnership**, **Quinto Annibale** and **Brendan Ruddick (Loopstra Nixon)** representing TSMJC Properties Inc., **Bola Ogunmefun** representing York Region, **Patricia Foran** and **Patrick Harrington (Aird & Berlis)** representing **Yonge MCD Inc.** and **Amber Stewart (Amber Stewart Law)** representing Frank DiPede.

Expert witnesses involved in this hearing included: planner **Dana Anderson** and planner and urban designer **Eldon Theodore (MHBC)**, transportation planners **Dan Terzievski** (City of Richmond Hill) and **Carl Wong (HDR)**, and parking experts **Jason Dahl** (City of Richmond Hill) and **Jonathan Chai (HDR)** representing the

City of Richmond Hill; **Paul Lowes (SGL Planning & Design)** representing TSMJC Properties Inc.; planner **Billy Tung (KLM Planning Partners)** representing Richmond Hill Retirement Residences; planner **Michael Manett (MPlan Inc.)** representing North Elgin Centre; planner **Jim Kotsopoulos (JKO Planning Services)** representing Frank DiPede; and planner **Anthony Sun**, geotechnical engineer **Ali Shirazi**, water resources engineer **Dan Hipple** representing TRCA. [See OLT Case No. [PL180073](#).] 🌸

HAPPY HOLIDAYS

NRU IS NOT PUBLISHING NEXT WEEK, AND OUR OFFICES WILL BE CLOSED, BUT WE WILL BE BACK WITH A NEW ISSUE OF GTHA EDITION **WEDNESDAY, JANUARY 5, 2022**. SEE YOU THEN!