

September 1, 2021

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To Whom it May Concern,

**Re: NOTICE OF CASE MANAGEMENT CONFERENCE
Ontario Land Tribunal Case No. PL210104
Appeals by 30 Duke Street Limited**

We are solicitors for 30 Duke Street Limited ("**30 Duke**") with respect to development applications submitted to the City of Kitchener ("**City**") for lands municipally known as 22 Weber Street West within the City of Kitchener ("**Subject Lands**").

30 Duke submitted an Official Plan Amendment application and Zoning By-law Amendment application (collectively, the "**Applications**") to the City to permit the construction of a 15-storey multiple residential building on the Subject Lands. On January 26, 2021, on behalf of 30 Duke, we appealed the City's failure to make a decision on the Applications to the former Local Planning Appeal Tribunal, now known as the Ontario Land Tribunal ("**OLT**"). The Notice of Appeal indicated that 30 Duke will be revising the Applications at the appropriate time in the appeal process to increase the maximum proposed height from 15-storey to 19-storeys. The Applications and the development proposal are described in the Explanatory Note attached to this correspondence.

On June 23, 2021 the OLT scheduled an initial Case Management Conference ("**CMC**") for this matter as it was determined that service was not provided to every landowner and resident who was entitled to notice of the CMC. (Please see the attached correspondence from the Clerk's Office at the City of Kitchener.) Therefore, a second CMC has been scheduled for **October 5, 2021** for a duration of one day. We are required by the OLT to circulate notice of the CMC to the proximate landowners and other interested parties who did not received notice for the initial CMC which took place on June 23, 2021.

As such we are enclosing the following materials:

1. Notice of CMC scheduled for October 5, 2021 for one day;
2. Letter from the City of Kitchener Clerks Department;
3. Rules 17.1 to 17.5 of the OLT's *Rules of Practice and Procedure*; and
4. An Explanatory Note, setting out the purpose and effect of the Applications, along with a key map.

If you have any questions with respect to this notice, please contact the OLT's Case Manager, Kimberly Livingstone at (437) 228-0679.

Yours truly,

A handwritten signature in black ink that reads "Jennifer Meader". The signature is written in a cursive, flowing style.

Jennifer Meader

JENNIFER J MEADER PROFESSIONAL CORPORATION
TURKSTRA MAZZA ASSOCIATES

Ontario Land Tribunal

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PROCEEDING COMMENCED UNDER subsection 17(40) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant and Appellant: 30 Duke Street Limited
Subject: Failure of the City of Kitchener to announce a decision respecting Proposed Official Plan Amendment No. OPA 20/005W/JVW

Municipality: City of Kitchener
OLT Case No.: PL210104
OLT File No.: PL210104
OLT Case Name: 30 Duke Street Limited v. Kitchener (City)

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

Applicant and Appellant: 30 Duke Street Limited
Subject: Application to amend Zoning By-law No. 85-1 - Refusal or neglect of the City of Kitchener to make a decision

Existing Zoning: Commercial Residential Three Zone
Proposed Zoning: Site Specific (To be determined)
Purpose: To permit a 15-storey residential building
Property Address/Description: 22 Weber Street West
Municipality: City of Kitchener
Municipality File No.: 20/013/W/JVW
OLT Case No.: PL210104
OLT File No.: PL210105

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

The event will be held:

AT: 10:00 am

ON: Tuesday October 5, 2021

AT: <https://global.gotomeeting.com/join/326164837>

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

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

Persons who experience technical difficulties accessing the GoToMeeting application or who only wish to listen to the event can connect to the event by calling into an audio-only telephone line: 1-888-299-1889. The access code is 326-164-837.

Event dates are firm – adjournments will not be granted except in the most serious circumstances, and only in accordance with the Tribunal’s Rules of Practice and Procedure [Rule 17](#) on adjournments.

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

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

SUBMISSION REQUIREMENTS

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

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

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

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

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

All persons who wish to participate in this matter are expected to be prepared should the Tribunal convert the CMC to a settlement conference, a motion for procedural directions, or a preliminary hearing, where evidence or formal statements or

submissions may be heard. Even when no settlement is reached, the Tribunal may proceed to make a final decision on any evidence received during the conference.

PARTY OR PARTICIPANT STATUS REQUEST:

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

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

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

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

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

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

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

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

FURTHER DIRECTIONS

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

The Tribunal shall issue a disposition following the CMC that will set out the directions of the Tribunal. A copy of this decision may be obtained from the Tribunal's website (<https://olt.gov.on.ca/tribunals/lpat/e-decisions/>) by referencing the above case number.

Please review the Tribunal's [Rules](#) for relevant information.

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

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

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

DATED at Toronto, this 17th day of August, 2021.

Becky Fong
Registrar



Office of the City Clerk

CHRISTINE A. TARLING
Director of Legislated Services & City Clerk
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Kitchener City Hall, 2nd Floor
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christine.tarling@kitchener.ca
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Kimberly.Livingstone@ontario.ca

Ontario Land Tribunal

655 Bay Street, Suite 1500, Toronto, ON M5G 1E5

RE: Tribunal Case No. PL210104 - 30 Duke Street Limited v. Kitchener (City)

Dear Kimberly:

On June 23, 2021, the Ontario Land Tribunal (OLT) directed the Parties to create a list of any persons who were entitled to, but did not receive, notice of the CMC and to submit the list to the Tribunal's Case Coordinator forthwith.

Upon my office's review of the list that was provided, we discovered there were two errors that occurred in producing the notice of the CMC. Firstly, my office made an error with respect to the address for which we were to provide the list of persons within a 120 metres. Instead of providing a list for 22 Weber Street West, my office erroneously provided a list for 30 Duke Street. As it happens the properties are in close proximity of one another and so some of the people who should have received the notice for 22 Weber Street West were captured on the incorrect list provided for 30 Duke Street but not everyone who was entitled to receive the notice did.

The second error we made was not to include a list of those people who had made oral and written submissions as well as those who had specifically requested to receive all notices concerning this matter.

My sincerest apologies for both of these errors and the great inconvenience and confusion this has caused. We have had some disruption in my office in the last few months and new staff have joined our team who are still learning.

Attached are two documents containing the names of everyone who is entitled to receive notice for 22 Weber Street West as follows:

1. Attachment A – 120m List for 22 Weber Street West.
2. Attachment B – List for Original LPAT Appeal Submission.

The names highlighted in yellow on both attachments did receive the notice of the CMC as part of the incorrect 120m list or because they were previously provided notice of the original LPAT appeal. The names that are not highlighted, did not receive the notice of the CMC even though they were entitled to do so.



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Office of the City Clerk

I hope this addresses the issue satisfactorily and we have provided what is required of us. If you have any questions or concerns or if you need anything further from my office, please do not hesitate to contact me. We are very eager to ensure the notice of the CMC is circulated to all those who are entitled to receive it.

Yours truly,

A handwritten signature in cursive script that reads 'C. Tarling'.

C. Tarling
Director of Legislated Services & City Clerk

Attach.

Cc: L. MacDonald, City of Kitchener
J. Meader, 30 Duke Street Limited
F. McCrea, Region of Waterloo
P. Kraemer, for H. Jaeger and A. Scriver

RULE 17

ADJOURNMENTS

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

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

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

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

17.5 Powers of Tribunal upon Adjournment Request The Tribunal may,

- a. grant the request.
- b. grant the request and fix a new date or, where appropriate, the Tribunal will schedule a case management conference on the status of the matter;
- c. grant a shorter adjournment than requested;
- d. deny the request, even if all parties have consented;
- e. direct that the hearing proceed as scheduled but with a different witness, or evidence on another issue;
- f. grant an indefinite adjournment, if the Tribunal finds no substantial prejudice to the other parties or to the Tribunal's schedule and the Tribunal concludes the request is reasonable for the determination of the issues in dispute. In this case, a party must make a request, or the Tribunal on its own initiative may direct, that the hearing be rescheduled or resumed as the case may be;
- g. convert the scheduled date to a mediation or case management conference; and
- h. make any other appropriate order.

PURPOSE OF PROPOSAL | 22 WEBER STREET WEST, KITCHENER

OFFICIAL PLAN AMENDMENT 20/005/W/JVW ZONING BY-LAW AMENDMENT 20/013/JVW

DESCRIPTION OF SUBJECT LANDS AND DEVELOPMENT PROPOSAL

The subject lands are comprised of a single parcel of land located at 22 Weber Street West, Kitchener. The subject lands are located just outside the boundary of the Urban Growth Centre (Downtown Kitchener) on the north side of Weber Street West (a Regional Road). The subject lands are an interior lot located between Young Street and Queen Street North. The subject lands are approximately 0.14 hectares in area, are vacant of any buildings and are presently being used as a commercial parking lot. The subject lands are located within a Major Transit Station Area and are designated 'High Density Commercial Residential'.

The applicant is proposing an Official Plan Amendment and Zoning By-law Amendment for the subject lands to facilitate the development of a 19 storey multiple residential building. The application was originally submitted with a proposed maximum height of 15 storeys and is being amended to allow for a maximum height of 19 storeys.



Location of subject lands.

The Urban Growth Centre boundary is located immediately south of Weber Street.

PURPOSE AND EFFECT OF OFFICIAL PLAN AMENDMENT

The purpose of the Official Plan Amendment is to amend the existing Civic Centre Secondary Plan by establishing a Special Policy Area for the Subject Lands. The effect of the Special Policy Area would be to permit a Floor Space Ratio (FSR) of 7.8 whereas the 'High Density Commercial' designation permits a maximum FSR of 4.0.

PURPOSE AND EFFECT OF ZONING BY-LAW AMENDMENT

The purpose of the Zoning By-law Amendment is to establish new site-specific zoning provisions for the existing "Commercial Residential Three Zone (CR-3)" applicable to the Subject Lands in order to implement the proposed development concept. The effect of the Zoning By-law Amendment is to increase the maximum permitted density (FSR), decrease the required parking and visitor parking rates, decrease the required front and rear yard setbacks and decrease the required landscape area. The Zoning By-law Amendment also seeks to establish a minimum ground floor height.