

ADDENDUM TO MINUTES OF SETTLEMENT

ONTARIO LAND TRIBUNAL CASE NO. OLT-22-003126 (formerly PL200619)

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

Applicant and Appellant: 2107401 Ontario Inc. Et Al
Subject: Request to amend the Official Plan - Failure of the Municipality of Port Hope to adopt the requested amendment
Existing Designation: Low Density Residential
Proposed Designated: Medium Density Residential, Low Density Residential-Urban
Purpose: To permit the development of 369 dwelling units
Property Address/Description: Various Locations
Municipality: Municipality of Port Hope
Approval Authority File No.: OP01-2019
LPAT Case No.: PL200619
LPAT File No.: PL200619
LPAT Case Name: 2107401 Ontario Inc. Et Al v. Port Hope (Mun.)

PROCEEDING COMMENCED UNDER subsection 51(34) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant and Appellant: 2107401 Ontario Inc. Et Al
Subject: Proposed Plan of Subdivision - Failure of the Municipality of Port Hope to make a decision
Purpose: To permit the development of 369 dwelling units
Property Address/Description: Various Locations
Municipality: Municipality of Port Hope
Municipality File No.: SU01-2019
LPAT Case No.: PL200619
LPAT File No.: PL200621

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

Applicant and Appellant: 2107401 Ontario Inc. Et Al
Subject: Application to amend Zoning By-law No. 20/2010 - Refusal or neglect of the Municipality of Port Hope to make a decision
Existing Zoning: RES4(28)(H1), RES3(47)(H1), RES3(48)(H1), 'RES3(115), RES1-1(H1)
Proposed Zoning: Site Specific (To be determined)
Purpose: To permit the development of 369 dwelling units

Property Address/Description: Various Locations
Municipality: Municipality of Port Hope
Municipality File No.: ZB06-2019
LPAT Case No.: PL200619
LPAT File No.: PL200620

BETWEEN:

2107401 Ontario Inc., AON Inc, Penryn Park Estates Inc, and Penryn Mason Homes Inc.

(herein collectively referred to as the “Appellants”)

and

The Municipality of Port Hope

(herein referred to as “the Municipality”)

WHEREAS Minutes of Settlement in this matter confirming the approval in principle of draft planning instruments were signed by the solicitor for the Municipality on July 5, 2023;

AND WHEREAS the parties have prepared final versions of the planning instruments in final settlement of this matter;

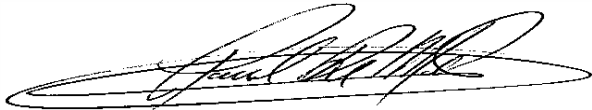
NOW THEREFORE IN RECOGNITION OF THE TRUTH AND ACCURACY of the recitals above and other good and valuable consideration (the receipt and sufficiency of which is acknowledged by the Parties hereto), the Parties do hereby agree as follows:

1. The Municipality confirms that it is supportive of development on the Phase 5B Lands in accordance with the attached planning instruments:
 - a. Draft Plan of Subdivision – Appendix A
 - b. Official Plan Amendment – Appendix B
 - c. Zoning By-Law Amendment – Appendix C
 - d. Conditions of Draft Plan – Appendix D
(Landscaping along the boundary of Victoria Street South)
2. A settlement hearing will proceed on September 7, 2023.
3. In all other respects, the Minutes of Settlement signed July 5, 2023 remain in effect.

4. This Addendum to Minutes of Settlement may be executed by the Parties in counterpart form, which together shall constitute a complete set of these Minutes. These Minutes may be executed by the respective solicitors of the parties hereto and delivered by email.

DATED THIS 14 DAY OF August , 2023.

**2107401 Ontario Inc., AON Inc., Penryn Park Estates Inc,
and Penryn Mason Homes Inc.**



**Signed by their Solicitor, Kagan Shastri DeMelo Winder Park LLP
Per Paul M. DeMelo**

Aug. 2/2023

The Municipality of Port Hope



**Signed by its Solicitor, Templeman LLP
Per Jennifer Savini**

MINUTES OF SETTLEMENT

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BETWEEN:

2107401 Ontario Inc., AON Inc, Penryn Park Estates Inc, and Penryn Mason Homes Inc.

(herein collectively referred to as the “Appellants”)

and

The Municipality of Port Hope

(herein referred to as “the Municipality”)

WHEREAS the Appellants filed planning applications with the Municipality for Official Plan Amendment (OPA), Zoning Bylaw Amendment (ZBA) and Draft Plan Approval (DPA) (hereinafter the “Applications”) for the lands described as Phase 5 of the Lakeside Village Community;

AND WHEREAS the Applications were deemed complete by the Municipality on November 28th, 2019 and appealed by the Appellants to the Local Planning Appeal Tribunal (LPAT) on November 17th, 2020 as a result of non-decision by the Municipality on the Applications;

AND WHEREAS the Appellants and the Municipality reached a settlement respecting the development of a portion of the Phase 5 lands, save and except Block 272 on the revised draft plan of subdivision, which settlement was implemented by the Ontario Land Tribunal (formerly LPAT) in an Interim Order dated June 9, 2021;

AND WHEREAS the development of Block 272 was scheduled for a hearing before the Ontario Land Tribunal to commence in August of 2023;

AND WHEREAS party status requests for the remaining parties to this appeal were withdrawn;

AND WHEREAS the Appellants have prepared a revised draft plan of subdivision (which draft plan is attached hereto as Appendix A) for the development of Block 272 (“the Phase 5B Lands”);

AND WHEREAS the Parties have been working to resolve all outstanding issues as between them with regards to the development on the Phase 5B Lands and have prepared the draft planning instruments attached to these Minutes of Settlement in contemplation of the resolution of those issues (Draft Plan of Subdivision – Appendix A; Draft OPA – Appendix B; Draft ZBA – Appendix C; Draft Plan Conditions – Appendix D);

AND WHEREAS the parties are desirous of finally resolving the appeals as it relates to the Phase 5B Lands and to establish the manner in which consideration of Phases 6 and 7 will proceed, and have agreed to continue good faith efforts to resolve any outstanding issues in accordance with these Minutes of Settlement;

NOW THEREFORE IN RECOGNITION OF THE TRUTH AND ACCURACY of the recitals above and other good and valuable consideration (the receipt and sufficiency of which is acknowledged by the Parties hereto), the Parties do hereby agree as follows:

1. The Parties will notify the Ontario Land Tribunal of their request to convert the currently scheduled 12-day contested hearing to a 1-day settlement hearing on a date during the 12-day time frame to be agreed upon by the Tribunal and the Parties (the “Settlement Hearing”), to release the remaining hearing dates and to waive the filing requirements set out in the Procedural Order dated January 27, 2023 (subject to such further direction from the OLT respecting the Settlement Hearing).
2. The Municipality confirms that it is supportive of development in principle on the Phase 5B Lands in accordance with the attached draft planning instruments (draft OPA, draft ZBA, draft Plan of Subdivision and draft Plan Conditions) and these Minutes of Settlement, subject to the Parties refining the details of said planning instruments and preparing a supporting planning report for final approval to be considered at the Council meeting on August 1, 2023.
3. Provided the Parties finally resolve the matter in accordance with these Minutes of Settlement, at the commencement of the Settlement Hearing (or such other mutually agreeable date as may be scheduled by the Ontario Land Tribunal), the Municipality will advise the OLT that it is supportive of development on the Phase 5B Lands in accordance with the finalized planning instruments (OPA, ZBA, Draft Plan of Subdivision and Draft Plan Conditions) and will file with the Tribunal any resolutions of Council that may be required to evidence such support and to make such submissions through their solicitors as may be necessary before OLT in order to give effect to the approval of the planning instruments attached.
4. At the Settlement Hearing, the Appellants shall present such witnesses as may be required to demonstrate to the OLT that the finalized planning instruments are appropriate for the proposed development of the Phase 5B Lands.

5. Upon issuance of the OLT's order approving the development of the Phase 5B Lands in accordance with the finalized Draft Plan of Subdivision, the Appellants agree that they will:
 - a. survey and convey in fee simple and without encumbrance and without costs to the Municipality the Little Creeks Lands as identified in the attached Appendix E, being Parts 1 and 3 on Plan 39R10743, as well as Block 42 on Plan 39M834; and
 - b. provide trees or financial contributions up to a value of One Hundred Thousand Dollars (\$100,000.00) to be used by the Municipality for planting within the Municipality (which may include use by the Municipality for its tree bank) within 9 months of the OLT's order in accordance with a tree planting plan to be agreed on by the Municipality and the Appellants;
 - c. implement an enhanced landscaping strip on the Phase 5B Lands in accordance with the Draft Plan Conditions – Appendix D, consisting of enhanced planting and shrubbery along the front of dwellings adjacent to Victoria Street South; and
 - d. using best construction practices, make best efforts to preserve four trees identified by Municipal staff within the municipal road allowance along Victoria Street South during the construction of the Phase 5B lands.
6. The Parties acknowledge that there shall be no requirement for any additional parkland dedication by the Appellants for the development of Phase 5B, and further that as the Appellants have previously over-dedicated for parkland that there shall be no further parkland dedication required to be provided as part of the development of Phases 6 and 7 when they are brought forward for development.
7. The Appellants have engaged in pre-consultation meetings with the Municipality for Phases 6 and 7 and while there is no formal application before the Municipality as of the execution of these Minutes of Settlement, Municipal staff has indicated that it is generally supportive of development on Phases 6 and 7 subject to formal submission and final review of all required studies and reports which are to be submitted by the Appellants, which updates may include but are not limited to an easement through Block 42 to allow for a sanitary and stormwater connection through the said block.
8. The Municipality further agrees that when the Appellants bring forward applications for Phases 6 and 7, that it will process these applications expeditiously and will work with the Appellants to resolve any matters that may arise. The Municipality acknowledges that in addition to not seeking any further parkland dedication from the Appellants for Phases 6 and 7, the Municipality will not make any request for additional plantings beyond those required as part of the Municipality's standard subdivision requirements or any other community recreational improvements or contributions that have not been recommended and agreed to as part of the development review and which are not authorized under the Planning Act or other similar legislation.

9. In the event that the Parties are not able to finalize the settlement of all matters for the August 1 Council meeting, the Parties agree that they will seek direction from the OLT at the scheduled Settlement Hearing to identify all outstanding issues and to schedule a contested hearing on such issues at the earliest available date.
10. Save and except for as expressly identified herein, these Minutes of Settlement shall not in any way fetter the discretion of Council or be construed as, or considered to fetter the discretion of Council with regards to any position or action that it may otherwise take with regards to future phases of development for the draft approved lands nor limit or restrict in any manner the normal exercise of discretion by Council of the Municipality or its legal counsel.
11. The Parties agree that they shall each bear their own costs in connection with the Appeals, the settlement of same and the drafting of these Minutes, provided that if the matter is not finally settled by August 1, the Parties reserve their right to make cost submissions. The Parties further agree that neither Party shall seek an award of costs against the other from the OLT or any other body.
12. These Minutes of Settlement may be executed by the Parties in counterpart form, which together shall constitute a complete set of these Minutes. These Minutes may be executed by the respective solicitors of the parties hereto and delivered by email.

DATED THIS 14th DAY OF August , 2023.

**2107401 Ontario Inc., AON Inc., Penryn Park Estates Inc,
and Penryn Mason Homes Inc.**

A handwritten signature in black ink, appearing to read "Paul M. DeMelo", is written over a horizontal line. The signature is stylized and cursive.

**Signed by their Solicitor, Kagan Shastri DeMelo Winder Park LLP
Per Paul M. DeMelo**

5th July, 2023

The Municipality of Port Hope

A handwritten signature in blue ink, consisting of several overlapping loops and strokes, positioned above a horizontal line.

**Signed by its Solicitor, Templeman LLP
Per Jennifer Savini**