

Ontario Land Tribunal
Tribunal ontarien de l'aménagement
du territoire



ISSUE DATE: October 19, 2026

CASE NO(S).:

OLT-26-000754

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

Applicant/Appellant:

Greenwood Park Limited Partnership No. 1

Subject:

Request to amend the Official Plan – Failure to adopt the requested amendment

Description:

Proposing to expand the City of Kingston's urban settlement area boundary

Reference Number:

D09-003-2024

Property Address:

630 Gore Road

Municipality/UT:

Kingston

OLT Case No.:

OLT-26-000754

OLT Lead Case No.:

OLT-26-000754

OLT Case Name:

Greenwood Park Limited Partnership No. 1 v. Kingston (City)

Heard:

October 07, 2026 by video hearing

APPEARANCES:

Parties

Counsel

Greenwood Park Limited Partnership
No. 1

E. Blanchard
L. English

City of Kingston

K. Mullin
L. Valgardson

Friends of Butternut Creek

R. Nadarajah

**MEMORANDUM OF ORAL DECISION DELIVERED BY S. BRAUN ON
OCTOBER 07, 2026 AND ORDER OF THE TRIBUNAL**

INTRODUCTION

[1] The following is the Tribunal's Decision and Order following a first Case Management Conference ("CMC") held to organize an appeal pursuant to s. 22(7) of the *Planning Act* by Greenwood Park Limited Partnership No. 1 ("Appellant") against the failure of the City of Kingston ("City") to make a decision on an application for an Official Plan Amendment ("OPA") in relation to the property located at 630 Gore Road ("Subject Property").

[2] The Appellant proposes to add 20.6 hectares ("ha") of land to the urban boundary (comprised of approximately 9 ha of residential land, 3 ha of road area, 0.6 ha of parkland and utility areas, and 8 ha of environmental protection and natural open space areas). The proposed expansion is intended to facilitate development of the Greenwood Park East neighbourhood with 196 new residential dwellings.

[3] The Tribunal received an Affidavit of Service, sworn on September 09, 2026, confirming that Notice of this CMC was properly given. No issues were raised with the sufficiency thereof. Accordingly, no further notice will be required.

STATUS REQUESTS

Friends of Butternut Creek Party Request

[4] In response to the Notice, the Tribunal received one written request for Party Status from Friends of Butternut Creek ("FBC"), an incorporated not-for-profit organization whose objects include, but are not limited to: conducting research on the Butternut Creek wetlands and its watershed; participating in public and legal processes related to environmental matters; and collaborating with others working to protect the City's environment and its ecological system. FBC stands in opposition to the proposed

OPA, raising ecological concerns, given the natural heritage features, functions, and natural hazards present on the Subject Property and adjacent lands.

[5] While the City did not object to FBC's request, counsel for the Appellant, Mr. English, indicated that his client would consent to the granting of Participant status, but was opposed to FBC being added as Party.

[6] Rule 8.2 of the Tribunal's *Rules of Practice and Procedure* ("Rules") empowers the Tribunal to add a party to a proceeding when that person satisfies applicable legislative tests necessary to be a party and there are reasonable grounds to do so, provided the person's presence is necessary to enable the Tribunal to adjudicate effectively and completely. The Parties were in agreement that, in this instance, there is no applicable legislative test to be met and, as such, their submissions centered on the remainder of Rule 8.2.

[7] Based on the submissions of the Parties and the Tribunal's findings set out below, FBC's request to be added as a Party to the proceeding was granted.

Friends of Butternut Creek Submissions

[8] Counsel for FBC characterized Butternut Creek as an area of ecological significance. She explained that FBC represents the interests of residents directly impacted by the appeal, as well as the City's residents in general, given the area's ecological significance. The Tribunal heard that, if granted Party status, FBC intends to present expert ecological evidence and to coordinate with the City to avoid duplicative evidence and arguments. FBC may also seek to summon a witness from the Cataraqui Region Conservation Authority ("CA").

[9] It was argued that FBC's presence is necessary for the Tribunal to adjudicate effectively and completely on issues related to ecology/natural heritage features and natural hazards and that there are reasonable grounds to add FBC, which satisfies the "obvious factors" in *Oakville (Town), Re*, 2010 CarswellOnt 7078 (OMB) ("*Oakville*"), below:

- a) Has an appeal already been filed in relation to the policy which is sought to be challenged? ("Prior Appeal")
- b) To what extent is the public interest advanced if party status is granted? ("Public Interest")
- c) What prejudice, if any, would be suffered by the municipality or another party to the proceeding? ("Prejudice")
- d) Does the person seeking party status have a direct interest in the policy? ("Direct Interest")
- e) Will granting party status avoid a multiplicity of proceedings? ("Multiplicity of Proceedings")
- f) What is the historical background of the policy sought to be challenged ("Historical Background").

[10] With respect to necessity, counsel for FBC acknowledged that the City would likely provide ecological evidence. However, she submitted that a Tribunal hearing is not a polarized dispute between the City and the Appellant, arguing that the City's interests, and the evidence presented in the pursuit thereof, may be different from FBC's. FBC relies on *Dunlop Developments (Barrie) Inc. v. Barrie (City)*, 2026 CanLII 12516 (ONLT) ("*Dunlop*"), wherein the Tribunal accepted that the interests of the neighbouring resident who sought party status might not be the same as the interests of the City and accepted the possibility that the City's evidence on the issues could be broad, whereas the status requestor could present a more focussed view. The Tribunal, in *Dunlop*, also rejected arguments that the granting of status would result in duplicative arguments and evidence, noting that such concerns could be adequately addressed through the experts' meeting(s)/exchanges and managed by the Member assigned to the hearing.

[11] FBC additionally relied on *1063755 Ontario Ltd. v. Grey (County)*, 2023 CanLII 58614 (ONLT) (“*Grey*”), wherein the Town of Hanover sought party status in an appeal of the County of Grey’s adoption of OPA 11, which, among other things, prescribed policies for the direction of future growth in the County of Grey. The Tribunal granted the status request, finding that, while the interests of the upper and lower tier approval authorities might be aligned in some respects, they would likely diverge in others due to the differing roles and responsibilities of each.

[12] Regarding the factors in *Oakville*, which are most applicable in this case, it was submitted that FBC has a direct interest in the appeal given its mandate, interest, and historical involvement in this and other planning issues involving Butternut Creek and the surrounding area. It was further submitted that the public interest would be best served by allowing FBC to provide the Tribunal with fulsome and focussed evidence on the ecological/environmental issues which are of interest not only to local residents but the City’s residents, in general. Finally, reiterating a commitment to work collaboratively with the City to avoid duplication of arguments and evidence, counsel for FBC submitted that the granting of the request would result in little to no prejudice to the other Parties.

Appellant’s Submissions

[13] On behalf of the Appellant, it was argued that FBC’s presence is not necessary for the Tribunal to adjudicate effectively and completely on the issues, as FBC represents private interests and does not speak for the public, whereas the City is a steward of the public interest, has raised similar issues to those of FBC, and will present ecological evidence on those issues. In addition, as the CA has provided comments on the proposed OPA and permits would be required in advance of development in the area regulated by the CA, it was submitted that there is/will be rigorous protection of Butternut Creek, obviating the need for FBC to be a Party to the proceeding.

[14] With reference to the stated intention to call ecological evidence only, it was submitted that the failure to call land use planning evidence would result in the Tribunal only being presented with part of the equation, given that FBC's anticipated witness(es) would be unqualified to provide an overall opinion on matters such as good land use planning, consistency with the Provincial Planning Statement, 2024, etc.

[15] The Appellant takes the position that not only is FBC's presence unnecessary, but the more applicable "obvious factors" in *Oakville* have not been demonstrated. It was argued that there is no direct interest in the proceeding, as FBC is a small group of activists who do not necessarily live near the Subject Property and only recently incorporated for the express purpose of seeking Party status in an effort to add legitimacy to voices in opposition to the proposed OPA by "dressing up private interest as public interest". In this regard, it was argued that FBC's interest is indirect and readily distinguishable from *Dunlop*, which involved the granting of party status to a neighbouring landowner. It was also submitted that *Grey* is similarly distinguishable, as it concerned a municipally initiated OPA, arguably warranting a greater level of public participation, as distinct from this private application for an OPA to add lands to the City's urban boundary.

[16] It was submitted that FBC's history of participation in the present appeal of a non-decision where no statutory public meeting has been held is not as significant as presented to the Tribunal. It was noted that, other than FBC members submitting written concerns to the Planning Committee in October 2025, their history of involvement has been/is more concerned with a separate land use planning matter in the form of an ongoing Official Plan review and related Natural Heritage Study.

[17] In the view of the Appellant, the addition of FBC poses some risk in terms of a multiplicity of proceedings, given that future development applications for the Subject Property (i.e. zoning and draft plan) could result in appeals in which FBC could be granted status, essentially giving them a "second kick at the can" to present similar evidence on similar issues at a later date.

[18] With respect to prejudice, it was argued that adding FBC would duplicate evidence and complicate the task of hearing preparation, particularly the required meeting of the experts and preparation of cross-examinations, resulting in a costlier and lengthier hearing. Further complexity would result if the City and Appellant were to come to a resolution, with FBC's presence potentially resulting in a contested hearing and/or requests for review/appeal in the event FBC disagrees with the Tribunal's ultimate decision. It was submitted that the Rules offer limited "guardrails" to ensure that the addition of FBC does not add unnecessary cost/delay or otherwise frustrate the process, given the high threshold to be met and the low likelihood of recovery given FBC's non-profit status.

[19] Finally, the Tribunal heard that various members of FBC also belong to other organizations who seek Participant status and that some may also have sought Participant status as individuals, duplicating statements and concerns to increase the perception of public opposition to the proposal.

Findings

[20] In this instance, the Tribunal finds it appropriate to grant Party status to FBC, having been persuaded that its presence is necessary to adjudicate effectively and completely on issues of ecology/natural heritage and natural hazards. It is accepted that the interests of the City may be broader than FBC and that, through the lens of FBC's expert evidence on the specific ecological issues in relation to Butternut Creek and its tributaries, the Tribunal may gain a different and valuable perspective which assists in deciding the appeal.

[21] The Tribunal finds that FBC has a direct interest, insofar as it involves Butternut Creek, and is not convinced that the entire membership must reside near the Subject Property for FBC's interest to be considered direct. The Tribunal has, in the past, granted party status to local environmental groups concerned with protecting/preserving a specific environmental or natural heritage feature and has not required that all

members of such groups reside near that specific feature. The Tribunal was also not persuaded that appeals of development applications which have not yet been submitted should influence the consideration of a request for status in the present appeal and is similarly not persuaded that the possibility of FBC involvement in potential future appeals constitutes the multiplicity of proceedings contemplated in *Oakville*.

[22] While FBC indicated that it does not intend to provide land use planning evidence, there is no requirement to do so. Albeit rarely, in the past the Tribunal has granted party status to individuals/entities who present no expert evidence at all, but simply cross-examine experts tendered by other parties to an appeal. In fact, FBC's intent to present only ecological evidence suggests that their addition as a Party will not result in an unnecessarily long and costly hearing as suggested by the Appellant. As in both *Dunlop* and *Grey*, the Tribunal is satisfied that the potential for prejudice in the form of repetition of evidence and increased costs/delays are minimal/mitigated by the fact that FBC is represented by counsel, who is expected to be familiar with and abide by the Rules (including Rule 23 – Costs) and has committed to working with the City to avoid duplicative arguments and evidence.

Participant Requests

[23] The 33 individuals/entities, as reflected in **Attachment 1** to this Decision, submitted written requests for Participant status.

[24] The prospective Participants stand in opposition to the proposed OPA, with many expressing the view that the Subject Property is not representative of an appropriate location for growth and development. For the most part, they raised similar concerns/issues, which the Tribunal broadly categorizes as follows:

- servicing/infrastructure;
- natural heritage/environmental/ecological;

- land use compatibility; and
- public health and safety in relation to:
 - hazardous lands/flooding;
 - traffic/transportation/emergency access; and
 - groundwater and the potential for private well/drinking water contamination.

[25] There were no objections to the granting of Participant status to any of the requestors. However, as noted during submissions on FBC's status request, there appears to be some degree of overlap in terms of individuals who are also members of organizations seeking status in the appeal and whose statements are essentially duplicative of those put forward by those organizations. The Tribunal explained that it does not assign more weight to a concern based on the number of times it may be repeated.

[26] Participant status was granted to all requestors, as listed in **Attachment 1** to this Decision. However, in an effort to avoid unnecessary duplication of materials to be considered at the hearing, the Tribunal directed those who belong to any of FBC, All Our Relations Land Trust, Ongwanada Developmental Services, or Turtles Kingston, and whose concerns are strictly duplicative of those raised by those organizations, to contact the assigned Case Coordinator and relinquish their individual status given that their concerns have already been expressed through one of the organizations noted above. Following the CMC, counsel for FBC reviewed all requests and statements from the Participants and advised that no members of FBC sought/were granted Participant status in the proceeding.

[27] The Tribunal was also alerted to the fact that Julie Waddell, who is currently out of the country, had emailed the Parties in advance of the CMC expressing concerns and an interest in seeking status as a Participant, but had not submitted a formal request. With no objection from the Parties, the Tribunal granted provisional Participant status to Ms. Waddell (also listed in **Attachment 1** to this Decision). Ms. Waddell is directed to submit to the Tribunal and the Parties a written Participant Status Request no later than **Monday, November 30, 2026**. Should the Tribunal not receive a written request or a request for an extension of the deadline by **Monday, November 30, 2026**, the provisional status granted to Ms. Waddell shall be revoked.

NEXT STEPS

[28] In advance of the CMC, the City and Appellant submitted a draft Procedural Order (“PO”) and detailed Issues List (“IL”) requiring only minor refinements. Given the granting of Party status to FBC, the Parties indicated they would require some time to submit a finalized IL on consent. It was agreed that FBC would be provided with the draft IL no later than Friday, October 16, 2026, and the Parties would submit a revised draft PO and IL for the Tribunal’s review and approval no later than **Friday, October 23, 2026**.

[29] On the strength of the detailed IL provided, the Tribunal scheduled a 15-day hearing to proceed by video on **Monday, April 12, 2027 at 10 a.m.** Should the Tribunal not receive the revised PO and IL (or a request for an extension) by the specified deadline, the above-noted hearing dates will be removed from the calendar and the Parties will be required to seek further case management to obtain new dates. The Parties were reminded of the availability of Tribunal-assisted mediation, and they confirmed their awareness of the means to access this resource, should they wish to avail themselves thereof in the future.

[30] Parties and Participants are asked to log in to the event at least **15 minutes** before it begins to test their video and audio connections:

GoTo Meeting: <https://global.gotomeeting.com/join/344779885>

Access code: 344-779-885

[31] Parties and Participants are asked to access and set up the application well in advance of the event to avoid unnecessary delay. The desktop application can be downloaded at [GoTo Meeting](#) or a web application is available:

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

[32] Persons who experience technical difficulties accessing the GoTo Meeting application or who only wish to listen to the event can connect to it by calling in to an audio-only telephone line: **+1-647-497-9373 or (toll-free) +1-888-299-1889**. The access code is: **344-779-885**.

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

[34] As of March 30, 2026, all hearing events are governed by the Tribunal's [Artificial Intelligence Practice Direction](#). This Practice Direction requires a party, participant, or witness to include a declaration within each submitted document if generative AI was used to create or generate content.

ORDER

[35] The case management directives above are so ordered.

[36] There will be no further notice. The Member is not seized but may be available for case management, should the Tribunal's calendar permit.

"S. Braun"

S. BRAUN
VICE-CHAIR

Ontario Land Tribunal

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The Conservation Review Board, the Environmental Review Tribunal, the Local Planning Appeal Tribunal and the Mining and Lands Tribunal are amalgamated and continued as the Ontario Land Tribunal ("Tribunal"). Any reference to the preceding tribunals or the former Ontario Municipal Board is deemed to be a reference to the Tribunal.

ATTACHMENT 1

<u>Individual/Entity Participant Status Requestors/Provisional Participants*</u>	<u>Representative(s)</u>
All Our Relations Land Trust	K. Patterson
Ronald Blank	Self-represented
Celeste Booth	Self-represented
Jacqueline Brouillard	Self-represented
Building Kingston's Future, Inc.	A. Burfoot S. King
Andrew Duncan	Self-represented
Mark Fathers	Self-represented
Robert Fonger	Self-represented
Maryanne Green	Self-represented
Sean Haffey and Jennifer Zlepzig	Self-represented
Roger Healey	Self-represented
Bruce Hill	Self-represented
Ceredwyn (Kerry) Hill	Self-represented
Hamon Kahani	Self-represented
David Kerr	Self-represented
Marko Krstic	Self-represented
Debra Lefebvre	Self-represented
Carey Letts	Self-represented
Kevin May	Self-represented
LA Meloche	Self-represented

Shaila Merchant	Self-represented
Lilian Murcia Ambrosio	Self-represented
Adelheid Nicol	Self-represented
Karen O'Hanley	Self-represented
Ongwanada Developmental Services	C. Murphy
Vic Sahai	Self-represented
Christian Seiler	Self-represented
Susan and Patrick Semple	Self-represented
Boris Spassov	Self-represented
Henry and April Swoboda	Self-represented
Shaila Merchant	Self-represented
Turtles Kingston	T. Bauer E. Wright
Robin Wynne-Edwards	Self-represented
Julie Waddell*	Self-represented