

ISSUE DATE:

March 31, 2009



PL031147

Ontario Municipal Board
Commission des affaires municipales de l'Ontario

Joe Fortino, Anthony Valeri, and Canadian Niagara Hotels Inc. have appealed to the Ontario Municipal Board under subsection 34(19) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, against Zoning By-law 2003-180 of the City of Niagara Falls
O.M.B. File No. R030246

APPEARANCES:

Parties

Counsel*/Agent

City of Niagara Falls

K. Beaman*

Canadian Niagara Hotels Inc.

T. Halinski*

J. Fortino

S. Fortino

A. Valeri

**MEMORANDUM OF ORAL DECISION DELIVERED BY D. R. GRANGER
ON MARCH 27, 2009 AND ORDER OF THE BOARD**

This is a pre-hearing conference being held by telephone conference call with the above noted Parties connected.

The matter relates to appeals against Zoning By-law 2003-180 (By-law) enacted by the Council of the City of Niagara Falls (City) on October 6, 2003. The By-law changes the zoning for land on the north and south sides of Roberts Street, east of Stanley Avenue from part Tourist Commercial, part Deferred Tourist Commercial and part Residential to a site-specific Open Space Zone.

The purpose of the change was to provide a gateway entrance into the City and included a program of acquisition, including expropriation, of property by the Region of Niagara to achieve. This program has since been discontinued.

The appeals were adjourned by the Board, otherwise constituted, as set out in Decision/Order 3143 issued December 1, 2005, in order to facilitate settlement talks.

At the commencement of this pre-hearing conference, the Board was informed of continuing discussions that include consideration for gateway commercial uses compatible with the gateway concept, envisioned by the City. It was also confirmed by Counsel for the City, that all uses existing at the time of the enactment of the By-law continue as legal uses as set out in the By-law.

The City commits to having alternative acceptable land use proposals available to the other Parties, before the end of April 2009, in an effort to settle the appeals.

If a hearing is necessary, the Parties consent to it commencing on Thursday, June 18, 2009, at 10:30 a.m. in the Council Chambers, Municipal Building, 4310 Queen Street, Niagara Falls. Up to two (2) days have been scheduled. No further notice is required and this Board Member is not seized.

Should a full settlement result; a hearing by telephone conference call may be convened to dispose of the appeals subject to an affidavit from a qualified land use planner being filed with the Board in advance.

The Board encourages the ongoing efforts of the Parties to settle this dispute.

The Board so Orders.

“D. R. Granger”

D. R. GRANGER
VICE-CHAIR