

Issue Date:

April 21, 2008



PL070732
PL071115

Ontario Municipal Board
Commission des affaires municipales de l'Ontario

Robert Payne/SFJ Inc (Flying J) has appealed to the Ontario Municipal Board under subsection 22(7) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, from Council's refusal or neglect to enact a proposed amendment to the Official Plan for the City of Hamilton to redesignate land at 33-37 Fifty Rd to permit a travel plaza and associated uses catering to the traveling public.
OMB File No. O070107

Robert Payne/SFJ Inc (Flying J) has appealed to the Ontario Municipal Board under subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, from Council's refusal or neglect to enact a proposed amendment to Zoning By-law 3692-92 of the City of Hamilton to rezone lands respecting 33-37 Fifty Rd to permit a travel plaza and associated uses catering to the traveling public.
OMB File No. Z070102

File number: PL071115
Case number: PL071115
Municipality: City of Hamilton
Appellant: Robert Payne/SFJ Inc (Flying J)
Property: 33-37 Fifty Church Road, Concession 1, Part of Lot 2
Municipal Number: DA-07-162

APPEARANCES:

Parties

City of Hamilton

SFJ Inc. (Flying J)

Counsel

A. Zuidema

C. Lantz

**MEMORANDUM OF ORAL DECISION DELIVERED BY J. R. AKER ON
APRIL 4, 2008 AND ORDER OF THE BOARD**

At the second prehearing conference, the two parties were in attendance. Ms Diane McIntyre, representing Mr. Norman Kim who owns the Stop 50 Truck Stop, was in attendance and confirmed that her status is that of an observer.

Mr. Lantz, counsel for SFJ Inc. (Flying J), had, in the first prehearing conference, requested that the site plan referral be consolidated with the two appeals before the

Board. With the consent of both counsel, the Board consolidates Case No. PL070732 and Case No. PL071115 and this is reflected in the Title of Procedure of this Decision/Order.

Mr. Zuidema, counsel for the City of Hamilton, advised the Board that, in the past week, there was a very substantive and positive meeting between the parties. He stated that the two parties are attempting to resolve outstanding issues and the parties agree that a Procedural Order is not necessary at this time.

Mr. Zuidema stated that the parties wish to maintain the scheduled hearing set to commence at 10:00 a.m. on Tuesday, June 3, 2008 for fourteen (14) days. This member is not seized as a result of a conflict in the Board's calendar.

Mr. Zuidema stated that the parties may have a settlement in June of 2008 on the Official Plan amendment and Zoning By-law amendment. He requests the Board to schedule a settlement hearing for one day and this member be seized of the matter.

With the consent of counsel, a settlement hearing is set for one (1) day and will commence at 10:00 a.m. on June 6, 2008. The location is the Ontario Municipal Board Hearing Room 6, 50 Main Street East, Hamilton. This member is seized.

Mr. Zuidema requests that, if the parties are close to a settlement on the site plan application, the Board schedule a two day hearing on this matter.

With the consent of counsel, the hearing for the determination and settlement of the site plan is scheduled to commence at 10:00 a.m. on June 23, 2008. Two (2) days have been reserved on the Board's calendar. The location to be determined at the June 6, 2008 settlement hearing. This member is seized.

Lastly, the Board will be advised by May 15, 2008 if the three week hearing is required or if only the three days are required as set out above.

No further notice is required.

The Board so Orders.

“J. R. Aker”

J. R. AKER
MEMBER