

ISSUE DATE:

Dec. 01, 2009



PL080347

Ontario
Ontario Municipal Board
Commission des affaires municipales de l'Ontario

IN THE MATTER OF subsection 17(24) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellant: Derry-Ten Limited
Appellant: Orlando Corporation and Heartland (Seven) Limited
Subject: Proposed Official Plan Amendment No. 40
Municipality: City of Mississauga
OMB Case No.: PL080347
OMB File No.: PL080347

IN THE MATTER OF subsection 34(19) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellant: Derry-Ten Limited
Appellant: Orlando Corporation
Subject: By-law No. 191-2009
Municipality: City of Mississauga
OMB Case No.: PL080347
OMB File No.: PL090625

IN THE MATTER OF subsection 17(36) of the *Planning Act*, R.S.O. 1990, C. P. 13, as amended

Appellant: Orlando Corporation
Subject: Proposed Official Plan Amendment No. 25
Municipality: City of Mississauga
OMB Case No.: PL070625
OMB File No.: O070098

IN THE MATTER OF Subsection 34(19) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended

Appellant: Orlando Corporation
Subject: By-law No. 0225-2007
Municipality: City of Mississauga
OMB Case No.: PL070625
OMB File No.: R070126

Derry-Ten Limited has appealed to the Ontario Municipal Board under Subsection 17(36) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, from a decision of the Region of Peel to approve the General Business Employment Policies, the General Commercial Policies and the Implementation Policies in the City of Mississauga's new Official Plan with respect to lands located in the southwest quadrant of Derry Road and Hurontario Street
OMB File No. O030305

** This pre-hearing will deal with the above-mentioned matter and will consider request for consolidation of appeal by Derry-Ten Limited on Board’s Case PL030441 and consolidation of appeal by Orlando Corporation on Board’s case PL070625

APPEARANCES:

Parties

Counsel

City of Mississauga

M. Minkowski

Derry-Ten Limited

S. Mahadevan

Orlando Corporation/Heartland (Seven) Ltd.

L. F. Longo

Region of Peel

K. Yerxa

Participants

Counsel

Cabot Trail Estates Ltd.

J. Alati

Loblaw Properties Limited

S. A. Zakem

**MEMORANDUM OF ORAL DECISION DELIVERED BY D. R. GRANGER
ON NOVEMBER 20, 2009 AND ORDER OF THE BOARD**

This is the first Pre-hearing Conference regarding the appeals of Orlando Corporation/Heartland (Seven) Ltd. (“Orlando”) and Derry-Ten Limited (“Derry-Ten”) against the City of Mississauga (“City”) Amendment No. 40 to the Official Plan (“OPA 40”) and By-law 191-2009 (“By-law 191”) enacted by the City in 2008 for the Highway 10/Hurontario corridor area within the Gateway Planning District Employment Area.

Without objection, the Board recognizes the above listed Parties and Participants as the Parties and Participants to the appeals.

Derry-Ten owns an approximate 70-acre parcel of land bounded by Derry Road to the North, Hurontario Street to the east, Ambassador Road to the south and Maritz

Road to the west. It has an outstanding appeal against Mississauga Plan (PL030441) and has private Official Plan and Zoning By-law applications in process with the City. The Parties consent to the appeal of Derry-Ten against OPA 40 and By-law 191 being deemed site specific without prejudice to any future adjudication by the Board regarding Mississauga Plan, OPA 40, By-law 191 or its private Official Plan and Zoning By-law applications. Its outstanding appeal against the Mississauga Plan is not consolidated at this time other than for future Pre-hearing Conference purposes.

The Parties consent to the site-specific appeals by Derry-Ten being adjourned *sine die* pending the completion of the processing of its applications. On consent and at the request of the Parties, the Board grants the adjournment. The Board will require a status report from the affected parties as noted later in this decision.

Orlando owns lands in the Gateway Node of the Gateway Planning District Employment Area at the intersection of Highway 401 and Highway 10/Hurontario Street. It has outstanding appeals against the City Official Plan Amendment No. 25 ("OPA 25") and the City Comprehensive Zoning By-law 0225-2007 ("By-law 0225"). Its appeals relate primarily to urban design policy issues save a separate issue regarding the provision of day care facilities within its buildings in the Gateway Node outside of the airport related 35 NEF noise contour.

On consent and at the request of the City and Orlando, the Board consolidates all appeals by Orlando and deems them to be site-specific to Sites 1 to 6 as set out in Exhibit No. 2 without prejudice to any future adjudication by the Board regarding OPA 25, By-law 0225, OPA 40 and By-law 191.

The day care issue will be addressed separately following discussions with the City and Region of Peel ("Region"). In that respect, on consent and at the request of the Parties, the appeal related to the day care issue is adjourned *sine die*. The affected parties will provide an update in that regard at the next Pre-hearing Conference.

The remaining issues of appeal by Orlando will be scheduled as noted later in this decision.

Participants Cabot Trail Estates Ltd. ("Cabot") and Loblaw Properties Limited ("Loblaw"), own property within the OPA 40 area and are maintaining participant status

regarding the appeals by Derry-Ten only. The concerns of Cabot and Loblaw relate to any change occurring in the nature of retail uses resulting from the appeals by Derry-Ten. They are both content with OPA 40 and By-law 191 as presently enacted by the City and have no issues with respect to the appeals by Orlando.

On consent of the Parties, the Board further directs the following:

1. The hearing of the appeals by Orlando, save the day care issue, will commence on Monday, June 7, 2010 at 10:00 a.m. at City Hall, 300 City Centre Drive, 2nd Floor, Municipal Hearing Room, Mississauga, Ontario. Up to five (5) days have been scheduled.
2. A second Pre-hearing Conference regarding the appeals of Orlando is scheduled for Friday, February 12, 2010 at 10:00 a.m. at City Hall, 300 City Centre Drive, 2nd Floor, Municipal Hearing Room, Mississauga, Ontario. The agenda for this Pre-hearing Conference will include finalization of the Procedural Order for the hearing of the Orlando appeals including final issues, Parties and Participants. The Board will also hear any updates regarding the separate day care issue appeal. Counsel for the City has agreed to circulate a draft Procedural Order to the Parties well in advance of this Pre-hearing Conference in an effort to achieve a consensus in that regard.
3. Confirmation of Party and Participant status and a list of issues in dispute will be exchanged on or before December 31, 2009.
4. The Board confirms that the appeals by Orlando against OPA 40 and By-law 191 are consolidated with its appeals against OPA 25 and By-law 0225 and are site specific. The day care issue appeal is separated and site specific. The appeals by Derry-Ten against OPA 40 and By-law 191 are also site-specific and are to continue to be associated, but not consolidated, with its appeal against the Mississauga Plan and no longer associated with the appeals by Orlando.

5. Derry-Ten and the City will provide a status report related to Derry-Ten's outstanding appeals to the Board on or before May 28, 2010.
6. No further notice is required.
7. This Board Member is seized of these appeals.

The Board encourages all Parties and Participants in their efforts to further focus and/or settle the issues in dispute. The Board can provide for alternative dispute resolution in the form of mediation at the written request of the parties.

The Board so Orders.

"D. R. Granger"

D. R. GRANGER
VICE CHAIR