

Issue Date:

January 20, 2009



PL081087

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

MC2 Homes Inc. 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 90-145-2 of the City of Hamilton to rezone lands respecting Part of Lots 9 and 10 Concession 4 (East Flamborough) in Waterdown from the Agricultural "A" Zone to Urban Residential "R1" Zone to permit single detached dwellings, from Agriculture "A" Zone to Urban Residential "R6" to permit street townhouses and from the Agricultural "A" Zone to the Conservation Management "CM" Zone to allow for a storm water management pond. The purpose of the desired zoning change is to implement the Official Plan, which is in force, and to facilitate a plan of subdivision of the subject lands.
OMB File No. PL081087

MC2 Homes Inc. has appealed to the Ontario Municipal Board under subsection 51(34) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, from the failure of the City of Hamilton to make a decision respecting a proposed plan of subdivision on lands respecting Part of Lots 9 and 10 Concession 4 (East Flamborough) in Waterdown.
(Approval Authority File No. 25T200709)
OMB File No. PL081090

APPEARANCES:

Parties

Counsel

MC2 Homes Inc.

R. K. Webb

City of Hamilton

A. Zuidema

City of Burlington

B. Hurley

Landmart Realty Corp.

R. D. Cheeseman

Amadeo DiMarco

A. Platt

**MEMORANDUM OF ORAL DECISION DELIVERED BY A. CHRISTOU ON
JANUARY 8, 2009 AND ORDER OF THE BOARD**

This is the first prehearing conference (PHC) event for these appeals, to deal with preliminary and procedural matters.

In July 2007, MC2 Homes Inc. applied to the City of Hamilton (Hamilton) to rezone its 11.64 ha lands being Part of Lots 9 and 10 Concession 4 (East Flamborough) in Waterdown, in order to develop it under a proposed plan of subdivision for 167 lots for single detached homes; 13 street townhouses; and a 0.52 ha storm water management pond.

The City of Hamilton did not deal with the applications within the required time frame and MC2 Homes Inc. has appealed to the Ontario Municipal Board under subsection 34(11) and 51(34) of the *Planning Act*, from Council's refusal or neglect to enact a proposed amendment to Zoning By-law 90-145-2 of the City of Hamilton to rezone lands and to make a decision respecting a proposed plan of subdivision.

The parties are as identified in the Title of Proceedings. No participants identified themselves.

At the start of the Prehearing Conference (PHC), Mr. Webb advised the Board that he has been in discussions with both the City of Hamilton and the City of Burlington (Burlington). Although he may be able to resolve issues with Burlington in the short term, Hamilton staff is seeking direction from Council on these matters. On consent from the parties, a second PHC would be prudent.

Mr. Zuidema advised the Board that, in addition to the MC2 Homes Inc. applications, the City of Hamilton is dealing with similar applications by Mr. Cheeseman's and Mr. Platt's clients, which are currently also under appeal. Further, in a recent Board hearing on a similar application (Silverwood Homes Limited, PL070395, decision issued December 11, 2008), Hamilton was not successful in withholding its position on the application being premature, based on traffic capacity. City staff will be reporting to Council on February 11, 2009, on the results of the Silverwood Homes Limited hearing and will be seeking direction from Council on how the City is to react on the appealed applications.

Mr. Zuidema indicated that if a second PHC were set for mid-February, he would expect to be in a position to set a hearing date and prepare an issues list at that time. All Counsel is in agreement with a second PHC.

DISPOSITION

At the request of the parties, the Board sets Wednesday, February 18, 2009, for a second prehearing conference to be held at:

10:30 AM
OMB Hearing Room #6
McMaster Learning Centre (Old Court House Hamilton)
50 Main Street E.
Hamilton, ON L8N 3V9

No further Notice will be provided.

This Member of the Board is seized for the case management of these appeals.

So Orders the Board.

“A. Christou”

A. CHRISTOU
MEMBER