

ISSUE DATE:

Feb. 16, 2011



PL100633

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

2243361 Ontario Inc. and Sam's Auto Wrecking Co has appealed to the Ontario Municipal Board under subsection 17(24) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, from a decision of the City of Hamilton (to approve or to refuse approval of) Proposed Amendment No. 223 to the former City of Hamilton Official Plan
Approval Authority File No. CI-09-H
OMB File No. PL100633

Wayne Clayton has appealed to the Ontario Municipal Board under subsection 17(24) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, from a decision of the City of Hamilton to (approve or to refuse approval of) Proposed Amendment No. 158 to the former City of Stoney Creek Official Plan
Approval Authority File No. CI-09-H
OMB File No. PL100633

1201076 Ontario Inc., 2243361 Ontario Inc., 5A Developments Inc. and others 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 10-128 of the City of Hamilton
OMB File No. PL100634

APPEARANCES:

Parties

Counsel*/Agent

City of Hamilton

M. Kovacevic*

1823474 Ontario Inc.

M. Rudolph*

Flamborough Power Centre inc.

E. Fothergill

ShawCor Ltd.

N. Smith*

Sam's Auto Wrecking Co. Ltd.

S. Snider*

5A Development Inc.

P. Pickfield*

224336 Ontario Inc.

P. Kuca*

ZBX Hamilton Lands Inc.

J. Hewitt*

Losani Homes

C. Barnett*

TDL Group Corp.

S. Leisk*

Wayne Clayton

ALSO APPEARING:

Bunge Canada Holdings IULC

D. Tang*

**MEMORANDUM OF ORAL DECISION DELIVERED BY M. C. DENHEZ
ON NOVEMBER 24, 2010 AND ORDER OF THE BOARD**

1. INTRODUCTION

This Pre-hearing Conference (PHC) dealt with an initiative, by the City of Hamilton (the City), comprised of seven Official Plan Amendments, plus Zoning By-law 10-128, affecting the City's industrial zoning. This resulted in appeals to two of the Official Plan Amendments, and several appeals to the Zoning By-law.

2. PARTIES

Many Appellants were present at this PHC, though in the case of Losani Homes, it was simply to advise that its concerns had been addressed by the Board in another forum, whereupon it was excused. Another Appellant, 1201076 Ontario Limited, did not appear.

Yet another company, Bunge Canada Holdings IULC, requested Party status. There was no objection to that status; whether that company's substantive concerns would be incorporated in the Board's eventual Issues List, however, was a different question, to be addressed at a later date.

There was apparent uncertainty about the status of 1823474 Ontario Inc, notably arising from a physical delay in the City's Notice. There was no question, however, of that company's appeal being filed in a timely fashion after receiving Notice; the City saw no reason to dispute that company's status as an Appellant. The Board was advised of no compelling ground either, and sees no reason to take a different view.

3. PROSPECTIVE PROCEDURAL ORDER

At this PHC, the Board was told that consensus on a Draft Procedural Order was expected imminently, whereupon the Board could presumably reproduce it as an Attachment to the present Order. However, that document, to be forwarded to the Board electronically by the City, might reputedly not contain an Issues List; the latter might be finalized at a later date.

There was agreement, among the Parties at this PHC, to advise the City, by January 14, 2011, of:

- a) Their proposed Issues;
- b) Whether they believed that those Issues were site-specific;
- c) Whether they believed those Issues were otherwise of general or more restricted application, e.g. whether restricted geographically, thematically or otherwise; and
- d) Whether they believed that there were parts of the appealed planning instruments that were untouched by their own appeal.

The City said it would respond to the other Parties by February 25, 2011.

However, January 14, 2011 came and went, without the Board being told of any apparent consensus on an electronic Draft Procedural Order. Indeed, on February 7, 2011, Counsel for the City advised the Board that the Draft Procedural Order was not imminent; he added that it was unlikely to materialize, at least before the next PHC (on which there had been agreement on a scheduled date of March 8, 2011).

4. CONCLUSION

The Board is therefore left with the following disposition:

1. As agreed, the Board fixes **Tuesday, March 8, 2011 at 10:30 A.M.**, for the start of the next Pre-hearing Conference in this matter, scheduled for three days at:
Room #6,
McMaster Learning Centre (Old Court House),
50 Main Street East,
Hamilton, Ontario.
2. That PHC will address ongoing questions concerning the Draft Procedural Order and Issues List, any outstanding Motions in due course, and such other matters as will advance the file at this time.
3. The hearing on the merits starting on **Monday, May 30, 2011 at 10:30 A.M. at the same venue**, is scheduled for four weeks.
4. The Board grants Party status to Bunge Canada Holdings IULC; and the status of 1823474 Ontario Inc. as an Appellant is confirmed.
5. No further notice will be given for the matters currently before the Board.
6. This Member is not seized.

It is so Ordered.

“M. C. Denhez”

M. C. DENHEZ
MEMBER