

ISSUE DATE:

**Jun. 03, 2011**



Ontario

Ontario Municipal Board  
Commission des affaires municipales de l'Ontario

PL101408  
PL101063  
PL100954  
PL100752  
PL100111  
PL091170

IN THE MATTER OF subsection 17(40) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellant: Solmar Development Corporation  
Subject: Failure of the Minister of Municipal Affairs and Housing to announce a decision respecting Proposed Official Plan Amendment No. 24  
Municipality: Regional Municipality of Peel  
OMB Case No.: PL101408  
OMB File No.: PL101408

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

Appellant: Solmar Development Corporation  
Subject: Official Plan Amendment No. 20  
Municipality: Regional Municipality of Peel  
OMB Case No.: PL101048  
OMB File No.: PL091170

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

Appellant: Solmar Development Corporation  
Subject: Official Plan Amendment No. 22  
Municipality: Regional Municipality of Peel  
OMB Case No.: PL101048  
OMB File No.: PL101063

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

Appellant: Azuria Group  
Appellant: Gemini Urban Design (Cliff) Corp.  
Appellant: Orlando Corporation  
Subject: Proposed Official Plan Amendment No. # 95  
Municipality: City of Mississauga  
OMB Case No.: PL100111  
OMB File No.: PL100111

IN THE MATTER OF subsection 17(40) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellant: Solmar Development Corporation  
Subject: Failure of The Regional Municipality of Peel to announce a decision respecting Proposed Official Plan Amendment No. OPA #226  
Municipality: Town of Caledon  
OMB Case No.: PL110195  
OMB File No.: PL110195

**APPEARANCES:**

<b><u>Parties</u></b>	<b><u>Counsel*/Agent</u></b>
Region of Peel	S. R. Garrod*
Ministry of Municipal Affairs and Housing	J. R. Boxma*
Town of Caledon	C. Barnett*, L. Bissett*
City of Mississauga	Q. M. Annibale*
Solmar Development Corporation	L. Townsend*, J. W. Harbell*, J. Meader*, P. J. Duffy* (absent)
Azuria Group	S. A. Zakem*
Gemini Urban Design (Cliff) Corp	M. R. Flowers*
Orlando Corporation	L. F. Longo*
City of Brampton	M. Rea*
Mayfield West Development Group Inc.; Osmington Inc.; Heathwood Homes (Brampton) Ltd.; Kindwin (Mayfield) Development Corporation	M. R. Flowers
Mayfield Station Developments Inc.; Mayfield McLaughlin Developments Inc.; Caledon Development LP; Ben-Ted Construction Ltd.; Caledon 410 Development Limited; A-Major Homes (Ontario) Inc.; Lormel Joint Venture Inc.; (collectively, the Mayfield West Phase 2 Landowners Group)	S. A. Zakem*
Northwest Brampton Landowners Group Ltd.	S. Snider*
James Dick Construction Ltd.	J. Buhlman*
Hopewell Development (Ontario) Inc.; M-J-J-J Developments Inc.	R. D. Howe*

1096288 Ontario Limited

C. Riepma

Lafarge Canada

M. Wensierski

**Participants**

Toronto Region Conservation Authority

Q. Hanchard

Domenic and Antonetta Scida; POD Lift  
Equipment Ltd.; Giuseppe Scenna and  
Marco Scida

C. B. John-Baptiste

**MEMORANDUM OF ORAL DECISION DELIVERED BY JAMES R. McKENZIE  
AND SYLVIA J. SUTHERLAND ON MAY 10, 2011 AND ORDER OF THE  
BOARD**

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This proceeding was a first Pre-hearing Conference (PHC) for appeals concerning Official Plan Amendment Nos. 20, 22 and 24 (ROPA Nos. 20, 22 and 24) adopted by the Region of Peel (Region), Official Plan Amendment No. 95 (OPA No. 95) adopted by the City of Mississauga (Mississauga), and Official Plan Amendment No. 226 (OPA No. 226) adopted by the Town of Caledon (Caledon). All of the appealed planning instruments seek to bring their corresponding Official Plan into conformity with the Growth Plan for the Greater Golden Horseshoe (Growth Plan) as legislatively mandated.

Solmar Development Corporation (Solmar) is the only party to appeal the approval of ROPA Nos. 20, 22 and 24. ROPA Nos. 20 and 22 were appealed in their entirety pursuant to Subsection 17(36) of the *Planning Act*, and ROPA No. 24, also in its entirety, was appealed pursuant to Subsection 17(40). Solmar has subsequently scoped (i.e., narrowed) its appeals of ROPA Nos. 20 and 22, and maintains its appeal of ROPA No. 24 in its entirety.

Solmar is also the only party to appeal the adoption of OPA No. 226 by Caledon, pursuant to 17(40) of the *Planning Act*.

OPA No. 95 was modified and approved by the Region; a portion was also deferred. It was subsequently appealed by five parties, and two of those appeals have

since been withdrawn. The remaining three appeals include those filed by: Azuria Group (Azuria), Gemini Urban Design (Cliff) Corp. (Gemini), and Orlando Corporation (Orlando).

The Board orders that the five matters before it are consolidated pursuant to Rule 57 of its *Rules of Practice and Procedure*.

The adoptions and/or approvals and appeals of the five planning instruments have generated significant interest such that the Board received numerous requests for a conferral of party or participant status. The following sought and were granted, on consent, party status:

- City of Brampton
- Mayfield Station Developments Inc., Mayfield McLaughlin Developments Inc., Caledon Development LP Ben-Ted Construction Ltd., Caledon 410 Development Limited, A-Major Homes (Ontario) Inc., Lormel Joint Venture Inc., collectively the Mayfield West Phase 2 Landowners Group
- Northwest Brampton Landowners Group Ltd.
- James Dick Construction Ltd.
- Hopewell Development (Ontario) Inc. and M-J-J-J Development Inc.
- 1096288 Ontario Ltd.
- Lafarge Canada
- Mayfield West Development Group Inc., Osmington Inc., Heathwood Homes (Brampton) Ltd., and Kindwin (Mayfield) Development Corporation

The following were, on consent, granted participant status:

- Toronto Region Conservation Authority

- Domenic and Antonella Scida, POD Lift Equipment Ltd., and Guiseppe Scenna and Marco Scida, collectively the Albio-Vaughan Landowners Group

Given the foregoing conferrals of status, the Board will continue to work with the parties and participants to clarify their respective interests and make explicit which of the appealed matters those interests pertain to. To this end, the Board directs each party to develop a provisional list of issues it believes reflects its interests and to provide that list to Mr. Garrod who will serve as a clearinghouse for distributing all lists in a coordinated manner to other counsel. These lists will serve as an initial foundation for iteratively developing a comprehensive issues list for future hearings on the merits. Lists are to be provided to Mr. Garrod no later than June 8, 2011. In turn, Mr. Garrod is directed to distribute those lists no later than June 13, 2011. The Board, through its planner having administrative carriage of this matter, Ms Nazma Ramjuan, is to be copied on those exchanges of correspondence.

Parties to each of the original separate proceedings are parties to the consolidated proceeding pursuant to Rule 58(b) of the Board's *Rules*.

The Board Orders a second Pre-hearing Conference for Monday, June 20, 2011, commencing at 11:00 a.m., Provincial Offences Court, Court Room B6, 5 Ray Lawson Boulevard, Brampton, ON L6Y 5L7. Mr. Garrod is directed to confirm an appropriate venue for this proceeding and to notify the parties, participants and the Board as to the location. No further formal notice will be required.

Finally, two other matters arising during this proceeding bear mention:

First, Mr. Garrod reported to the Board that the Region, the Ministry of Municipal Affairs (Ministry), and the lower-tier municipalities are engaged in what are being referred to as "settlement discussions" with a view to developing a consensus on amendments or modifications to ROPA No. 24. Those discussions are being convened as private working sessions with the intent that any provisionally agreed-to changes be presented to the respective councils *in camera*.

Ms Townsend and Mr. Harbell object to the characterization of these talks as settlement discussions given that they are not occurring in the context of any appeal as

between the Region and the Ministry. They also object to the manner in which these discussions are unfolding and to the intention for ratification to follow *in camera* deliberations. Ms Townsend alluded to the possibility of pursuing a motion for production in the event disclosure-before-ratification does not manifest.

On this issue the Board simply notes, first, that talks or discussions, as negotiations directed at solving problems or reconciling differences to arrive at some manner of settlement, tend by their inherent nature to be private affairs. Indeed, it is that very quality that facilitates candid and without prejudice exchanges that are essential to conflict resolution without resort to judicial proceeding. Second, such talks or discussions need not require the context of a formal appeal. Differences can be real even without a formal appeal. And, in this case, it remains a theoretical possibility that the Region could pursue an appeal under Subsection 17(40) of the *Planning Act* of the Ministry's failure to provide notice of a decision on ROPA No. 24 within 180 days of its receipt. If Ms Townsend and Mr. Harbell are instructed to pursue production, the Board will deal with such motion upon the same being brought in accordance with the Board's *Rules*.

Second, Mr. Garrod presented the Board with a draft schedule for procedurally advancing the matters before the Board. Notwithstanding some rather ambitious timelines for bringing to ratification any amendments or modifications, the Board will receive the draft schedule and take it into consideration – along with submissions from other counsel – as a course forward for the matters under appeal is developed.

This is the Order of the Board.

“James R. McKenzie”

JAMES R. MCKENZIE  
VICE-CHAIR

“Sylvia J. Sutherland”

SYLVIA J. SUTHERLAND  
MEMBER