

ISSUE DATE:

**March 19, 2013**



Ontario

Ontario Municipal Board  
Commission des affaires municipales de l'Ontario

PL121211

Eco Building 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 to enact a proposed amendment to Zoning By-law 3581-86 of the City of Hamilton to rezone lands respecting 24 Brock Street North from "RM1-'H'" (Low to Medium Density Multiple Dwelling – Holding) Zone, modified, to the "RM3" (Medium to High Density Multiple Dwelling) Zone, modified, to permit the development of a 6 storey tiered residential building  
OMB File No.: PL121211

**APPEARANCES:**

**Parties**

Eco Building Inc.

City of Hamilton

Jane Lowry and Bill Hillman

**Counsel**

S. D'Agostino

M. Kovacevic

M. Connell

**Participants**

Adele Barrett

Andrea Dalrymple

John Parcher

Joanne Dear

Patrick Doran

Mark and Christine McComb

Tamara Keam

Robert Vanamelsvoort

Aaron Harrill

**MEMORANDUM OF ORAL DECISION DELIVERED BY R.G.M. MAKUCH ON  
MARCH 4, 2013 AND ORDER OF THE BOARD**

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[1] Eco Building Inc. (“Applicant/Appellant”) made an application for a zoning by-law amendment to permit the development of an apartment building and would require site specific zoning regulations to address setbacks, maximum building height, density, balcony encroachments, minimum parking stall size and minimum loading space size. Such site specific regulations would implement the existing “Employment/Residential Mixed Use” designation within the Town of Dundas (“Town”) Official Plan (“OP”). Special zoning provisions are also required to address the required buffer for the “Environmentally Sensitive Area” (“ESA”), located along the Niagara Escarpment adjacent to the subject property.

[2] The effect of the zoning by-law amendment is to allow for the development of a terraced, six storey condominium apartment building (19.5 m in height, comprising 48 units). The proposed parking for the residents and visitors would be accommodated within the main floor of the building and within an underground parking area.

[3] City Council refused the application on September 12, 2012 on the grounds that the proposal was considered to be over-intensification, did not conform to the height regulations, did not conform to the Town’s OP and does not comply with the character of the community.

[4] Council’s refusal was appealed to this Board on October 9, 2012 on the grounds that the proposal is consistent with the Provincial Policy statement 2005 and conforms to the Growth Plan for the Greater Golden Horseshoe as well as the Hamilton-Wentworth Official Plan that support and encourage residential intensification and the re-development of Brownfield sites. Furthermore, the Applicant/Appellant argues that the proposal conforms to the Town’s OP as well as to the “Urban Area” designation within the Niagara Escarpment Plan.

[5] Jane Lowry and Bill Hillson requested and were granted party status. There were no objections.

[6] An application for site plan approval has recently been made but has not been reviewed by the City. Counsel for the parties all agree that the City would need

approximately eight weeks to review such site plan and have asked the Board to schedule a further pre-hearing conference (“PHC”) to give the City the opportunity to review the site plan. If there are issues with the site plan, the Applicant/Appellant may bring a motion at the next PHC for an Order of the Board to have these two matters heard together.

[7] A further PHC will be scheduled for **Tuesday June 11, 2013 at 10 am at:**

**McMaster Downtown Centre  
OMB Courtroom 6  
Hamilton, ON L8N 3V9**

[8] This Member s not seized.

[9] There will be no further notice given.

“R.G.M. Makuch”

R.G.M. MAKUCH  
MEMBER