

Ontario Municipal Board
Commission des affaires municipales
de l'Ontario



ISSUE DATE: February 08, 2018

CASE NO(S): PL160641
PL161164

PROCEEDING COMMENCED UNDER subsection 34(19) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellant: 1486563 Ontario Inc.
Appellant: Empire Communities (St. George) Ltd.
Appellant: Walton Development and Management LP
Subject: By-law No. 61-16
Municipality: County of Brant
OMB Case No.: PL160641
OMB File No.: PL160641
OMB Case Name: Empire Communities (St. George) Ltd. v. Brant (County)

PROCEEDING COMMENCED UNDER subsection 22(7) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant and Appellant: Empire Communities (St. George) Ltd.
Subject: Request to amend the Official Plan - Failure of the County of Brant to adopt the requested amendment
Existing Designation: Agricultural (Future Growth Area)
Proposed Designated: General Commercial and Medium Density Residential
Purpose: To permit the development of 900 residential units in a variety of housing forms
Property Address/Description: 205 & 209 Beverly St. W. & 239 & 241 Highway # 2
Municipality: County of Brant
Approval Authority File No.: OPA-B08
OMB Case No.: PL161164
OMB File No.: PL161164
OMB Case Name: Empire Communities (St. George) Ltd. v. Brant (County)

PROCEEDING COMMENCED UNDER subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant and Appellant:	Empire Communities (St. George) Ltd.
Subject:	Application to amend Zoning By-law No. 110-01 - Neglect of the County of Brant to make a decision
Existing Zoning:	Agricultural Restrictive
Proposed Zoning:	Site specific to permit proposed development
Purpose:	To permit the development of 900 residential units in a variety of housing forms
Property Address/Description:	205 & 209 Beverly St. W. & 239 & 241 Highway # 2
Municipality:	County of Brant
Municipality File No.:	ZBA10/08/RA
OMB Case No.:	PL161164
OMB File No.:	PL161165

PROCEEDING COMMENCED UNDER subsection 51(34) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant and Appellant:	Empire Communities (St. George) Ltd.
Subject:	Proposed Plan of Subdivision - Failure of the County of Brant to make a decision
Purpose:	To permit the development of 900 residential units in a variety of housing forms
Property Address/Description:	205 & 209 Beverly St. W. & 239 & 241 Highway # 2
Municipality:	County of Brant
Municipality File No.:	PS2/08/RA
OMB Case No.:	PL161164
OMB File No.:	PL161166
Heard:	January 26, 2018 by telephone conference call

APPEARANCES:

Parties

Parkland Fuel Corporation

Empire Communities
(St. George) Ltd.

County of Brant

Counsel

M. Kemerer

P. DeMelo

N. Smith

Losani Homes (1998) Ltd.	J. Meader
2482704 Ontario Inc.	B. Duxbury
Riverview Highlands (St. George) Holdings Ltd. and Brant Star Developments Ltd.	J. Hitchon

Participant

Louitia Investments Ltd.	P. Pickfield
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**MEMORANDUM OF ORAL DECISION DELIVERED BY R. G. M. MAKUCH ON
JANUARY 26, 2018 AND ORDER OF THE BOARD**

[1] This is the third Pre-Hearing Conference in these matters, which had been scheduled to finalize the Procedural Order to govern the proceedings as well as to deal with the status of Louitia Investments Ltd.

PARKLAND FUEL CORPORATION (“PARKLAND”) MOTION TO ADJOURN

[2] Parkland brings a Motion for an order of the Board adjourning the hearing of the Parkland issues for this hearing in order to allow those issues to be heard together in a consolidated hearing with the issues in an anticipated Board hearing on proposed County of Brant (“County”) Policy 2.8.9 respecting the St. George Propane Facilities. Policy 2.8.9 is included in the proposed County Official Plan Amendment (“OPA”) for the St. George Study Area anticipated to be before the County’s Council in late March 2018 according to the evidence before the Board.

[3] The Parkland issues identified with respect to Blocks 76–78 in the proposed Empire Communities (St. George) Ltd. (“Empire”) subdivision hearing are as follows:

1. Does the proposed development meet:
 - (i) the D-1 and D-6 Guidelines, and

- (ii) the Technical Standards and Safety Authority (“TSSA”) Regulations and Guidelines for the Implementation of the Level 2 Risk and Safety Management Plan?
2. Is the proposed development required to demonstrate compliance with the items defined in 1(i) and (ii) above?
 3. Is the proposal compatible with the industrial area to the south west of the subject lands?
 4. Do the proposed Official Plan Amendment, Zoning By-law Amendment and Draft Plan of Subdivision applications, with respect to Blocks 76-78, have appropriate regard for the continued operation of the existing Parkland propane facility to the south west of the subject lands and to the associated matters of public health and safety?
- [4] The materials before the Board on this Motion consist of:
- a) Motion Record dated January 16, 2018 including the Affidavit of Harry Froussios, sworn January 16, 2018;
 - b) Response to Motion by the County dated January 24, 2018; and
 - c) Response to Motion by Empire dated January 24, 2018.
- [5] The Board notes that Empire and the County adopt the factual background set out in the Parkland Motion Record, more specifically the Affidavit of Harry Froussios, sworn January 16, 2018 for the purposes of this Motion.

Parkland Position

[6] The grounds for the Motion are that an adjournment of the Parkland issues would avoid issues of prematurity and prejudice to Parkland and other parties to the hearing. Parkland argues that it is currently involved in two separate but related planning processes in the area known as St. George, namely, the Empire Zoning By-law and Official Plan Amendments and Plan of Subdivision applications herein as well as the OPA process currently anticipated to be before the County Council in late March 2018 as noted above.

[7] The Board notes that Parkland operates propane facilities located in close proximity to the Empire lands, which are designated as “Urban Residential” under the County’s Official Plan.

[8] Counsel for Parkland argues that the Empire applications and the OPA process initiated by the County have proceeded hand in hand as an iterative process and that holding two hearings regarding the same issues would result in prematurity and prejudice. The OPA process has resulted in at least two resubmissions of the Empire applications and within this context, the OPA, including Policy 2.8.9, while not yet adopted by Council, to date, represents an emerging policy framework that the Board should have regard for in its review of the revised applications.

[9] As part of their operations, the Parkland facilities are required to file a Level 2 Risk and Safety Management Plan with the TSSA. The Guidelines for the Implementation of the Level 2 Risk and Safety Management Plan, permit only low density (10 units/hectare) residential uses with ground level access and commercial uses are to be located within the hazard distances established from facilities such as operated by Parkland. This encompasses the proposed uses/densities for Blocks 76–77 of the proposed Empire subdivision. Parkland argues that sensitive uses such as day care facilities should not be located within Blocks 76-78 of the proposed Empire subdivision.

[10] The Empire applications propose a higher density on Blocks 76-77 than is permitted in the guidelines referred to above and it is unclear as to whether any sensitive uses, such as day care facilities, are proposed on any of the blocks in question according to Parkland. The proposed zoning by-law amendment, however, would permit day care facilities on these blocks. The Empire applications could significantly impact community safety and the viability of the Parkland facility and could result in the closure of such facility.

[11] Parkland takes the position that proposed Policy 2.8.9 is too vague to protect public health and safety and the function of its facilities, in accordance with the Provincial Policy Statement 2014 (PPS) and has requested that the County revise Policy 2.8.9 to better protect the Parkland facilities as well as the public interest.

[12] Furthermore, holding two hearings on these same issues would result in a duplication of time and resources for the Board and the parties and is neither reasonable nor appropriate.

[13] The April hearing respecting the Empire appeals and any future hearing respecting any OPA appeals including Policy 2.8.9 will address the very same issues of land use compatibility and public health and safety, and involve a considerations of the same planning instruments and documents and that that holding two hearings regarding those same issues would result in prematurity and prejudice according to Parkland. Proceeding to two different hearings respecting Blocks 76-78 could result in conflicting results, with one panel coming to one conclusion and another panel arriving at another result.

[14] Parkland further maintains that the adjournment of the Parkland issues and consolidating these any future with the appeals of the Policy 2.8.9 in one hearing would not result in any obvious prejudice to Empire whose applications have been filed since 2008 and have been the subject of a number of revisions. There is no demonstrated urgency to holding a hearing on the Parkland Issues until they can be consolidated and

heard together. Any delay with respect to adjudicating these issues in a consolidated hearing would not be unreasonable given that it unlikely according to Parkland that the April hearing can be concluded within the time allotted.

County of Brant Position

[15] The County adopts the submissions of counsel for Parkland and supports the Motion. It maintains in its Response that it has raised the issue of prematurity in this case respecting the Empire Official Plan Amendment, Zoning By-law Amendment and Draft Plan of Subdivision applications given the County Council's pending consideration of the St. George OPA, which is scheduled to be considered for adoption by County Council in late March 2018. The County anticipates that there will be an appeal of the OPA in its final form and does not want to have to adjudicate the same issue in two forums.

Other Parties Position

[16] Losani Homes (1998) Ltd. (Losani), 2482704 Ontario Inc. (2482704), Riverview Highlands (St. George) Holdings Ltd. (Riverview) and Brant Star Developments Ltd. (Brant Star) do not take a position on the Motion.

Empire Position

[17] Counsel for Empire is opposed to the Motion, points out that the subject lands have been designated for residential uses and designated as part of the County's settlement area since at least 2008 despite the existence of the Parkland facility and that Parkland has not identified to date, any in-force official plan policies relating to their facility that would be applicable to the Empire appeals.

[18] Policy 2.8.9, which may or may not be the subject of a future appeal has been included in the proposed County Official Plan Amendment for the St. George Study

Area (OPA), which has not yet been adopted by Council but is currently expected to be dealt with by Council in late March, 2018.

[19] Even if adopted by Council prior to the commencement of the Empire hearing, Policy 2.8.9 cannot be determinative of the Empire appeals since the applications pre-date the adoption of the OPA. Furthermore, Policy 2.8.9 cannot be determinative of the current applications and as such any decision on this policy cannot determine the issue in the within appeals. Notwithstanding any decision on the Policy 2.8.9, Parkland will be required to call evidence in the context of any hearing before this Board as to why the proposed Empire development is not appropriate in relation to its facility without being able to rely on Policy 2.8.9 as being determinative of the matter. As such, Counsel for Empire argues that there can be no issue of prematurity as suggested by Parkland given that the policy cannot be relied upon to determine the issues in the Empire appeals and that the issues must be addressed in the context of the current in-force policies for which none have been identified.

[20] As the Parkland issues must be determined in accordance with the planning framework applicable as of the date of the applications, it would not be appropriate to adjourn the determination of these issues to after the finalization of new policies that could not be relied upon by any party as being determinative. In addition, the granting of the requested adjournment would result in prejudice to Empire as it would be required to bifurcate its planning case and to call evidence in two separate matters. Not only would Empire be required to call evidence in two separate cases, but two separate cases with two potentially different policy contexts. In relation to the issues identified by Parkland, Empire would need to address the issues not only in the context of the current in-force planning instruments, which are the policies that must be determinative of the matter and what is proposed in the context of the currently scheduled hearing, but it would also need to be involved and address the issues in the context of a possible future policy that has yet to be adopted and for which no one is certain what the final policy will be.

[21] A determination of the Parkland issues as identified in the current Empire appeals during the scheduled hearing in April would result in Empire not being required to participate in a hearing that may or may not arise from any appeal of Policy 2.8.9, which may or may not be filed at a later date after approval by Brant Council. Adjourning the issue would require that Empire must, to its prejudice, participate in two separate hearings to deal with its outstanding appeals.

FINDINGS

[22] The Board has considered the evidence before it as well as the submissions of counsel and finds that the Motion should fail for the reasons that follow. The hearing of these appeals has been scheduled since April 19, 2017, at which time Parkland was granted party status in the hearing of these appeals. Counsel for Parkland either knew or ought to have known at that time that there was a potential for appeals to be filed against the adoption of an OPA following the review process currently before County Council respecting the St-George Propane Facilities given the various interests obviously at play in the planning process for this area.

[23] Concerns with the issue outlined in this motion should have therefore been raised at that time when Parkland was seeking party status. Empire is entitled to have a hearing of its appeals on the totality of its applications within a reasonable time frame. Any prejudice to Parkland is outweighed by the prejudice, which Empire would suffer as a result of a bifurcation of its hearing in the manner proposed in the Parkland motion. Determination of these issues in the within proceeding would result in Empire not having to participate in any future hearing of the proposed OPA for the St-George area. Parkland's request for an adjournment of its issues is solely for its own convenience so that it would not have to participate in two hearings.

[24] Accordingly, the Motion is dismissed

HEARING

[25] The commencement of the hearing of these matters is postponed to **Wednesday, April 11, 2018 at 10:30 a.m. Eight days** are now set aside.

[26] The hearing will take place at:

**Council Chambers
Municipal Building (Brant)
7 Broadway Street West
Paris Ontario**

[27] Luitia Investments Ltd. is hereby granted participant status on consent of all parties.

[28] The proceedings will be governed by Schedule A hereto.

[29] There will be no further notice.

[30] I am not seized.

“R.G.M. Makuch”

R.G.M. MAKUCH
VICE-CHAIR

If there is an attachment referred to in this document,
please visit www.elto.gov.on.ca to view the attachment in PDF format.

Ontario Municipal Board

A constituent tribunal of Environment and Land Tribunals Ontario
Website: www.elto.gov.on.ca Telephone: 416-212-6349 Toll Free: 1-866-448-2248

SCHEDULE A

ONTARIO MUNICIPAL BOARD

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Appellant: 1486563 Ontario Inc.
Appellant: Empire Communities (St. George) Ltd.
Appellant: Walton Development and Management LP
Subject: By-law No. 61-16
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OMB Case No.: PL160641
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Applicant and Appellant: Empire Communities (St. George) Ltd.
Subject: Application to amend Zoning By-law No. 110-01 - Neglect of the County of Brant to make a decision
Existing Zoning: Agricultural Restrictive

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PROCEEDING COMMENCED UNDER subsection 51(34) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

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 Municipality File No.: PS2/08/RA
 OMB Case No.: PL161164
 OMB File No.: PL161166

PROCEDURAL ORDER

1. The Board may vary or add to these provisions (orally or in writing) at any time, either on request of a party or as it sees fit. The Board may alter this Order by an oral ruling or by written Order.

Organization of the Hearing

2. The hearing will begin on **Wednesday, April 11, 2018 at 10:30 a.m.** and the length of the hearing is **eight (8) days**.

3. The parties and participants (*see the Attachment 1 for the meaning of these terms*) are listed in Attachment 2 to this Order. All parties and participants shall attend the first day of the hearing. All parties and participants (or their representatives) shall provide a mailing address, email address, and telephone number to the Board. Any

such person who retains a representative (legal counselor agent) subsequent to the prehearing conference must advise the other parties and the Board of the representative's name, mailing address, email address and phone number. Only parties may call witnesses. Participants may testify on their own right but may not call professional witnesses, may not make opening statements or closing submissions and may not cross-examine other witnesses.

4. The Issues are set out on the Issues List attached as Attachment 3 to the Order. There will be no changes to this list unless the Board permits and a party who asks for changes may have costs awarded against it, except if the Issues List is modified through mediation or pursuant to a settlement between the parties.

Requirements Before the Hearing

5. At the November 21, 2017 prehearing conference further parties will be established.

6. Parties shall exchange a final Issues List before **Monday, January 8, 2018**.

7. An OMB Telephone Conference Call (TCC) will be held on **January 26, 2018** to resolve and narrow the Issues List exchanged.

8. A party who intends to call witnesses, whether by summons or not, shall provide to the Board and the other parties a list of the witnesses and the approximate order in which they will be called. This Witness List must be delivered to all of the parties on or before **Thursday, February 8, 2018**. For expert witnesses, a party is to include the area of expertise in which the witness is proposed to be qualified.

9. An expert witness shall prepare an expert witness statement, which shall list any reports prepared by the expert, and any other reports or documents to be relied on at the hearing. Copies of this must be provided as required by section 10. Instead of a witness statement, the expert may file his or her entire report if it contains the required

information. If this is not done, the Board may refuse to hear the expert's testimony. For the greater certainty, each expert witness statement must comply with the minimum content requirements specific in Rule 21 of the Board's *Rules of Practices and Procedures*. Regardless of whether the expert prepares a report or a witness statement, the expert shall include a signed Acknowledgement of Expert Duty.

10. Expert witnesses who are under summons but not paid to produce a report do not have to file an expert witness statement but the party calling them ***must serve on the parties and the participants and file*** a brief outline of the expert's evidence on or before **Friday, March 9, 2018**.

11. On or before **Friday, March 9, 2018**, the parties shall provide copies of their witness and expert witness statements to the other parties and ***the participants*** and to the Board

12. A non-expert witness or participant must provide to the Board, and the parties a witness or participant statement on or before **Friday, March 16, 2018** or the witness or participant may not give oral evidence at the hearing.

13. Parties may provide to all other parties ***and the participants*** and the Board a written response to any written evidence on or before **Friday, March 23, 2018**.

14. The parties shall exchange their visual evidence by no later than **Monday, April 2, 2018**. If a model is proposed to be used the Board must be notified before the hearing. All parties must have a reasonable opportunity to view it before the hearing.

15. A party or participant wishing to change written evidence, including witness statements, must make a written motion to the Board. (*See: Rules 34 and 35 requiring at least ten (10) days service before a motion is heard.*)

16. A party who provides a witness' written evidence to the other parties must have the witness attend the hearing to give oral evidence, unless the party notifies the Board

at least seven (7) days before the witness testifies that the written evidence is not part of their record.

17. Documents may be delivered by personal delivery, e-mail, facsimile, courier or registered or certified mail or otherwise as the Board may direct. The delivery of documents by fax shall be governed by the Board's Rules [26 – 31] on this subject. For documents delivered by e-mail, a hard copy shall also be delivered on request. Material delivered by mail shall be deemed to have been received five business days after the date of registration or certification.

18. No adjournments or delays will be granted before or during the hearing except for serious hardship or illness. The Board's Rules 61 to 65 apply to such requests.

19. The list of Parties and Participants is set out in Attachment 2.

20. The Issues List is set out in Attachment 3.

21. The Order of Evidence is as set out in Attachment 4.

22. A summary of the various filing dates is contained in Attachment 5.

23. Expert witnesses in the same field shall have a meeting before the hearing to try to resolve or reduce the issues for the hearing. The experts must prepare a list of agreed facts and the remaining issues to be addressed at the hearing, and provide this list to all of the parties and the municipal Clerk.

This member is not seized.

So orders the Board.

Attachment 1

Purpose of the Procedural Order and Meaning of Terms

The Board recommends that the parties **meet to discuss this sample Order before the prehearing conference** to try to identify the issues and the process that they want the Board to order following the conference. The Board will hear the parties' comments about the contents of the Order at the conference.

Prehearing conferences usually take place only where the hearing is expected to be long and complicated. If you are not represented by a lawyer, you should prepare by obtaining the Guide to the Ontario Municipal Board, and the Board's Rules, from the Board Information Office, 15th Floor, 655 Bay Street, Toronto, M5G 1E5, 416-326-6800, or from the Board website at www.omb.gov.on.ca.

Meaning of terms used in the Procedural Order:

Party is an individual or corporation permitted by the Board to participate fully in the hearing by receiving copies of written evidence, presenting witnesses, cross-examining the witnesses of the other parties, and making submissions on all of the evidence. If an **unincorporated group** wishes to become a party, it must appoint one person to speak for it, and that person must accept the other responsibilities of a party as set out in the Order. Parties do not have to be represented by a lawyer, and may have an agent speak for them. The agent must have written authorisation from the party.

NOTE that a person who wishes to become a party before or at the hearing, and who did not request this at the prehearing conference, must ask the Board to permit this.

Participant is an individual, group or corporation, whether represented by a lawyer or not, who may attend only part of the proceeding but who makes a statement to the Board on all or some of the issues in the hearing. Such persons may also be identified at the start of the hearing. The Board will set the time for hearing these statements.

NOTE that such persons will likely not receive notice of a mediation or conference calls on procedural issues. They also cannot ask for costs, or review of a decision as parties can. If a participant does not attend the hearing and only files a written statement, the Board will not give it the same attention or weight as submissions made orally. The reason is that parties cannot ask further questions of a person if they merely file material and do not attend.

Written and Visual Evidence: **Written evidence** includes all written material, reports, studies, documents, letters and witness statements which a party or participant intends to present as evidence at the hearing. These must have pages numbered consecutively throughout the entire document, even if there are tabs or dividers in the material. **Visual evidence** includes photographs, maps, videos, models, and overlays which a party or participant intends to present as evidence at the hearing.

Witness Statements: A **witness statement** is a short written outline of the person's background, experience and interest in the matter; a list of the issues which he or she will discuss and the witness' opinions on those issues; and a list of reports that the witness will rely on at the hearing. An **expert witness statement** should include his or her (1) name and address, (2) qualifications, (3) a list of the issues he or she will address, (4) the witness' opinions on those issues and the complete reasons for the opinions and (5) a list of reports that the witness will rely on at the hearing. A **participant statement** is a short written outline of the person's or group's background, experience and interest in the matter; a list of the issues which the participant will address and a short outline of the evidence on those issues; and a list of reports, if any, which the participant will refer to at the hearing.

Additional Information

Summons: A party must ask a Board Member or the senior staff of the Board to issue a summons. This request must be made before the time that the list of witnesses is provided to the Board and the parties. (See Rules 45 and 46 on the summons procedure.) If the Board requests it, an affidavit must be provided indicating how the witness' evidence is relevant to the hearing. If the Board is not satisfied from the affidavit, it will require that a motion be heard to decide whether the witness should be summoned.

The order of examination of witnesses: is usually direct examination, cross-examination and re-examination in the following way:

- direct examination by the party presenting the witness;
- direct examination by any party of similar interest, in the manner determined by the Board;
- cross-examination by parties of opposite interest;
- re-examination by the party presenting the witness; or
- another order of examination mutually agreed among the parties or directed by the Board.

Attachment 2**LIST OF PARTIES and PARTICIPANTS****PARTIES**

- 1. County of Brant**
Nancy Smith
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- 2. Empire Communities (St. George) Ltd.**
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- 3. Losani Homes (1988) Ltd.**
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- 4. Riverview Highland (St. George) Holdings Ltd.**
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5. Brant Star Developments Ltd.**Jay Hitchon**

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6. Parkland Fuel Corporation**Marc Kemerer**

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7. 2482074 ONTARIO INC.**Brian Duxbury**

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Tel: 905-570-1242

Fax: 905-570-1955

PARTICIPANTS

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2. Ms. Hilary Scholtens
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3. Ms. Ingrid Biersteker
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4. Loutia Investments Ltd
c/o Garrod Pickfield LLP.
9 Norwich St. W. Guelph
ON. N1H 2G8
pickfield@garrodpickfield.ca

ATTACHMENT 3**CONSOLIDATED ISSUES LIST****COUNTY OF BRANT****Planning**

1. Do the Official Plan Amendment, Zoning By-law Amendment and Draft Plan of Subdivision applications have regard to matters of provincial interest?
2. Are the proposed Official Plan Amendment, Zoning By-law Amendment and Draft Plan of Subdivision applications consistent with the Provincial Policy Statement (PPS), 2014 given the location and context of the subject lands and do they conform to the County of Brant Official Plan?
3. Are the proposed Official Plan Amendment, Zoning By-law Amendment and Draft Plan of Subdivision applications premature given Council's pending consideration of the St. George Official Plan Amendment and Study Area Addendum?
4. Has the Applicant demonstrated that the requested density increase (units per hectare) in the proposed Site Specific Policy Area is appropriate and will not adversely impact the character of the rural community of St. George?
5. Does the proposed Zoning By-Law Amendment sufficiently encompass the necessary urban design and other planning elements in order to ensure that the lot frontages, lot coverage, setbacks, height, built form, massing and design features (ie. landscaped open area, streetscape, driveway, garage etc.) of the proposed development are secured and impact on surrounding lands minimized?

6. Does the proposed development represent an appropriate level of density (persons/jobs per hectare) and has the Applicant demonstrated that the proposed densities conform to and maintain the intent of the St. George Area Study in the County of Brant Official Plan?
7. Does the proposed development represent appropriate built form in addressing matters including height, density, form, massing, bulk, scale, siting, setbacks and spacing having regard for the site and the character of the surrounding lands?
8. Does the proposed development meet the D-6 Guidelines and is the proposal compatible with the industrial area to the south west of the subject lands?
9. Does the proposed development represent appropriate urban design and has the Applicant submitted an updated Urban Design Brief on the new proposed draft plan?
10. Is the internal road network and pavement structure in the proposed draft plan of subdivision appropriate and does it result in a suitably functional road network for the proposed subdivision?
11. Does the proposed development provide sufficient connectivity and access for pedestrians and cyclists?
12. Should the proposed development have trails through all of Block 91 to connect to Block 84?
13. Should Linear Park Block 81 be relocated to an area which will be better utilized by future residents?
14. Do the plans for the future school site include a community center, gymnasium and sports field? If not, should they?

15. Does the development proposal provide the recommended minimum parcel of land for a school site and the required development features (ie. location, simple road patterns, minimal road curvatures, sidewalks, etc.)?
16. Should Park Blocks 82 and 83 be relocated to ensure that the size is not affected by development constraints resulting from the Imperial Oil easement?
17. Has the Applicant for the development consulted with and obtained the necessary approvals from Imperial Oil with respect to conducting works in/around Imperial Oil's easement?
18. Has the Applicant for the development correctly calculated the Parkland Dedication value in accordance with what is reflected on the draft plan?
19. Does the proposed development represent good land use planning?
20. Are there other conditions which should be imposed by the Ontario Municipal Board if development is approved for the subject lands?

Servicing and Infrastructure

21. Has the Applicant demonstrated that the infrastructure is in place or is planned to support the proposed development from a servicing capacity?
22. Is the proposed development premature given that the Municipal Class Environment Assessment for Water and Wastewater has not been completed?
23. Is there sufficient water service capacity, current and/or planned, for the development permitted by the Zoning By-Law Amendment taking into account other planned development, and if there is not, is the proposed rezoning premature?

24. Is there sufficient water distribution, currently and/or planned, for the development that would be permitted by the Zoning By-Law Amendment taking into account other planned development, and if there is not, is the proposed rezoning premature?

25. Is there sufficient sanitary sewer capacity, currently and/or planned, for the development that would be permitted by the Zoning By-Law Amendment taking into account other planned development, and if there is not, is the proposed rezoning premature?

26. What contribution, if any, should the Applicant make towards the cost of upgrading existing municipal infrastructure to accommodate the proposed development? These services include sewer and water main upgrades.

Engineering, Traffic and Parking

27. Does the proposed ROW widening on Beverly Street West (Block 93) satisfy the overall width requirements to accommodate the proposed long term road improvements and designation as an arterial road?

28. Has the Application for the development provided a schematic of the proposed roundabouts demonstrating that the ROW limits at those intersections are sufficient?

29. Does the Stormwater Management Report submitted on behalf of the Applicant consider the increased density on the assumed percent impermeable area in the drainage analysis? If not, then should it?

30. Does the Functional Servicing Report propose a LID strategy of Roof Leader Soak-Away Pits? If not, then should it?

31. Is the Traffic Impact Study submitted by the Applicant up to date and does it demonstrate that there are no adverse traffic impacts caused by the proposed development?
32. Has the Applicant submitted a parking plan demonstrating that the development will not have adverse impacts to on-street parking?

Storm Drainage and Water

33. Has the Stormwater Management Plan adequately addressed the issue of storm drainage and demonstrated that the proposed development will not negatively impact storm drainage in the area or result in future maintenance concerns for the County of Brant?
34. Has the Applicant for the development demonstrated that the stream configuration and realignment on the east side of the development can safely convey the Regional flows without upstream or downstream impacts?
35. Has the applicant demonstrated that the proposed development will not cause adverse impacts to groundwater quality and quantity?
36. Has the Applicant provided justification for using standards lower than those required by the County of Brant's Development and Engineering department for impervious coverage?
37. Has the Applicant for the development consulted with the GRCA and ensured that any changes to the water budget and hydroperiod of the wetland and watercourses are reflected in the required Monitoring Plan?
38. Does the required Monitoring Plan demonstrate that the proposed works do not negatively impact the hydrology or ecological function of the wetland or watercourses?

39. Has the applicant demonstrated that the proposed development will not cause adverse impacts to natural heritage features on the subject property and in the vicinity thereof?

Archaeology

40. Has the Applicant for the development consulted with the Six Nations Elected Council to discuss the proposed development and archaeological issues?

41. Has the Applicant for the development submitted a further Stage 3 archeological assessment as required by the Ministry of Tourism, Culture and Sport, in accordance with current guidelines and standards? Is there a requirement to do so?

42. Has the Applicant for the development provided detailed mapping showing the exact locations of the archaeological sites identified in the Stage 3 archaeological assessment reports?

43. Has the Applicant for the development provided cost estimates for various scenarios (i.e. long-term protection, excavation etc.) that may be under consideration?

44. Has the Applicant for the development demonstrated that the archeological sites at Blocks 94 and 95 have been excavated and are free of all encumbrances prior to dedication to the County of Brant as Open Space Blocks?

LOSANI HOMES (1998) LIMITED, RIVERVIEW HIGHLANDS (ST. GEORGE) HOLDINGS LTD. and BRANT STAR DEVELOPMENTS LTD.

1. Does the proposed Empire Draft Plan of Subdivision provide an appropriate road connection to Beverly Street West, and have adequate consideration of the constraints and an appropriate road connection to the adjacent Draft Plan of Subdivision?

2. Does the proposed Empire Draft Plan of Subdivision allow for the appropriate and efficient extension of services to the adjacent Draft Plan of Subdivision?

3. Is the proposed Empire Draft Plan of Subdivision planned and phased such that appropriate servicing capacity will remain available for the development of the adjacent Draft Plan of Subdivision, which is partially within the Built Boundary?
4. What are the appropriate conditions of draft plan approval to ensure the allocation of servicing capacity and the implementation of an agreement among land owners for the sharing of servicing capacity and infrastructure costs?
5. Does the proposed Empire Draft Plan of Subdivision, Official Plan Amendment, and Zoning By-law Amendment application have sufficient regard to the St. George Area Study, in light of the Provincial Policy Statement and Growth Plan policies that require coordinated and comprehensive planning?
6. Does the proposed Empire Draft Plan of Subdivision appropriately consider the development of the adjacent Draft Plan of Subdivision and allow for coordinated planning to ensure that the St. George Area develops into a complete community, in term of amenity and community uses, transportation, walkability, etc.?

2482074 ONTARIO INC.

1. Does any of the applications or requested approvals take away, alter, delete or affect the servicing priorities for St. George as delineated in the Official Plan as those servicing priorities relate to the lands of 2482074 Ontario Inc.?

PARKLAND FUEL CORPORATION

1. Issues 1, 2 and 3 of the County's Issues (Blocks 76-78)
2. Does the proposed development meet:
 - (i) the D-1 and D-6 Guidelines, and

(ii) the TSSA Regulations and Guidelines for the Implementation of the Level 2 Risk and Safety Management Plan?

3. Is the proposed development required to demonstrate compliance with the items defined in 1(i) and (ii) above?
4. Is the proposal compatible with the industrial area to the south west of the subject lands?
5. Do the proposed Official Plan Amendment, Zoning By-law Amendment and Draft Plan of Subdivision applications, with respect to Blocks 76-78, have appropriate regard for the continued operation of the existing Parkland propane facility to the south west of the subject lands and to the associated matters of public health and safety?

The identification of an issue on the Issues List does not mean that all parties agree that such issue, or the manner in which the issue is expressed, is appropriate or relevant to the determination of the Board at the hearing, or to the determination or characterization of other issues at a subsequent phase (if any) of the hearing. The extent to which these issues are appropriate or relevant to the determination of the Board at the hearing will be a matter of evidence and argument at the hearing, or a subsequent phase (if any).

ATTACHMENT 4**Order of Evidence**

1. **Empire Communities (St. George) Ltd.**
2. **Parkland Fuel Corporation (in relation to the issues identified by Park Land)**
3. **County of Brant**
4. **Losani Homes (1988) Ltd.**
5. **Riverview Highland (St. George) Holdings Ltd.**
8. **Brant Star Developments Ltd.**
6. **2482074 ONTARIO INC.**
7. **Reply – Empire Communities (St. George)**

ATTACHMENT 5**Summary of Filing Dates**

EVENT	DATE
2 nd Prehearing Conference	November 21, 2017
Parties to exchange their Issues List, the number of expert witnesses they intend to call and the area of such expertise	January 8, 2018
Telephone Conference Call	January 26, 2018
Parties to exchange their List of Witnesses	February 8, 2018
Parties to exchange their Witness Statements	March 9, 2018
Participants to provide their Participant Statements	March 16, 2018
Parties to exchange their Reply Witness Statements	March 23, 2018
Parties to exchange their visual evidence	April 2, 2018
OMB hearing commences	April 9, 2018