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| **Ontario Municipal Board** |
| Commission des affaires municipales  de l’Ontario |

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| **ISSUE DATE**: | September 13, 2017 | **CASE NO(S).:** | PL170282 |
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| **PROCEEDING COMMENCED UNDER** subsection 22(7) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended | |
| Applicant and Appellant: | Queenston Road Holdings Inc. |
| Subject: | Request to amend the Urban Hamilton Official Plan (UHOP) and Old Town Secondary Plan - Refusal of request by the City of Hamilton |
| Existing Designation: | Mixed Use – Medium Density (UHOP); General Open Space (Old Town Secondary Plan) |
| Proposed Designated: | Neighbourhoods and Open Space (UHOP); Mixed Use – Medium Density, High Density Residential 1 and Natural Open Space (Old Town Secondary Plan) |
| Purpose: | To permit the development of a 19 storey residential building, recognize the existing 2 storey commercial building and open space lands |
| Property Address/Description: | 860 Queenston Rd. |
| Municipality: | City of Hamilton |
| Approval Authority File No.: | UHOPA-16-01 |
| OMB Case No.: | PL170282 |
| OMB File No.: | PL170282 |
| OMB Case Name: | Queenston Road Holdings Inc. v. Hamilton (City) |

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| **PROCEEDING COMMENCED UNDER** subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended | |
| Applicant and Appellant: | Queenston Road Holdings Inc. |
| Subject: | Application to amend Zoning By-law No. 05-200 – Refusal of Application by the City of Hamilton |
| Proposed Zoning: | Adding lands to Zoning By-law No. 05-200 to be zoned Conservation/Hazard (P5) |
| Purpose: | To recognize the open space lands |
| Property Address/Description: | 860 Queenston Rd. |
| Municipality: | City of Hamilton |
| Municipality File No.: | ZAC-16-009 |
| OMB Case No.: | PL170282 |
| OMB File No.: | PL170283 |
| **PROCEEDING COMMENCED UNDER** subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended | |
| Applicant and Appellant: | Queenston Road Holdings Inc. |
| Subject: | Application to amend Zoning By-law No. 3692-92 - Refusal of Application by the City of Hamilton |
| Existing Zoning: | General Commercial (GC) Zone and Open Space (OS) Zone |
| Proposed Zoning: | Site-Specific General Commercial (GC) Zone, Site-Specific Multiple Residential (RM5) Zone and to remove lands to be rezoned in Zoning By-law No. 05-200 |
| Purpose: | To permit the development of a 19 storey residential building and recognize the existing 2 storey commercial building |
| Property Address/Description: | 860 Queenston Rd. |
| Municipality: | City of Hamilton |
| Municipality File No.: | ZAC-16-009 |
| OMB Case No.: | PL170282 |
| OMB File No.: | PL170284 |

**Heard:** August 9, 2017 in Hamilton, Ontario

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| **APPEARANCES:** |  |
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| **Parties** | **Counsel** |
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| Queenston Road Holdings Inc. | P. Foran |
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| City of Hamilton | P. MacDonald |

MEMORANDUM OF ORAL DECISION DELIVERED BY J. V. ZUIDEMA ON AUGUST 9, 2017 AND ORDER OF THE BOARD

1. A first Pre-Hearing Conference (“PHC”) was held to ascertain interested parties and participants and to set out the process on a go-forward basis.
2. The parties to the appeal are:
   1. Queenston Road Holdings Inc. (“Appellant”) represented by counsel Patricia Foran.
   2. City of Hamilton (“City”) represented by counsel Patrick MacDonald.
3. The participants to the hearing are:
   1. Mr. Paul Glenney;
   2. Mr. Alan Mills;
   3. Mr. David Bruzzese and Ms. Rosemary Bruzzese; and
   4. Mr. Ed Paprocki.
4. The background on this matter as contained in the Board file is as follows:
   1. The Appellant made applications to the City seeking permission to:

i. recognize the existing two-storey commercial building at its property located at 860 Queenston Road (“subject property”) and facilitate a future severance of that part of the subject site;

ii. permit the balance of the subject property to be developed for a 19-storey residential building with 223 units; and

1. recognize and protect in an appropriate land use designation, lands identified as an environmental linkage on the subject property.
   1. The application was subsequently revised to include 219 units, consisting of 116 one-bedroom units and 103 two-bedroom units. The Appellant worked with the Hamilton Conservation Authority who were satisfied with the recognition of the environmental linkage and the delineation of the stable top of bank.
   2. The Official Plan Amendment (“OPA”) application was to change the land use designation on schedule "E-1", Urban Land use Designations of the City’s Official Plan:

i. from "Mixed Use - Medium Density" to "Neighbourhoods" and

ii. from "Mixed Use - Medium Density" to "Open Space" to protect the natural open space portion of the site.

* 1. Further there was an application to change the land use designation of the Old Town Secondary Plan in the Urban Hamilton Official Plan (“UHOP”):

i. from "General Open Space" to "Mixed Use - Medium Density" and

ii. from "General Open Space" to "High Density Residential 1" and

1. from "General Open Space" to "Natural Open Space" to provide for the conservation of a portion of the lands as a Linkage; and

ix. the proposed OPA was also required to establish a Site Specific Policy Area in order to permit the density for a multiple dwelling to be in excess of 200 units per hectare and to permit a maximum of 219 units.

* 1. Further there was an application for a Zoning By-Law Amendment (“ZBA”):

i. from General Commercial "GC" Zone and Open Space "OS" Zone to a Site-Specific General Commercial "GC" Zone; and

ii. and from Open Space "OS" Zone and General Commercial "GC" Zone to a Site-Specific Multiple Residential "RM5" Zone, Modified; and

1. and from Open Space (OS) Zone to the Conservation/Hazard (P5) Zone
2. The applications for the OPA and ZBA’s were refused by the City which prompted the appeal to this Board. Therefore the Board has three files associated with these matters as follows:
   1. OMB File No. PL170282 – an appeal launched under subsection 22(7) of the *Planning Act* (“Act”) for the OPA which was refused by the City; and
   2. OMB File No. PL170283 – an appeal launched under subsection 34(11) of the Act for the ZBA against Zoning By-Law (“ZBL”) No. 05-200 which was refused by the City; and
   3. OMB File No. PL170284 – an appeal launched under subsection 34(11) of the Act for the ZBA against ZBL No. 3692-92 which was refused by the City.
3. The Notice of Appeal set out the following reasons:
   1. The Decision [of the City] is not consistent with the Provincial Policy Statement, 2014 ("PPS"), including, without limitation, the following policies: 1.1.1 (a, b, e, h), 1.1.3.2, 1.1.3.3, 1.1.3.6, 1.4.1 a), 1.7.1 (b, c, d), 2.1.1, 2.1.2, 2.6.1, 2.6.2, and 3.1.1 b);
   2. The Decision does not conform with the Growth Plan for the Greater Golden Horseshoe, 2006 ('Growth Plan"), including, without limitation, with respect to the following policies: 2.2.2.1 (a, b, d, e, h) and 2.2.3.7;
   3. The Decision does not conform to the general intent of the Official Plan, including, but not limited to policies related to the Urban Corridors, Sub-Regional Service Node, Neighbourhoods Designation, Residential Intensification, Housing, Open Space, Natural Heritage System, Linkages and policies under the Old Town Secondary Plan;
   4. The Decision fails to recognize that the proposed development is compatible with adjacent uses and the character of the neighbourhood and provides for adequate transition to adjacent properties. The proposal represents an efficient development on an underutilized parcel of land, in an area well served by community facilities. The Decision to refuse the applications does not support existing and future planned higher order transit initiatives in the City;
   5. The Decision fails to address or acknowledge the detailed reasons and analysis provided by City Planning staff who recommended approval of the proposed development for reasons outlined in their Staff Report PED17008 presented to the Planning Committee and Council.
4. The City’s in-house Planning Department had supported the applications and recommended approval to City Council as set out in their Planning Staff Report dated January 31, 2017.
5. The parties were working on preparing a Procedural Order and while a draft was provided to the Board, a further refined version has since been submitted and is attached to this decision. This Procedural Order governs the hearing and sets out the obligations of both parties and participants, appended to this decision as Attachment 1. Although the Procedural Order does not identify the Participants in the Order of Evidence, they will be heard at a time convenient to the Member presiding and with regard to the schedules of the Participants.
6. The Board scheduled a follow-up PHC to be conducted via Telephone Conference Call (“TCC”). The TCC will be held on **Friday, October 13, 2017 at 9 a.m. with call-in numbers 416-212-8012 or toll-free 1-866-633-0848 and when prompted enter code 1006967#.** This TCC is for parties only. I will continue to case-manage this file.
7. The Board also scheduled hearing dates for 10 days commencing **Monday March 12, 2018 at 10:30 a.m. and ending Friday, March 23, 2018.** The venue will be:

**Dundas Town Hall**

**OMB Hearing Room (2nd Floor Auditorium)**

**60 Main Street**

**Dundas Ontario**

1. I am not seized of this hearing.
2. If possible, the City indicated it would try to secure an alternate venue for one day during the hearing which would be closer to Stoney Creek where many of the participants reside. Ms. Bruzzese had indicated that some of her neighbours who were elderly had some difficulty in navigating public transit to travel from Stoney Creek to Dundas. The Board appreciates the City’s efforts to try to secure an alternate location to accommodate those individuals.
3. The specifics of the alternate venue and date should be communicated to the Board’s Case Co-Ordinator, Ms. Leesa Kwong so that the participants are informed in advance.

“J. V. Zuidema”

J. V. ZUIDEMA

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