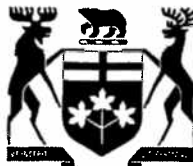


ISSUE DATE:

MAY 22, 2008



Ontario

Ontario Municipal Board

Commission des affaires municipales de l'Ontario

Handwritten notes in the top right corner:
Ron Blake
Jim Baird
Val Shuttleworth
Lucy
PL080019

1691126 Ontario Inc. (Liberty Development Corporation) has appealed to the Ontario Municipal Board under subsection 22(7) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended, from Council's refusal or neglect to enact a proposed amendment to the Official Plan for the Town of Markham for the purpose of amending policy 6.4.2.6 in the Thornhill Secondary Plan to allow for an increased maximum combined residential and non-residential density of 3.85 floor/area ratio (Approval Authority File No. OP 06-127138)
OMB File No. PL080019

1691126 Ontario Inc. (Liberty Development Corporation) 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 or neglect to enact a proposed amendment to Zoning By-law 2237 of the Town of Markham to rezone lands respecting 7161 Yonge Street and 7171 Yonge Street from Highway Commercial General (HC1) and Highway Commercial Automobile (HC2) to a zoning category (to be determined) to permit high density residential uses, at grade retail, and office commercial uses
OMB File No. PL071195

APPEARANCES:

Parties

1691126 Ontario Ltd.

Town of Markham

Regional Municipality of York Region

Counsel

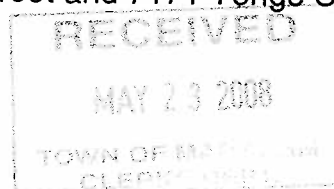
S. Rosenthal

C. Conrad

G. Szobel

MEMORANDUM OF ORAL DECISION DELIVERED BY J. de P. SEABORN ON MAY 1, 2008 AND ORDER OF THE BOARD

The appeals before the Board were scheduled for a Pre-Hearing Conference. The Applicant, 1691126 Ontario Inc., known as Liberty Development Corporation ("Liberty"), has appealed refusals by the Town of Markham (Town) to enact an Official Plan Amendment and Zoning By-law Amendment required to facilitate a development proposed for a parcel of land situated at 7161 Yonge Street and 7171 Yonge Street.



At the commencement of the Pre-Hearing Conference, the parties for the hearing were identified as Liberty, the Town and the Regional Municipality of York Region (Region). Several participants were also identified, as follows:

Grandview Area Residents (John O'Gorman)

Nick Tzembelikos

Yonge Steeles Ford (Sudhir Chopra)

Morguard (Richard Kuchynski)

City of Vaughan (Melissa Rossi)

Lance Taylor

Marion Matthias

Ward 1 South Thornhill Residents Inc. (Evelyn Ellison)

Warren Kirkness

Counsel advised that they are not at a stage in the process to prepare and file a draft Procedural Order for consideration by the Board. Counsel further agreed that a further pre-hearing conference is necessary for that purpose. However, there was a disagreement with respect to when the next pre-hearing conference should be held. Following submissions by Counsel, the Board delivered an oral decision, reproduced as part of this disposition.

There is a difference between the Applicant on the one hand and the Town and the Region on the other hand, with respect to an appropriate date for the next Pre-Hearing Conference. The Town and the Region suggest that each require additional time to review existing studies and studies not yet submitted prior to finalizing their position on the Application. In addition, they propose to convene further public consultation with respect to both the Application and the Yonge Steeles Corridor Study. The municipal interests suggest a December 2008 pre-hearing or at the earliest, a November 2008 date while Liberty requests a pre-hearing in mid-September, having originally suggested to the municipalities' a second pre-hearing in July or August, 2008.

There has been a statutory public meeting with respect to the Application. While some modification has been made to the plans (re-submitted April, 2008) they are not significantly different in concept from those reviewed by the public in February 2008. The Board cannot control the municipal approval process. When an Applicant is ready to proceed with its appeal, as this Applicant does, it is their right to do so as long as the timeframe proposed is not prejudicial. A request for a second pre-hearing conference in September is not unreasonable given today's date.

In the normal course, the Board would have expected a draft procedural order today. In the circumstances, the Board understands why none was filed. There is no prejudice to the municipalities or the public in setting the next pre-hearing date in September. If there remain unresolved matters or the Town or the Region wish to raise pre-maturity as an issue, each may do so as part of their respective Issues List. The Board routinely starts with a long list of issues, which often is narrowed as the parties approach the hearing.

A second pre-hearing date at the end of September will allow for two meetings of Town Council after the summer break and at least one meeting of Regional Council. A hearing date can be set at the second pre-hearing conference, which will address the issues for the hearing, the number of witnesses each party intends to call, exchange dates for reports and the order of evidence at the hearing. The Board will expect a draft procedural order to be filed at the commencement of the second pre-hearing conference. Where there is disagreement, I will hear submissions at that time.

A second pre-hearing conference is scheduled for Monday, September 29, 2008 at 10 a.m., Markham Civic Centre. There shall be no further Notice of Hearing and the Town will book the hearing room. I am seized of the case management and pre-hearing process in respect of these matters. I am not seized of the hearing.

This is the order of the Board.

"J. de P. Seaborn"

J. de P. SEABORN
VICE CHAIR

