

ISSUE DATE:

Feb. 01, 2011



PL100931

Ontario Municipal Board
Commission des affaires municipales de l'Ontario

IN THE MATTER OF subsection 34(19) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended

Appellant: 1634802 Ontario Limited
Appellant: Joao DaSilva
Appellant: Halton Hills South Property Corporation
Appellant: Linda Melnychuk
Appellant: Maple Lodge Farms Ltd.
Appellant: TDL Group Corp.
Appellant: Wendy's Restaurants of Canada Inc
Appellant: Ontario Restaurant Hotel & Motel Association
Appellant: A&W Food Services of Canada Inc.
Appellant: McDonald's Restaurants of Canada Limited
Appellant: City of Brampton
Subject: Halton Hills Comprehensive Zoning By-law No. 2010-0050
Municipality: Town of Halton Hills
OMB Case No.: PL100931
OMB File No.: PL100931

APPEARANCES:

Parties

Counsel

1634802 Ontario Limited, Joao Da Silva,
Linda Melnychuk and Halton Hills South
Property Corporation

Herbert Arnold

Maple Lodge Farms Ltd.

Ronald Webb

TDL Group Corp., Wendy's Restaurants of
Canada Inc., A&W Food Services of Canada
Inc., McDonald's Restaurants of Canada
Limited and Ontario Restaurant Hotel &
Motel Association

Michael Polowin

City of Brampton

Barnet Kussner

Town of Halton Hills

Jeffrey Wilker

**MEMORANDUM OF ORAL DECISION DELIVERED BY R. ROSSI ON
JANUARY 27, 2011 AND ORDER OF THE BOARD**

Appeals have been brought against the Town of Halton Hills Comprehensive Zoning By-law 2010-0050. The appeals comprise the following appeals:

1. Site-specific appeals (1634802 Ontario Limited, Joao DaSilva, Linda Melnychuk and Halton Hills South Property Corporation) and these lands are shown in Schedule "B" of the Town's Motion Record;
2. Policy-specific appeals ("drive-through appeals") (TDL Group Corp., Ontario Restaurant, Hotel and Motel Association, A&W Food Services Inc., McDonalds Restaurants of Canada Ltd. and Wendy's Restaurants of Canada) and the provisions affected by these appeals are set out in Schedule "C"; and
3. Corridor protection issues (City of Brampton and Maple Lodge Farms Ltd.) arising from the Halton Peel Boundary Area Transportation Study (the "HPBATS appeals") and these lands are set out in Schedule "D".

One of Mr. Arnold's clients, the Halton Hills South Property Corporation, is an Appellant to a longstanding file before the Board in a separate appeal process known as the Georgetown South Subdivision (OMB) matter (OMB File No. PL980132). Mr. Arnold asked the Board to consolidate the Halton Hills South Property Corporation Zoning By-law appeal with the aforementioned Georgetown South Subdivision matter. On consent, the Board severs this appeal and orders that the disposition of the Comprehensive Zoning By-law as it applies to the appeal by Halton Hills South Property Corporation be heard and disposed together with and in the hearing on the Georgetown South Subdivision matter before the Board.

In chronological order, the Board sets the following matters for further deliberation:

In respect of the appeals related to corridor protection issues, the Board will hold a two-day Pre-hearing Conference (PHC) in respect of the Maple Lodge Farms Ltd. and City of Brampton appeals being applicable to the lands legally described as Lots 1 to 7

inclusive, Concessions X and XI in order to permit the finalization and execution of a Memorandum of Understanding between the Town of Halton Hills, the Region of Halton, the City of Brampton and the Region of Peel that will set out the planning processes to implement the endorsed Halton Peel Boundary Area Transportation Study (HPBATS); allow any scoping of the lands under appeal by the City of Brampton and Maple Lodge Farms Ltd; enable the Town of Halton Hills to provide notice to landowners of the lands affected by the City of Brampton's and Maple Lodge Farms Ltd.'s appeal of the Comprehensive Zoning By-law; and in general inform the Board of the way forward in respect of these matters. Mr. Webb has advised the Board that he might seek to consolidate this matter with a separate OPA process by way of a Motion presented during this PHC. Mr. Wilker and Mr. Webb have undertaken to each notify other affected Counsel should this be the case. This two-day PHC will take place in the Town of Halton Hills on Tuesday, April 12 and Wednesday, April 13, 2011 at 10:00 a.m. The Town will give notice.

In respect of the site-specific appeals, the Board will hold a PHC for the three remaining Appellants represented by Mr. Arnold. This one-day PHC will take place in the Town of Halton Hills on Tuesday, April 19, 2011 at 10:00 a.m. No further notice will be given.

In respect of the "drive-through appeals", the Board will schedule a teleconference call on Tuesday, May 3, 2011 at 9 a.m. for these Parties and the Town of Halton Hills to report on progress, whether the Parties will request mediation of their dispute; or whether the matter will proceed to a full hearing. Telephone numbers and access codes will be communicated to the Parties presently. No further notice will be given.

On consent, the Board grants the Town's Motion and orders pursuant to Section 34(26) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended, that the Town of Halton Hills Comprehensive Zoning By-law 2010-0050 is amended as set out in Schedule "A" attached to this Order. The Board further orders pursuant to Section 34(31) of the *Planning Act* that the Town of Halton Hills Comprehensive Zoning By-law 2010-0050, as amended by Schedule "A" shall come into full force and effect on the date of passing being July 19, 2010 save and except for those parts of the By-law remaining under appeal: being the site specific appeals for the lands set out in Schedules "B" and "D"

and save and except for those parts and sections of the Comprehensive Zoning By-law 2010-0050 as set out in Schedule "C" (all Schedules attached hereto).

The Board notes further that the City of Brampton does not oppose the Town's Motion provided that it does so strictly without prejudice to the City's future rights respecting corridor protection issues and any future appeals it might see fit to file with respect to those issues. Notice is only required for the April 12 and 13 PHC as indicated.

The Member is not seized.

So Orders the Board.

"R. Rossi"

R. ROSSI
MEMBER

Schedule A
Housekeeping Amendments Proposed to By-law 2010-0050

| Section | Page | Housekeeping Amendments | Reason for Housekeeping Amendment |
|-------------------|-------------------------------|---|--|
| 1.8 | 1-3 | Remove "...prior to the enactment of this By-law..." and replace with "...prior to the date of an Ontario Municipal Board order approving this By-law..." | Between the date of Council approval of the Zoning By-law and present, the Town has received 15 minor variances, of which the Committee of Adjustment has approved 14 (3 are in the appeal period), and 1 has been deferred. Wording in Section 1.8 needs to be revised to give effect to these minor variances. |
| 4.23 | 4-17 | First Line is missing an is before used | Typographical error |
| 4.31 | 4-22 | Table 4.4 Reference to Regional Road should be replaced with Minor, Major or Multi-Purpose Arterial | Revise to reflect road classification as described in the Town of Halton Hills Official Plan. |
| 5.2.8 5.2.9 | 5-2 | <i>Surface Parking Area</i> | Remove italics from Surface as it is not defined in the By-law but Parking Area is defined. |
| Table of Contents | Part 6 | Title of Part 6 should be changed from Residential Zones to Urban Residential Zones | By-law is set up to distinguish between Urban and Rural Zones, but reference to Urban was inadvertently missed. |
| All of Part 6 | 6-1 to 6-8 | Change all references to Residential Zone to Urban Residential Zone | By-law is set up to distinguish between Urban and Rural Zones, but reference to Urban was inadvertently missed. |
| Part 7 | 8-1 to 8-8 | The page numbers should be 7-1 to 7-8 | Error in page numbers |
| Part 7 | 8-1 to 8-8 | In the footer, replace Part 8 - Urban Employment Zone with Part 7 - Urban Employment Zone | Error in labeling |
| Part 8 | 8-6 to 8-8 | The page numbers should be 8-1 to 8-3 | Error in page numbers |
| Part 9 | Table 9.1 Pages 9-1 to 9-3 | All uses subject to Special Provision 15 should also be subject to Special Provision 12 | In previous drafts of the Zoning By-law, a number of permitted uses were subject to Special Provision 12, which permitted uses that legally existed on the effective date of passage of By-law 2010-0050 and also did not allow new buildings or expansions. A change was made to allow the range of uses within the definition of that existing use by adding Special Provision 15. However, when this change was made, reference to Special Provision 12 was inadvertently removed. |
| Part 10 | Table 10.1 Page 10-2 | All uses subject to Special Provision 12 should also be subject to | In previous drafts of the Zoning By-law, a number of permitted uses were subject to Special Provision 9, which permitted uses that legally |

Schedule A
Housekeeping Amendments Proposed to By-law 2010-0050

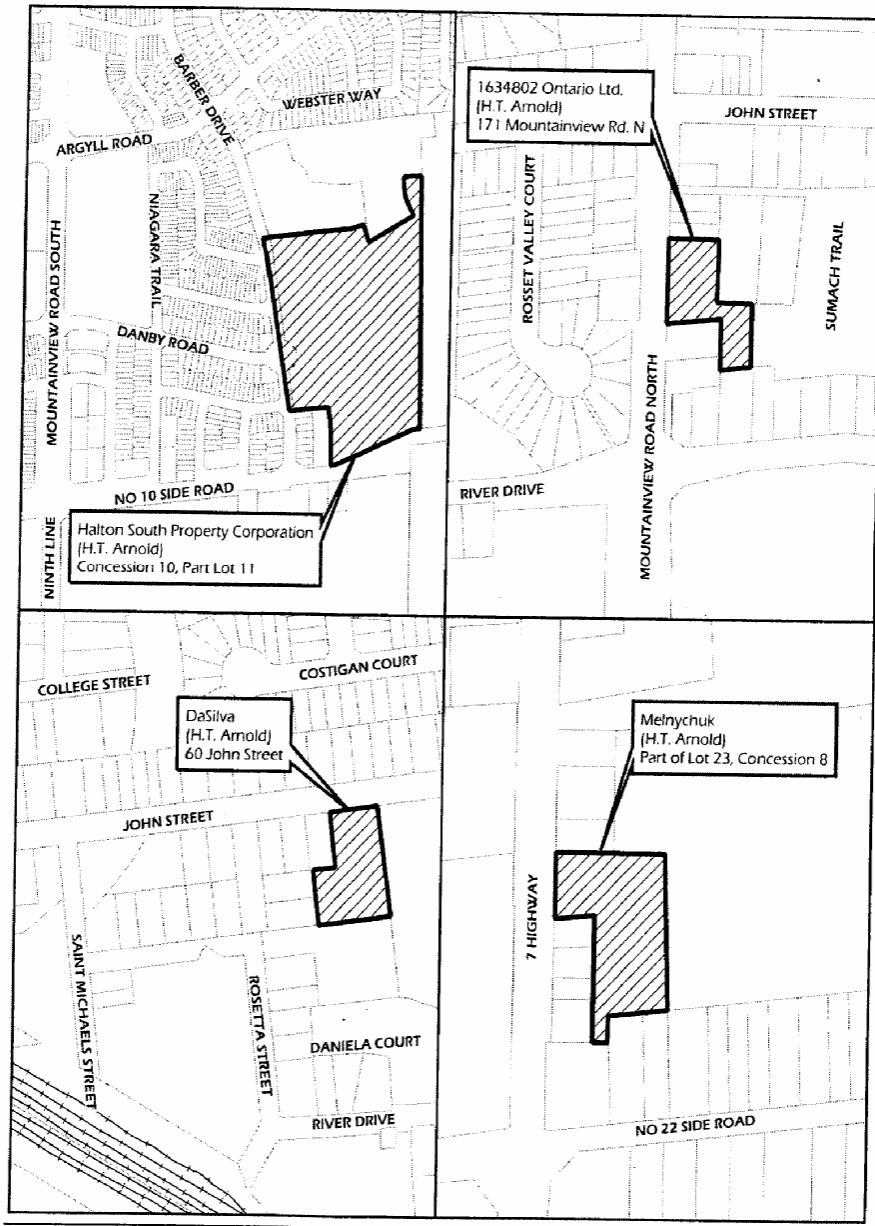
| Section | Page | Housekeeping Amendments | Reason for Housekeeping Amendment |
|-----------|--------------------|---|--|
| | | Special Provision 9. | <p>existed on the effective date of passage of By-law 2010-0050 and also did not allow new buildings or expansions.</p> <p>A change was made to allow the range of uses within the definition of that existing use by adding Special Provision 12. However, when this change was made, reference to Special Provision 9 was inadvertently removed.</p> |
| Part 14 | 14-3 | Remove H8 from Table as this Hold has been lifted from the lands described as Part of Lots 20 & 21, Concession 10, Town of Halton Hills (Glen Williams) in accordance with Council approved By-law 2010-0065. | During preparation of By-law 2010-0050, Council passed a By-law to lift the Hold on this property, but it was inadvertently left in this table. |
| Schedules | Schedule A1 and A2 | Revise legend to change Mineral Aggregate Resources One (MAR1) to Mineral Aggregate Resources (MAR). | Corresponding sections of By-law 2010-0050 reference Mineral Aggregate Resources (MAR). |
| Schedules | Schedule A3-2 | Change the Hold for 51 John Street in Georgetown from H4 to H1. | Inadvertently applied the wrong Hold, H4 applies to specific Commercial properties along Guelph Street in Georgetown. The properties should be subject to H1, which is to be applied on lands where an agreement and servicing allocation or private servicing approvals are required. |
| Schedules | Schedule A3-3 | Need to remove the Hold for the lands described as Part Lots 14 & 15, Concession 9, Town of Halton Hills (Georgetown) in accordance with Council approved By-law 2010-0102. | During preparation of By-law 2010-0050, Council passed a By-law to lift the Hold from this property but the Hold was inadvertently not removed from By-law 2010-0050. |
| Schedules | Schedule A6 | Change the Hold for the vacant properties on Trinity Court in Acton from H4 to H1. | Inadvertently applied the wrong Hold, H4 applies to specific Commercial properties along Guelph Street in Georgetown. The properties should be subject to H1, which is to be applied on lands where an agreement and servicing allocation or private servicing approvals are required. |
| Schedules | Schedule A19 | Need to remove the Hold for the lands described as Part of Lots 20 & 21, | During preparation of By-law 2010-0050, Council passed a By-law to lift the Hold from this property but the Hold was inadvertently not removed from |

Schedule A
Housekeeping Amendments Proposed to By-law 2010-0050

| Section | Page | Housekeeping Amendments | Reason for Housekeeping Amendment |
|---------|------|---|-----------------------------------|
| | | Concession 10, Town of Halton Hills (Glen Williams) in accordance with Council approved By-law 2010-0065. | By-law 2010-0050. |

SCHEDULE "B"

The CZBL remains under site specific appeal for these lands.



SCHEDULE "C"

The following parts of the CZBL remain under appeal:

1. Part 7 "Urban Commercial Zones", Table 7.2 – Part B, Special Provisions #1 "***Drive-through service facilities associated with this use are not permitted.***";
2. Part 9 "Non-Urban Zones", Table 9.1 – special Provisions #9 "***Drive-through service facilities associated with this use are not permitted.***";
3. Section 5.6.2: "**The first required ingress space shall be located adjacent to the service window or dispensing machine and the required egress spaces shall be located after the service window or dispensing machine. In addition to the above, a minimum of two-thirds of the required ingress spaces for a restaurant shall be located in that portion of the queuing lane that begins at the order box, if an order box exists.**";
4. Section 5.6.6: "**Queuing lanes and all order boxes using voice communication to order shall be located no closer than 15.0 metres from any Residential Zone boundary.**";
5. Section 5.6.8: "**No queuing lanes, order boxes, and wall openings associated with a drive through service facility shall be located in the wall facing the front or exterior side lot line unless all of the components of a drive through service facility are located no closer than 6.0 metres from the front and exterior side lot lines.**";
6. Part 5.4 "Non-residential Parking Requirements", Table 5.3 – "**Restaurants**" and "**Restaurants, take-out**";

SCHEDULE "D"

The CZBL remains under site specific appeal for these lands.

Lots 1 to 7 inclusive, Concessions X and XI