

ISSUE DATE:

JAN. 6, 2011



PL080354

Ontario Municipal Board

Commission des affaires municipales de l'Ontario

Orlando 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 270-2004 of the City of Brampton to rezone lands located south of Steeles Avenue West, between Heritage Road and Winston Churchill from Agricultural (A) Residential Rural Estate Two (RE2) and Floodplain (F) to Industrial Four (M4) – M4 Zone – Section 2804 and Floodplain (F) to permit the use of the subject lands for industrial, employment and open space purposes

OMB File No PL080354

Orlando Corporation has appealed to the Ontario Municipal Board under subsection 51(34) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, from the failure of the City of Brampton to make a decision respecting a proposed plan of subdivision on lands located at south side of Steeles Avenue West between Heritage Road and Winston Churchill being Part of Lot 15, Concession 6 W.H.S. in the City of Brampton

Approval Authority File No.: T6W15.2/21T-00018B

OMB File No PL080456

Orlando 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 City of Brampton to redesignate land at the south side of Steeles Avenue West between Heritage Road and Winston Churchill from Agricultural (A) Zone, Rural Estate One (RE1) Zone, Floodplain (F) Zone and Rural Estate Two (2) to industrial, employment and open space

Approval Authority File No. T6W 15.2

OMB File No. PL080457

Ornstock Developments Ltd., Lorwood Holdings, Inc., Ivy Manor Holdings Inc. and others have appealed to the Ontario Municipal Board under subsection 17(36) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, from a decision of the Region of Peel to approve a New Official Plan for the City of Brampton

Approval Authority File No. P13MOP012

OMB File No. PL080248

Sierra Club of Canada Peel Region Group, Orlando Corporation, Maple Lodge Farms Limited, The May Family and related Corporations, Brampton Brick Limited and 840966 Ontario Limited and others have appealed to the Ontario Municipal Board under subsection 17(24) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, from a decision of the Region of Peel to approve Amendment # 16 to the Region of Peel Official Plan

Approval Authority File No. P-05-022

OMB File No. O050167

OMB Case PL051048

Northwest Brampton Landowners Group Inc., 840966 Ontario Limited, Orlando Corporation and others have appealed to the Ontario Municipal Board under subsection 34(19) of the *Planning*

Act, R.S.O. 1990, c. P.13, as amended, against Zoning By-law 300-2005 of the City of Brampton

OMB File No. R050276, R060007 to R060013 and R060043

OMB Case No.: PL051251

Northwest Brampton Landowners Group Inc., 840966 Ontario Limited, Orlando Corporation and others appealed to the Ontario Municipal Board under subsection 17(24) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, from a decision of the City of Brampton to approve Proposed Amendment No. 93-255 to the Official Plan for the City of Brampton

Approval Authority File No. P27-OP93-251

OMB File No. O050198, O060007 to O060012

OMB Case No.: PL051251

Orlando Corporation, 840966 Ontario Limited, Ivy Manor Estates Limited and others have appealed to the Ontario Municipal Board under subsection 17(24) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, from a decision of the City of Brampton to approve Amendment No. OP92-270 to the Official Plan for the City of Brampton

Approval Authority File No.:P26S-40

OMB File No. O060221

OMB Case PL061159

Orlando Corporation, 840966 Ontario Limited and John Cutruzzola and others have appealed to the Ontario Municipal Board under subsection 17(24) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, from a decision of the City of Etobicoke to City of Brampton to approve Amendment No. OP92-271 to the Official Plan for the City of Brampton

Approval Authority File No.: P26S-40)

OMB File No. O060222

OMB Case PL061159

APPEARANCES:

Parties

Counsel

Orlando Corporation

L. Longo

City of Brampton

M. Rea

Regional Municipality of Peel

S. Garrod

Regional Municipality of Halton
Town of Halton Hills

J. Wilker

Maple Lodge Farms Ltd.
Brampton Brick Limited

R. Webb

Hydro One

E. Finn

**DECISION DELIVERED BY J. de P. SEABORN AND
ORDER OF THE BOARD**

The matters under appeal are resolved and relate to a series of applications made by Orlando Corporation (Orlando) in respect of its lands situated on the south side of Steeles Avenue, between Heritage Road and Winston Churchill Blvd., in the City of Brampton (City).

Mr. Waters, a qualified land use planner and Manager, Land Use Policy with the City and Ms Warren, also a registered professional planner and Planning Manager in the Development Services Division with the Region of Peel (Peel), each testified in support of the agreements reached between the parties.

As explained by Mr. Waters, there are several appeals outstanding in connection with the City's new Official Plan. The purpose of this hearing was to dispose of Orlando's site-specific appeals, draft plan of subdivision and approve modifications and the planning instruments necessary to implement corridor protection (interchange with highway 407) policies for Chapter 40(b) of the Bram West Secondary Plan. Both OP 93-270 and OP 93-271 have been the subject of several Prehearing Conferences; however, with respect to the Orlando matter, OP 93-271 has been subsequently updated and is considered an appropriate planning instrument to amend the Brampton Official Plan. In short, OP 93-271, as modified, contains corridor protection policies and related mapping which protects the Bram West Parkway while the Environmental Assessment Study is being prepared. The corridor protection area described by Mr. Waters and provided in evidence is included as part of the planning instruments provided to me for approval, including OP 93-271 as modified, the zoning by-law and the draft plan of subdivision and associated conditions. In Mr. Waters' opinion, the revisions to OP 93-255 and By-law 300-2005 and in particular specific sections of these instruments are no longer required and it is appropriate that each be repealed, in part, as set out in Exhibits 7 and 8. The corridor protection areas protect an area up to 37

metres wide for Hydro One to plan a power corridor in conjunction with the Bram West Parkway and Trans Canada Pipeline which considers existing constraints to the east and west of the pipeline, all of which is consistent with the recommendations of HPBATS and the Provincial Policy Statement. Mr. Waters provided evidence that the Orlando proposal constitutes good planning as it will contribute to the City's employment base and allow it to proceed with the economic development of its lands while preserving the opportunity for the planning of the Bram West Parkway and other infrastructure such as the power corridor. I accept and rely upon Mr. Waters' opinion in this regard.

Ms Warren explained that Peel, the City and Orlando reached an agreement to dispose of Orlando's appeal of ROPA #16 by allowing it in part and making a number of modifications, all of which are set out as Attachment 2 to the witness statement. Briefly, the effect of the modifications and conditions implemented through the settlement is that provision is made for the necessary transportation infrastructure as identified by HPBATS including necessary servicing considerations. The proposed settlement provides for long term transportation corridor protection consistent with the HPBATS recommendations while facilitating development on a portion of the Orlando lands. Ms Warren explained that the intention is to modify ROPA #16 Schedule E only with respect to Orlando's lands (on an interim basis) and it is not the Region's intention to seek any other modifications of Schedule E at this time. Similar to Mr. Waters, Ms Warren recommended the settlement to me and gave her professional opinion that it constitutes good planning and has regard for both the provincial interest and applicable provincial plans. I adopt and rely on her opinion. Other appellants interested in these matters are satisfied with the outcome and did not attend at the settlement hearing, albeit were at the Prehearing Conferences (in particular, Mr. Platt and Mr. Park).

Based on the evidence of Mr. Waters and Ms Warren and at the request of the parties and with their consent, the following Orders are made in respect of Orlando's site- specific appeals, each of which is allowed in part:

1. Amendment Number OP93-271 to the Official Plan of the City of Brampton, as amended and modified by Exhibit 3, is approved (PL

061159). With respect to Orlando's private Official Plan amendment appeal (PL080456) the Board will proceed to close its file.

2. City of Brampton By-law 270-2004, as amended, is further amended as set out in Exhibit 5 (subsequently revised), and as amended is approved (PL 080354) and set out as Attachment "1".
3. The details of Orlando's draft plan of subdivision (21T-00018B-PL 080354) are settled in accordance with Exhibit 6, and subject to the conditions also set out in Exhibit 6, with the exception of condition 113. Orlando has agreed not to contest this condition at this time, subject to its right to subsequently request that the condition be modified or deleted (upon timely notice to the parties and the municipalities). For this reason, I remain seized.
4. Amendment Number OP93-255 to the Official Plan of the City of Brampton, as amended and modified in Exhibit 7, is approved insofar as the amendments relate to Orlando's lands.
5. City of Brampton By-law 300-2005 is amended as set out in Exhibit 8, and as amended is approved insofar as the amendments relate to Orlando's lands.
6. Orlando's appeal of ROPA #16 is allowed in part and modifications #1 and #3, set out in Exhibit 10 (Tab 2) and in Exhibit 11 (Mapping) are both approved. At the request of Counsel, modification #2 will be addressed in the context of the other appeals of ROPA #16, which are scheduled for a further Prehearing Conference to be held on February 11, 2011 (notice has previously been given). Orlando's appeal (PL 051048) to ROPA #16 is otherwise dismissed.

As indicated above, there are several outstanding active appeals in relation to the planning instruments referred to above and this disposition addresses all of the appeals of Orlando and is not intended to affect other appellants.

This is the Order of the Board.

"J. de P. Seaborn"

J. de P. SEABORN
VICE CHAIR

ATTACHMENT "1"

To amend By-law 270-2004, as amended

1. By-law 270-2004, as amended, is hereby further amended:

(1) by changing Schedule A thereto, the zoning designation of the lands as shown outlined on Schedule A to this by-law:

From:	To:
AGRICULTURAL (A), RESIDENTIAL RURAL ESTATE TWO (RE2), and FLOODPLAIN (F).	INDUSTRIAL FOUR -2797 (M4-2797), INDUSTRIAL FOUR (HOLDING) - 2797 (M4(H)-2797), and FLOODPLAIN (F).

(2) by adding thereto the following section:

"2797 The lands designated M4-2797 on Schedule A to this By-law:

2797.1 Shall only be used for the following purposes:

(1) Industrial:

- (a) a motor vehicle sales establishment, and only in conjunction with a motor vehicle sales establishment, a motor vehicle repair shop, a motor vehicle body shop, and a motor vehicle washing establishment;
- (b) a warehouse; and,
- (c) the manufacturing, cleaning, packaging, processing, repairing or assembly of goods, foods or materials within an enclosed building;
- (d) an accessory retail outlet provided that the total gross commercial floor area of the retail outlet is not more than 15 percent of the total gross industrial floor area of the particular industrial use.

(2) Non-Industrial:

- (a) an office;

- (b) a hotel;
- (c) a conference centre;
- (d) only in conjunction with the uses permitted in sections 2797.1(2)(a), (b) and (c), to a maximum of 20 per cent of the floor area of those principal uses, one or more of the following purposes:
 - i. a bank, trust company or financial institution;
 - ii. a retail establishment;
 - iii. a convenience store;
 - iv. a banquet hall;
 - v. a dry cleaning and laundry establishment;
 - vi. a dining room restaurant, a take-out restaurant, a convenience restaurant;
 - vii. a service shop;
 - viii. a personal service shop, but excluding a massage or body rub parlour;
 - ix. a printing or copying establishment;
 - x. a commercial school;
 - xi. a community club;
 - xii. a health centre; and,
 - xiii. a day nursery;
- (e) a park, playground, recreational facility or structure;
- (f) the purposes permitted in a F zone;
- (g) a radio or television broadcasting and transmission establishment;
- (h) the following commercial uses only within 195 metres of Steeles Avenue West and 240 metres east of the TransCanada Pipeline right-of-way:
 - i. a service shop;
 - ii. a personal service shop, but excluding a massage or body rub parlour;

- iii. a retail establishment, excluding food/grocery stores in excess of 557 square metres, and having no outside storage;
- iv. a retail warehouse;
- v. a bank, trust company and finance company;
- vi. a dry cleaning and laundry distribution station;
- vii. a dining room restaurant, a take-out restaurant, and a convenience restaurant;
- viii. a printing or copying establishment;
- ix. a commercial, technical and recreational school;
- x. a garden centre sales establishment;
- xi. a place of commercial recreation;
- xii. community club;
- xiii. a health centre;

- (i) the following commercial uses only within 170 metres of Heritage Road and within 88 metres of a F zone:
 - i. a kennel;
 - ii. an animal hospital; and,
 - iii. an administrative office or facility of a public authority;
- (j) purposes accessory to other permitted purposes, including
 - i. an associated educational use; and,
 - ii. an associated office.

2797.2 shall be subject to the following requirements and restrictions:

- (1) Minimum Lot Area shall be 0.4 hectares, except for lands located within 100 metres of Steeles Avenue West or Winston Churchill Boulevard, or Highway 407 right-of-way/Transitway right-of-way, in which case the minimum lot area shall be 0.8 hectares;
- (2) Minimum Lot Width shall be 40 metres, except for lands located within 100 metres of Steeles Avenue West or Winston Churchill Boulevard, or Highway 407 right-of-way/Transitway

right-of-way, in which case the minimum lot width shall be 60.0 metres;

- (3) Minimum Front Yard Depth: 6.0 metres
- (4) Minimum Interior Side Yard: 3.0 metres
- (5) Minimum Exterior Side Yard: 6.0 metres
- (6) Minimum Rear Yard Depth: 6.0 metres
- (7) Minimum Lot Depth: 45 metres
- (8) Minimum Building Setback to Highway 407/Transitway right-of-way: 14.0 metres
- (9) Minimum Building Setback to a TransCanada Pipe Line right-of-way shall be 7.0 metres;
- (10) Maximum Building Height: none;
- (11) Minimum Landscaped Open Space, except at approved driveway locations only as follows:
 - (a) a width of 6.0 metres abutting Steeles Avenue West, Winston Churchill Boulevard and Bramwest Parkway;
 - (b) a width of 6.0 metres abutting the Highway 407/ Transitway right-of-way, which may be reduced to 3 metres when separated by a public street;
 - (c) a width of 3.0 metres abutting any other public street; and,
 - (d) a width of 3.0 metres abutting a F zone, which may be reduced to 0 metres within 195 metres of Heritage Road.
- (12) notwithstanding the requirements and restrictions contained within Section 2797, the uses permitted in a F zone shall be subject to only the requirements and restrictions of the F zone;
- (13) notwithstanding the requirements and restrictions contained within Section 2797, the commercial uses permitted in Section 2797.1(2)(h) shall be subject to only the requirements and restrictions of the SC zone and a minimum building setback of 7 metres to a TransCanada Pipe Line right-of-way;
- (14) notwithstanding the requirements and restrictions contained within Section 2797, the uses permitted in Section 2797.1(2)(i) shall be subject to only a front, side and rear yard setback of 3.0 metres, except along a lot line abutting a F zone which shall require a minimum setback of 5.0 metres;

- (15) the openings for waste disposal and loading facilities of any buildings shall face away from a public street and Highway 407/Transitway right-of-way, or shall be screened;
- (16) Outside Storage shall only be permitted as an accessory use in the rear and interior side yards, subject to the following criteria:
 - (a) outside storage of goods and materials shall be restricted to areas not required for parking or landscaping;
 - (b) outside storage of goods and materials shall not exceed the lesser of 5% of the lot or 10% of the building area;
 - (c) outside storage shall be screened from public view by architectural screening, landscaped buffer, building placement, berms, or a combination of such treatments; and,
 - (d) outside Storage, shall not be located within 100 metres from Steeles Avenue, Winston Churchill Boulevard, Bramwest Parkway, and Highway 407/Transitway right-of-way;
- (17) all garbage and refuse storage, including containers for the storage of recyclable materials, shall be screened within an enclosure constructed from materials that are compatible with the main building.
- (18) an adult entertainment parlour or an adult videotape store shall not be permitted;

2797.3 for the purpose of this section:

Retail Warehouse shall mean a building or structure, or part of a building or structure, occupied by a single user where the principal use is the sale of products displayed and stored in a warehouse format and where such products shall not include the sale of food and pharmaceutical products.

Conference Centre shall mean a building or place which is used for the assembly of persons for private or public activities of a religious, political, charitable, educational, social, business, cultural, recreational, and like purposes, and may include media communication and dining room facilities accessory to the main assembly function, but shall not include a public or private school or a religious institution.”

“2797 The lands designated M4 (H) – 2797 on Schedule A to this by-law:

2797.1 shall only be used for the following purposes:

1. the uses permitted in the Agricultural (A) zone, while the holding symbol (H) is in place;

2797.2 shall be subject to the following requirements and restrictions;

1. shall be subject to the requirements and restrictions of the A zone, while the holding symbol (H) is in place;

2797.3 the holding symbol (H) shall be lifted when one of the following is satisfied:

1. the selection of a corridor for the planning and development of the Bram West Parkway is approved under the Environmental Assessment Act; or,
2. City Council is satisfied that sufficient technical information is available to define the limits of the corridor for the Bram West Parkway, following consultation with: the municipalities participating in the Halton Peel Boundary Area Transportation Study, the Commissioners of Public Works & Transportation and Planning, Design & Development; and the participating stakeholders to the Bram West Parkway Environmental Assessment study. The participating stakeholders shall be provided 30 days to review and comment on the relevant technical information.”

EXPLANATORY NOTE

THE PURPOSE OF BY-LAW - 10

The purpose of By-law -10 is to amend comprehensive Zoning By-law 270-2004, as amended pursuant to an application by GLEN SCHNARR & ASSOCIATES INC. - ORLANDO CORPORATION (File No. T06W15.002).

EFFECT OF THE BY-LAW

The effect of By-law -10 is to permit the development of the site for industrial, commercial, office, and accessory commercial and business uses, in accordance with the requirements and restrictions set out in the by-law. In addition, the by-law is also intended to ensure the protection of the Bram West Parkway Corridor through the use of a Holding zone.

LOCATION OF LANDS AFFECTED

The lands affected by By-law -10 is located on South of Steeles Avenue West, between Heritage Road and Winston Churchill Boulevard, within Part of Lot 15, Concession 6, West of Hurontario Street (Toronto).

Any further inquiries or questions should be directed to Rob Nykyforchyn, City of Brampton Planning, Design and Development Department, (905) 874-2065.