

ISSUE DATE:

Aug. 25, 2008



PL070732
PL071115

08-200

Ontario
Ontario Municipal Board
Commission des affaires municipales de l'Ontario

Robert Payne/SFJ Inc. (Flying J) 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 Hamilton to redesignate land at 33-37 Fifty Rd to permit a travel plaza and associated uses catering to the traveling public.
OMB File No. O070107

Robert Payne/SFJ Inc. (Flying J) 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 3692-92 of the City of Hamilton to rezone lands respecting 33-37 Fifty Rd to permit a travel plaza and associated uses catering to the traveling public.
OMB File No. Z070102

Robert Payne/SFJ Inc. (Flying J) has referred to the Ontario Municipal Board under subsection 41(12) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, determination and settlement of details of a site plan for lands located at 33-37 Fifty Church Road, in the City of Hamilton.
OMB File No. PL071115

APPEARANCES:

Parties

Counsel

City of Hamilton

A. Zuidema

SFJ Inc. (Flying J)

C. Lantz

ACTION: P. Der.

MEMORANDUM OF ORAL DECISION DELIVERED BY J. R. AKER ON JULY 2, 2008 AND ORDER OF THE BOARD

B. Khes

A Zuidema

Mr. Zuidema, counsel for the City of Hamilton, advised the Board that the parties have reached a settlement. The settlement requires an Official Plan amendment and two Zoning By-law amendments.

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The subject property is located in the southeast quadrant of the QEW and Fifty Road interchange and is approximately 18 acres in size. The property will be known as 1640 South Service Road in the City of Hamilton and formerly the City of Stoney Creek.

The proposal is for a travel plaza with restaurant, driver's lounge area with change rooms, gift shop, fuel pump islands, weight scale and wash area and land for future development.

Mr. Peter De Iulio, Senior Project Manager responsible for development review in the City of Hamilton, provided opinion planning evidence in support of the proposed development.

Mr. De Iulio provided land use planning evidence with respect to the Provincial Policy Statement (2005), the Growth Plan For the Greater Golden Horseshoe (2006), the former Region Of Hamilton-Wentworth Official Plan and the City of Stoney Creek Official Plan including Special Policy Area F.

Mr. De Iulio provided opinion planning evidence on Zoning By-law 3692-92 of the former City of Stoney Creek and Zoning By-law 05-200 of the City of Hamilton.

No one spoke in opposition.

Based on the evidence, the Board finds that the proposed Official Plan amendment conforms with the policies of the Stoney Creek Official Plan and all the requirements of Special Policy Area F have been complied with.

Based on the evidence, the Board finds that the proposed Zoning By-law amendment to Zoning By-law 3692-92 is in conformity with the proposed Official Plan amendment and represents good planning.

Based on the evidence, the Board finds that the proposed Zoning By-law amendment to Zoning By-law 05-200 appropriately implements the required map changes.

Based on all the evidence, the Board finds that the proposed development represents good planning and is in the public interest and should be approved.

The Order of the Board is set out as Attachment "A" appended to this Decision.

The hearing for the determination and settlement of the site plan is scheduled to commence at 10:00 a.m. on Tuesday, July 29, 2008. Three (3) days have been

reserved on the Board's calendar. The location is the Ontario Municipal Board Hearing Room 6, McMaster Learning Centre, 50 Main Street East, Hamilton.

This member is seized.

No further notice is required.

The Board so Orders.

"J. R. Aker"

J. R. AKER
MEMBER

ATTACHMENT "A"

PL070732
PL071115

ONTARIO MUNICIPAL BOARD

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OMB File No. O070107

Robert Payne/SFJ Inc. (Flying J) 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 3692-92 of the City of Hamilton to rezone lands respecting 1640 South Service Road (formerly identified as 33-37 Fifty Road) to permit a travel plaza and associated uses catering to the traveling public.
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OMB File No. PL071115

BEFORE:

J.R. AKER, MEMBER) Wednesday, the 2nd day of July, 2008

THE BOARD ORDERS that the appeal of the Official Plan Amendment application under section 22(7) of the *Planning Act* be allowed and the Official Plan Amendment be approved as set out in Attachment "1";

AND THE BOARD FURTHER ORDERS that the appeal of the Zoning By-law Amendment application under section 34(11) of the *Planning Act* be allowed and the Zoning By-law Amendments be approved as set out in Attachment "2" and Attachment "3".

The Board so Orders

"J.R. Aker"

J.R. AKER
MEMBER

Attachment "3"

CITY OF HAMILTON

BY-LAW No. _____

**To Amend Zoning By-law No. 05-200,
Respecting Lands Located at 1640 South Service Road (Stoney Creek)**

WHEREAS the City of Hamilton has in force several Zoning By-laws which apply to the different areas incorporated into the City by virtue of the City of Hamilton Act, 1999, S.O. 1999, Chap. 14;

AND WHEREAS the City of Hamilton is the lawful successor to the former Municipalities identified in Section 1.7 of By-law No. 05-200;

AND WHEREAS Zoning By-law No. 05-200 was enacted on the 25th day of May, 2005;

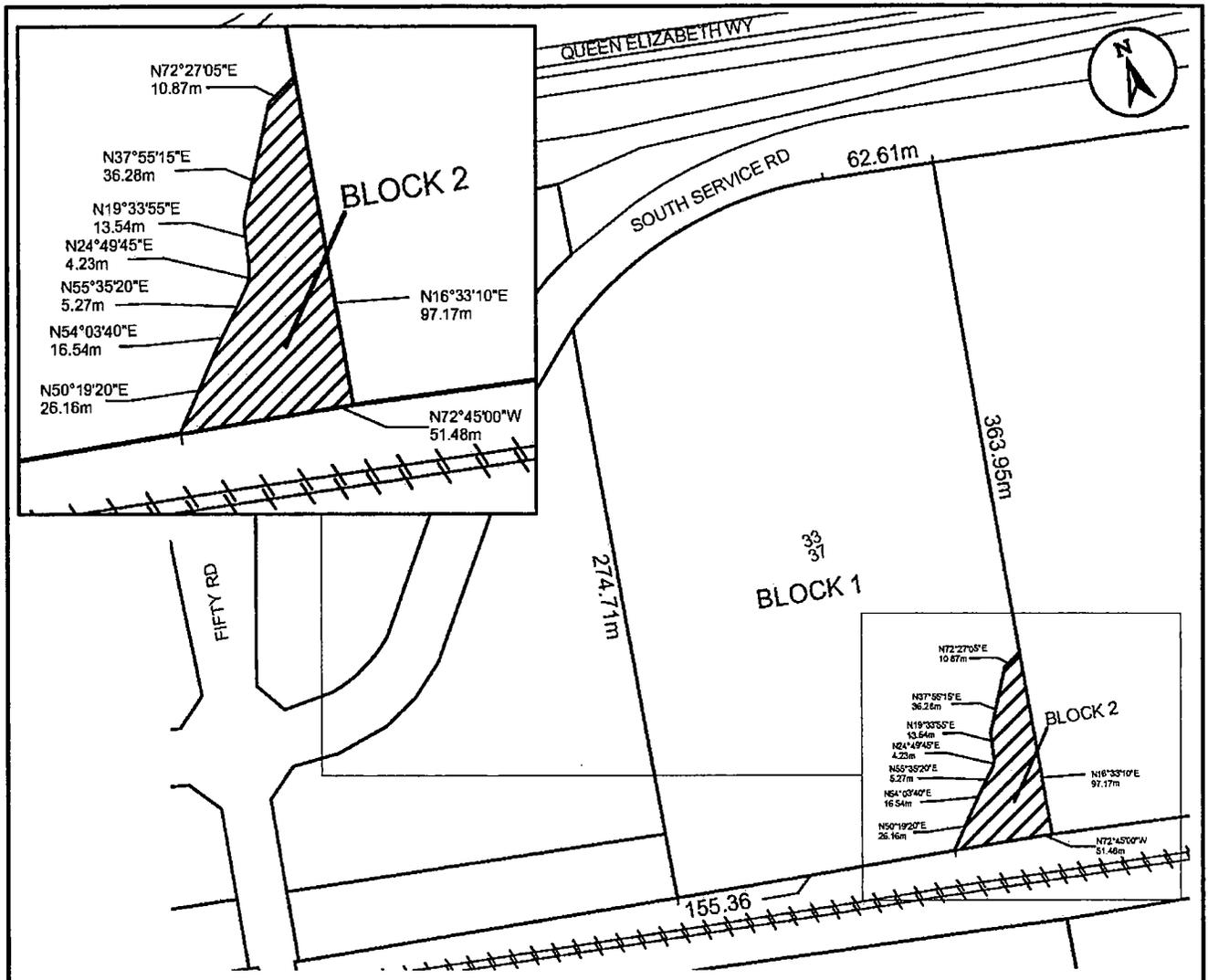
AND WHEREAS this By-law will be in conformity with the Official Plan of the City of Hamilton (formerly the City of Stoney Creek Official Plan), approved by the Minister under the Planning Act on May 12, 1986, upon approval of Official Plan Amendment No. 141;

NOW THEREFORE the Ontario Municipal Board enacts as follows:

1. That Map No. 1313 of Schedule "A" to Zoning By-law No. 05-200, is amended by incorporating additional Conservation/Hazard Land (P5) Zone boundaries for the applicable lands, the extent and boundaries of which are shown on a plan hereto annexed as Schedule "A";

PASSED and ENACTED this day of _____, 2008 by OMB Order _____.

ZAC-05-86



This is Schedule "A" to By-Law No. 08-
 Passed the day of, 2008,
 by OMB Order

Subject Property
 1640 South Service Road

Schedule "A"

 Map Forming Part of
 By-Law No. 08-_____

 to Amend By-law No.05-200
 (Map 1313)

-  BLOCK 1 - Lands subject to By-Law No.3692-92
-  BLOCK 2 - Change in zoning from the Agriculture Specialty "AS" Zone to the Conservation/Hazard Land (P5) Zone.

Scale: N.T.S.	File Name/Number: ZAC-05-86, OPA-05-17	 Hamilton
Date: July 24, 2008	Planner/Technician: PD/BR	
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT		