

ISSUE DATE:  
  
**Jan. 19, 2011**



PL091174

By-law No. 11-043

Ontario Municipal Board  
Commission des affaires municipales de l'Ontario

MC2 Homes Inc. 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 Hamilton to make a decision respecting a proposed plan of subdivision on lands composed of Part of Lots 9 & 10, Concession 4 (former Township of East Flamborough), City of Hamilton  
Approval Authority File No. 25T-200904  
OMB File No. PL091174

MC2 Homes Inc. 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 90-145-Z of the City of Hamilton to rezone lands respecting 203 Parkside Drive from Agricultural "A" Zone to Urban Residential (Single Detached) Zone-R1-31 Zone and Conservation Management "CM" Zone to implement the proposed plan of subdivision  
OMB File No. PL100017

**APPEARANCES:**

**Parties**

**Counsel**

MC2 Homes Inc.

Ronald Webb/Laura Dottori (student at law)

Landmart Realty Corporation

Russell Cheeseman

City of Hamilton

Brian Duxbury

**MEMORANDUM OF ORAL DECISION DELIVERED BY J. de P. SEABORN  
ON JANUARY 10, 2011 AND ORDER OF THE BOARD**

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At the commencement of the hearing the parties advised that the appeals in respect of a proposed draft plan of subdivision and associated zoning by law amendments were resolved. Mr. Yarranton, the land use planner retained by the MC2 Homes Inc. (Applicant) testified in support of the settlement reached and the planning instruments before me for approval.

Briefly, the Applicant's project, situated on the north side of Parkside Drive in the north Waterdown planning area, has proceeded in stages with Phase 1 to the east, registered in November 2009. This phase includes single detached homes, a storm water management pond designed to serve a number of landowners, access, and lands to be zoned conservation/hazard land. The zoning by-law amendments generally re-zone the lands from Agricultural to Urban Residential as well as incorporate the conservation/hazard lands zone boundaries. The project is integrated and has been planned with surrounding development involving Landmart Realty Corporation, Amedeo DiMarco and Silverwood Homes. All parties are satisfied with the proposed draft plan, including the conditions. The City of Burlington, a party at earlier hearings, did not appear as its concerns are addressed.

Based on the testimony of Mr. Yarranton and his opinion evidence, I find that the planning instruments which the parties have agreed to have regard to matters of provincial interest, are consistent with the Provincial Policy Statement, and conform to applicable provincial plans, in particular the Growth Plan. The zoning by-law amendments and draft plan (including the conditions) conform with relevant official plan policies and constitute good planning. I also find that regard has been had to the criteria set out in subsection 51(24) of the *Planning Act*.

As indicated above, the plan of subdivision is subject to conditions. Counsel submitted special conditions of draft plan approval which are followed by a series of notes. I confirm that these notes are not conditions of the approval, but merely identify additional issues that the parties have agreed must be addressed. This finding is consistent with a previous decision of the Board on a similar matter (PL090067, a decision issued January 4, 2011).

Based on the evidence given and the submissions of the parties, I find as follows:

1. The appeal of the proposed plan of subdivision is allowed and the Applicant's draft plan dated November 8, 2010 set out in Attachment "1" is approved, subject to the City's standard draft plan conditions and special draft plan conditions set out in Attachment "2". At the request of Counsel, the draft plan conditions shall be cleared by the Board for final approval and I remain seized for that purpose.

2. The appeals under subsection 34(11) of the *Planning Act* are allowed and By-law 90-145-Z (Flamborough) is modified in the manner set out in Attachment "3" and By-law 05-200 is modified in the manner set out in Attachment "4". The Clerk is authorized to assign a number to each By-law for record keeping purposes.

This is the order of the Board.

"J. de P. Seaborn"

J. de P. SEABORN  
VICE CHAIR

**ATTACHMENT 4**

CITY OF HAMILTON

BY-LAW NO. [REDACTED]

**To Amend Zoning By-law No. 05-200  
Respecting Lands Located at 203 Parkside Drive, Part of Lots 9 and 10, Concession 4  
(Flamborough)**

**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 05-200;

**AND WHEREAS** it is desirable to enact a new Zoning By-law to comprehensively deal with zoning throughout the City;

**AND WHEREAS** the first stage of the new Zoning By-law, being By-law 05-200, came into force on May 25, 2005;




**AND WHEREAS** the Ontario Municipal Board has issued an Order that Zoning By-law No. 05-200 (Hamilton), be amended as hereafter provided;

**AND WHEREAS** this By-law is in conformity with the Official Plan of the City of Hamilton (the Official Plan of the Former Town of Flamborough), in accordance with the provisions of the Planning Act;

**NOW THEREFORE** the Ontario Municipal Board Orders as follows:

1. That Map No. 480 of Schedule "A" to By-law 05-200 is amended by incorporating the Conservation/Hazard Lands (P5) Zone boundaries, the extent and boundaries of which are shown on a plan hereto annexed as Schedule "A" to this By-law.



This is Schedule "A" to By-Law No. 11- Passed the ..... day of ....., 2011		_____ Clerk _____ Mayor
<p align="center"><b>Schedule "A"</b></p> <p align="center">Map Forming Part of By-Law No. 11-_____</p> <p align="center">to Amend By-law No.05-200 (Map 480)</p>		Subject Property 203 Parkside Drive ■■■■■■ ESA Boundary  Lands to be zoned Conservation / Hazard Land (PS) Zone  Refer to By-law 00-145-Z
Scale: N.T.S.	File Name/Number: ZAC-09-019, 25T-200904	
Date: December 10, 2010	Planner/Technician: CT/SW	
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT		