

ISSUE DATE:

November 22, 2013

By-law 13-301



Ontario

Ontario Municipal Board
Commission des affaires municipales de l'Ontario

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LEGAL SERVICES

PL121211

Eco Building 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 to enact a proposed amendment to Zoning By-law 3581-86 of the City of Hamilton to rezone lands respecting 24 Brock Street North from "RM1-'H'" (Low to Medium Density Multiple Dwelling – Holding) Zone, modified, to the "RM3" (Medium to High Density Multiple Dwelling) Zone, modified, to permit the development of a 6 storey tiered residential building

OMB File No.: PL121211

APPEARANCES:

Parties

Counsel

Eco Building Inc. ("Applicant")

Stephen D'Agostino

Jane Lowry and William Hilson
("Objectors")

Michael Connell

City of Hamilton ("City")

Michael Kovacevic

MEMORANDUM OF ORAL DECISION DELIVERED BY STEVEN STEFANKO ON NOVEMBER 6, 2013 AND ORDER OF THE BOARD

[1] At the commencement of this Prehearing, I was advised that an agreement had been reached as to the contents of the by-laws required to facilitate the construction of an apartment building at 24 Brock Street North.

[2] The agreement in question is reflected by Minutes of Settlement dated November 6, 2013 ("MOS") executed by the Applicant, the Objectors and certain other affected individuals who reside in the immediate area of the site. Although the City is not a signatory to the MOS, it does support the by-laws which have been agreed upon.

[3] One by-law ("Dundas By-law") amends Zoning By-law No. 3581-86 ("ZBL 3581") for the Town of Dundas ("Dundas"). The Dundas By-law is annexed hereto and marked as Attachment 1. Among other things, it sets out the performance standards for the

apartment building to be constructed. The other by-law ("City By-law") amends Zoning By-law No. 05-200 ("ZBL 05") for the City. It is annexed to this decision and marked as Attachment 2. Its purpose is to state that the permitted use for a portion of the subject property is Conservation.

[4] Stephen Fraser, a planner with A.J. Clarke & Associates Ltd., provided expert land use planning evidence in support of the agreement reached. He pointed out that the property was formerly used for industrial purposes but is currently vacant and is underutilized. In his opinion, the proposal represents the type of intensification contemplated by the Provincial Policy Statement, 2005 ("PPS") and the Growth Plan for the Greater Golden Horseshoe ("Growth Plan") and is within the policy provisions of the Dundas Official Plan ("OP"). According to Mr. Fraser, what is proposed is consistent with the PPS, conforms to the Growth Plan and the OP and represents good planning.

[5] Only one participant spoke in opposition to the agreement reached, that being John Parcher. Mr. Parcher resides a short distance away from the development at 238 Melville Street. In his view, there is not sufficient parking in the area to accommodate the proposal and he is concerned that additional traffic will be generated. Although I have no doubt that Mr. Parcher's views are sincerely held, they do not override the planning evidence of Mr. Fraser, the MOS and the position of the City in this matter.

[6] Based on all of the foregoing therefore, it is ordered that ZBL 3581 is amended in accordance with the Dundas By-law and that ZBL 05 is amended in accordance with the City By-law.

"Steven Stefanko"

STEVEN STEFANKO
VICE CHAIR

Attachment 2

Appendix "F"
Draft Amended Zoning By-law 05-200
(Page 1 of 3)

Authority: Item [REDACTED]
Planning Committee
Report: 13- [REDACTED]
CM: [REDACTED]

Bill No. [REDACTED]

CITY OF HAMILTON

BY-LAW NO. [REDACTED]

To Amend Zoning By-law No. 05-200, as Amended,
Respecting Lands Located at 24 Brock Street North (Dundas)

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

AND WHEREAS the Council of the City of Hamilton, in adopting Item [REDACTED] of Report 12- [REDACTED] of the Planning Committee, at its meeting held on the [REDACTED] day of [REDACTED], 2012, recommended that Zoning By-law 05-200 be amended as hereinafter provided;

AND WHEREAS the By-law is in conformity with the Official Plan of the City of Hamilton (Formerly the Official Plan of the Town of Dundas) in accordance with the provisions of the Planning Act.

Appendix "F"
Draft Amended Zoning By-law 05-200
(Page 2 of 3)

NOW THEREFORE the Council of the City of Hamilton enacts as follows:

1. That Map No. 817 of Schedule "A" to Zoning By-law No. 05-200, is amended, by incorporating additional Conservation/Hazard Land (P5) Zone boundaries, in the form of a Site-Specific Conservation/Hazard Land (P5, 450) Zone for the lands, the extent and boundaries of which are shown on Schedule "A" annexed hereto and forming part of this By-law.
2. That Schedule "C" of By-law 05-200 is amended by adding an additional exception as follows:

"450. Notwithstanding Section 7.5.1 of this By-law, within the lands zoned Conservation/Hazard Land (P5) Zone, identified on Map No. 817 of Schedule "A" to By-law 05-200, and described as 24 Brock Street North, the following shall apply:
 - a) PERMITTED USES

Only the following use shall be permitted:
 - (i) Conservation
3. That the Clerk is hereby authorized and directed to proceed with the giving of notice of the passing of this By-law, in accordance with the Planning Act.
4. That this By-law No. [REDACTED] shall come into force and be deemed to have come into force in accordance with Sub-section 34(21) of the Planning Act, either upon the date of passage of this By-law or as provided by the said Sub-section.

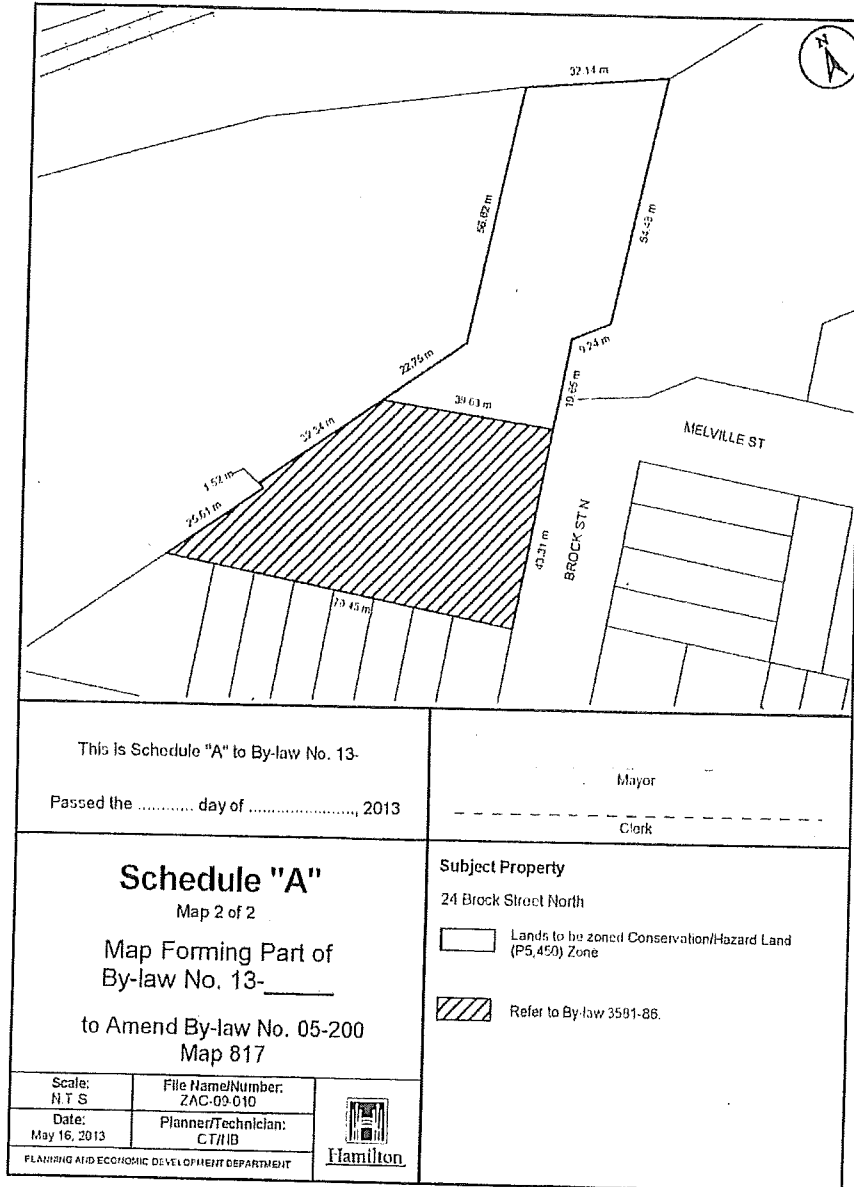
PASSED and ENACTED this [REDACTED] day of [REDACTED], 2013.

R. Bratina
Mayor

Rose Caterini
Clerk

ZAC-09-010

Appendix "F"
Draft Amended Zoning By-law 05-200
(Page 3 of 3)



This is Schedule "A" to By-law No. 13-
Passed the day of, 2013

Mayor

Clerk

Schedule "A"
Map 2 of 2
Map Forming Part of
By-law No. 13-_____
to Amend By-law No. 05-200
Map 817

Subject Property
24 Brock Street North

Lands to be zoned Conservation/Hazard Land (P5,450) Zone

Refer to By-law 3591-86.

Scale: N.T.S.	File Name/Number: ZAC-03-010
Date: May 16, 2013	Planner/Technician: CT/IB



PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

