

Ontario
Municipal
Board

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PL071013

Avonwood Shopping Centres Limited. 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 201-2000 of the City of Stratford to rezone lands composed of Part Of Lot 42, Concession 1 from I2 (General Industrial) to C-4 Special (Shopping Centre Commercial- Special) to permit a department store on site, to limit non-department retail stores to 20,000 sq. ft. and to prohibit a supermarket on site

OMB Case No. PL071013
OMB File No. PL071013

Avonwood Shopping Centres Limited 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 Stratford to redesignate land composed of Part Of Lot 42, Concession 1 to redesignate the property from Industrial Area to Commercial Area and to add Special Policy Area policy between Festival Market Place and the CNR line, to limit non-department retail stores to 20,000 sq. ft. and to prohibit a supermarket on site

OMB Case No. PL080070
OMB File No. PL080070

IN THE MATTER OF subsection 17(24) of the *Planning Act*, R.S.O. 1990, C. P. 13, as amended

Appellant: Avonwood Shopping Centres Limited
Appellant: Tanurb (Festival Marketplace) Inc.
Subject: Proposed Official Plan Amendment No. 10
Municipality: City of Stratford
OMB Case No.: PL071152
OMB File No.: PL071152

NOTICE OF PREHEARING CONFERENCE

The Ontario Municipal Board will conduct a prehearing conference respecting this matter.

If you do not attend the prehearing conference, the Ontario Municipal Board may proceed in your absence and you will not be entitled to any further notice of these proceedings.

TIME AND PLACE OF PREHEARING CONFERENCE

A prehearing conference will be held

at: 10:30 AM

on: AUGUST 11, 2008

at: **COUNCIL CHAMBERS
CITY HALL (STRATFORD)
1 WELLINGTON STREET, PO BOX 818
STRATFORD, ON**

The Board has set aside **ONE (1) DAY** for this conference.

PURPOSE OF PREHEARING CONFERENCE

The conference will deal with preliminary and procedural matters, including the following:

- **Identification of parties** - these persons have the right to participate throughout by presenting evidence, questioning witnesses, and making final arguments. In order for the Board to determine your status for the hearing, you or your representative should attend the prehearing conference and ask to be added as a party. Groups, whether incorporated or not, who wish to become parties should name a representative. Parties do not need to be represented by lawyers or agents.
- **Identification of participants** - persons who do not wish to participate throughout the hearing may attend the hearing and make a statement to the Board. Such persons should also attend the prehearing conference.
- **Identification of issues.**
- **Possibility of settlement of any or all of the issues** – the panel will explore with the parties whether the case before the Board and the issues in dispute are matters that may benefit from the assistance of a mediation meeting conducted by a Member of the Board. Mediation is a voluntary process of negotiation that encourages all sides in a dispute to get a better understanding of each other's positions and fully explore and consider options for a mutually acceptable settlement of all or some of the issues in dispute. The panel may direct, upon consent of the parties, that some or all of the issues in dispute proceed to mediation. Where mediation is directed, a different Member of the Board would conduct the mediation.
- **Start date of the hearing.**
- **Duration of the hearing.**
- **Directions for pre-filing of witness lists, expert witness statements and written evidence.**
- **The hearing of motions.**
- **Such further matters as the Board considers appropriate.**

Everyone present should come prepared to consider specific dates for proceedings in this matter.

EVIDENCE

Evidence or formal statements may also be heard at the prehearing conference in an attempt to settle the matters in dispute. Note that even if no settlement is reached the Board may make a final decision on the evidence it received.

All parties or their representatives should attend the prehearing conference.

Pour recevoir des services en français, veuillez communiquer avec la Division des audiences au (416) 326-6800, au moins 20 jours civils avant la date fixée pour l'audience.

DATED at Toronto, this 7th day of May, 2008.

PATRICK HENNESSY
SECRETARY

ONTARIO MUNICIPAL BOARD RULES ON ADJOURNMENTS

Comments on Adjournments of Proceedings (Rules 61 to 65 below):

The Board will not often grant adjournments (later dates) for hearings or other proceedings. Parties and the Board spend time and money in giving notice, preparing and travelling for hearing events, and this is wasted if they are cancelled at the last minute. If the request is presented at the last moment, the Board may refuse the adjournment and proceed with the hearing. If, on the other hand, settlement discussions are reasonably nearing completion, the Board may agree to a delay. The main consideration is whether an adjournment is necessary to permit a fair hearing, versus the cost of any delay for all parties. Hiring a lawyer or planner shortly before a hearing, for example, is not a reason for an adjournment.

Parties should prepare for a hearing shortly after the appeal is submitted. They should not wait until notice of hearing is sent. Performance standards required for tribunals mean that the Board is setting hearing dates earlier than in the past.

If a matter is adjourned, the Board will pick a new date for it to proceed unless there is a good reason to leave it undecided (e.g. it is dependent upon a decision of a court).

61. Hearing Dates Fixed Hearing events will take place on the date set unless the Board agrees to an adjournment (later date).

62. Requests for Adjournment If All Parties Consent If all of the parties agree, they may make a written request to postpone a hearing event. The request must include the reasons, a suggested new date and the signed consents of all parties. However, the Board may require that the parties attend in person to argue for an adjournment, even if all of the parties consent.

63. Requests for Adjournment Without Consent If a party consulted objects to an adjournment request, the party requesting the adjournment must bring a motion under Rule 34 at least 10 days before the date set for the hearing event. If the reason for an adjournment arises less than 10 days before (see Rule 64), the party must give notice of the request to the Board and to the other parties, and serve their motion materials as soon as possible. If the Board refuses to consider a request made late, any motion for adjournment must be made in person at the beginning of the hearing event.

64. Emergencies Only The Board will grant last minute adjournments only for unavoidable emergencies, such as illnesses so close to the hearing date that another representative or witnesses cannot be obtained. The Board must be informed of these emergencies as soon as possible.

65. Powers of the Board upon Adjournment Request

The Board may,

- (a) grant the request;
- (b) grant the request and fix a new date; or where appropriate, the Board will schedule a prehearing conference about the status of the matter;
- (c) grant a shorter adjournment than requested;
- (d) deny the request, even if all parties have consented;
- (e) direct that the hearing proceed as scheduled but with a different witness, or evidence on another issue;
- (f) grant an indefinite adjournment, if the request is made by the applicant or proponent and is accepted by the Board as reasonable, and the Board finds no substantial prejudice to the other parties or to the Board's schedule. In this case the applicant or proponent must make a request that the hearing be rescheduled;
- (g) convert the scheduled date to a mediation or prehearing conference; or
- (h) make any other appropriate order.

March 13, 2006

Explanatory Note

Zoning By-law Amendment

The lands subject to this amendment are located east of C.H. Meier Boulevard and south of Festival Marketplace in the City of Stratford (the "Subject Property").

The City of Stratford Zoning By-law 201-2000, as amended, zones the Subject Property as *General Industrial (I2) Zone*

The purpose of the Zoning By-law Amendment is to permit the development of a department store and other retail and service commercial uses on the Subject Property.

The proposed Zoning By-law Amendment would rezone the Subject Property to a site-specific *Shopping Centre Commercial – Special (C4-) Zone* and would:

- (1) permit many of the uses permitted in the *C4 Zone*;
- (2) permit a department store on the site;
- (3) limit the gross floor area devoted to non-department store retail stores to 20,000 sq.ft.; and
- (4) prohibit a supermarket on the Subject Property.

A copy of the proposed amending by-law is attached.

**BY-LAW NUMBER ___-2007
OF THE CORPORATION OF
THE CITY OF STRATFORD**

Being a By-law to amend By-law 201-2000 as amended,
with respect to zone change application ___ by Avonwood
Shopping Centres Limited to rezone land to permit a
shopping centre on lands east of C.H. Meier Boulevard and
south of Festival Marketplace.

WHEREAS authority is given to the Council of The Corporation of the City of Stratford by Section 34 of the *Planning Act, R.S.O. 1990, c. P.13*, as amended, to pass this by-law;

AND WHEREAS the said Council has provided adequate information to the public and has held at least one public meeting in accordance with the *Planning Act*;

AND WHEREAS the Council of The Corporation of the City of Stratford deems it in the public interest that By-law 201-2000, as amended, known as the Zoning By-law, be further amended.

NOW THEREFORE BE IT ENACTED by the Council of The Corporation of the City of Stratford as follows:

1. That Schedule "A", Map 6 to By-law 201-2000 as amended, is hereby amended:

by changing from General Industrial (I2) Zone to the 'site-specific' Shopping Centre Commercial – Special (C4-___) Zone, those lands outlined in heavy solid lines on Schedule "A", attached hereto and forming part of this By-law, and more particularly described as Part of Lot 42, Concession 1, City of Stratford.
2. That Section 15, Shopping Centre Commercial (C4) Zone to By-law 201-2000 is hereby amended by adding a new special provision "C4-___" as subsection 15.4.___ to read as follows:
 - a) Defined Area (8.8 ha of Avonwood Shopping Centre Limited Lands – C.H. Meier Boulevard)

C4-___ as shown on Schedule "A", Map 6
 - b) Permitted Uses
 - candy shop
 - car wash
 - financial institution
 - garden centre
 - gas bar
 - department store
 - liquor licensed establishment
 - merchandise rental store
 - merchandise service shop
 - motor vehicle repair shop
 - motor vehicle service station
 - private club
 - public use
 - recreational entertainment establishment
 - restaurant

- retail store
 - service trade
- c) The following use and floor space restrictions apply:
- i) The overall gross floor area shall not exceed 12,198 sq m (131,300 sq ft) comprised only of one department store that occupies a maximum gross floor area of 10,340 sq m (111,300 sq ft) and other uses permitted by the zoning by-law occupying a maximum aggregate gross floor area of 1,858 sq m (20,000 sq ft).
 - ii) No retail commercial unit permitted by the by-law shall be less than 279 sq m (3,000 sq ft) of gross floor area.
- d) The following shall be prohibited:
- Supermarket as a freestanding store;
 - More than 1,161.25 sq. m. (12,500 sq. ft) of floor space devoted to the sale, storage and display of food products in the department store;
 - Theatre;
 - Studio;
- e) Until such time as the Holding provision is removed only existing uses shall be permitted on the lands to which the Shopping Centre Commercial - Special (C4 - XX) Zone applies. Upon application to Council, the H provision shall be removed if the following requirements have been met:
- i) Site plan approval has been granted and a site plan agreement and such other agreements as deemed necessary by and satisfactory to the City have been entered into with the City of Stratford which agreements shall, among other matters, require that the following works and improvements be undertaken to the satisfaction of the Director of Building and Planning and the Director of Engineering and Public Works, at the owner's expense, or upon such cost-sharing basis between the owner and the City as may be acceptable to the City, and secured by a letter of credit equal to 100% of their value:
 - ii) on site works which relate to transportation matters;
 - iii) the following road improvements, or such other road improvements that are agreed to by the City:
 - iv) traffic signals at the intersections of C.H. Meier Boulevard and Douro Street;
 - v) traffic signals at C.H. Meier Boulevard and site North Access/Stratford Mall South driveway;

- vi) provision of a traffic management system that will control the four signals along C.H. Meier Boulevard from Ontario Street to Douro Street;
- vii) five lanes on C.H. Meier, with adequate storage length in the left turn lanes to accommodate a reasonable probability rate for queue lengths;
- viii) an eastbound right turn lane on Ontario Street at C.H. Meier Boulevard;
- ix) widening of the Douro Street eastbound approach to C.H. Meier Boulevard to five lanes, with double eastbound left turn lanes;
- x) extension of C.H. Meier Boulevard south of Douro Street for a service access, and for an access to the Cooper industrial building replacing the existing east Cooper driveway on Douro Street;
- xi) provision of funds for signalization of Douro Street and Burritt Street intersection, to be returned if not required within five years; and
- xii) the conveyance to the City of all necessary lands to accommodate b. (vii) and any necessary sight triangles.

Read a FIRST, SECOND and THIRD time and

FINALLY PASSED this ____ day of _____, 2007

Mayor

Clerk

THE CORPORATION OF THE
CITY OF STRATFORD
SCHEDULE 'A'
TO BY-LAW NUMBER _____
PASSED THIS ____ DAY OF _____ 2007

