From: Annik Forristal
To: Clerks@vaughan.ca
Cc: Brandon Correia; Mathew Halo; Ryan Guetter; Sandra Patano; Dan Mammone; Mary Flynn-Guglietti; Kailey Sutton; Jocelyn Lee
Subject: [External] [Newsletter/Marketing] Letter of Concern to City Council - Comprehensive Zoning By-law - Danlauton
Date: June-07-21 6:30:44 PM
Attachments: Letter of Concern to City Council - CZBL - June 7, 2021 - Danlauton.pdf

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Good evening,

Attached please find correspondence to City Council and the Committee of the Whole regarding the City's Comprehensive Zoning By-law.

Thank you,

mcmillan

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Reply to the Attention of: Annik Forristal
Direct Line: 416.865.7292
Email Address: annik.forristal@mcmillan.ca
Our File No.: 81376
Date: June 7, 2021

BY EMAIL (clerks@vaughan.ca)

City Council and Committee of the Whole
City Hall Level 200
2141 Major Mackenzie Drive
Vaughan, ON L6A 1T1

Attention: Mayor Bevilacqua and Members of Council

Dear Mayor Bevilacqua and Members of Council,

Re: City-Wide Comprehensive Zoning By-law ("CZBL")
10335 Highway 50 City of Vaughan

We have reviewed the City's comments set out in rows C82 of the Response Matrix released by the City in June 2021, which comments respond to the concerns regarding the City's proposed CZBL raised in the letter to the Committee of the Whole sent by Weston Consulting on behalf of Danlauton Holdings Ltd. on October 27, 2020 (attached for ease of reference).

While we appreciate the City's intent to have applications that remain before the Ontario Land Tribunal (formerly the Local Planning Appeal Tribunal, formerly the Ontario Municipal Board) (the "**Tribunal**") resolved in accordance with the on-going Planning Act process and the CZBL amended at the time of such resolution, the 5 year limit to the City's proposed transition period may not be sufficient to allow such implementation of the Tribunal's decision.

We thus re-iterate the concerns set out in Weston's October 27th letter and request that the final form of CZBL fully implement the permissions approved in principle by the Tribunal in 2009. Alternatively, at a minimum, the transition provisions should be revised to allow planning approvals finalized more than 5 years after the CZBL is passed to be incorporated into the CZBL.

Yours truly,

Annik Forristal

Encl.
cc: Ryan Guetter, Mathew Halo and Sandra Patano, Weston Consulting
Dan Mammone
Mary Flynn-Guglietti

WESTON CONSULTING

planning + urban design

Office of the City Clerk
City of Vaughan
2141 Major Mackenzie Dr.
Vaughan, ON L6A 1T1

October 27, 2020
File 4346-1

Attn: City Clerk

RE: City-Wide Comprehensive Zoning By-law ("CZBL") Review
Committee of the Whole (Public Meeting)
10335 Highway 50, City of Vaughan

Weston Consulting is the planning consultant for Danlaughton Holdings, the registered owner of the lands at 10335 Highway 50 in the City of Vaughan (herein referred to as the "**subject lands**"). The purpose of this letter is to provide comments on the third draft of the CZBL on behalf of the land owner.

The subject lands are currently zoned "*A – Agricultural Zone*" and "*OS1 – Open Space*" by in-force Vaughan Zoning By-law 1-88. However, the subject lands were the subject of an Ontario Municipal Board ("OMB") decision issued on June 17, 2009 (PL070448) wherein the OMB approved a site-specific Official Plan Amendment and a site-specific Zoning By-law Amendment, in principle. The Zoning By-law Amendment rezones the middle and rear portions of the lands to "*EM2(H) – General Employment Zone*" and "*OS1 – Open Space Conservation Zone*" to allow development of a waste transfer and recycling facility and the ancillary operation of wood grinding. A copy of this decision is attached for ease of reference.

Based on our review of the third draft of the CZBL, the subject lands are proposed to be zoned "*FD – Future Development Zone*", "*EP – Environmental Protection Zone*" and, "*A – Agricultural Zone*", which are not consistent with the draft Zoning By-law Amendment that has approval in principle by the OMB. We thus request that the draft CZBL be modified to reflect and be consistent with the zoning approved by the OMB for the subject lands.

Although we recognize that the third draft of the CZBL contains transition provisions in Section 1.6.3 for in-process planning applications such as the Owner's current site plan application, these transition provisions are insufficient to properly reflect the existing approvals for the subject lands. Further, we understand that, in accordance with Provision 1.6.4.2 of the draft CZBL, the transition provisions in Section 1.6 of the CZBL will be repealed five years from the effective date of the CZBL without further amendment to the CZBL. We respectfully submit that the entirety of the zoning permissions approved in the OMB Decision issued on June 17, 2009 for the subject lands be included in the final CZBL to be approved by City Council.

In summary, we recommend that the inclusion of zoning permissions approved in principle by the OMB in 2009 be fully implemented into the final CZBL and any further amendments to such By-law. We reserve the right to provide further comments as part of the ongoing CZBL Review process as it relates to this matter, and request that this correspondence be added to the public record for the Statutory Public Meeting to be held on October 29, 2020.

We intend to continue to monitor the CZBL Review process on behalf of our client on an ongoing basis. We request to be notified of any future reports and/or meetings regarding the CZBL and request to be notified of any decisions regarding this matter.

Thank you for the opportunity to provide these comments. Please contact the undersigned at extension 241 or Sandra Patano at extension 245 should you have any questions regarding this submission.

Yours truly,
Weston Consulting
Per:

Ryan Guetter, BES, MCIP, RPP
Senior Vice President

c. Nick Spensieri, Deputy City Manager, Infrastructure Development
Brandon Correia, Manager of Special Projects
Danlaughton Holdings, Client
Mary Flynn-Guglietti, McMillan LLP
Annik Forristal, McMillan LLP

Encl. Decision

ISSUE DATE:

Jun. 17, 2009

PL070448

Ontario Municipal Board
Commission des affaires municipales de l'Ontario

Danlauton Holdings Ltd. 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 Vaughan to re-designate the tableland portion of the subject lands, located on the east side of Highway No. 50, north of Major Mackenzie Drive, on Part of Lot 23, Concession 10, municipally known as 10335 Highway No. 50, from "Agriculture Area" to "Industrial" to permit an automobile gas bar/service station, an automobile repair shop and an eating establishment with drive-through on the westerly 120 metre portion of the tablelands (2.16 hectares) and to permit a recycling operation, including concrete crushing and wood grinding, and ancillary recycling operation uses on the balance of the tablelands (12.48 hectares).
City of Vaughan File No. OP.99.014
OMB File No. O070075

Danlauton Holdings Ltd. 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 1-88, as amended, to rezone the westerly 120 metre tableland portion of the subject lands (2.16 hectares), located on the east side of Highway No. 50, north of Major Mackenzie Drive, on Part of Lot 23, Concession 10, municipally known as 10335 Highway No. 50, from "A" Agricultural Zone" to C6-Highway Commercial Zone" to permit an automobile gas bar/service station, an automobile repair shop and an eating establishment with drive-through and to also rezone the balance of the tablelands (12.48 hectares) from A" Agricultural Zone" to "EM2-General Employment Area Zone" to permit a recycling operation, including concrete crushing and wood grinding, and ancillary recycling operation uses.
City of Vaughan File No. Z.99.034
OMB File No. Z070050

APPEARANCES:

Parties	**Counsel**
City of Vaughan	Rick Coburn
Major Fifty Investments Inc.	Patricia Foran Patrick Harrington
Danlauton Holdings Ltd.	Mary Flynn-Guglietti Andrew Warman
Regional Municipality of Peel City of Brampton	Stephen Garrod
Toronto Region Conservation Authority	Jonathan Wigley

DECISION DELIVERED BY J. de P. SEABORN

The matters before the Board are appeals by Danlauton Holdings Ltd. (the Applicant) from a refusal by Council for the City of Vaughan (City) to enact an Official Plan Amendment (OPA) and Zoning By-law Amendment (By-law) to permit a waste transfer and recycling facility on a parcel of land situated on the east side of Highway 50, north of Major Mackenzie Drive in the Regional Municipality of York Region (York Region). A site plan application is also before the Board. However, the Parties requested that if the OPA and By-law are approved, the Board withhold both its decision and order with respect to the settlement of the details of the site plan, including any conditions, to be addressed in a subsequent hearing in the event an agreement is not reached.

The Application and Position of the Parties

The position of the City and the Applicant's neighbour to the north, Major Fifty Investments Inc. (Major Fifty), is that the planning instruments are premature and the appeals should therefore be dismissed. While the City is not opposed to a waste transfer and recycling facility *per se*, approval for any site-specific use should not be given by the Board in advance of comprehensive planning for the entire area. With respect to Major Fifty, it may wish to build offices on its land and is therefore concerned that its plans may be jeopardized if the proposed facility is located next door. Like the City, Major Fifty argued that a site-specific approval is premature in the absence of both secondary and block planning for the area.

At the commencement of the hearing, the Board was advised that the issues raised by the Regional Municipality of Peel (Peel Region), City of Brampton (Brampton) and the Toronto Region Conservation Authority (TRCA) were resolved with the Applicant. Minutes of Settlement were filed in support of agreements reached and accordingly, these three Parties did not participate in the hearing. Mr. Garrod, Mr. Wigley and Ms. Flynn-Guglietti were in agreement that if the appeals were successful, approval of the planning instruments would be subject to the agreements reached between these Parties and the Applicant, as reflected in the Minutes of Settlement.

As a result of the agreement reached with Peel Region, Brampton and the TRCA, the application before the Board was amended and revisions were made to the proposed Official Plan Amendment and Zoning By-law. The site plan was also amended to incorporate certain modifications, some of which were made during the course of the hearing. The scope of the facility proposed by the Applicant includes a waste transfer/recycling building, accessory office building, garage and semi-enclosed area for storing recyclables and wood grinding. The original site plan included a concrete crushing operation as one of the on-site activities, which was withdrawn during the course of the hearing. The east end of the property was originally slated to be paved as an outdoor storage area for vehicles and equipment. Instead it will be dedicated to the TRCA. The main materials handled at the site will be construction materials, including drywall, roofing, wood, cardboard and metal. The site is not intended to handle any household waste or organics, hazardous or contaminated waste, liquids, glass or plastics. The tipping and sorting of waste will occur in the main building, with the recyclables stored in the outside bins, to be trucked off-site. The Applicant will require a Certificate of Approval pursuant to section 27 of the *Environmental Protection Act* (EPA), which will regulate maximum daily volumes at the facility as well as any conditions of approval that the Ministry of Environment may require in connection with the proposed operation. Certificates of Approval under the EPA obviously require an operator to manage the facility in a manner, which does not result in a nuisance or a hazard to health and safety.

Until an internal road network is built, access is proposed from Highway 50 along an existing driveway to the middle of the property where the recycling operation is proposed to be situated. The signals to accommodate access from Highway 50 would likely be removed when the public road network for the entire block is constructed. Similarly, the facility will operate on private services, including a storm water management pond, until municipal services are provided. The Mammone family (who are the principles of the Applicant company) reside in the dwelling at the front of the property, which will be unaffected by the proposal. The original plan called for a gas station and drive-thru restaurant at Highway 50 however the Applicant abandoned that aspect of the proposal. The rear portion of the property (to the east) is traversed by Rainbow Creek and that portion of the property will be conveyed to the TRCA in accordance with the terms of its agreement, if the Applicant is successful.

Despite the settlement with Peel and Brampton in respect of access and with the TRCA with respect to protecting that portion of the site that is environmentally sensitive, the City and Major Fifty remained opposed to the application.

Hearing Process

In support of the appeals the Applicant called several witnesses, including: Alan Young (land use planning); Catherine Dowling (waste management approval process/environmental economics); William Coffey (water resource management); Gordon Wichert (aquatic ecosystem dynamics, assessment, rehabilitation and watershed planning); Dan Cherepacha (transportation planning and parking); John Trought (air quality); and John Emeljanow (noise assessment). In opposition to the approvals sought, Major Fifty called four expert witnesses: Kim Nystrom (transportation): Boris Weisman (air quality); Brian Howe (noise/acoustics); and Murray Evans (land use planning). Witnesses who testified on behalf of the City were: Selma Hubjer (transportation planning and traffic); Tony Iacobelli (terrestrial ecologist/environmental planning); Wayne McEachern (land use planning); and Camela Marrelli (land use planning). In addition John Kersey, the neighbour to the south of the Applicant's property, and Paul Mantella, President of the Nashville Area Ratepayers Association, each gave brief testimony as Participants to the hearing. The Kerseys were present throughout the hearing and are opposed to the project, even as amended.

Background

Mr. Young provided background evidence. Briefly, the Applicant's 14.6-hectare property is situated on the east side of Highway 50, north of Major Mackenzie Drive. Highway 50 is a regional road and represents the boundary between Vaughan and Brampton. The Mammone family controls the Applicant, Danlauton Holdings Ltd. The Mammone's operate Mammone Disposal Services Ltd. (Mammone Disposal), which is a waste transfer and recycling facility located at 8940 Jane Street, also in the City of Vaughan. Mammone Disposal was successful in obtaining a zoning amendment in 1997 to permit its operation.

Shortly after Mammone Disposal received its approvals in the late 1990's, Cambridge Mills (also referred to as Vaughan Mills) applied to designate and rezone its lands, which abut Mammone Disposal, for the purpose of commercial uses including an indoor shopping mall, all of which have since been constructed. When Cambridge Mills

made its applications, Mammone Disposal objected on the basis of land use compatibility. A settlement was reached in 1999, which had the effect of giving Mammone Disposal 10 (ten) years to re-locate its waste transfer and recycling facility. Consequently, in May 1999 an application was filed to designate the family property at Highway 50 for employment uses, in order to facilitate a relocation of Mammone Disposal in accordance with the settlement reached. These applications were held in abeyance for several years pending the completion of a policy study for the entire area.

In 2007, the Board conducted a mediation between Mammone Disposal and the City. Minutes of Settlement were executed and the City agreed to: first, support Mammone's request that the Highway 50 property be removed from the Highway 427 Transportation Corridor Study Area; and second, process the Applications without requiring the completion of a Secondary Plan for the area. Mammone Disposal agreed that its operation at Jane Street would cease within one year of receiving approval to operate a waste transfer and recycling facility at Highway 50 or if the applications were not approved, the facility would have to close by July 2012. In short then, under the current agreement with the City, Mammone Disposal must close its operations at the Jane Street site by 2012. The purpose of the application before the Board is to ensure that Mammone Disposal can continue its operations without interruption, by permitting a similar waste transfer and recycling facility at the Highway 50 site.

Issues

The main planning issue before the Board is whether the Applicant's project can proceed in the absence of an approved secondary plan and associated block plan. What flows from this fundamental issue is whether the proposed waste transfer and recycling facility would be compatible with adjacent future development and consistent with the City's policies for employment uses and waste recycling establishments.

The City's planners testified that any approval would be premature and unduly restrict planning options for the area. While the Minutes of Settlement surrounding the Jane Street facility state that the City would "process" the application for a facility at Highway 50 without a secondary plan, the position taken at the hearing was that "process" was never intended to mean that the City would support or approve such an application. Major Fifty argued that the Applicant is essentially seeking a pre-approval, which has the potential to impair and impede the interest of other landowners in the

area. In short, the argument advanced was that any secondary plan and associated block plan prepared for the area would have to account for the Applicant's facility. The existence of the facility would limit future options for adjoining compatible land uses, road networks and environmental protection areas within the block. For these reasons, the City and Major Fifty oppose the approvals sought.

The position of the Applicant was that the approval it seeks would not preclude reasonable options for either the secondary planning area or block plan. The Applicant argued that the level of detail it has provided supports the approvals. The Applicant argued that the conceptual Block Plans it has prepared reinforce that there are limited options for both the future road network and environmental protection areas. Moreover, situating a waste transfer and recycling facility mid-block is consistent with applicable policies for employment lands, the ultimate designation. The Applicant further argued that site-specific exceptions have been made in the past and in light of the level of detail filed to support the Applicant's proposal (expert reports included an ecological review, noise analysis, environmental testing, transportation study, air quality assessment, functional servicing reports and a draft application for a Certificate of Approval under the EPA), this is a case where approval can properly precede the secondary and associated block plan processes.

Necessary Approvals

The Applicant seeks a site-specific Official Plan Amendment (OPA) to the City's OPA 600 because the entire property is designated "Agricultural Area" and "Valley and Stream Corridor". The proposed re-designation (which would apply to the middle portion of the property) is to "General Employment", with a site-specific provision permitting a waste transfer and recycling facility and the ancillary operation of wood grinding. The proposal for a concrete crusher was withdrawn at the hearing. Consistent with the agreement reached with the TRCA, the easterly portion of the property will not be developed and following restoration, that part of the site (described in the Minutes of Settlement, Exhibit 2) will be conveyed to the TRCA. With respect to the westerly portion of the site, which fronts onto Highway 50, it is no longer included in the application for a re-designation. As indicated in the Minutes of Settlement entered into with Peel Region and Brampton (Exhibit 1), plans to establish a gas bar/service station, automobile repair shop and drive-thru restaurant no longer form part of the application before the Board.

With respect to the re-zoning application, the middle and rear portions of the site need to be re-zoned from the agricultural and open space conservation zones. Counsel agreed at the outset that if the Board approved the application, a decision on the Site Plan referral should not be made to allow time for the Parties to attempt to reach an agreement on the details. This approach is also reflected in the Minutes of Settlement between the Applicant, Peel Region, Brampton and the TRCA. In addition and unrelated to the Minutes of Settlement, the Applicant must obtain certificates of approval from the Ministry of Environment (MOE) in order to operate the waste transfer and recycling facility. These applications would however follow land use planning approvals.

Consideration of Policies and Findings

The application before the Board was initially filed in May 1999 and therefore the 1997 Provincial Policy Statement (PPS) is applicable. Mr. Young's opinion was that the project has regard to not only the provisions of the 1997 PPS, but is also consistent with the policies contained in the 2005 PPS. In summary, Mr. Young concluded that the application has regard to matters of Provincial interest, a factor to be weighed by the Board pursuant to section 2 of the *Planning Act*. Waste transfer and recycling facilities are supported by policies contained in the PPS and the Board adopts and relies upon the evidence of Mr. Young in this regard.

All planners agreed that the Region of York Official Plan (ROPA 19) includes the Applicant's property within the Urban Area. When the Region adopted ROPA 19 it re-designated approximately 1700 hectares of land in the area north of Langstaff Road, between Highways 27 and 50, to permit the creation of employment lands. One of the major policy objectives of ROPA 19 was to ensure that lands would be reserved for the extension of Highway 427. As indicated by Mr. Young, when the alternative corridor protection options were made available in June 2007, it became clear that the Applicant's property is not required for the extension. The Ministry of Transportation (MTO) further confirmed this fact in May 2008 with the release of the Technically Preferred Route. On this issue the Board finds that corridor protection for the Highway 427 extension is resolved as it relates to the Applicant's lands. Simply put, the Applicant's lands no longer need to be reserved to accommodate the extension, a fact acknowledged by City witnesses.

The planners testified that the City's Official Plan Amendment No. 600 (OPA 600) implements the policies of ROPA 19 through the Employment Area Designation policies. As set out in Section 3.6 of OPA 600, lands in the Highway 50 corridor (West Vaughan Enterprise Zone) are re-designated Employment Secondary Plan Study Area by OPA 600 in anticipation of their future incorporation within Official Plan Amendment No. 450 (OPA 450). Mr. Evans emphasized that OPA 600 further requires that the area remains subject to rural and agricultural area policies until a Secondary Plan (or Plans) is adopted by the City thereby incorporating the lands into OPA 450, giving them full urban status, and providing appropriate policies including a detailed land use schedule. The planners for the City and Mr. Evans were of the opinion that OPA 600 clearly contemplates the adoption of secondary plans and that the Applicant's lands should remain subject to rural and agricultural use area policies set out in OPA 600, until the applicable secondary plan is approved. Accordingly, the position of Major Fifty and the City was that the lands could not be incorporated into OPA 450 until a secondary plan is approved, and any site-specific approval would be premature.

The planning evidence was clear that the property is currently designated Agricultural Area and Valley and Stream Corridor. Pursuant to OPA 450, the site is within the Employment Secondary Plan Study Area and the clear intention is to re-designate these agricultural lands for employment uses in the future. OPA 450 provides land use direction for the City's employment areas. Mr. Young testified that the Applicant's proposal is entirely consistent with policies of OPA 450 as they relate to an Employment Area designation. Simply put, a waste transfer and recycling facility is permitted within an Employment Area designation and because the Applicant's proposal is consistent with the policies of OPA 450, a secondary plan is not a prerequisite to compliance with the City's Official Plan. Mr. Young described the policies of OPA 450, pointing out that Employment Area General uses are intended to be located in the interior of employment lands, beyond view from Provincial highways and arterial roads. Employment area lands can accommodate a wide range of uses, including outdoor storage, processing, warehousing, and storage operations and transportation and distribution facilities. In fact, because the policies indicate that a waste-recycling establishment can only be permitted in Employment Area General, an interior location such as the Applicant's conforms with these policies.

While the policy framework under consideration contemplates the preparation of a secondary plan prior to development, the issue to be resolved is whether the absence

of a secondary plan automatically precludes development. There are examples within the vicinity of the site where development has been permitted without the requisite secondary plan. In this regard, the Board accepts the evidence of Mr. Young that OPA 600 can be amended in advance of the preparation of a secondary plan. There is precedent for this approach. Mr. Young was correct in his assessment that there have been at least two instances where official plan amendments have been permitted because the new use is not permitted by the agricultural designation under OPA 600 (see *Guscon Transportation Limited* and *Amar Transport Inc.*). Mr. Young was fair in his evidence in agreeing that it is incumbent on the Applicant to demonstrate that the approval of any development proposal cannot unduly prejudice or predetermine the future planning for the area. This in short, is the crux of the difference between the Parties.

To respond to the issue of predetermining development, the Applicant created two conceptual Block Plans, the purpose of which was to demonstrate how the facility would not unduly prejudice or predetermine future planning for the area. Recent planning efforts related to Block 64 (two kilometres to the south) provided a template or guide for Mr. Young's work. Block 64 is similar in size and pursuant to OPA 631, designates the arterial frontage as prestige, designates the interior lands as General Employment Areas, and designates the watercourse corridor as Valley Lands. The Block 64 Block Plan corresponds to a secondary plan, adding additional detail such as secondary road locations. Using Block 64 as a guide, the Applicant's conceptual Block Plans considered land use, environmental protection, transportation improvements, a potential internal road network, location of storm water management ponds, development parcels (which are constrained in any event due to significant natural heritage corridors), and future plans for the site, once full services are introduced. The collective opinion of Mr. Young and the team of experts who assisted him was that any future plan (whether a secondary plan or associated block plan) would necessarily be almost identical to the conceptual Block Plans presented in evidence. It is therefore simply not necessary for the Applicant to have to wait for the formal process in order to proceed with its development. Nothing would be gained by waiting in light of first, the level of detail that accompanies the application; second, the request that the decision on the Site Plan be withheld pending further refinement; and third, the conditions which the Applicant is prepared to accept requiring it to participate in any formal secondary and/or Block Plan planning process.

Major Fifty argued that it was not relying on the requirement for a secondary plan and associated Block Plan to prevent a recycling facility on the Applicant's lands, nor was it seeking process for the sake of process. Mr. Evans testified that landowners are entitled to rely on official plan policies that envision an opportunity for stakeholders to participate in a comprehensive planning process, the purpose of which is to establish goals, objectives, layouts, site designs and land uses for a particular area. Mr. Evan's opinion was that it is important that a "blank slate" be preserved so that an optimal plan is tailored to meet the objectives of all landowners in the area. The Board has carefully considered Mr. Evan's opinion and the opinions of the Municipal planners in this regard. On the facts of this case, the Board is persuaded by both the evidence of Mr. Young, the unique position of the Applicant, as well as the evidence provided by expert witnesses who addressed aspects of the proposal within their respective areas of expertise.

First, as described in the evidence of Mr. Young (and supported by the detailed work undertaken by the individual expert consultants), there are only so many options for the area. There is no question that the property will eventually be part of an employment area and the interior of the site is suited to general employment. Second, the evidence and level of detail provided by the Applicant in the conceptual Block Plans meets the policy requirements of OPA 450. In this regard the Board prefers the evidence of the Applicant's expert team as opposed to that offered by Major Fifty and the City. The Applicant retained experts and provided evidence and reports which undertook, respectively, an environmental analysis, surface water management analysis, transportation analysis and planning analysis. Relying on the approved Block Plan for Block 64 (2 km to the south of Block 66W), Mr. Young developed conceptual Block Plans, which are consistent with the land use-planning framework established in OPA 450. Prestige Areas are laid out on the arterial road frontages. The interior of the Block is designated as General Employment Areas (which permits warehousing, recycling and other such hard uses). In Block 64 the watercourse corridor is protected as Valley Lands, as proposed by the Applicant (and supported by the agreement with the TRCA) for Block 66W. A north/south mid-block collector road and necessary east/west collector roads are identified. Given the location of Rainbow Creek and the topography of the site, there are limited options for the road network and reasonable alternatives have been identified in the conceptual Block Plans. In short, the conceptual Block Plans mirror the Block Plan for Block 64. The conceptual Block Plans were

prepared based on the detailed work of Dr. Wichert, who takes into account the entire TRCA Regulated area, two York Region Greenlands located outside the regulated area, and associated buffers. It is because of the level of detail provided by the experts retained by the Applicant that the Board accepts and relies upon the opinion of Mr. Young that the Applicant's proposal does not unduly prejudice planning for this block. The detailed study and analysis that went into the conceptual Block Plans convinces the Board that reasonable options are not precluded for the area and therefore approval of the planning instruments is not premature in the absence of a secondary plan. In short, nothing would be gained by way of a further planning exercise and nothing would be prejudiced by way of the site-specific Official Plan amendment. Site-specific approvals have been adopted in the past and this application is an appropriate exception to the usual process. The Board also relies on the agreements the Applicant has been able to reach with Peel Region and Brampton in respect of access and the TRCA in respect of protecting the watercourses on site. The Applicant has recommended conditions that require it to first participate in any secondary planning process and second, make the necessary financial contributions. The Board adopts these conditions.

With respect to the use itself, there was no dispute that a waste recycling facility requires the appropriate approvals from the MOE. Clearly the Applicant cannot operate without the necessary certificates of approval issued pursuant to the provisions of the *Environmental Protection Act*. The Board accepts the submissions of Major Fifty that the Certificate of Approval process is not intended to replace the Board's responsibility to consider environmental matters. In this case, the Board is persuaded from a planning perspective that environmental issues have been adequately addressed. The Applicant has considered potential environmental impacts associated with a waste recycling and transfer facility and there is simply no convincing evidence of impact. The fact that the facility cannot operate without the appropriate Certificate(s) of Approval issued by the MOE is further protection for the environment and surrounding landowners. The site plan process is available to ensure that specific impacts, if any, are minimized or eliminated. The Kerseys, who reside to the south, are understandably concerned about site impacts such as noise, odour, and traffic. While the Board appreciates their concerns, the Municipalities have already determined that the area will re-designated for employment purposes, subject to appropriate protection for valley and stream corridors. As indicated previously, all surrounding properties will eventually be re-designated. The decision has already been made that the area will no longer remain

agricultural and a recycling/waste transfer use is permitted in General Employment areas. The evidence in respect of site-specific impacts, given the nature of the operation (non-organic waste) and the proposal for the site configuration (in particular covering outside storage), convinces the Board that there will be little, if any, impact on the abutting neighbours. The amendment of the application to remove the concrete crushing operation will mean that both potential dust and noise impacts are significantly reduced.

Relying on the evidence of Mr. McEachern, Major Fifty and the City argued that a secondary plan could be prepared and in place within the next two years. Accordingly, the position advanced was that there is no prejudice to the Applicant waiting for that process to unfold. While the Board does not doubt Mr. McEachern's opinion on this matter, unforeseen events could clearly delay the entire process. Given the settlement with the City in 1999 which requires the Applicant to move from its Jane Street location and the settlements in these appeals reached with Peel Region, Brampton and the TRCA, the Board is not prepared to delay an approval to await the outcome of the secondary plan process in circumstances where the timing cannot be guaranteed.

Similarly, the City argued that any approval should be for a temporary use until the use is determined through the secondary and block planning process. The Board rejects this proposed condition. For this type of facility, providing a temporary use would not give the Applicant the certainty that it requires to facilitate the move from Jane Street. The Board is persuaded on the evidence that a waste recycling and transfer facility is an appropriate use for an interior site, on employment lands.

Finally, the Board is convinced that the waste recycling and transfer facility can operate in a way that neither results in a nuisance or a hazard. First, improvements, if necessary, can be made to the site plan to ensure there is no impact. The site plan application remains before the Board for settlement at a future hearing. Second, the Applicant simply will not be given its certificate of Approval from MOE unless standards are met. Third, given the type of operation emissions, noise, odour and dust are all potential impacts that are addressed by both separation distance and an appropriate site plan configuration. The waste is non-hazardous and inert and the concrete crushing facility, which posed the greatest potential for impact, has been deleted from the application.

Decision

The appeals in respect of the OPA and By-law Amendment are allowed. The Decision of the Board is to:

1. To re-designate the middle portion of the lands from "Agricultural Area" to "General Employment", with a site-specific provision permitting only a waste transfer and recycling facility and the ancillary operation of wood grinding, in accordance with the draft OPA described in Exhibit 67.

2. To rezone the middle and rear portions of the site from A Agricultural Zone to EM2 (H) General Employment Area Zone (Holding) and OS1 Open Space Conservation Zone, in accordance with the draft Zoning By-law amendment described in Exhibit 68.

3. The Board will withhold its Order in respect of the OPA and Zoning amendment to permit the Applicant and the City to confer on the precise wording of these amendments.

4. As requested by the Parties, the Board withholds its decision and order with respect to the settlement of the details of the Site Plan, including any conditions. The Applicant has agreed, prior to Site Plan approval, to enter into an agreement with the City whereby the Applicant agrees to:

    a. Connect the waste transfer and recycling facility to the services for the Block Plan area when available.

    b. Participate in the Block Plan process, including the cost sharing agreement.

    c. Dedicate lands for the purpose of establishing a collector road or roads at a location or locations on the subject property to be determined through the secondary plan and block planning process for Block 66W and to the satisfaction of the Commissioner of Engineering and Public Works. These lands shall be conveyed to the City free of charge and at the expense of the owner of the subject lands, and to be accompanied by the filing of a Record of Site Condition at the owner's expense.

The Parties are to advise when they are ready to proceed before the Board to determine the Site Plan details. In any event, a status update should be provided within three (3) months of the date of this decision. I remain seized of these appeals.

"J. de P. Seaborn"

J. de P. SEABORN
VICE CHAIR