

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



**ISSUE DATE:** November 6, 2015

**CASE NO(S):** PL140892

**PROCEEDING COMMENCED UNDER** subsection 22(7) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended

Applicant and Appellant: Flamborough Power Centre Inc.  
Subject: Request to amend the Official Plan - Failure of the City of Hamilton to adopt the requested amendment

Existing Designation: Prestige Industrial – Commercial and General Industrial - Commercial

Proposed Designation: Site Specific to allow for the proposed expansion

Purpose: To permit the expansion of retail and service commercial space

Property Address/Description: Highway 6 and Highway 5/Dundas Street  
Municipality: City of Hamilton  
Approval Authority File No.: OPA-13-013  
OMB Case No.: PL140892  
OMB File No.: PL140893  
OMB Case Name: Flamborough Power Centre Inc. v. Hamilton (City)

**PROCEEDING COMMENCED UNDER** subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended

Applicant and Appellant: Flamborough Power Centre Inc.  
Subject: Application to amend Zoning By-law Nos. 03-0332, 05-021, 11-289 and 09-054 – Neglect of application by the City of Hamilton

Existing Zoning: M1-1, M1-11-1, M1-H-2, M1-11(H), M1-12-1, M1-12-2(H), M1-12-3(H), M1-13

Proposed Zoning: Site Specific to allow for the proposed expansion

Purpose: To permit the expansion of retail and service commercial space

Property Address/Description: Highway 6 and Highway 5/Dundas Street  
 Municipality: City of Hamilton  
 Municipal File No.: ZAC-13-045  
 OMB Case No.: PL140892  
 OMB File No.: PL140893

**Heard:** July 9, 2015 by telephone conference call

**APPEARANCES:**

**Parties**

**Counsel**

The Krpan Group  
 Flamborough Power Centre Inc.  
 Flamborough South Centre Inc.  
 Clappison Five Six Properties Inc.

S. Mahadevan

Riotrin Properties Inc. (Flamborough)  
 Inc.  
 RioCan Holdings Inc.

J. Schwartz (absent)  
 J. Farber

City of Hamilton

M. Minkowski

**DECISION OF THE BOARD DELIVERED BY J. V. ZUIDEMA**

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[1] The reader is directed to earlier decisions of this Board which set out the history and context of the matters currently before the Board.

[2] A Telephone Conference Call was held in order for the parties to present a settlement which they had achieved to the Board. I had before me the Affidavit of Mr. Fothergill which comprehensively set out the analysis and his opinions to recommend the settlement. Mr. Fothergill was also on the call in case the Board had any questions.

[3] I was satisfied with the materials before me which were marked as Exhibit 1 and included in the record.

[4] Based on the uncontested opinions of Mr. Fothergill, who the Board recognized

as an expert in land use planning, the Board determines that the appeals are allowed in part in order to give effect to the settlement achieved. I rely upon Mr. Fothergill's Affidavit to arrive at my decision.

[5] The parties had jointly asked that the Board not release its Order until the agreement had been fully executed and registered on title. The Board has not received this correspondence and as such, will withhold its Order until confirmation is received that that has been completed.

*"J. V. Zuidema"*

J. V. ZUIDEMA  
VICE CHAIR

If there is an attachment referred to in this document  
please visit [www.elto.gov.on.ca](http://www.elto.gov.on.ca) to view the attachment in PDF format.

**Ontario Municipal Board**

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