

Local Planning Appeal Tribunal
Tribunal d'appel de l'aménagement
local



ISSUE DATE: December 24, 2018

CASE NO(S):

PL170878

The Ontario Municipal Board (the “OMB”) is continued under the name Local Planning Appeal Tribunal (the “Tribunal”), and any reference to the Ontario Municipal Board or Board in any publication of the Tribunal is deemed to be a reference to the Tribunal.

PROCEEDING COMMENCED UNDER subsection 17(40) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellant: Burls Creek Event Grounds Inc. et al
Subject: Failure of Township of Oro-Medonte to announce a decision respecting Proposed Official Plan Amendment No. 2015-OPA-02
Municipality: Township of Oro-Medonte
OMB Case No.: PL170878
OMB File No.: PL170878
OMB Case Name: Burls Creek Event Grounds Inc. v. Oro-Medonte (Township)

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

Applicant and Appellant: Burls Creek Event Grounds Inc. et al
Subject: Application to amend Zoning By-law No. 97-95 - Refusal or neglect of Township of Oro-Medonte to make a decision
Existing Zoning: General Commercial (GC), Agricultural/Rural (A/RU), Agricultural/Rural Exception 32 (A/RU*32), Rural Residential 2 (RUR2), Private Recreation Exception 30 (PR*30), Private Recreation 31 (PR*31) and Environmental Protection (EP)
Proposed Zoning: Private Recreation Exception XX (PR*XX), Agricultural/Rural Exception YY (A/RU*YY), Agricultural/Rural Exception ZZ (A/RU*ZZ) and Environmental Protection (EP)
Purpose: To permit camping, parking, concession booths and minor soccer as an accessory use

Property Address/Description: Part of Lot 21 & 22, Concession 8 et al
 Municipality: Township of Oro-Medonte
 Municipality File No.: 2015-ZBA-15
 OMB Case No.: PL170878
 OMB File No.: PL170879

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

Applicant and Appellant: Burls Creek Event Grounds Inc. et al
 Subject: Request to amend the Official Plan - Failure of County of Simcoe to adopt the requested amendment

Existing Designation: Rural and Agricultural
 Proposed Designated: Rural and Agricultural – Subject to Exception 3.6.13 and Agricultural Special Exception Section 3.6.13

Purpose: To permit camping, parking, concession booths and minor soccer as an accessory use

Property Address/Description: Part of Lot 21 & 22, Concession 8 et al
 Municipality: Township of Oro-Medonte
 Approval Authority File No.: SC-OPA-1601
 OMB Case No.: PL170878
 OMB File No.: PL170887

Heard: July 30, 2018 by teleconference call

APPEARANCES:

Parties

Counsel

Burl's Creek Event Grounds Inc. et al	Nicholas Macos
Township of Oro-Medonte	Christopher Williams
County of Simcoe	Marshall Green, Mark Vernon
Lake Simcoe Region Conservation Authority	Sarah Hahn
Save Oro Inc.	David Donnelly, Sarah Gray

West Oro Ratepayers Association Inc. David Donnelly, Sarah Gray

Friends of Burl's Creek Inc. David Donnelly, Sarah Gray

DECISION DELIVERED BY ANNE MILCHBERG AND ORDER OF THE TRIBUNAL

[1] This was the third pre-hearing conference ("PHC") of the Local Planning Appeal Tribunal ("Tribunal") concerning appeals under s. 17(40), 22(7) and 34(11) of the *Planning Act* by Burl's Creek Event Grounds Inc. et al ("Appellant"), regarding the property located at Part of Lot 21 and 22, Concession 8 et al, Oro-Medonte.

[2] In March, 2018, at the second PHC, the Tribunal ordered a hearing for this matter for 10 days commencing April 1, 2019, and issued the Procedural Order ("PO"). The Tribunal also scheduled a third PHC so that the Parties could report on any progress in resolving identified issues.

[3] Mr. Macos advised the Tribunal that the Parties have made some progress in this regard, and requested another PHC to address any new procedural matters or issues that may arise in advance of the hearing. The Tribunal has taken note of two matters so far, (1) consolidation of PL091167 with PL170878 and (2) concerns about the possibility of duplicative evidence. The Tribunal finds that each should have its own, separate PHC to avoid undue complication. The first matter is to be heard by appearance and the second one is to be heard as a Telephone Conference Call ("TCC").

CONSOLIDATION REQUEST

[4] At the second PHC (March 29, 2018), Counsel for the Appellant requested the consolidation of PL170878 with a separate but related Official Plan appeal, Tribunal file number PL091167. The Appellant had appealed the County of Simcoe Official Plan on the basis that the County had failed to recognize the Burl's Creek lands as an existing Event Grounds and had designating the lands as Agricultural. The appeal filed as

PL091167 is in abeyance.

[5] The Tribunal found, at that time, that a request for consolidation of PL091167 should proceed by way of a motion with proper notice.

[6] The Tribunal now orders that proper notice be given and that the motion for consolidation be heard on **Friday, February 15, 2019 at 10:30 a.m.**

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DUPLICATIVE EVIDENCE

[7] Mr. Macos raised a concern that Save Oro Inc., West Oro Ratepayers Association Inc. and Friends of Burl's Creek Inc., could have duplicative witnesses, which in turn, could impact on the hearing length. He requested that the Tribunal order counsel for the aforementioned Parties to produce witness will-say statements as soon as possible, and asked the Tribunal schedule a hearing of a Motion or Motions by the Parties in advance of the hearing if there continues to be a concern or contention that there are duplicative witnesses.

[8] The Tribunal notes that the PO requires all expert witnesses from all Parties to provide Witness Statements (which are will-say statements) at least 42 days prior to the start of the hearing. That submission deadline date is Monday, February 18, 2019. The Tribunal finds that singling out certain parties to have to produce Witness Statements in advance of the other parties, as Mr. Macos has requested, would not be an even-handed or fair approach, and could well be prejudicial to the singled-out party.

[9] All the Parties will be privy to all the Witness Statements on or before February 18, 2019. If there are Motions arising from the Witness Statements, the Tribunal orders

these to be brought forward and heard at a PHC on **March 4, 2019 at 9 a.m.**, via TCC. Individuals are directed to call **416-212-8012** or Toll Free **1-866-633-0848** on the assigned date at the correct time. When prompted, enter the code **4779874#** to be connected to the call. If assistance is required at any time, press '0' for the operator. It is the responsibility of the persons participating in the call to ensure that they are properly connected to the call and at the correct time. Questions prior to the call may be directed to Ryan Co, the Board's Case Coordinator, at 416-326-8946.

[10] If the Parties instead agree that they have no need for a PHC by TCC on February 15, 2019, they are to advise the Case Co-ordinator by no later than February 8, 2019 to allow for cancellation of the PHC and a freeing up of the Tribunal's schedule.

"Anne Milchberg"

ANNE MILCHBERG
MEMBER

If there is an attachment referred to in this document,
please visit www.elto.gov.on.ca to view the attachment in PDF format.

Local Planning Appeal Tribunal

A constituent tribunal of Environment and Land Tribunals Ontario

Website: www.elto.gov.on.ca Telephone: 416-212-6349 Toll Free: 1-866-448-2248