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OMB approves OP, zoning for Orica explosives

By WES KELLER Freelance Reporter

In a 10-page decision released June 30 but not yet posted on its website, the Ontario Municipal Board has ruled that Orica Canada Inc. may continue its explosives storage operations at a longstanding site near Luther Marsh.

The OMB's approval of both an East Luther Grand Valley Official Plan amendment and permanent zoning are somewhat conditional. OMB Vice-Chairman Don Granger withheld his order for 30 days, pending resolutions of financial arrangements with the township.

The decision – after four months of mediation and nearly a week of the formal hearing – was no surprise. The Township had withdrawn its opposition, and antagonists Peter Turrell and David Reimer had downgraded their status to “participant” from “party” to the proceedings, meaning they had relinquished their right to call experts and to cross examine expert cross examine expert witnesses.

The Township had obtained peer reviews of all studies submitted by Orica. None of the studies had been called into question. As well, Orica had said it planned to proceed with several security and spill containment implementations but hadn't done so in the absence of satisfactory zoning.

The neighbourhood objections had been focused on, among other things, a threat to Luther Marsh and the Grand River in the event of a spill.

Mr. Granger found that the site is not considered “adjacent to provincially significant Luther” since it drains away from it. There is, however, a further environmental impact study into the entrance to the site.

The Board noted that expert evidence supporting Orica's application was uncontradicted. The evidence had been given by experts representing both the Township and Orica. It included emergency planning, separation of the site and transportation route from residences, as well as other factors.

At one point in the decision, Mr. Granger criticizes some would-be participants for attempting to introduce new arguments to the hearing without having followed the procedural rules by which those should have come forth as issues during pre-hearings. He said the rules had been clearly outlined at the outset.

On the other hand, he commended the Township for having taken “exactly the right approach to protect the public interest” in having opposed the application “vigorously” until all the issues were settled to the satisfaction of all the agencies and the experts on both sides.

The Township was represented throughout the process by Jeff Wilker and David Germain of Thomson Rogers; Orica by Jane Pepino and S.L. Loiacono.

There are a few items to be settled in the next 30 days. A berm is to be built for noise control at the site, and the hours of operation are to be constricted to avoid early morning and late night disturbance of residents.

As well, improvements have to be undertaken on the sideroad leading to County Road 109.

Mr. Granger will issue his order when he is satisfied that all such matters have been resolved.

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