

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



**ISSUE DATE:** June 27, 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

Property Address/Description: booths and minor soccer as an accessory use  
 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:** March 29, 2018 by telephone conference call

**APPEARANCES:**

**Parties**

**Counsel**

Burl's Creek Event Grounds Inc. Et Al Nicholas Macos

Township of Oro-Medonte Andrea Skinner

County of Simcoe Marshall Green

Lake Simcoe Region Conservation Authority Sarah Hahn

Save Oro David Donnelly  
 West Oro Ratepayers Association Alexandra Whyte

Friend of Burl's Creek Inc.

## **DECISION DELIVERED BY ANNE MILCHBERG AND ORDER OF THE TRIBUNAL**

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### **INTRODUCTION**

[1] This was the second Pre-hearing Conference ("PHC") on appeals under s. 17(40), 22(7) and 34(11) of the *Planning Act* by Burl's Creek Event Grounds Inc. Et Al ("Applicant" and "Appellant") respecting the property described as Part of Lot 21 and 22, Concession 8 et al ("the subject property"), in Oro-Medonte. The Township of Oro-Medonte ("Township") had failed to make decisions on an Official Plan Amendment ("OPA") and Zoning By-law Amendment ("ZBA") application within the statutory time limit.

[2] The purpose of the second PHC was to advance the Draft Procedural Order. As a result, a finalized Procedural Order is attached to this decision as Attachment 1. The Tribunal may vary or add to this Order at any time either on request or as it sees fit, either by oral ruling or by another written Order.

[3] All Parties and Participants shall apprise themselves of their respective requirements as set out in the Procedural Order.

[4] Counsel for the West Oro Ratepayers Association Inc. ("WORA") requested a status change for his client from Participant to Party, and confirmed that he had a joint retainer for both WORA and for Friends of Burl's Creek Inc., which was already a Party to the matter. On consent of the other Parties, the Tribunal granted Party status to WORA. The Procedural Order attached to this decision reflects WORA's attained Party status.

[5] The Board directs that a third PHC be scheduled for **Monday, July 30, 2018 at**

**9 a.m.**, via Telephone Conference Call (“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. Cellular telephones are not permitted to be used for the call. 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.

[6] The purpose of the third PHC will be to address any new procedural matters that may arise in advance of the hearing.

[7] The Board orders that this matter will be heard for a period of 10 days commencing on **Monday, April 1, 2019 at 10 a.m. at:**

**Township of Oro-Medonte  
Council Chambers/Robinson Room  
148 Line 7 South  
Oro-Medonte, ON L0L 2E0**

### **CONSOLIDATION REQUEST**

[8] Counsel for the Appellant requested the consolidation of PL170878 with a separate but related Official Plan appeal, Tribunal file number PL091167. Burl’s Creek Event Grounds Inc. 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, and not before this hearing event.

[9] The Tribunal was advised that County of Simcoe, Township and Lake Simcoe Region Conservation Authority have no objection to consolidation of these matters.

[10] The Tribunal appreciates that there may be a sound rationale for consolidation but makes no finding in this matter at this time. The Tribunal does find that a request for consolidation of PL091167 should proceed by way of a motion with proper notice.

[11] This Member is not seized of this matter, but may continue to case manage the file in advance of the hearing.

*“Anne Milchberg”*

ANNE MILCHBERG  
MEMBER

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.

**Local Planning Appeal Tribunal**

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*Local Planning Appeal Tribunal*

**Procedural Order**

**ISSUE DATE:**

**CASE NO.**

**PL170878**

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

Applicant and 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  
LPAT Case No.: PL170878  
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LPAT Case Name: Burls Creek Events 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

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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: Part of Lot 21 & 22, Concession 8 et al  
Municipality: Township of Oro-Medonte  
Municipality File No: 2015-ZBA-15  
LPAT Case No.: PL170878  
LPAT 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 Designation: 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: Part of Lot 21 & 22, Concession 8 et al  
Municipality: Township of Oro-Medonte  
Approval Authority File No: SC-OPA-1601  
LPAT Case No.: PL170878  
LPAT File No: PL170887

1. The Tribunal may vary or add to these rules at any time, either on request or as it sees fit. It may alter this Order by an oral ruling, or by another written Order.

### **Organization of the Hearing**

2. The hearing will begin on April 1, 2019 at 10:00 a.m. at the Administrative Offices of the Township of Oro-Medonte at 148 Line 7 South in the Township of Oro-Medonte. An evening session will be held during the hearing on a date to be determined from 7:00 p.m. to 9:00p.m.
3. A prehearing conference via Telephone Conference Call will be held on July 30, 2018 at 9:00 a.m. The Tribunal shall provide further direction as to the telephone number and participant code.
4. The length of the hearing will be about ten (10) days.
5. The parties and participants are listed in Attachment 1 to this Order.
6. The Issues are set out in the Issues List attached as Attachment 2. If any party disagrees with any such issue then the Tribunal may be spoken to. Except as provided herein there will be no additions to this list unless the Tribunal permits, and a party who asks for additions may have costs awarded against it. Notwithstanding, the Parties are encouraged to resolve and remove issues from the list. The order of evidence is found in Attachment 3.
7. Any person intending to participate in the hearing should provide a telephone number and email address to the Tribunal as soon as possible. Any such person who will be retaining a representative should advise the other parties and the Tribunal of the representative's name, address and phone number as soon as possible.

### **Requirements Before the Hearing**

8. A party who intends to call witnesses, whether by summons or not, shall provide to the Tribunal, the other parties and to the Clerk a list of the witnesses and the order in which they will be called. This list must be delivered on or before July 2, 2018.
9. Expert witnesses in the same field shall have a meeting before the hearing to try to resolve or reduce the issues for the hearing. The experts must prepare a list of agreed facts and the

remaining issues to be addressed at the hearing, and provide this list to all of the parties and the municipal Clerk at least 90 days prior to the hearing.

10. An expert witness shall prepare an expert witness statement, which shall list any reports prepared by the expert, or any other reports or documents to be relied on at the hearing. Copies of this must be provided as in section 12. Instead of a witness statement, the expert may file his or her entire report if it contains the required information. If this is not done, the Tribunal may refuse to hear the expert's testimony.
11. A participant must provide to the Tribunal and the parties a participant statement by at least 42 days prior to the hearing, or the witness or participant may not give oral evidence at the hearing.
12. Expert witnesses who are under summons but not paid to produce a report do not have to file an expert witness statement; but the party calling them must file a brief outline of the expert's evidence at least 42 days prior to the hearing, as in section 12.
13. At least 42 days prior to the hearing, the parties shall provide copies of their witness and expert witness statements to the other parties and to the Clerk of the Municipality.
14. At least 42 days prior to the hearing, the parties shall provide copies of their visual evidence to all of the other parties. If a model will be used, all parties must have a reasonable opportunity to view it before the hearing.
15. Parties may provide to all other parties and file with the Clerk a written response to any written evidence at least 14 days prior to the hearing.
16. A person wishing to change written evidence, including witness statements, or to file new or revised reports must make a written motion to the Tribunal. *(see Rules 34 to 38, inclusive, of the Tribunal's Rules, which require that the moving party provide copies of the motion to all other parties 10 days before the Tribunal hears the motion.)*
17. A party who provides a witness' written evidence to the other parties must have the witness attend the hearing to give oral evidence, unless the party notifies the Tribunal at least 7 days prior to the hearing, that the written evidence is not part of their record.
18. Documents may be delivered by personal delivery, facsimile or registered or certified mail, or otherwise as the Tribunal may direct. The delivery of documents by fax shall be governed by the Tribunal's Rules 26 – 31 on this subject. Material delivered by mail shall be deemed to have been received five business days after the date of registration or certification.
19. No adjournments or delays will be granted before or during the hearing except for serious hardship or illness. The Tribunal's Rules 61 to 65 apply to such requests.

**This Member is [not] seized.**

**So orders the Tribunal.**



## Attachment 1 – Parties and Participants

### Parties

1. Applicants/Appellants: Burl's Creek Event Grounds Inc.  
Contact: Nicholas T. Macos  
Black Sutherland LLP  
130 Adelaide St. W., Suite 3425  
P.O. Box 34  
Toronto, ON M5H 3P5  
[nmacos@blacksutherland.com](mailto:nmacos@blacksutherland.com)
  
2. Corporation of the Township of Oro-Medonte  
Contact: Christopher Williams  
Andrea Skinner  
Aird & Berlis LLP  
Brookfield Place  
181 Bay Street, Suite 1800  
Toronto, ON M5J 2T9  
[cwilliams@airdberlis.com](mailto:cwilliams@airdberlis.com)  
[askinner@airdberlis.com](mailto:askinner@airdberlis.com)
  
3. County of Simcoe  
Contact: Marshall Green  
Senior Legal Counsel  
1110 Highway 26  
Midhurst, ON L9X 1N6  
[marshall.green@simcoe.ca](mailto:marshall.green@simcoe.ca)
  
4. Lake Simcoe Region Conservation Authority  
Contact: Sarah Hahn  
Barriston LLP  
151 Ferris Lane, Suite 300  
Barrie ON L4M 6C1  
[shahn@barristonlaw.com](mailto:shahn@barristonlaw.com)
  
5. Save Oro Inc. and West Oro Ratepayers Association  
David Donnelly/Sara Gray  
Donnelly Law  
276 Carlaw Avenue, Suite 203  
Toronto, ON M4M 3L1  
[david@donnellylaw.ca](mailto:david@donnellylaw.ca);

Draft v11 June 1, 2018

**Participants**

Josephine Martensson-Hemsted

Friends of Burl's Creek c/o Marc Cohen

Ann Honeywood

Al Sinclair

West Oro Ratepayers Association c/o Frank Hutcheson

W. Roy Watson

Sharon Watson

Michael Rumble

Michelle Rumble

**Attachment 2 – Issues List**

**Local Planning Appeal Tribunal**

**Matter Case and File Number:**

**PL170878**

**Official Plan and Zoning By-Law Amendments (Burl's Creek Events) Township of Oro-Medonte, County of Simcoe**

\* Note: Without limiting the evidence a Party may be permitted to call, in brackets after each issue is the name of the Party or Parties who are anticipated to provide evidence in regards to the issue.

1. Do the proposed Amendments have appropriate regard for matters of provincial interest as set out in Section 2 of the *Planning Act*, and in particular,
  - a. Section 2 (b) the protection of the agricultural resources of the Province? (County-Township, Save Oro and WORA)
  - b. Section 2 (p) the appropriate location of growth and development? (County-Township and SaveOro)
2. Do the proposed Amendments have appropriate regard for the matters of provincial interest as set out in Section 2 of the *Planning Act*? (LSRCA Save Oro and WORA,)
3. Are the proposed Amendments consistent with the Provincial Policy Statement, 2014, and in particular, Agricultural Sections 2.3.1 and 2.3.6? (County-Township Save Oro and WORA,)
4. Is the proposed use consistent with the Provincial Policy Statement (PPS)? (LSRCA)
5. Do the proposed Amendments conform to the Growth Plan for the Greater Golden Horseshoe, 2017, and in particular, Agricultural System Sections 4.2.6.5 and 4.2.6.8? (County-Township, Save Oro and WORA)
6. Does the proposed use conform with the Growth Plan for the Greater Golden Horseshoe? (LSRCA)
7. Do the proposed Amendments conform to the Agricultural policies of Section 3.6 of the County of Simcoe Official Plan, and in particular, Sections 3.6.1, 3.6.3, 3.6.9 and 3.6.12? (County and SaveOro)
8. Do the proposed Amendments meet the overall intent and objectives of, and in the case of the Zoning By-law Amendment does it conform to, the Agricultural policies of Sections A2 and C1, in particular Sections A2.4, C1.1, C1.2, and C1.3.6 and the policies of Section C15 the Eighth Line Special Policy Area of the Township of Oro-Medonte Official Plan? If the Official Plan is amended, does the Zoning By-law Amendment conform to the Official Plan as amended? (Township, Save Oro and WORA)
9. Do the proposed planning instruments appropriately address matters related to noise and land use compatibility? (Township, Save Oro and WORA)

10. Does the proposed use conform with the Lake Simcoe Protection Plan (LSPP)? (LSRCA)
11. Does the proposed use and development fulfil the regulatory requirements of Regulation 179/06 under the *Conservation Authorities Act*? (LSRCA)
12. Do the proposed Amendments adequately address the loss of natural features on the property? (LSRCA)
13. Do the proposed Amendments represent good planning and are they in the public interest? (County-Township-LSRCA, Save Oro and WORA)

**Attachment 3 – Order of Evidence**

1. Factual Overview of Application (Applicants/Appellants)
2. Evidence of the Applicants/Appellants
3. Evidence of the Township, County and Lake Simcoe Region Conservation Authority in such order as they may determine
4. Save Oro Inc. and West Oro Ratepayers Association
5. Participants (timing to be determined – e.g. evening session)
6. Reply of the Applicants/Appellants, if necessary

### **Purpose of the Procedural Order and Meaning of Terms**

The Tribunal recommends that the parties **meet to discuss this sample Order before the prehearing conference** to try to identify the issues and the process that they want the Tribunal to order following the conference. The Tribunal will hear the parties' comments about the contents of the Order at the conference.

Prehearing conferences usually take place only where the hearing is expected to be long and complicated. If you are not represented by a lawyer, you should prepare by obtaining the Guide to the Local Planning Appeal Tribunal, and the Tribunal's Rules, from the Tribunal Information Office, 15th Floor, 655 Bay Street, Toronto, M5G 1E5, 416-326-6800, or from the Tribunal website at [www.LPAT.gov.on.ca](http://www.LPAT.gov.on.ca).

### **Meaning of terms used in the Procedural Order:**

**Party** is an individual or corporation permitted by the Tribunal to participate fully in the hearing by receiving copies of written evidence, presenting witnesses, cross-examining the witnesses of the other parties, and making submissions on all of the evidence. If an **unincorporated group** wishes to become a party, it must appoint one person to speak for it, and that person must accept the other responsibilities of a party as set out in the Order. Parties do not have to be represented by a lawyer, and may have an agent speak for them. The agent must have written authorisation from the party.

**NOTE** that a person who wishes to become a party before or at the hearing, and who did not request this at the prehearing conference, must ask the Tribunal to permit this.

**Participant** is an individual, group or corporation, whether represented by a lawyer or not, who may attend only part of the proceeding but who makes a statement to the Tribunal on all or some of the issues in the hearing. Such persons may also be identified at the start of the hearing. The Tribunal will set the time for hearing this statement. **NOTE** that such persons will likely not receive notice of a mediation or conference calls on procedural issues. They also cannot ask for costs, or review of a decision as parties can. If a participant does not attend the hearing and only files a written statement, the Tribunal will not give it the same attention or weight as submissions made orally. The reason is that parties cannot ask further questions of a person if they merely file material and do not attend.

**Written and Visual Evidence:** **Written evidence** includes all written material, reports, studies, documents, letters and witness statements which a party or participant intends to present as evidence at the hearing. These must have pages numbered consecutively throughout the entire document, even if there are tabs or dividers in the material. **Visual evidence** includes photographs, maps, videos, models, and overlays which a party or participant intends to present as evidence at the hearing.

**Witness Statements:** A **witness statement** is a short written outline of the person's background, experience and interest in the matter; a list of the issues which he or she will discuss and the witness' opinions on those issues; and a list of reports that the witness will rely on at the hearing. An **expert witness statement** should include his or her (1) name and address, (2) qualifications, (3) a list of the issues he or she will address, (4) the witness' opinions on those issues and the complete reasons for the opinions and (5) a list of reports that the witness will rely on at the hearing. A **participant statement** is a short written outline of the person's or group's background, experience and interest in the matter; a list of the issues which the participant will

*address and a short outline of the evidence on those issues; and a list of reports, if any, which the participant will refer to at the hearing.*

**Additional Information**

**Summons:** *A party must ask a Tribunal Member or the senior staff of the Tribunal to issue a summons. This request must be made before the time that the list of witnesses is provided to the Tribunal and the parties. (See Rules 45 and 46 on the summons procedure.) If the Tribunal requests it, an affidavit must be provided indicating how the witness' evidence is relevant to the hearing. If the Tribunal is not satisfied from the affidavit, it will require that a motion be heard to decide whether the witness should be summoned.*

**The order of examination of witnesses:** *is usually direct examination, cross-examination and re-examination in the following way:*

*direct examination by the party presenting the witness;*

*direct examination by any party of similar interest, in the manner determined by the Tribunal;*

*cross-examination by parties of opposite interest;*

*re-examination by the party presenting the witness; or*

*another order of examination mutually agreed among the parties or dir*