

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



ISSUE DATE: July 30, 2020

CASE NO(S): PL180331

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

Applicant and Appellant:	National Homes (Brant) Inc.
Subject:	Request to amend the Official Plan - Failure of the City of Burlington to adopt the requested amendment
Existing Designation:	"Urban Area" (RHOP) "Residential-Low Density" (CBOP)
Proposed Designated:	"Residential - Medium Density"
Purpose:	To permit the development of 233 townhouse consisting of 27 dual frontage townhouses, 123 standard townhouses and 83 street townhouses at a density of 43.4 units per net hectare.
Property Address/Description:	2100 Brant Street
Municipality:	City of Burlington
Approval Authority File No.:	505-03/17
OMB Case No.:	PL180331
OMB File No.:	PL180331
OMB Case Name:	National Homes (Brant) Inc. v. Burlington (City)

PROCEEDING COMMENCED UNDER subsection 51(34) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant and Appellant:	National Homes (Brant) Inc.
Subject:	Proposed Plan of Subdivision - Failure of the City of Burlington to make a decision
Purpose:	To permit the development of 233 townhouse consisting of 27 dual frontage townhouses, 123 standard townhouses and 83 street townhouses at a density of 43.4 units per net

Property Address/Description: hectare.
 2100 Brant Street
 Municipality: City of Burlington
 Municipality File No.: 510-02/17
 OMB Case No.: PL180331
 OMB File No.: PL180333

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

Applicant and Appellant: National Homes (Brant) Inc.
 Subject: Application to amend Zoning By-law No. 2020-
 Neglect of the City of Burlington to make a
 decision
 Existing Zoning: 'Residential 2.2" (R2.2), "Open Space"
 (O2),"Development" (D)
 Proposed Zoning: Residential Medium Density 2 (RM2), RM5
 and "Development" (D), and "Open Space"
 (O2)
 Purpose: To permit the development of 233 townhouse
 consisting of 27 dual frontage townhouses,
 123 standard townhouses and 83 street
 townhouses at a density of 43.4 units per net
 hectare.
 Property Address/Description: 2100 Brant Street
 Municipality: City of Burlington
 Municipality File No.: 520-10/17
 OMB Case No.: PL180331
 OMB File No.: PL180332

Heard: July 28, 2020 by video hearing

APPEARANCES:

Parties

National Homes (Brant) Inc.
 City of Burlington
 Regional Municipality of Halton

Counsel

Ira Kagan and Kristie M. Jennings
 Blake Hurley
 Meredith Baker

**MEMORANDUM OF ORAL DECISION DELIVERED BY HUGH S. WILKINS ON
JULY 28, 2020 AND ORDER OF THE TRIBUNAL**

[1] National Homes (Brant) Inc. (“Appellant”) seeks an amendment to the Official Plan of the City of Burlington (“City”), an amendment to Zoning By-law No. 2020, and the approval of a draft Plan of Subdivision to permit 210 townhouse and semi-detached dwelling units on a vacant parcel of land at 2100 Brant Street (“subject property”). It appealed the applications to the Tribunal after the failure of the City to make decisions within the required time periods under the *Planning Act*.

[2] The proposed Official Plan Amendment seeks to change the land designations on the subject property from Residential Low Density to Residential Medium Density, Major Parks and Open Space, and Greenlands. The proposed Zoning By-law Amendment seeks to rezone the subject property from Residential 2.2 (R2.2), Open Space (O2) and Development (D) to site-specific Residential 3-491, Open Space (O2), and Neighbourhood Park (P). The Residential 3-491 zoning would allow for townhouse and semi-detached dwellings and would set out restrictions on permitted uses, density and number of units, lot area and width, setbacks, building heights, landscaping, privacy area screening, patio, decks, balconies and porches, and encroachments.

[3] At a Case Management Conference held on June 4, 2020, the Appellant informed the Tribunal that it had reached a settlement agreement with the City and the Regional Municipality of Halton (“Region”). On July 7, 2020, the Vision 2100 Brant Neighbours Association, which was an Added Party, withdrew from the proceedings. On July 8, 2020, Jim Young withdrew as a Participant from the proceedings and on July 15, 2020, Tom Muir withdrew as a Participant from the proceedings. No opposing Parties or Participants remain.

[4] On July 28, 2020, the Tribunal convened a settlement hearing by video to hear evidence and submissions regarding the proposed settlement.

EVIDENCE

[5] At the settlement hearing, the Tribunal heard opinion evidence in the area of land use planning from David Capper on behalf of the Appellant and from Kyle Plas on behalf of the City. The Region did not provide evidence.

[6] Mr. Capper stated that the proposed Official Plan and Zoning By-law Amendments, the proposed draft Plan of Subdivision, and the proposed conditions of draft Plan approval are consistent with the Provincial Policy Statement, 2020 (“PPS”). He stated that the proposed development facilitates wisely managed growth through intensification within the City’s built-boundary and within a regional intensification corridor. He stated that the proposed instruments facilitate a development that is efficient and compact, provides a range of housing types, and preserves natural heritage system components.

[7] Mr. Capper stated that the proposed Official Plan and Zoning By-law Amendments, the proposed draft Plan of Subdivision, and the proposed conditions of draft Plan approval conform with the Growth Plan for the Greater Golden Horseshoe, 2019 (“Growth Plan”). He stated that the proposed instruments facilitate a development that supports the achievement of complete communities and supports healthy and active living with parkland facilities, access to active transportation infrastructure and public transit, and access to schools and commercial areas. He said the proposed instruments provide for a diversity of housing forms, appropriate densities, and a mix of land uses in an area with adequate water and wastewater services to support new growth.

[8] Mr. Capper stated that the proposed Official Plan and Zoning By-law Amendments, the proposed draft Plan of Subdivision and the conditions for draft Plan approval conform with the Region’s Official Plan. He stated that they satisfy the Region’s planning objectives by facilitating compact built form along an identified regional intensification corridor and in an area with existing available urban services. He said the proposed development provides for an increase in residential density that is

sensitive to existing surrounding development and preserves natural heritage system components.

[9] Mr. Capper stated that the proposed Official Plan and Zoning By-law Amendments, the proposed draft Plan of Subdivision, and the proposed conditions of draft Plan approval conform with the City's Official Plan. He stated that the proposed instruments provide for the intensification of an under-utilized parcel of land in a manner that is compatible with existing surrounding developments and preserves the key natural heritage system components of the subject property. He said it is close to schools, parklands and commercial uses and it transitions well with existing adjacent developments.

[10] Mr. Capper reviewed the criteria set out in s. 51(24) of the *Planning Act* and opined that the proposed draft Plan of Subdivision has regard to them. He stated that the proposed development is not premature, is in the public interest, and conforms with applicable Official Plans. He stated that the subject property is suitable for residential development, the proposed draft Plan of Subdivision will preserve natural heritage system components, and the lands will be subject to site plan approval. Mr. Capper also opined that the proposed conditions of draft Plan approval are reasonable.

[11] Mr. Capper also opined that the proposed Official Plan and Zoning By-law Amendments, the proposed draft Plan of Subdivision and the proposed conditions of draft Plan approval have regard for the matters of provincial interest set out in s. 2 of the *Planning Act*.

[12] Mr. Plas supported the evidence provided by Mr. Capper and opined that the proposed instruments are consistent with the PPS and conform with the Growth Plan, the Region's Official Plan and the City's Official Plan. He agreed that the proposed conditions of draft Plan approval are appropriate for implementing the proposed development.

ANALYSIS AND FINDINGS

[13] Based on the uncontested opinion evidence of Mr. Capper and Mr. Plas, and the submissions of the Parties, the Tribunal finds that the proposed Official Plan and Zoning By-law Amendments and the proposed draft Plan of Subdivision and conditions of draft Plan approval are consistent with the PPS, conform with the Growth Plan, conform with the applicable Official Plans, and have regard to the matters of provincial interest in s. 2 of the *Planning Act*. The Tribunal finds that the proposed instruments will facilitate development that is compact, efficient and compatible with surrounding development, will facilitate the use of active transportation and public transportation, will be close to amenities, will use existing available municipal services, and will preserve natural heritage system components. The Tribunal also finds that based on the evidence before it, the proposed draft Plan of Subdivision has regard to the criteria set out in s. 51(24) of the *Planning Act* and that the proposed conditions of draft Plan approval are reasonable.

ORDER

[14] The Tribunal orders that the appeal under s. 22(7) of the *Planning Act* is allowed in part and the proposed Official Plan Amendment is approved as set out in Attachment 1 to this Decision and Order.

[15] The Tribunal orders that the appeal under s. 34(11) of the *Planning Act* is allowed in part and Zoning By-law No. 2020 is amended as set out in Attachment 2 to this Decision and Order.

[16] The Tribunal orders that the appeal under s. 51(34) of the *Planning Act* is allowed in part and the proposed draft Plan of Subdivision is approved as set out in Attachment 3 to this Decision and Order subject to the conditions of draft Plan approval as set out in Attachment 4 to this Decision and Order.

[17] The Tribunal orders that the authority to give final approval for the proposed draft

Plan of Subdivision for the purposes of s. 51(58) of the *Planning Act* is given to the City pursuant to s. 51(56.1) of the *Planning Act*.

[18] In all other respects, the Tribunal orders that the appeal is dismissed.

“Hugh S. Wilkins”

HUGH S. WILKINS
MEMBER

If there is an attachment referred to in this document,
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Local Planning Appeal Tribunal

A constituent tribunal of Ontario Land Tribunals

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