

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



ISSUE DATE: October 02, 2019

CASE NO(S): PL180235

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

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|----------------|---|
| Appellant: | Queenston Road Holdings Inc. |
| Subject: | Proposed Official Plan Amendment No. OPA 92 |
| Municipality: | City of Hamilton |
| OMB Case No.: | PL180235 |
| OMB File No.: | PL180235 |
| OMB Case Name: | Queenston Road Holdings Inc. v. Hamilton (City) |

Heard: August 29, 2019 by telephone conference call

APPEARANCES:

Parties

Counsel*/Representative

Queenston Road Holdings Inc.

P. Foran

City of Hamilton

J. Wice

**MEMORANDUM OF ORAL DECISION DELIVERED BY R.G.M. MAKUCH ON
AUGUST 29, 2019 AND ORDER OF THE TRIBUNAL**

[1] City of Hamilton (“City”) Council enacted By-law No. 18-029 adopting and approving Official Plan Amendment No. 92 (“OPA 92”) to the Urban Hamilton Official Plan (“UHOP”). The purpose of the amendment was to incorporate the Centennial

Neighbourhoods Secondary Plan (“CNSP”) into the UHOP, identifying land uses, densities, development forms, development standards and site-specific policies.

[2] This enactment was appealed by First Capital Holdings (Ontario) (“First Capital”) as well as Queenston Road Holdings Inc. (“Queenston”). First Capital has since withdrawn its appeal. The only parties remaining are Queenston and the City.

[3] Queenston’s appeal is on the grounds that OPA 92 proposes to include 860 Queenston Road as part of the sub-Regional Service Node and continues to designate it as Mixed Use Medium Density under UHOP and relies on a previous Ontario Municipal Board (OMB) decision (PL170282), where a settlement was reached and the OMB approved OPA 97 and related site specific by-law respecting Queenston’s lands. OPA 97 already provides for part of the subject lands being re-designated from Mixed Use Medium Density under UHOP to a Neighbourhoods (high Density) designation permitting the development of a 14-storey, 219 unit residential building on the subject site.

[4] The Tribunal was advised that the City and Queenston have settled their differences and are asking the Tribunal to allow the appeal and modify OPA 92 in accordance with Attachment 1 hereto.

[5] The only evidence before the Tribunal on this appeal is the affidavit of Melanie Pham, sworn August 27, 2019. Ms. Pham is the Senior Planner, Community Planning and Geographic Information Systems (GIS) with the City of Hamilton. She is the lead Planner involved in the preparation of Urban Hamilton Official Plan Amendment (“UHOPA”) No. 92, which is the subject of this appeal herein. Her duties with respect to OPA 92 included marshalling UHOPA No. 92 through the statutory public process, up to and including its adoption by Council for the City.

[6] Ms. Pham’s affidavit sets out the process carried out by the City leading up to the adoption of OPA 92 and its enactment, it also describes how OPA No. 92 has the effect of creating new area specific land use designations and policies for the Centennial

Neighbourhoods, as well as removing some lands from an existing Secondary Plan, the Old Town Secondary Plan, and adding these to the CNSP. The Appellant's lands, located at 860 Queenston Road, are included in this area.

[7] At the time of the adoption of the CNSP, Tribunal Case No. PL170282 was in progress for the lands located at 860 Queenston Road. That appeal related to an application for an Official Plan amendment to the Old Town Secondary Plan, as well as a zoning by-law amendment application. The purpose of the applications was to permit a high density multiple dwelling building on a portion of the lands.

[8] The CNSP designated the Appellant's lands for Mixed Use—Medium Density land uses, but also created Site Specific Policy Area J on the Appellant's lands which recognized that an appeal was in progress. The site-specific policy area permitted future development in accordance with any decision of the Tribunal, and required the City to update the CNSP in the future to reflect the decision of the Tribunal.

[9] The appeal in Case No. PL170282 was considered by another panel of this Tribunal in March 2018, at a settlement reached with the City to allow the proposed multiple dwelling building, with modifications. The lands located at 860 Queenston Road were designated Mixed Use—Medium Density, High Density Residential 1 and Natural Open Space. The order issued by the Tribunal permitted a 14-storey multiple dwelling with a maximum of 219 dwelling units on the lands designated High Density Residential 1. A "Site Specific Policy Area E" was created in the Old Town Secondary Plan to affect the settlement.

[10] The proposed settlement herein reflects the decision issued by the Tribunal for PL170282 and relates only to the lands owned by the Appellant, located at 860 Queenston Road. In summary, the settlement proposed would:

- a) Modify Map B.6.7-1, to change the designation on a portion of the lands from Mixed Use—Medium Density to High Density Residential 1 and Natural Open Space;

- b) Modify Map B.6.7-2 to change the maximum permitted height within the High Density Residential 1 designation from 8 to 14 storeys, and to remove permitted heights from the lands designated Natural Open Space;
- c) Replace the wording of Site Specific Policy Area J within the CNSP with:
 - i. A policy that requires the lands designated as High Density Residential 1 to be developed in accordance with the Local Planning Appeal Tribunal Decision for PL170282, that being a 14-storey multiple dwelling with a maximum of 219 dwelling units;
 - ii. A policy which clarifies that the existing office building located within the Mixed Use—Medium Density designation is permitted, notwithstanding other policies in the CNSP which require a minimum building height of three storeys along Queenston Road; and,
- d) Remove “Site Specific Policy - Area E” from the Old Town Secondary Plan, since UHOPA No. 92 deletes these lands from the Old Town Secondary Plan.

[11] The Tribunal is satisfied based on the uncontroverted affidavit of Ms. Pham that the designations and the policies applicable to the subject lands should be revised to reflect the Tribunal’s decision for Case No. PL170282. The designations implement a specific development proposal which has been reviewed in detail, and the Tribunal previously found that the proposed development was consistent with the Provincial Policy Statement, 2014 ("PPS 2014"), conformed with the Growth Plan for the Greater Golden Horseshoe, 2017 and has recognized the development is appropriate and represents good planning.

[12] The proposed natural open space designation is based on the result of more refined studies that were completed for the lands. It recognizes and prohibits development within an area identified as a linkage in the City’s natural heritage system, and is contiguous with a larger open space system to the east and south, which

includes Battlefield Creek and Little League Park. This designation conforms to the UHOP's policies for the Open Space designation in Volume 1, Chapter C, Section 3.3 of the UHOP and is therefore appropriate.

[13] The Tribunal is satisfied that the proposed High Density Residential 1 designation and the policy recognizing a 219-unit multiple dwelling on the High Density Residential 1 lands is consistent with the overall vision and intent of the Secondary Plan. The lands are within an area identified as a Sub-Regional Service Node in the CNSP. As per Policy E.2.3.2.3 of the UHOP, a Sub-Regional Service Node is a major centre of retail activity for the City with a regional function. The UHOP vision for these nodes is these areas are to be planned for a mix of uses and significant densities which are supportive of higher order transit (UHOP Policies E.2.3.2.2 and E.2.3.2.6). Policy 6.7.5.1c) of the CNSP states the Node shall be the focus for commercial, residential and mixed use growth, development and intensification. The High Density Residential 1 designation will allow for development and intensification to take place on these lands in accordance with this direction.

[14] The Tribunal is also satisfied that the proposed maximum height modification reflects the Tribunal's earlier approval and is appropriate to the context of the area and compatible with adjacent land uses. The proposed building height is consistent with the range of building heights permitted by the CNSP within the Sub-Regional Service Node, which range from three to 20 storeys. The proposed development is located on an arterial road that is recognized as a Secondary Corridor on "Schedule E – Urban Structure" of the UHOP, and there are other high-density residential uses located on the north side of the road near the site, ranging from 8 to 14 storeys in height. Policy E.3.6.7a) of the UHOP states that high density uses should have direct access to an arterial or collector road. Although there are low density residential uses to the south of the lands, Policy E.3.6.7b) of the UHOP notes that high profile multiple dwellings may still be considered adjacent to low density uses where transitional features such as screening and design features are incorporated into the building design. The proposal, as approved previously by the Tribunal, incorporates a number of screening and design

features such as setbacks, fencing and landscaping. In addition, Policy E.3.6.7c) of the UHOP states that high profile development may be appropriate where it would result in the preservation of natural heritage system features. The proposed development is consistent with this policy as well, since it preserves a linkage area on the site.

[15] Furthermore, the Tribunal is also satisfied that the settlement conforms to the Growth Plan for the Greater Golden Horseshoe, 2019. The proposed amendments conform to the guiding principles of the plan in Policy 1.2.2, in that they prioritize intensification and higher densities in strategic growth areas, as the Sub-Regional Service Node is considered a strategic growth area for the City. These also support a range and mix of housing options, and they protect and enhance natural heritage. The lands are within a settlement area, and within the built-up area, where Policy 2.2.2(1)a) directs that a significant portion of new growth should occur through intensification. The lands are also within a strategic growth area near planned higher order transit, areas where Policy 2.2.1c) directs that growth should be focused. Policy 2.2.4(3)b) directs that major transit station areas on priority transit corridors should be planned for a minimum density target of 160 residents and jobs per hectare. The lands subject to the settlement are located within 500 metres of a major transit station on a priority transit corridor, and within an area that the CNSP identifies as a higher order transit station area. Therefore, the settlement will assist in achieving an increased density in proximity to a major transit station, as intended by the Growth Plan.

[16] Finally, the Tribunal is satisfied that the settlement proposed is consistent with the PPS 2014 in that the proposed amendments provide for an efficient development and land use pattern (Policy 1.1.1a) and are consistent with the policies that focus on growth and development in settlement areas (Policy 1.1.3.1). In particular, as per Policy 1.1.3.2, the proposed changes support a land use pattern that efficiently uses land and resources, is appropriate for infrastructure that is planned or available, is transit-supportive, and supports an opportunity for intensification. The settlement also maintains the natural heritage system and recognizes a linkage on the site, which is consistent with Policy 2.1.2.

ORDER

[17] The Tribunal finds that the settlement before it, represents good planning and is in the public interest. Accordingly, the appeal is allowed. Revised Official Plan Amendment No. 92 is modified in accordance with Attachment 1 hereto and is approved pursuant to subsection 17(49.4) of the *Planning Act*.

[18] The Tribunal may be spoken to if problems arise in the implementation of this Decision and Order.

“R.G.M. Makuch”

R.G.M. MAKUCH
VICE-CHAIR

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

Local Planning Appeal Tribunal

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