

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



**ISSUE DATE:** January 03, 2019

**CASE NO(S):** PL160012

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

Applicant and Appellant:	Golf North Properties Inc.
Subject:	Application to amend Zoning By-law No. 110-01 - Neglect of the County of Brant to make a decision
Existing Zoning:	Holding provision Residential Type One A with a special exception (h-R1A-3), Open Space with a special exception (OS-3), Environmental Protection (EP), and Environmental Protection with a special exception (EP-1)
Proposed Zoning:	Residential First Density with a special exception (R1-___), Residential Multiple First Density (R4), Residential Multiple Second Density (R5), and Open Space (OS)
Purpose:	To permit a development of 400 residential units comprising of 300 single detached dwellings and 100 multi-unit dwellings
Property Address/Description:	Concession 1 & 2, Part Lots 27, 28 & 29
Municipality:	County of Brant
Municipality File No.:	ZBA47-13-MD
OMB Case No.:	PL160012
OMB File No.:	PL160012
OMB Case Name:	Golf North Properties Inc. v. Brant (County)

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

Applicant and Appellant:	Golf North Properties Inc.
Subject:	Proposed Plan of Subdivision - Failure of the

Purpose: County of Brant to make a decision  
To permit a development of 400 residential units comprising of 300 single detached dwellings and 100 multi-unit dwellings

Property Address/Description: Concession 1 & 2, Part Lots 27, 28 & 29

Municipality: County of Brant

Municipality File No.: PS4/13/MD

OMB Case No.: PL160012

OMB File No.: PL160013

**Heard:** December 17, 2018 by telephone conference call (“TCC”)

### **APPEARANCES:**

#### **Parties**

#### **Counsel**

Golf North Properties Inc.	M. Melling/A. Lusty
County of Brant (“County”)	J. Zuidema
CRH Canada Group Inc. (“CRH”)	S. Ferri

### **MEMORANDUM OF ORAL DECISION DELIVERED BY BLAIR S. TAYLOR ON DECEMBER 17, 2018 AND ORDER OF THE TRIBUNAL**

---

#### **INTRODUCTION**

[1] This matter had originally been set down for a four-week hearing in June of 2018 but in the lead-up to that hearing, there were a series of settlements that led to the approval of the Zoning By-law Amendment (ZBA) in part and approval of the Draft Plan of Subdivision in part and provision for three stages of development: the short-term, the medium-term and the long-term.

[2] The Tribunal in its Decision of June 28, 2018 dealt with the short-term and this Pre-hearing Conference (“PHC”) was to provide an update with regard to this matter.

[3] At the PHC the Tribunal was advised again that: Paris Grand Estates Inc. is the

new owner (formerly Golf North Properties Inc.), the parties had worked on a draft Procedural Order, and draft Issues List, there was a request for a ten-day hearing to be set for the medium-term as envisaged in the Minutes of Settlement and the possibility of a request for further Tribunal-led mediation.

[4] The Tribunal set a date for a ten-day hearing, gave direction with regard to the finalization of the draft Procedural Order and Issues List, and made all the participants parties for the purpose of Tribunal-led mediation, all for the reasons set out below.

## **DECISION**

[5] The Tribunal had the three parties before it and also in attendance on the TCC were six of the participants.

[6] The Applicant requested the establishment of a ten-day hearing for the medium-term as envisaged in the Minutes of Settlement and indicated a willingness to seek further Tribunal-led mediation in 2019.

[7] Counsel for CRH was content with the draft Procedural Order and indicated that his client may seek to change status from party to participant depending on what unfolds in the future.

[8] The County provided an update on the *Environmental Assessment Act* process: i.e. that three of the five phases had been completed and that the next Public Information Meeting is scheduled for the Spring of 2019, and that the County was agreeable to participate in Tribunal-led mediation.

[9] The Tribunal heard from six of the participants of which two expressed concern with regard to the timing of the possible mediation as in their view it would be helpful for the *Environmental Assessment Act* process to be complete.

[10] Having considered all the submissions the Tribunal set down a ten-day hearing

to commence on **Monday, March 23, 2020 commencing at 10 a.m. at:**

**Council Chambers  
Municipal Building  
County of Brant  
7 Broadway Street West, Paris  
Brant, ON**

[11] I am not seized.

[12] The Tribunal directs that the County shall provide a Notice of Hearing to all parties and participants of the ten day hearing set for March 23, 2020, and that such Notice of Hearing shall be at least 60 days in advance of the hearing. The County shall also provide to the Tribunal an Affidavit of Service with regard to the required Notice of Hearing.

[13] With regard to the draft Procedural Order and Issues List, the Tribunal directed that the draft Procedural Order shall include mandatory meetings of all like experts and the preparation of Agreed Statements of Facts.

[14] Appended hereto is Attachment 1 being the Procedural Order and Issues List.

[15] In the event that further Tribunal-led mediation is sought in this matter, the Tribunal made all participants parties for the purpose of Tribunal-led mediation.

[16] Scheduling permitting, I may be available for case management purposes.

*"Blair S. Taylor"*

BLAIR S. TAYLOR  
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**

A constituent tribunal of Environment and Land Tribunals Ontario  
Website: [www.elto.gov.on.ca](http://www.elto.gov.on.ca) Telephone: 416-212-6349 Toll Free: 1-866-448-2248

# ATTACHMENT 1

L.P.A.T. Case No. PL160012

## Local Planning Appeal Tribunal

### *Tribunal d'appel de l'aménagement local*

#### ISSUE DATE:

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

**Applicant/Appellant:** Paris Grand Estates Inc. (formerly Golf North Properties Inc.)  
**Subject:** Application to amend Zoning By-law No. 110-01 - Neglect of the County of Brant to make a decision  
**Existing Zoning:** Holding provision Residential Type One A with a special exception (h-R1A-3), Open Space with a special exception (OS-3), Environmental Protection (EP), and Environmental Protection with a special exception (EP-1)  
**Proposed Zoning:** Residential First Density with a special exception (R1-\_\_\_), Residential Multiple First Density (R4), Residential Multiple Second Density (R5), and Open Space (OS)  
**Property Description:** Concession 1 & 2, Part Lots 27, 28 & 29  
**Municipality:** County of Brant  
**Municipality File No.:** ZBA47-13-MD  
**L.P.A.T. Case No.:** PL160012  
**L.P.A.T. File No.:** PL160012  
**L.P.A.T. Case Name:** *Paris Grand Estates Inc. (formerly Golf North Properties Inc.) v. Brant (County)*

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

**Applicant/Appellant:** Paris Grand Estates Inc. (formerly Golf North Properties Inc.)  
**Subject:** Proposed Plan of Subdivision - Failure of the County of Brant to make a decision  
**Property Description:** Concession 1 & 2, Part Lots 27, 28 & 29  
**Municipality:** County of Brant  
**Municipality File No.:** PS4/13/MD  
**L.P.A.T. Case No.:** PL160012  
**L.P.A.T. File No.:** PL160013

## PROCEDURAL ORDER

The Tribunal orders that:

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.
2. The Parties and Participants identified at the December 17, 2018 Prehearing Conference are listed in **Attachment 1** to this Order. See **Attachment 2** for the meaning of the terms “Party” and “Participant”.

### Organization of the Hearing

3. Only if the Issues as set out in **Attachment 3** are not resolved, the Hearing will begin on **March 23, 2020 at 10 a.m.** at the Municipal Building, Council Chambers, 7 Broadway Street West, Paris, County of Brant, Ontario, N3L 2R2. The County shall provide notice to the parties and participants via email **sixty (60) days** in advance of the hearing and other than that, no further notice shall be required.
4. The length of the Hearing will be **10 (ten) days**. The length of the Hearing may be shortened as issues are resolved or settlement is achieved.
5. The Issues are set out in the Issues List attached as **Attachment 3**. There will be no changes to this list unless the Tribunal permits. A Party who asks for additions may have costs awarded against it.
6. The order of evidence at the Hearing is listed in **Attachment 4**. The Tribunal may limit the amount of time allocated for opening statements, direct evidence (including the qualification of witnesses), cross examination, evidence in reply and final argument. The length of written argument, if any, may be limited either on consent or by Order of the Tribunal.

### Requirements Before the Hearing

7. A Party who intends to call witnesses, whether by summons or not, shall provide to the Tribunal, the other Parties, and the County Clerk a list of the witnesses and the order in which they will be called. This list must be delivered on or before **150 days (five months)** prior to the Hearing. For expert witnesses, a Party must include a copy of the witness’s *curriculum vitae* and the area of expertise in which the witness is proposed to be qualified.

8. A meeting of like experts shall be held at least **120 days (4 months)** prior to the Hearing. The purpose of this meeting is to scope or resolve issues for the preparation of an Agreed Statement of Facts which shall be filed with Tribunal.
9. An expert witness shall prepare an expert witness statement, which shall include:
  - a. An acknowledgement of Expert's Duty;
  - b. The area(s) of expertise; and,
  - c. Any reports prepared by the expert and any other documents to be relied on at the Hearing.

Copies of this must be provided as set out 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.

10. A Participant must provide to the Tribunal and the Parties a Participant Statement on or before **60 (sixty) days** prior to the Hearing or the Participant may not give oral evidence at the Hearing.
11. 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, as in section 12.
12. On or before **60 (sixty) days** prior to the Hearing, the Parties shall provide copies of their written evidence and expert witness statements to the other Parties and to the County Clerk.
13. Parties may provide to all other Parties and file with the County Clerk a written reply to any written evidence or expert witness statement, provided that such reply is circulated to all other Parties on or before **30 (thirty) days** prior to the Hearing.
14. A person wishing to change written evidence, including expert witness statements, must make a written motion to the Tribunal in accordance with the Tribunal's Rules.
15. A Party who provides a witness' written evidence or expert witness statement to the other Parties and the County Clerk must have the witness attend the Hearing to give oral evidence, unless the Party notifies the Tribunal at least **7 (seven) days** before the Hearing that same is not part of their record.



- 16. The Parties shall prepare a Joint Document Book on or before **20 (twenty) days** prior to the Hearing, the reasonable cost of which shall be shared by the Parties, and which will be filed with the Tribunal on the first day of the Hearing. A paper copy of any document proposed to be entered into evidence or relied upon shall be provided at the Hearing unless ordered otherwise by the presiding Member.
- 17. On or before **10 (ten) 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.
- 18. An Agreed Statement of Facts shall be filed with the Tribunal at the commencement of the hearing.
- 19. Documents may be delivered by personal delivery, email, 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 (Rule 7) on this subject. Material delivered by mail shall be deemed to have been received five business days after the date of registration or certification.
- 20. No adjournments or delays will be granted before or during the Hearing except for serious hardship or illness. The Tribunal’s Rule 17 applies to such requests.

**This Member is (not) seized.**

**So Orders the Tribunal.**

BEFORE:

Name of Member	)	Date:
	)	
	)	

---

TRIBUNAL REGISTRAR

**SUMMARY OF KEY DATES**

<b>Date</b>	<b>Hearing Event</b>
150 days prior to Hearing	Exchange of list of witnesses and the order in which they will be called
120 days prior to Hearing	Meeting of like experts
60 days prior to Hearing	Exchange of expert reports/expert witness statements/written evidence, evidence outlines for witnesses under summons
60 days prior to Hearing	Exchange of Participant Statements
30 days prior to Hearing	Exchange of reply evidence/statements
20 days prior to Hearing	Completion of Joint Document Book
10 days prior to Hearing	Exchange of visual evidence
7 days prior to Hearing	Notification to Tribunal and Parties if witness not to provide oral evidence
March 23, 2020	Hearing

**ATTACHMENT 1 -- Parties and Participants**

**Parties**

**Paris Grand Estates Inc.**

Davies Howe LLP  
425 Adelaide Street West, 10<sup>th</sup> Floor  
Toronto, ON M5V 3C1

**Michael Melling**

T: 416.263.4515  
E: *michaelm@davieshowe.com*

**Alex Lusty**

T: 416.977.7088  
E: *alexl@davieshowe.com*

**County of Brant**

Solicitor and Corporate Counsel  
P.O. Box 160  
Burford, ON N0E 1A0

**Jyoti V. Zuidema**

T: 519.449.2451 x 2297  
E: *jyoti.zuidema@brant.ca*

**CRH Canada Group Inc.**

Loopstra Nixon LLP  
135 Queens Plate Drive, Suite 600  
Toronto, ON M9W 6V7

**Quinto Annibale**

T: 416.748.4757  
E: *qannibale@loonix.com*

**Steven Ferri**

T: 416.748.4757  
E: *sferri@loonix.com*

## Participants

**Joan Faux**

[mom2jnp@gmail.com](mailto:mom2jnp@gmail.com)

**Pamela Nickell**

[dapnickell@rogers.com](mailto:dapnickell@rogers.com)

**George Hatton**

[georgeahatton@gmail.com](mailto:georgeahatton@gmail.com)

**David McLean**

[dave.mclcorvette@gmail.com](mailto:dave.mclcorvette@gmail.com)

**Rick O'Brien**

[rickobrien1122@gmail.com](mailto:rickobrien1122@gmail.com)

**Myles Rusak**

[Myles.Rusak@bigbrothersbigsisters.ca](mailto:Myles.Rusak@bigbrothersbigsisters.ca)

**Drew Skuce**

[drew@myvalleyworkshop.com](mailto:drew@myvalleyworkshop.com)

**Margaret Thompson**

[margaret@thompsonprint.com](mailto:margaret@thompsonprint.com)

**Christopher Tracy**

[christopher.tracy@granderie.ca](mailto:christopher.tracy@granderie.ca)

**Jim Graber**

[graberjim@gmail.com](mailto:graberjim@gmail.com)

**David Clement**

[dclement@waterousholden.com](mailto:dclement@waterousholden.com)

## ATTACHMENT 2

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

*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, 416-327-6800, or from the Tribunal website at <http://elto.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 Rule 13 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 directed by the Tribunal*

## ATTACHMENT 3

### Issues List

***Note: The identification of an issue on this list does not mean that all Parties agree that the issue, or the manner in which it is expressed, is appropriate for or relevant to the proper determination of the appeals. The extent of the appropriateness and/or relevance of the issue may be a matter of evidence and/or argument at the Hearing.***

***Any Party may call or not call evidence on any issue; however, no Party is obligated to call evidence on any particular issue or every issue.***

#### County of Brant Issues:

##### PLANNING ISSUES:

##### **Provincial Policy and Public Interest**

1. Is the proposed release of additional units consistent with the Provincial Policy Statement (2014), specifically with relation to:
  - (a) Sections 1.1 (Managing and Directing Land Use to Achieve Efficient and Resilient Development and Land Use Patterns);
  - (b) 1.2 (Coordination) and specifically 1.2.1 (d) in connection with infrastructure;
  - (c) 1.4 (Housing) and specifically 1.4.3 (c);
  - (d) 1.6 (Infrastructure and Public Service Facilities);
  - (e) 1.7 (Long-Term Economic Prosperity) and specifically 1.7.1 (b);
  - (f) 2.2 (Water) applicable to the long term development.
2. Do the proposed release of additional units conform to the parallel provisions of the Growth Plan for the Greater Golden Horseshoe?
3. Is the development proposal continue to be in the public interest and represent good and proper planning?
4. Is the development premature?

##### **County of Brant Official Plan**

[Type here]

5. Do the proposed applications continue to conform to the County of Brant Official Plan, specifically with relation to:

- (a) Sections 1.9 (Purpose of the Official Plan) and specifically 1.9 (e);
- (b) 1.11 (Objectives of the Plan) and specifically 1.11.2.1.2;
- (c) 2.2.3 (Community Structure);
- (d) 2.7 (General Development Policies) and specifically 2.7.2 (a) (iii) Road system;
- (e) 3.4 (Urban Residential);
- (f) 5.2 (Servicing Systems) for the long term development;
- (g) 5.3 (Transportation Systems); and
- (h) 6.6 (Plans of Subdivision/Condominium)

**Plan of Subdivision – Pursuant to ss. 51(24) of the *Planning Act***

6. Does the proposed release of additional units within the draft plan of subdivision have appropriate regard to the health, safety, convenience, accessibility for persons with disabilities and welfare of the present and future inhabitants of the municipality and to,

- (a) the effect of development of the proposed subdivision on matters of provincial interest as referred to in section 2;
- (b) whether the proposed subdivision is premature or in the public interest;
- (c) whether the plan conforms to the official plan and adjacent plans of subdivision, if any;
- (d) the suitability of the land for the purposes for which it is to be subdivided;
- (e) the number, width, location and proposed grades and elevations of highways, and the adequacy of them, and the highways linking the highways in the proposed subdivision with the established highway system in the vicinity and the adequacy of them;
- (f) the dimensions and shapes of the proposed lots;
- (g) the restrictions or proposed restrictions, if any, on the land proposed to be subdivided or the buildings and structures proposed to be erected on it and the restrictions, if any, on adjoining land;



[Type here]

- (h) conservation of natural resources and flood control;
- (i) the adequacy of utilities and municipal services;
- (j) the adequacy of school sites;
- (k) the area of land, if any, within the proposed subdivision that, exclusive of highways, is to be conveyed or dedicated for public purposes;
- (l) the extent to which the plan's design optimizes the available supply, means of supplying, efficient use and conservation of energy; and
- (m) the interrelationship between the design of the proposed plan of subdivision and site plan control matters relating to any development on the land.

### **Draft Plan Conditions**

7. Are the proposed draft plan conditions appropriate given the on-going EA process for this area and the implementation of that process?

### **Zoning By Law**

8. Does the proposed zoning by-law continue to conform to the County of Brant Official Plan?
9. Is the proposed zoning by-law still consistent with the 2014 Provincial Policy Statement and still in conformity with the Growth Plan for the Greater Golden Horseshoe?
10. Does the draft zoning by-law continue to represent good planning and maintain the public interest?

### **TRAFFIC ISSUES:**

11. Are the applications premature in advance of the findings of the currently ongoing Class Environmental Assessment for the Grand River Street North corridor?
12. Are the applications premature in advance of the implementation of the ongoing Class Environmental Assessment for the Grand River Street North corridor?

[Type here]

**SERVICING ISSUES:**

13. Are the applications premature as the necessary infrastructure to service the entire development could be at least a decade away? (Specifically water availability for the longer term; sanitary sewer installation and road improvements to the applicable municipal road system for both the medium and longer terms.)

**Golf North Issues:**

1. How many single family traffic equivalent units, above the 125 presently authorized, should be released?
2. How should the responsibility for financing the acquisition and construction costs of the “Western Leg” of the Grand River Street North Corridor be apportioned?
3. Should the area of Stage 1B of the Draft Plan of Subdivision be expanded to include a portion of the land currently shown as Stage 2A?

[Type here]

## **ATTACHMENT 4**

### Order of Evidence

***Note: Participant testimony will be scheduled at the opening of the Hearing.***

1. Paris Grand Estates Inc.
2. County of Brant
3. CRH Canada Group Inc.
4. Reply by Paris Grand Estates Inc.