|  |  |
| --- | --- |
|  |  |
| **Local Planning Appeal Tribunal** |
| Tribunal d’appel de l’aménagement local |

|  |  |  |  |
| --- | --- | --- | --- |
| **ISSUE DATE:** | November 12, 2020 | **CASE NO(S).:** | PL171016 |

|  |
| --- |
| 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: | Valery Homes Paris Limited | | Subject: | Application to amend Zoning By-law No. 110-01  - Refusal or neglect of the County of Brant to make a decision | | Existing Zoning: | Agricultural Restrictive (AR) | | Proposed Zoning: | Site Specific (To be determined) | | Purpose: | To permit the development of 230 single detached dwellings and 64 street townhomes | | Property Address/Description: | 848 Watt’s Pond Road | | Municipality: | County of Brant | | Municipality File No.: | ZBA13/15/MD | | LPAT Case No.: | PL171016 | | LPAT File No.: | PL171016 | | LPAT Case Name: | Valery Homes Paris Limited 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: | Valery Homes Paris Limited | | Subject: | Proposed Plan of Subdivision - Failure of the County of Brant to make a decision | | Purpose: | To permit the development of 230 single detached dwellings and 64 street townhomes | | Property Address/Description: | 848 Watt’s Pond Road | | Municipality: | County of Brant | | Municipality File No.: | PS1/15/MD | | LPAT Case No.: | PL171016 | | LPAT File No.: | PL171017 | | |
|  |  |

|  |  |
| --- | --- |
| **Heard:** | November 4, 2020 video hearing |

|  |  |
| --- | --- |
| **APPEARANCES:** |  |
|  |  |
| **Parties** | **Counsel\*/Representative** |
|  |  |
| Valery Homes Paris Limited | Russell Cheeseman |
|  |  |
| County of Brant | Peter Tice |
|  |  |
| Brookfield Homes (Ontario) Limited | Alex Lusty |

MEMORANDUM OF ORAL DECISION DELIVERED BY BRYAN W. TUCKEY NOVEMBER 4, 2020 AND ORDER OF THE TRIBUNAL

1. A settlement hearing in the matter of appeals to the Local Planning Appeal Tribunal (“Tribunal”) by Valery Homes Paris Ltd. (“Applicant/Appellant”) against the County of Brant (“County”) for failure to make a decision. There are two appeals, the first is a Zoning By-law Amendment (“ZBA”) pursuant to s. 34(11) *Planning Act* and second, a draft Plan of Subdivision (“PofS”) pursuant to s. 51 (34) of the *Planning Act* (File No. PL171017). The subject lands are known municipally as 848 Watt’s Pond Road, County of Brant.
2. The County and the Applicant/Appellant settled on a proposed ZBA, draft PofS and conditions of draft plan approval. The ZBA (appended as Attachment 1) zones 229 single detached dwellings and three blocks of land for street townhouse development. There are also included in the ZBA five large portions of the subject property zoned as Open Space identifying and protecting important natural heritage features and provides required parkland. The ZBA is implemented in its entirety by the draft PofS (appended as Attachment 2) and draft plan conditions of approval (appended as Attachment 3).
3. The Tribunal is provided with a copy of the Minutes of Settlement (“MoS”) signed by the Applicant/Appellant, the County, Valrose Paris Limited and Brookfield Homes (Ontario) Limited.
4. Valrose Paris Limited is a signatory to the MoS but not a party to this proceeding. They attended the settlement hearing and are represented by Russell Cheeseman.
5. As set out in the MoS, the four parties have agreed “to settle the Appeals in respect to LPAT Case No. PL171016 by asking the LPAT to allow the approval in part” The MoS goes on to request approval of a ZBA, draft PofS, and conditions of draft PofS all attached to this decision.
6. The parties called one land use planning witness in support of the settlement. Matthew Johnston is qualified as an expert in land use planning and gave evidence evaluation to the proposal against relevant public policy. His affidavit is Exhibit 1 to this proceeding.
7. Mr. Johnston described the extensive planning process that the Applicant/Appellant was a participant in. The County initiated the North West Paris Area Study (“NWPAS”) of which the Applicant/Appellant and other parties are land owners within. The study culminated in the North West Paris Preferred Land Use Concept which now is approved as a Schedule to the County of Brant Official Plan (“BOP”).
8. The NWPAS concept is comprehensive in nature and provides the clear framework for development applications within the study area. The framework includes: a complete road pattern (including the extension of Woodslee Avenue); a variety of land use designations; residential land use densities; natural heritage and open space; and required Storm Water Management facilities.

**LAND USE POLICY**

1. The planner described the relevant policies of the 2020 Provincial Policy Statement (“PPS”) being:

1. The encouragement of increasing housing and jobs by increasing the mix, supply and density of housing;

2. Managing and directing land use to achieve efficient and resilient development and land use patterns;

3. The subject lands are within the County’s Urban Boundary;

4. The subject lands are within a coordinated, integrated and comprehensive approach to land use planning matters;

5. Is of a compact built form;

6. A Functional Servicing Report ensures the infrastructure and public service facilities are adequate to accommodate the proposed subdivision;

7. The proposed subdivision makes special effort to manage the natural, cultural heritage and architectural resources of the subject lands; and

8. The protection of public health and safety as the subdivision is not adjacent to hazardous land or sites.

1. The ZBA and draft PofS is consistent with the PPS 2020.
2. The planner gave evidence with respect to the A Place to Grow: Growth Plan for the Greater Golden Horseshoe 2019 (“Growth Plan”). Relevant policy considerations are:

1. The proposal helps reach the population projections for the County’s 59,000 residents and 26,000 jobs to 2051.

2. The County’s comprehensive review ensures regard for provincial interests and a coordinated approach of planning activities;

3. Provides for a complete community promoting a compact built form that is integrated in the community and with adjacent land uses;

4. Is entirely within the “Built-Up” area as defined by the County;

5. Helps ensure economic development and competitiveness of the Greater Golden Horseshoe;

6: Provides a diverse range and mix of housing options, forms and densities; and

7. Ensures there is the necessary infrastructure to accommodate growth while protecting water, natural heritage, agricultural, systems, cultural heritage resources and key hydrological features.

1. The ZBL and draft PofS conforms to the Growth Plan.
2. In 2013 the County began a comprehensive and rigorous process to plan for and establish a policy framework for North West Paris. The result of that process is the NWPAS which further defined and implemented the BOP as the intent and all objectives found in the BOP are found in the secondary plan. Most of the subject lands are designated as Urban Residential and portions are Rural Residential, Natural Area and Wellhead Protection Area designations of the BOP.
3. The ZBA implements the preferred land use concept and maintains the intent of all land use designations of the NWPAS. The draft PofS includes blocks that correspond to the preferred land use designations
4. The ZBA and the draft PofS conforms to the BOP and completely implements the preferred land use concept identified in the NWPAS.
5. The Tribunal accepts the evidence of the planner for the Applicant/Appellant in its entirety and finds the ZBA and PofS meets all the relevant policy tests of the PPS, Growth Plan and BOP. It represents good planning and is in the public interest.

**DRAFT PLAN OF SUBDIVISION**

1. The planner reviewed the criteria to be considered when a draft PofS is proposed in considerable detail. One must have regard to the health, safety, convenience, accessibility for persons with disability and welfare of the present and future inhabitants of the municipality. There is a total of 13 criteria to be considered including the subdivision: not being premature, in the public interest, conforms to public policy, appropriate conditions to control timing and built form, conservation of natural resources, flood control and adequacy of utilities, school, road and municipal services.
2. There is a total of 45 conditions of draft plan approval plus five notes to draft plan approval that have been written jointly by the County and Applicant/Appellant. Mr. Johnston in his evidence noted many of the conditions are standard to the County and tied directly to the draft PofS. He made special note of conditions relating to timing of servicing, cost sharing requirements, pre-servicing agreements for the design and delivery of services, and ensured that all the utilities are covered with appropriate conditions.
3. Cost sharing of required services is an important consideration for all parties. Condition 38 reads:

That the Subdivision Agreement with the County include a requirement that the Owner pay its proportionate share of any study costs, external services, shared services, and storm water management facilities that are required to facilitate the development of the Subject Lands and are incurred by others, all to the satisfaction of the County.

1. The County made note of Condition 45 regarding approval authority for the clearing of conditions. The condition reads:

The County shall be the approval authority for the purposes of clearing the draft plan conditions and the final approval of the plan of subdivision shall be given by the County, pursuant to section 51 (56.1) of the Planning Act.

1. The County and the Applicant/Appellant are committed to work in tandem to implement the Conditions of Draft Approval.
2. The planner opined that the draft PofS complies with the criteria identified in s. 51(24) of the *Planning Act* and the conditions of Draft Plan Approval are reasonable.
3. The Tribunal accepts the evidence of the planner for the Applicant/Appellant in its entirety. The draft PofS, subject to the Conditions of Draft Plan Approval, has had appropriate regard to the criteria set out in s. 51(24) of the *Planning Act.*
4. Pursuant to s. 51(25) of the *Planning Act*, the Tribunal finds the Conditions of Draft Approval to be reasonable and appropriate for the proposed development.

**CONCLUSIONS**

1. The Tribunal accepts the uncontested planning evidence of Mr. Johnston when augmented with the documentary evidence, the Tribunal finds that the proposed ZBA, draft PofS, and Conditions of Draft Approval; are consistent with the PPS; conform with the Growth Plan; have had appropriate regard to all matters of provincial interest identified in the *Planning Act*; and represent good planning in the public interest. The draft PofS has had appropriate regard of the criteria set out in s. 51(24) of the *Planning Act* and the Conditions of Draft Approval are reasonable and appropriate pursuant to s. 51(25) of the *Planning Act*.
2. For these reasons, the Tribunal will allow the appeal in part and approves these instruments as agreed between the City and the Applicant/Appellant.
3. Counsel for the County, Mr. Tice, requested that it is important the Tribunal’s Order ensure clarity regarding the approval authority for the purpose of clearing conditions and final Subdivision Approval found in the Conditions of Draft Plan Approval. The Tribunal agrees.

**ORDER**

1. Accordingly, the Tribunal Orders that the appeal is allowed in part and the instruments as agreed to by the County and the Applicant/Appellant, are approved as follows:

a) The Zoning By-law Amendment, appended to this Order as Attachment 1, is approved;

b) The draft Plan of Subdivision appended to this Order as Attachment 2 is approved, subject to the Conditions of Draft Approval appended to this Order as Attachment 3; and

c) Pursuant to s. 51(56.1) of the *Planning Act*, the County shall be the approval authority for the purposes of clearing the draft plan conditions and the final approval of the Plan of Subdivision.

Bryan W. Tuckey

Bryan w. tuckey

MEMBER

If there is an attachment referred to in this document,

please visit www.olt.gov.on.ca to view the attachment in PDF format.

**Local Planning Appeal Tribunal**

A constituent tribunal of Ontario Land Tribunals

Website: [www.olt.gov.on.ca](http://www.olt.gov.on.ca) Telephone: 416-212-6349 Toll Free: 1-866-448-2248