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

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| **ISSUE DATE:** | September 03, 2020 | **CASE NO(S).:** | PL171215 |

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.

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| **PROCEEDING COMMENCED UNDER** subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended |
| Applicant and Appellant: | Losani Homes (1998) Ltd. |
| Subject: | Application to amend Zoning By-law No. 61-16 - Neglect of the County of Brant to make a decision |
| Existing Zoning: | (A) Zone, Agricultural Zone with one Special Provision (A-13), Agricultural Holding Zone and Residential Singles and Semis (HA-R2) Zone, Natural Heritage (NH) Zone and Employment Zone with a Special Provision (Mi-i) |
| Proposed Zoning:  | Residential Singles Zone (Ri), with special exception (Rl-\_) to accommodate the single detached dwellings and larger street fronting rowhouses;Residential Multiple Medium Density Zone (RM2), with special exception (RM2-\_) to Residential Multiple High Density (RM3), with special exception (RM3-\_) to accommodate mixed use developments;Recreational Facilities (0S2) Zone to accommodate the parks and the stormwater management facilities; Natural Heritage Zone (NH) to accommodate the natural heritage features. |
| Purpose:  | To permit the proposed draft plan of subdivision |
| Property Address/Description:  | Part of Lot 7 and 8, Concession 2 |
| Municipality:  | County of Brant |
| Municipality File No.:  | ZBA20-17-RA |
| OMB Case No.:  | PL171215 |
| OMB File No.:  | PL171215 |
| OMB Case Name:  | Losani Homes (1998) Ltd. v. Brant (County) |

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| **PROCEEDING COMMENCED UNDER** subsection 51(34) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended |
| Applicant and Appellant: | Losani Homes (1998) Ltd. |
| Subject: | Proposed Plan of Subdivision - Failure of the County of Brant to make a decision |
| Purpose: | To permit 1292-1700 residential units consisting of single detached, townhouses, medium density residential, mixed use along with parks and SWM ponds |
| Property Address/Description:  | Part of Lot 7 and 8, Concession 2 |
| Municipality:  | County of Brant |
| Municipality File No.:  | PS2-17-RA |
| OMB Case No.:  | PL171215 |
| OMB File No.:  | PL180025 |

**Heard:** August 24, 2020, by telephone conference call

**APPEARANCES:**

**Parties Counsel**

Losani Homes (1998) Ltd. Denise Baker and William Liske

County of Brant Peter Tice and Jyoti Zuidema

Riverview Highlands (St. George) Ltd. Jay Hitchon

Empire Communities (St. George) Ltd. Paul DeMelo

Parkland Corporation Marc Kemerer

John Newton Alex Ciccone

**Memorandum of oral decision delivered by David Brown on August 24, 2020 and order of the tribunal**

**INTRODUCTION**

1. The matter before the Tribunal is in respect to an appeal filed by Losani Homes (1998) Ltd. (the "Appellant") of the County of Brant's ("County") failure to make a decision in respect to an Application to Amend the County Zoning By-law No. 61-16 ("ZBA") and the County's failure to make a decision in respect of an Application for Approval of a Draft Plan of Subdivision ("Draft Plan") (collectively the "Applications"). The Applications are in respect to lands described as Part of Lot 7 and 8, Concession 2, Township of South Dumfries (the "Subject Lands") in the community of St. George.
2. The proposed development is a phased residential community which will include a mix of residential dwelling types, a school block, parkland, storm water management blocks and open space connections. The ultimate development will accommodate a maximum of 1679 dwelling units. The proposed ZBA will facilitate the development and implementation of the proposed phases of the Draft Plan including a mix of residential zoning categories, institutional, recreational facilities and natural heritage zones. The proposed Zoning By-law Amendments will also include holding provisions to address servicing works, conservation authority requirements and the requirement of the school block lands.
3. Prior to the commencement of the hearing the Tribunal was advised that the Parties have reached a settlement in respect to the appeal. The Parties confirmed they support the settlement.
4. The Tribunal received a Book of Documents that was filed as Exhibit 1 and a Draft Order which included the final version of the planning instruments for consideration by the Tribunal. The Draft Order was filed as Exhibit 2.
5. David Aston was qualified to provide opinion evidence as an expert in land use planning matters. Exhibit 1 included an Affidavit from Mr. Aston in support of the appeal.
6. The Tribunal, having considered the materials filed and the uncontroverted evidence of Mr. Aston, allows the appeal in part and grants the approval of the Draft Plan subject to the conditions of draft approval provided and approves the ZBA for the reasons set out below.

**PLANNING EVIDENCE**

1. The Tribunal considered the Affidavit of Mr. Aston and the supporting documentation contained within Exhibit 1.
2. The Applications will include a mix of land uses and housing options, which will contribute to the social equity and quality of life of residents. The proposed development is within walking distance to the downtown area and the Applications are consistent with the development of complete communities.
3. The intensification and density targets in the County are 40 residents and jobs combined per hectare. The Applications will contribute to the overall target for the Designated Greenfield Areas in the County. Mr. Aston opined that the Applications conform to the policies of the Growth Plan for the Greater Golden Horseshoe 2019 (the "2019 Growth Plan").
4. In regard to the Provincial Policy Statement, 2020 (the "2020 PPS"), Mr. Aston advised that settlement areas are a focus of growth. The proposed development is within and identified settlement area and will provide for efficient development in a compact urban form and a mix of residential housing types. The Applications will support the County's ability to accommodate residential growth for the next 10 years through residential intensification within the boundary of an identified Settlement Area. Connectivity among transportation systems and other modes of travel will be achieved through the integration of the road network sidewalk connections and trails that are proposed within the subject lands as well as adjacent developments. Mr. Aston submitted that studies related to the natural features were completed to establish the feature limits, setbacks and development limits. The development limits are reflected within the Draft Plan and ZBA. Mr. Aston concluded that the approval of the Applications are consistent with the 2020 PPS.
5. The County Official Plan (the "OP") identifies the St. George community as a Primary Urban Settlement Area. The Subject Lands are designated Urban Residential and Natural Heritage System with a portion of the lands designated Site-Specific Policy Area 17. The Subject Lands represent an appropriate area for development as infrastructure capacity is being planned with the expansion of the wastewater treatment facility. Further, the Urban Residential policies provide for a variety of residential housing types and the Natural Heritage features on the Subject Lands have been detailed through an Environmental Impact Study. Development constraints, buffers, setbacks, and system linkages were delineated through this review. Mr. Aston submitted that the proposed Draft Plan and ZBA will support the proposed infrastructure, achieve density targets, is in keeping with the intent and function of the St. George Settlement Area and Urban Residential designation, and provide for the protection of the Natural Heritage System.
6. The Applications will support a complete community with a range of urban residential housing forms and will assist the County in achieving their minimum density target by 2022 as set out in the OP. The conditions of approval of the Draft Plan and the regulations of the ZBA implement the St. George Area Study and the modifications adopted through the OP Amendment No. 8. The conditions of approval of the Draft Plan and the Holding zones in the ZBA provide for the completion of an Environmental Assessment to ensure adequate servicing and infrastructure capacity is available for each phase of the Draft Plan.
7. The ZBA will create a mix of Residential, Open Space, Institutional, Recreational Facilities, and Natural Heritage zones. The residential zones have a number of site- specific provisions and are subject to Holding provisions that requires the completion of a subdivision agreement to the satisfaction of the County prior to the release of the Holding provision and confirmation of servicing capacity. There are also specific Holding provisions associated with the school block and for a Block in Phase 4 of the proposed development addressing site specific issues related to the Block.
8. Mr. Aston opined that the Applications conform with the County OP.
9. With regard to the criteria set out in section 51(24) of the *Planning Act* (the "Act"), Mr. Aston reviewed each of the criterion in detail and opined how the Applications address these matters.
10. With regard to section 51(25) of the Act, Mr. Aston identified the conditions of approval for the Draft Plan set out in Exhibit 2 and concluded that in his opinion the conditions are appropriate for the nature of the development and provide for the necessary detailed plans and agreements the development of the Subject Lands.
11. In response to issues raised by the participant, Jeff Wharton, Mr. Aston identified a parcel located at the south westerly corner of the Subject Lands and identified the proposed access points. He explained that the lands are intended to be used for residential purposes and that prior to the development of these lands additional works will be required to address servicing and Grand River Conservation Authority requirements of approval.

**DECISION**

1. The Tribunal, having reviewed the documentation submitted and having considered the uncontroverted planning evidence of Mr. Aston accepts his opinions and conclusions.
2. The Tribunal is satisfied that the Draft Plan and ZBA are consistent with the 2020 PPS, conforms with the 2019 Growth Plan as it read before Amendment 1 and conforms with the County OP. The Draft Plan has regard to section 51(24) of the Act and the Draft Plan and ZBA have regard to matters of provincial interest.
3. The Tribunal allows the Appeals in part.
4. The Tribunal approves the amendment to the County of Brant Zoning By-law as set out in Attachment 1 to this Order.
5. The Tribunal approves the proposed Draft Plan of Subdivision as set out in Attachment 2 to this Order subject to the conditions as set out in Attachment 3 to this Order.
6. Pursuant to section 51(56.1) of the Act, the Tribunal orders that the County of Brant will be the approval authority for the purpose of clearing the Draft Plan conditions and that the final approval of the Plan of Subdivision is to be given by the County of Brant.
7. This is the Order of the Tribunal.

*"David Brown"*

DAVID BROWN

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

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