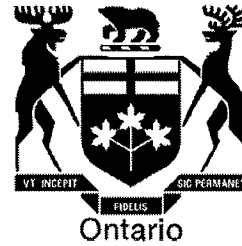


Ontario Municipal Board
Commission des affaires municipales
de l'Ontario



ISSUE DATE: March 17, 2017

CASE NO(S): PL160870

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

Applicant and Appellant: Silvercreek Commercial Builders Inc.
Subject: Request to amend the Official Plan - Failure of Town of Halton Hills to adopt the requested amendment

Existing Designation: Downtown Core Sub-Area
Proposed Designated: Site Specific (To be determined)
Purpose: To permit the development of an 11-storey, 125 unit condominium building with retail/commercial uses at street level on lands partially occupied by the McGibbon Hotel.

Property Address/Description: 69-79 Main Street South, 94-98 Mill Street
Municipality: Town of Halton Hills
Approval Authority File No.: D09OPA15.003
OMB Case No.: PL160870
OMB File No.: PL160870
OMB Case Name: Silvercreek Commercial Builders Inc. v. Halton Hills (Town)

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

Applicant and Appellant: Silvercreek Commercial Builders Inc.
Subject: Application to amend Zoning By-law No. 2010-0050, - Refusal or neglect of Town of Halton Hills to make a decision

Existing Zoning: DC1
Proposed Zoning: Site Specific (To be determined)
Purpose: To permit the development of an 11-storey, 125 unit condominium building with retail/commercial uses at street level on lands partially occupied by the McGibbon Hotel.

Property Address/Description:	69-79 Main Street South, 94-98 Mill Street
Municipality:	Town of Halton Hills
Municipality File No.:	D14ZBA15.010
OMB Case No.:	PL160870
OMB File No.:	PL160871

Heard: February 24, 2017 in Halton Hills, Ontario

APPEARANCES:

Parties

Counsel*/Representative

Silvercreek Commercial Builders Inc.	H. Arnold*
Town of Halton Hills and Region of Halton	J. Wilker*

Participants

Pat Farley	Self-represented
James Waldbusser	Self-represented

DECISION DELIVERED BY HUGH S. WILKINS AND ORDER OF THE BOARD

INTRODUCTION

[1] On October 29, 2015, Silvercreek Commercial Builders Inc. (the "Appellant") applied for amendments to the Town of Halton Hills (the "Town") Official Plan and Zoning By-law No. 2010-0050 to permit the development of a residential condominium building with retail/commercial uses at properties located at 69-79 Main Street South and 94-98 Mill Street in Georgetown (the "subject property"). The Appellant's proposed Official Plan amendment was to redesignate the subject property from "Downtown Core Sub-Area" to a site-specific designation and its proposed Zoning By-law amendment was to rezone the subject property from "Downtown Commercial One (DC1) to a site-specific zoning."

[2] On August 16, 2016, the Appellant appealed under s. 34(11) and 41(12) of the *Planning Act* (“Act”) the failure of the Town to make decisions on the proposed Official Plan and Zoning By-law amendments within the statutory timeframes.

[3] Board-assisted mediation was held on September 28, 2016 and, on December 9, 2016, the Board held a pre-hearing conference (“PHC”). At the PHC, the Board granted participant status to Randy Kerman, Kathleen Dills, James Waldbusser, Pat Farley and Brian Herner.

[4] A second PHC was scheduled for February 24, 2017. On February 22, 2017, the Board received a request from the Town asking, on consent, that the Board convert the PHC to a settlement hearing. At the commencement of the PHC, the Board granted this request.

[5] The Appellant and the Town have entered into Minutes of Settlement, dated February 16, 2017 (Exhibit 2), under which the Town agrees to authorize under s. 37(1) of the Act increases in the height of the proposed development not otherwise permitted under the applicable zoning. This authorization is in return for, among other things:

- the conservation and replication of the facades of the existing buildings located at 71-79 Main Street South, 98 Mill Street and 69 Main Street South and the restoration and reinstallation of the historic hotel sign of the former McGibbon Hotel situated on the subject property. This work is to be set out in a heritage reconstruction and restoration plan for development, which is to be completed to the satisfaction of the Town prior to the issuance of any demolition permit for the existing buildings;
- a cash contribution of \$500,000 to the Town to (i) allow for the enhancement and preservation of heritage conservation initiatives to increase the historic connection to Downtown Georgetown and/or (ii) for the provision of additional public facilities and improvements within and adjacent to Downtown Georgetown to increase the vitality of the Downtown area. The Town agrees to consult with

the Appellant and other stakeholders to obtain input on potential projects to which the cash contribution may be expended prior to making a final decision on its allocation and expenditure; and

- the provision of a minimum of 20 parking spaces at the subject property that are available for public use.

These requirements are set out in a s. 37 Agreement (dated February 16, 2017) attached as Schedule 1 to the Minutes of Settlement (Exhibit 2).

[6] Attached as Schedule B to the s. 37 Agreement is a draft zoning by-law amendment proposed by the parties to the s. 37 Agreement, amending Zoning By-law No. 2010-0050 by rezoning the subject property from a Downtown Commercial One (DC1) Zone to a Holding Downtown Commercial One (DC1) Exception Zone. It includes exception provisions setting out the maximum number of apartment dwelling units, maximum height, parking, and other requirements. It also includes holding provisions requiring the execution of the s. 37 Agreement, payment of the \$500,000 contribution, approval of a site plan application, approval of the heritage reconstruction and restoration plan, and other requirements, before the proposed development may proceed.

[7] At the settlement hearing, the Board heard evidence from Glenn Wellings, a planner retained by the Appellant. The Board qualified Mr. Wellings to provide opinion evidence as a land use planner. He testified in support of the Minutes of Settlement.

[8] Mr. Wellings described the location of the subject property. He said it is on the site of the historic former McGibbon Hotel at the intersection of Main Street South and Mill Street in Downtown Georgetown. Mr. Wellings stated that the Appellant's original proposal was for an 11-storey, 125-unit, terraced residential condominium building with ground floor commercial uses. He described public consultations and the process that was undertaken in reaching the settlement, including the outcomes of the Board-

assisted mediation and described the proposed modifications to the development proposal set out in the settlement documents. He said the proposed height of the development was reduced from eleven to ten storeys and he described the new above-noted provisions that were incorporated in the s. 37 Agreement. He said the number of units, terracing and commercial use aspects of the proposed development remain as originally proposed.

[9] Mr. Wellings testified that s. G.4.3 of the Town's Official Plan permits the Town to authorize increases in height of development, provided that significant public benefits are provided by the applicant. He stated that through the s. 37 Agreement, the Appellant will be providing significant public benefits that would not have been otherwise realized, including the provision of needed community facilities and/or the conservation, enhancement and restoration of significant built heritage features through the Appellant's cash contribution. He said the s. 37 Agreement satisfies the criteria set out in s. G.4.3. of the Official Plan by serving a clear and measurable public interest through the granting of the height bonus.

[10] As the Town has agreed to use its powers under s. G.4.3. of the Official Plan, the parties agreed that the site specific Official Plan amendment is no longer necessary and they jointly requested that the Board dismiss the Appellant's appeal of the Official Plan amendment application.

[11] Mr. Wellings opined that the proposed development, as set out in the Minutes of Settlement and its attachments, will provide for appropriate redevelopment on the subject property. He said the settlement is consistent with the Provincial Policy Statement, 2014 ("PPS") and conforms to the Growth Plan for the Greater Golden Horseshoe, 2006 ("Growth Plan"). He said the Minutes of Settlement and its attachments also conform to the Region of Halton's Official Plan and the Town's Official Plan, stating that the settlement and Zoning By-law amendment will introduce intensification in an appropriate location, while incorporating a mix of uses, improving the streetscape of Downtown Georgetown, respecting façade height requirements, and revitalizing and enhancing the Town's cultural heritage resources.

[12] Mr. Wellings stated that the Town Council has approved the Minutes of Settlement with the proposed Zoning By-law amendment and that the Region of Halton is satisfied with the settlement.

[13] The parties requested that the Board approve the Minutes of Settlement and Zoning By-law amendments in principle but withhold its final order regarding the Zoning By-law amendments until the parties have executed the s. 37 Agreement and attended to some housekeeping matters, including the registering of the s. 37 Agreement against title.

[14] The Participants made presentations in support of the proposed settlement. Ms. Farley briefly described some of the history of the existing buildings on the subject property and the importance of conserving the existing streetscape. She stated that she is impressed by the detail of the settlement and stated that her major concerns are addressed by it. Mr. Waldbusser testified that he was pleased with the settlement. He outlined concerns regarding the height of the proposed development, but said the focus in the settlement on heritage considerations is an excellent compromise.

[15] Having considered Mr. Wellings' uncontradicted evidence, and having regard for the Minutes of Settlement as approved by the Town's Council, the Board finds that the proposed amendments to Zoning By-law No. 2010-0050, as set out in the attachments to the Minutes of Settlement, are consistent with the PPS and conform to the policies of the Growth Plan, the Region of Halton's Official Plan, and the Town's Official Plan.

[16] The Board allows the Zoning By-law amendment appeal and approves the Minutes of Settlement and Zoning By-law amendments in principle, but withholds its final order until the parties execute and file with the Board the final s. 37 Agreement.

[17] The Official Plan Amendment appeal is dismissed, on consent.

INTERIM ORDER

[18] The Board orders that:

1. the Zoning By-law Amendment appeal is allowed and the Minutes of Settlement and Zoning By-law amendments (together attached to this Decision as Attachment 1) are approved in principle;
2. the Official Plan Amendment appeal is dismissed;
3. the Board's order is withheld until the parties execute and file with the Board the final s. 37 Agreement.

"Hugh S. Wilkins"

HUGH S. WILKINS
MEMBER

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

Ontario Municipal Board

A constituent tribunal of Environment and Land Tribunals Ontario

Website: www.elfo.gov.on.ca Telephone: 416-212-6349 Toll Free: 1-866-448-2248