

ISSUE DATE:
DEC. 11, 2009



PL081476

Ontario
Ontario Municipal Board
Commission des affaires municipales de l'Ontario

IN THE MATTER OF subsection 17(36) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellant: City of Pembroke
Appellant: Pembroke Downtown Development Commission
Appellant: Metro Ontario Real Estate Ltd./Metro Ontario Inc.
Subject: Official Plan Amendment No. 3
Municipality: Township of Laurentian Valley
OMB Case No.: PL081476
OMB File No.: PL081476

IN THE MATTER OF subsection 34(19) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellant: City of Pembroke
Appellant: Pembroke Downtown Development Commission
Appellant: Metro Ontario Real Estate Ltd./Metro Ontario Inc.
Subject: Zoning By-law No. 08-07-410
Municipality: Township of Laurentian Valley
OMB Case No.: PL081476
OMB File No.: PL081477

APPEARANCES:

Parties

Calloway REIT Inc. (Pembroke)
Smart Centres Inc.

Township of Laurentian Valley

City of Pembroke and
Pembroke Downtown Development Commission

Metro Ontario Real Estate Ltd./
Metro Ontario Inc.

Counsel

S. Mahadevan

R. Reiche

R. Gibson

K. Ross

DECISION DELIVERED BY A. CHRISTOU AND ORDER OF THE BOARD

BACKGROUND

Metro Ontario Real Estate Ltd./Metro Ontario Inc., the City of Pembroke, and Pembroke Downtown Development Commission have appealed the Township of

Laurentian Valley approval of Official Plan Amendment No. 3 (OPA) and Zoning By-law No. 08-07-410 for a number of reasons.

They allege the proposed OPA removed floor area restrictions on the size of the department store and permits the sale of food and grocery products; and the Zoning By-law does not take into account the impact on economic health of the Pembroke area and is inconsistent with Section 2 of the *Planning Act*.

THE SETTLEMENT

At the start of the hearing, Mr. Reiche, Counsel for the Township of Laurentian Valley, advised the Board that the issues have been settled and Minutes of Settlement have been signed by the Parties (Exhibit 2). Ms Ross, Counsel for Metro Ontario Real Estate/Metro Ontario Inc., indicated that although her clients had previously settled the matter in March 2009, to cap the food retail GFA addition to 4,182 m² (45,000 sq. ft.), they are in agreement with the modifications as shown in the Minutes of Settlement.

Lauree Armstrong, senior planner for the Town of Laurentian Valley, provided evidence to the Board in support of the settlement. The matter before the Board is with respect to Official Plan Amendment (OPA) and Zoning By-law Amendment (Zoning) applications by Wal-Mart, situated southeast of Highway 148, near the eastern boundary with the City of Pembroke. Wal-Mart had applied to remove the commercial cap of 108,000 sq. ft. in order to expand the store by 65,000 sq. ft., of which, 48,000 sq. ft. is to be for grocery sales. The original 108,000 sq. ft. approval was subject to a previous Ontario Municipal Board appeal which was settled in 1996.

Ms Armstrong testified that the County of Renfrew approved the OPA and the Township has endorsed the modifications as shown on Schedules "1" and "2" of Exhibit 2, as per Planning Memorandum to Council dated October 13, 2009 (Exhibit 3), being Attachment "1" to this Order. The new cap is for 14,307 m² (154,000 sq. ft.) of GFA and may include 3,531 m² (38,000 sq. ft.) of food retail. The modifications are less expansive than the planning approvals previously granted by Council and will not have a negative impact on the Township. She opined the uses are appropriate and compatible with the surrounding development. In her opinion, the settlement is consistent with the Official Plan and the PPS and it represents good planning.

In closing and with the consent of Counsel, Mr. Reiche requested the Board to:

1. Allow the appeals in part by modifying OPA 3 as indicated on Schedule "B" of Exhibit 4;
2. Allow the appeals in part by modifying Zoning By-law 08-09-410, as indicated on Schedule "D" of Exhibit 4; and
3. The appeals should be otherwise dismissed.

DISPOSITION

With the Parties having come to a settlement of the issues and Minutes of Settlement having been duly agreed upon, the Board heard the uncontradicted evidence of Ms Armstrong, planner for the Town of Laurentian Valley. The Board is satisfied that the new cap for 14,307 m² (154,000 sq. ft.) of commercial GFA with up to 3,531 m² (38,000 sq. ft.) of food retail space would be appropriate for the development. With the County and the Township having approved the OPA and Zoning changes, the Board is satisfied that the proposed development would comply with municipal policies and would be consistent with Provincial policies and it represents good planning. The Board will allow the appeals in part and will include the modified OPA and Zoning By-law as attachments to this Order.

THE BOARD ORDERS that the appeals by the City of Pembroke, the Pembroke Downtown Development Commission, and Metro Ontario Real Estate Limited/Metro Ontario Inc. of Official Plan Amendment No. 3 of the Township of Laurentian Valley Official Plan are allowed in part and OPA No. 3 is modified as indicated on Schedule "A". OPA No. 3 is approved, as modified, in the form set out in Schedule "B", being Attachment "2" to this Order.

AND THE BOARD ORDERS that the appeals by the City of Pembroke, the Pembroke Downtown Development Commission, and Metro Ontario Real Estate Limited/Metro Ontario Inc. of Zoning By-law No. 08-07-410 are allowed in part and Zoning By-law 08-07-410 is amended as indicated on Schedule "C". Zoning By-law 08-07-410 is approved, as amended, in the form set out in Schedule "D" being Attachment "3" to this Order.

AND THE BOARD FURTHER ORDERS that the appeals by the City of Pembroke, the Pembroke Downtown Development Commission, and Metro Ontario Real

Estate Limited/Metro Ontario Inc. of OPA No. 3 and Zoning By-law No. 08-07-410, are in all other respects dismissed.

So Orders the Board.

“A. Christou”

ARISTOTLE CHRISTOU
MEMBER