

ISSUE DATE:

June 23, 2011



PL091113

Ontario Municipal Board
Commission des affaires municipales de l'Ontario

IN THE MATTER OF subsection 41(12) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Referred by: Silgold Developments Inc.
Subject: Site Plan
Property Address/Description: 201 Hayes Boulevard
Municipality: Town of Oakville
OMB Case No.: PL091113
OMB File No.: PL091113

IN THE MATTER OF subsection 41(12) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Referred by: Silgold Developments Inc.
Subject: Site Plan
Property Address/Description: 202 Oak Walk Drive
Municipality: Town of Oakville
OMB Case No.: PL091113
OMB File No.: PL091114

IN THE MATTER OF subsection 41(12) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Referred by: Silgold Developments Inc.
Subject: Site Plan
Property Address/Description: 206 Hayes Boulevard
Municipality: Town of Oakville
OMB Case No.: PL091113
OMB File No.: PL091115

IN THE MATTER OF subsection 45(12) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant and Appellant: Silgold Developments Inc.
Subject: Minor Variance
Variance from by-law number: 1984-63
Property Address/Description: 206 Hayes Boulevard
Municipality: Town of Oakville
Municipal File No.: CAV A/002/2010
OMB Case No.: PL091113
OMB File No.: PL100426

IN THE MATTER OF subsection 45(12) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant and Appellant: Silgold Developments Inc.
Subject: Minor Variance
Variance from by-law number: 1984-63
Property Address/Description: 201 Hayes Boulevard
Municipality: Town of Oakville
Municipal File No.: CAV A/003/2010
OMB Case No.: PL091113
OMB File No.: PL100427

IN THE MATTER OF subsection 45(12) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant and Appellant: Silgold Developments Inc.
Subject: Minor Variance
Variance from by-law number: 1984-63
Property Address/Description: 202 Oak Walk Drive
Municipality: Town of Oakville
Municipal File No.: CAV A/004/2010
OMB Case No.: PL091113
OMB File No.: PL100428

IN THE MATTER OF subsection 45(12) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant and Appellant: Silgold Developments Inc.
Subject: Minor Variance
Variance from by-law number: 1984-63
Property Address/Description: 201, 234, 270, 271, 275, 290, 295, 300, 301 and 309 Hayes Boulevard and 201, 202, 251 and 261 Oak Walk Drive
Municipality: Town of Oakville
Municipal File No.: CAV A/126/2010
OMB Case No.: PL091113
OMB File No.: PL100974

Silgold Developments Inc. has appealed to the Ontario Municipal Board under subsection 36(3) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, from Council's refusal or neglect to enact a proposed amendment to Zoning By-law 1984-63 of the Town of Oakville to lift the 'H' Holding Symbol on lands respecting 201 and 206 Hayes Boulevard to permit the expansion of a commercial development
OMB File No. PL100992

APPEARANCES:

Parties

Silgold Developments Inc.

Town of Oakville

Counsel

Johanna R. Shapira

Jennifer Huctwith

DECISION DELIVERED BY J. de P. SEABORN AND ORDER OF THE BOARD

These appeals were originally scheduled for a hearing and subsequently adjourned to permit Counsel time to complete a settlement. The Town of Oakville and Silgold Developments Inc., the only parties to the appeal, have resolved all outstanding issues. At the request of Counsel and with the consent of the parties, the Board's Order is set out as Attachment "1" to my decision. The Order, which is supported by the planning evidence of Mr. Bissett (provided by way of Affidavit), disposes of all matters in respect of these appeals.

"J. de P. Seaborn"

J. de P. SEABORN
VICE-CHAIR

ATTACHMENT 1

ONTARIO MUNICIPAL BOARD

IN THE MATTER OF subsections 41(12) of the *Planning Act*, R.S.O. 1990, C. P. 13, as amended

Applicant/Appellant: Silgold Developments Inc.
Subject: Site Plans
Property Address/Description: 201 Hays Boulevard, 206 Hays Boulevard, and 202 Oak Walk Drive
Municipality: Town of Oakville
OMB Case Number: PL091113
OMB File Numbers: PL091113, PL091114, PL091115
Municipal File Numbers: SP 1413.038/01, SP 1413.037/01, SP 1413.036/01,

IN THE MATTER OF subsections 45(12) of the *Planning Act*, R.S.O. 1990, C. P. 13, as amended

Applicant/Appellant: Silgold Developments Inc.
Subject: Minor Variances
Variance from by-law number: 1984-63
Property Address/Description: 201 Hays Boulevard, 206 Hays Boulevard, and 202 Oak Walk Drive
Municipality: Town of Oakville
OMB Case Number: PL091113
OMB File Numbers: PL100426, PL100427, PL100428
Municipal File Numbers: CAV A/003/2010, CAV A/004/2010, CAV A/002/2010,

IN THE MATTER OF subsections 45(12) of the *Planning Act*, R.S.O. 1990, C. P. 13, as amended

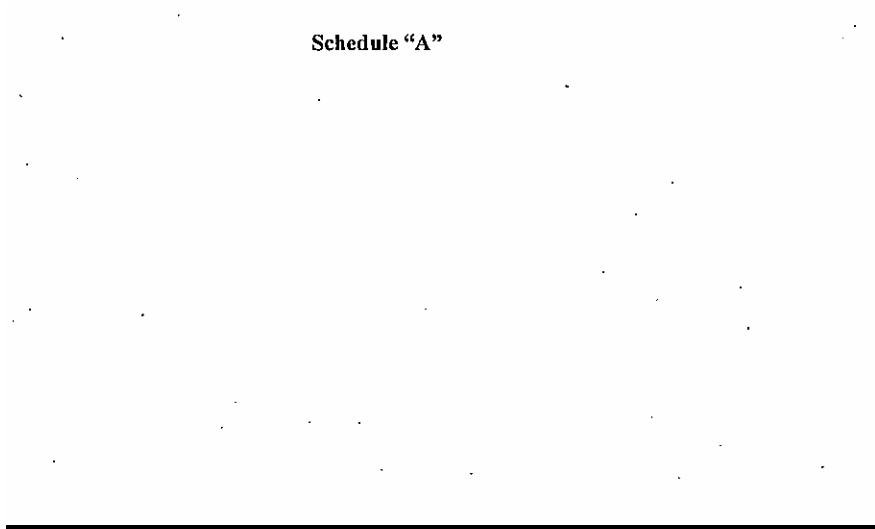
Applicant/Appellant: Silgold Developments Inc.
Subject: Minor Variance
Variance from by-law number: 1984-63
Property Address/Description: 201, 234, 270, 271, 275, 290, 295, 300, 301 and 309 Hays Boulevard and 201, 202, 251 and 261 Oak Walk Drive
Municipality: Town of Oakville
OMB Case Number: PL091113
OMB File Numbers: PL100974
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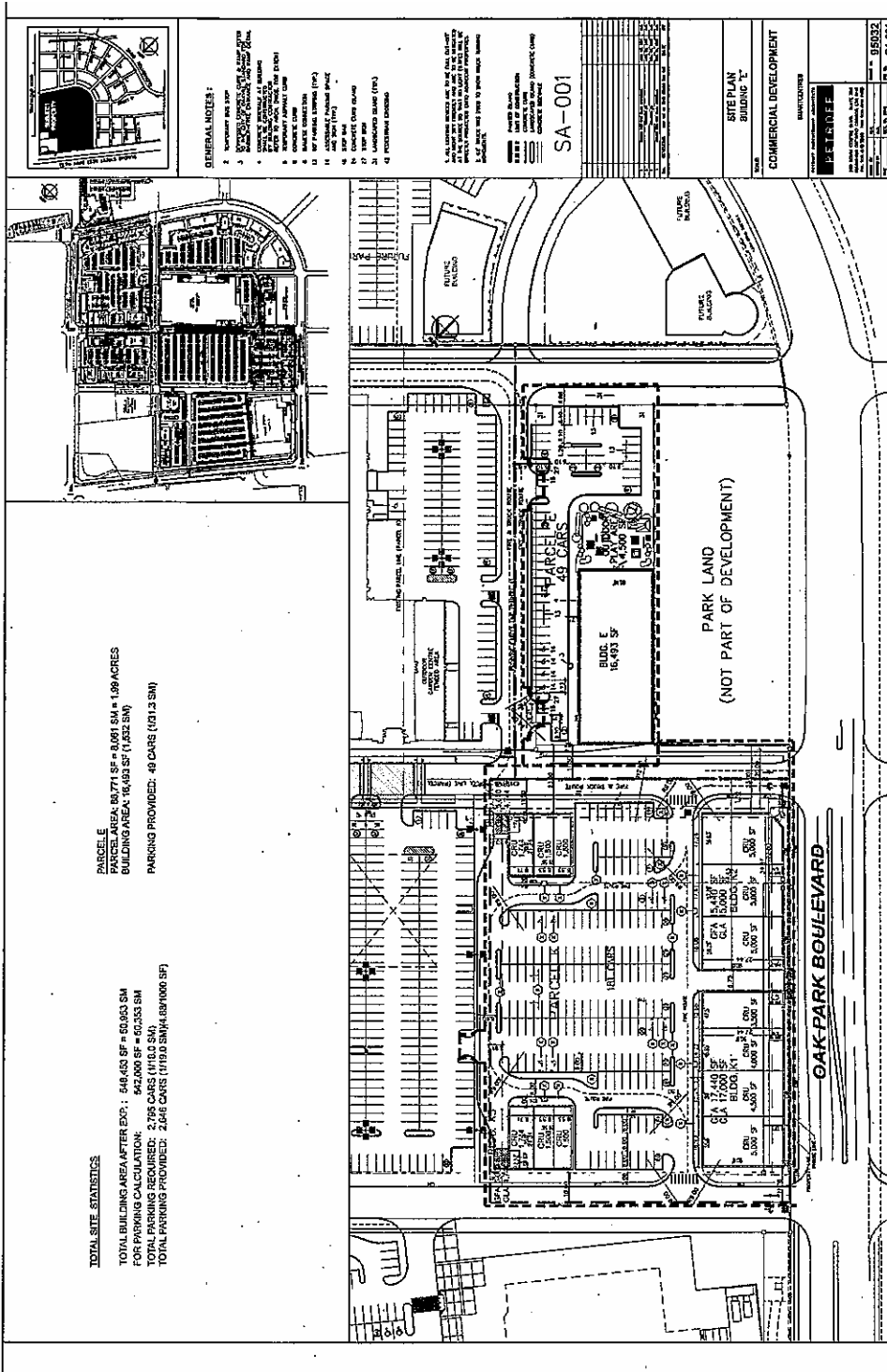
Silgold Developments Inc. has appealed to the Ontario Municipal Board under subsection 36(3) of the *Planning Act*, R.S.O. 1990, C. P. 13, as amended, from Council's refusal or neglect to enact a proposed amendment to Zoning By-law 1984-63 of the Town of Oakville to lift the 'H' Holding Symbol on lands respecting 201 and 206 Hays Boulevard to permit the expansion of a commercial development
OMB File No. PL100992

ORDER

THE BOARD HEREBY ORDERS THE FOLLOWING:

1. That the appeal by Silgold Developments Inc. ("Silgold") of plans and drawings pursuant to subsection 41(12) of the *Planning Act* for the development of 206 Hays Boulevard is allowed, in part, and the plans and drawings set out in Schedule "A" hereto are approved, subject to the conditions set out in Schedule "B" hereto.
 2. That Silgold's appeal of the Town of Oakville Committee of Adjustment's decisions on an application for minor variances for 206 Hays Boulevard pursuant to subsection 45(12) of the *Planning Act* is allowed, in part, and that the minor variances to the Town of Oakville Zoning By-law 1984-63 set out in Schedule "C" hereto are approved.
 3. That pursuant to Section 45(18.1.1) of the *Planning Act*, the amendments to the application for minor variances for 206 Hays Boulevard are minor, and therefore no further notice is required.
 4. That Silgold's appeal of its application to remove a holding symbol under subsection 36(3) of the *Planning Act* is allowed, and that the Town of Oakville Zoning By-law 1984-63 is amended in the manner set out in Schedule "D" hereto.
 5. That the following appeals are dismissed on consent:
 - a. Silgold's appeal of the Town Council's failure to make a decision on the site plan application filed pursuant to subsection 41(12) of the *Planning Act* for the development of 201 Hays Boulevard, and 202 Oak Walk Drive;
 - b. Silgold's appeal of the Town of Oakville Committee of Adjustment's decisions on applications for minor variances for 201 Hays Boulevard, 202 Oak Walk Boulevard; and
 - c. Silgold's appeal of the Town of Oakville Committee of Adjustment's decision on an application for minor variances related to parking for 201, 234, 270, 271, 275, 290, 295, 300, 301 and 309 Hays Boulevard and 201, 202, 251 and 261 Oak Walk Drive.
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PARCELE
 PARCEL AREA: 80,771 SF = 1.86 ACRES
 BUILDING AREA: 16,493 SF (1,332 SM)
 PARKING PROVIDED: 40 CARS (121.3 SM)

TOTAL SITE STATISTICS
 TOTAL BUILDING AREA AFTER EXP.: 518,433 SF = 11.86 ACRES
 FOG PARKING CALCULATION: 473,809 SF = 10.85 ACRES
 TOTAL PARKING REQUIRED: 2,725 CARS (119.0 SM)
 TOTAL PARKING PROVIDED: 2,646 CARS (119.0 SM) (4,837,000 SF)

- GENERAL NOTES:**
1. ALL DIMENSIONS ARE IN FEET AND INCHES.
 2. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.
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 40. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.

SA-001

PARK LAND (NOT PART OF DEVELOPMENT)

OAK PARK BOULEVARD

SA-001

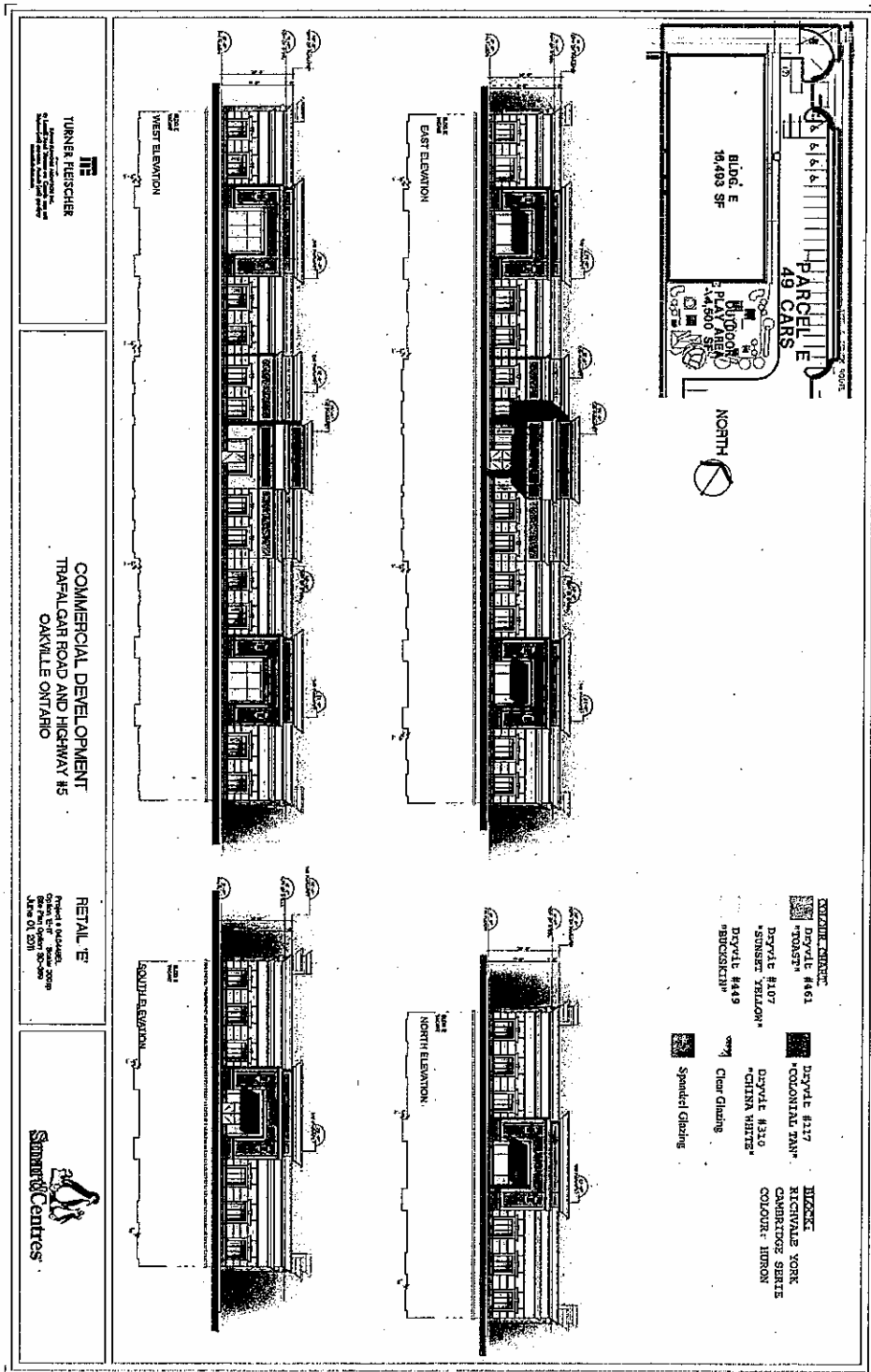
SITE PLAN
 BUILDING "L"

COMMERCIAL DEVELOPMENT

DATE: 08/02/2011 11:54:59 AM

PROJECT: 95532

CLIENT: SA-001



Schedule "B"

SP.1413.036/01 Building E 206 Hays Boulevard

A. Conditions to be satisfied prior to building permit issuance:

Approval of the site plan shall be considered conditional and the requirements of Section 41 of the *Planning Act* shall not be considered to be fully satisfied for the purposes of determining compliance with other applicable law under the Building Code for the construction of Building E identified on the site plan until compliance with the following conditions has been achieved to the satisfaction of the Director of Planning Services of the Town of Oakville or designate:

1. **Zoning Compliance:** That the proposed development complies with all zoning regulations and requirements.
 2. **Planning Services:** That the owner submits the following, to the satisfaction of the Planning Services Department:
 - a) **Final Drawing and Reports:** That the owner submits 3 sets of coordinated final drawings and reports incorporating changes required or arising out of the approved site plan.
 - b) **Cost Estimate:** That the owner provide a detailed written estimate of costs for all landscaping, on-site and off-site engineering works and restorations, including a detailed listing of items, quantities, unit costs, and total costs. These estimates will be reviewed and modified or approved by the Planning Services and Development Engineering Departments.
 - c) **Securities – Site Works:** That the owner deposit securities with the Finance Department (through the site plan file coordinator), in a form meeting the Finance Department's requirements, covering full costs of all items noted in the approved cost estimate.
 - d) **Securities – Hydro System:** That the owner deposit securities in the amount of \$10,000.00 with the Finance Department (through the site plan file coordinator), to cover potential damage to existing hydro system during project construction.
 - e) **Payments:** That the owner provides payments to the Finance Department (through the site plan file coordinator), associated with any items outlined in the 'Financial Obligations' Schedule of the Site Plan Agreement.
 - f) **Site Plan Agreement:** That the owner enter into a Site Plan Agreement with the Town, to be registered on title, containing clauses satisfactory to the Director of Planning Services, Director of Development Engineering and the Town Solicitor.
 3. **Drawings and Reports -** The following drawings and reports must be provided and/or revised in accordance with the approved site plan and elevations (attached as Schedule "A" hereto) and requirements arising from a detailed review of the materials and then finalized to the satisfaction of Planning Services, Development Engineering and Building Services Departments:
-

- a) Site Plan and Details
 - b) Landscape Plan and Details
 - c) Site Grading and Servicing Plan
 - d) Building Floor Plan and Roof Plan
 - e) Truck Turning Plan
 - f) Electrical Site Plan
 - g) Construction Storage and Parking Plan
 - h) Design Summary that includes limiting distance calculations
 - i) Stormwater Management Plan and Report
 - j) Tree Inventory and Protection Plan / Arborists Report
4. **Development Engineering:** In addition to the conditions outlined in 2 and 3 above, the owner must submit the following information or obtain the necessary permit, to the satisfaction of the Development Engineering Department:
- a) Obtain a Site Alteration Permit.
 - b) Obtain and submit authorization from subdivision engineer regarding grading and stormwater management for any blocks within an unassumed plan of subdivision.
 - c) That all technical engineering documents be signed and sealed by a Professional Engineer.
5. **Engineering & Construction:** That the owner obtain the necessary permits to the satisfaction of the Engineering & Construction Department:
- a) Obtain a Driveway Permit.
 - b) Obtain an Excavation Permit.
6. **Region of Halton:** That the owner obtain written confirmation from the Region of Halton indicating they are satisfied and have no outstanding issues with the development proposal. The Owner shall contact the Regional Services Permit Section for review and approval of the proposed water and sanitary servicing, to obtain water and sanitary sewer Services Permits, and pay all necessary fees. As part of the Services Permit review, the owner will be required to comply with Halton Region's multi unit servicing policy as set out in report PPW01-96, specifically Section 3.3.

In addition, the owner is advised of the following requirements:

- The Owner will be required to pay all applicable Regional development charges prior to the issuance of any building permits.
 - The Owner should undertake their own fireflow testing in the area in order to confirm the design requirements for domestic water supply and fire protection.
 - If uses include a day nursery, then prior to final approval, or any servicing of the site, the owner is required to submit to the Région of Halton a Ministry of Environment - (MOE) acknowledged Record of Site Condition (RSC), that is certified by a Qualified Person as defined in Ontario Regulation 153/04 and indicates that the environmental condition of the site is suitable for the proposed land use. The owner is also required to submit all supporting environmental documentation such as Phase I and II Environmental Site Assessment and Remediation Reports, etc to the Region of Halton
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for review. The author of the environmental reports must extend third party reliance to the Region of Halton. The owner is required to comply with Ontario Regulation 153/04 and Halton's Protocol for Reviewing Development Applications with respect to Contaminated Sites (PPW 19-08, February 2008), to the satisfaction of Halton Region.

7. **Oakville Hydro:** That the owner obtains written confirmation from Oakville Hydro indicating they are satisfied and have no outstanding issues with the final plans and reports.
 8. **Canada Post:** That the owner obtains written confirmation from Canada Post indicating they are satisfied and have no outstanding issues with the final plans and reports.
 9. **Bell Canada:** That the owner obtains written confirmation from Bell Canada indicating they are satisfied and have no outstanding issues with the final plans and reports.
-

B. Conditions of Final Site Plan Approval:

10. That this approval lapse if no building permit has been issued within two years from the date of approval by the Ontario Municipal Board.
 11. That all conditions of this Site Plan approval shall have been complied with prior to the 30th of June in the second year following the issuance of the building permit failing which Town staff may proceed to draw on the securities to complete all outstanding site plan conditions.
 12. That where applicable, the owner is required to restore the public roadway to Town standards as clearly indicated on the engineering drawings. All restoration works must be to the satisfaction of the Engineering & Construction Department.
-

Schedule "C"

206 Hays Boulevard (Building E)

Variance 1

To permit parking within a yard abutting Street F and the portion of the rear yard abutting Street C (primary streets) whereas Section 89(592)(12)(i)(i) states that no parking shall be permitted within a yard abutting a primary street or secondary street.

Variance 2

To permit parking within the southerly side yard, whereas Section 89(592)(12)(k) states that parking areas in conjunction with a commercial use are permitted at grade in the rear yard only.

Variance 3

To permit Building E to be located 55 metres from Street F whereas Section 89(592)(12)(e)(1) requires that the maximum setback from Street F is 2 metres.

Variance 4

To permit 49 Parking Spaces whereas Section 89(592)(12)(i)(l) requires 86 Parking Spaces to be provided.

Schedule "D"



OAKVILLE

THE CORPORATION OF THE TOWN OF OAKVILLE

BY-LAW NUMBER 2011-058

A by-law to amend the Town of Oakville's Comprehensive Zoning By-law 1984-63 as amended, to lift the Holding Provision in section 90B, H1, being 201 & 206 Hays Boulevard (File: Silgold Developments Inc., Z.1413.25)

ORDERED BY THE ONTARIO MUNICIPAL BOARD:

- 1. Map 91(22) of By-law 1984-63, as amended, is further amended as shown on Schedule 'A' by rezoning the "Affected Lands", as follows:

H1-UCC3R (SP 592) to UCC3R (SP 592)

- 2. By-law 1984-63 as amended is further amended by replacing the header for subsection 90B H1. Uptown Core / Silwell Developments Ltd. as follows:

Table with 4 columns: Zoning Designation(s), Special Provison, Zoning Map, By-law #. It lists zoning changes from H1-CR1B(b) to H1-UCC3R and H1-UCC3R to H1-UCC3R with special provisions 592 and 592 & 727.

- 3. This By-law is enacted to implement a Decision of the Ontario Municipal Board pursuant to Subsection 34(26) of the Planning Act, R.S.O. 1990, c. P.13, as amended and comes into force the day the final Board Order is issued.

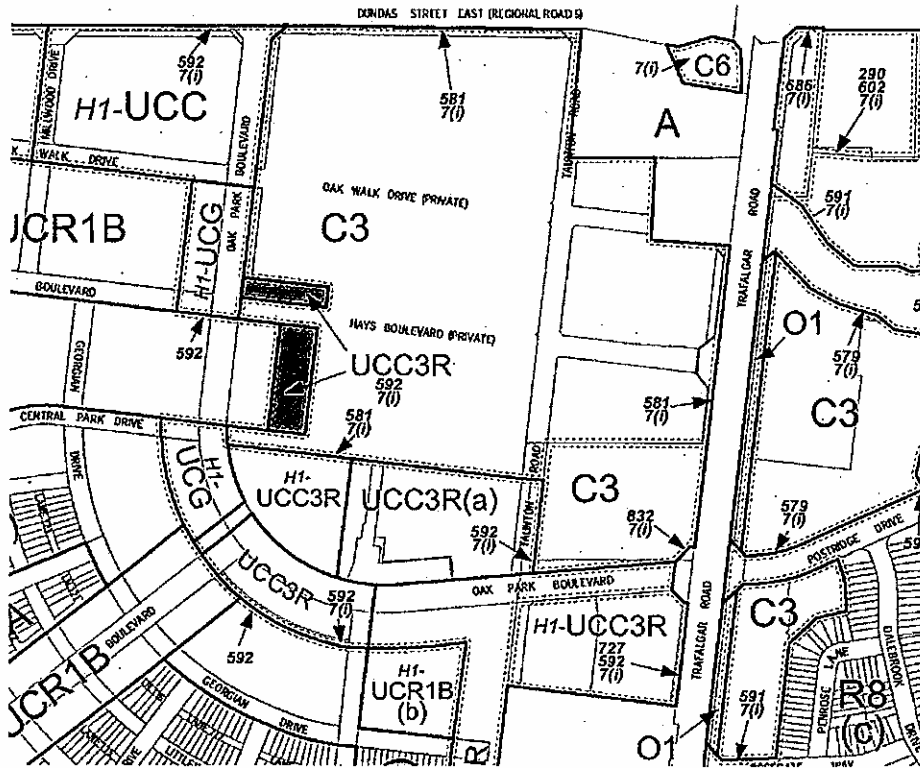
ORDERED by the Ontario Municipal Board Decision/Order dated: _____, 2011 for file No.: PL100992.

Decision Number: _____



By-Law Number: 2011-058

Schedule 'A' to By-law 2011-058



 AFFECTED LANDS

EXCERPT FROM MAP
91 (22)



SCALE 1 : 5000