



**Engineering Department**

**TO: Mayor and Members of Council  
Municipal Officers Report**

**SUBJECT: Burlington Executive Airport  
Update regarding proposed Consent Application on adjacent property,  
Site Alteration By-law 6-2003 and Permit**

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Report Number: E-25-13

File Number(s):

Report Date: May 15, 2013

Ward(s) Affected: 1  2  3  4  5  6  All

Date to Committee: N/A

Date to Council: May 21, 2013

**Recommendation:** Receive as Information

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**Purpose:**

- Address goal or action in strategic plan
  - Establish new or revised policy or service standard
  - Respond to legislation
  - Respond to staff direction
  - Address other area of responsibility
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**Reference to  
Strategic Plan:**

- |   |                                     |
|---|-------------------------------------|
| <input type="checkbox"/> Vibrant Neighbourhoods   | <input type="checkbox"/> Prosperity |
| <input type="checkbox"/> Excellence in Government | <input type="checkbox"/> N/A        |
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**Background:**

The Burlington Executive Airport is located in the City's Rural area on a collection of parcels known municipally as 5260, 5296, 5300, 5316 (all one property) & 5342 Bell School Line and 5351 Appleby Line. The airport was founded in 1962 and has a longstanding presence in the City's rural area. Currently, it consists of two paved runways (main north-south runway, and an east-west runway that was formerly grass, but was paved sometime in the last 4 years), a main terminal, and multiple hangers for the storage and repair of aircraft.

At present, the airport is engaging in a substantial exercise of importing fill onto the subject lands, most of which has been completed over the past 5 years. The airport Owner has stated that this work is being done primarily to raise and level a large portion of

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the site to allow for airport expansion. Staff from Planning and Engineering have been in contact with airport staff and local residents on this issue since approximately September of 2008.

Staff took the position in 2008 that any activities related to aeronautics, including any expansion of existing airports or airports, are subject to Federal regulation through Transport Canada, the Federal Aeronautics Act and Canadian Aviation Regulations, and are not required to comply with local or provincial plans, policies, by-laws or regulations. This position was based on a review of the legislation and case law at that time, and was applied to the filling activities, as it was stated by the Owner that this work was being done to prepare the site for various airport related construction projects (runway widening and paving, expanded aprons, new terminal and hangar construction, etc.).

Staff report PB-34-09 was presented to Community Development Committee (now D&I) in June 2009 to summarize the events and staff involvement up until that point, and to confirm staff's position that the City did not have jurisdiction to regulate matters of aeronautics, which included importing fill in support of a proposed airport expansion.

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## **Discussion:**

### **Consent Application**

An application has been submitted for a consent to sever for property known municipally as 5431 Appleby Line. This property is located directly north of the existing airport lands, and has frontage on both Appleby Line and Bell School Line, with a total area of approximately 35.25 ha. The consent application was received by the City on January 22, 2013 and was circulated to the public, City staff and external agencies in accordance with the Planning Act and regulations, and City procedures. 5431 Appleby Line is not currently owned by the airport, and the application was submitted by a representative of the airport, on behalf of the property owner. Currently, the application proposes to sever an approximately 12.95 ha portion of land from the easterly portion of the site, so that it can be combined with the airport lands to the south. The current airport owner has stated that the airport wishes to lengthen the existing north-south runway by approximately 1000 feet (305 m), which would be almost the entire width of the property to be severed. No specific details of a runway or airport expansion have been provided with the application, other than to state that the proposed use of the severed lands is "Airport". No other changes are currently proposed for the retained lands (i.e. remainder of 5431 Appleby Line).

The current consent application is subject to the full range of provisions under the Planning Act, as well as current provincial and municipal planning policies, including:

- Provincial Policy Statement

- Greenbelt Plan
- Region of Halton Official Plan
- City of Burlington Official Plan
- Conservation Halton Regulations and Policies
- City of Burlington Zoning By-law

Currently, the application is on hold in response to comments submitted by Conservation Halton. In those comments, a deferral was requested so that Conservation Halton staff could visit the site and examine a watercourse and wetland feature to determine the significance and possible regulation of these features. It was also indicated that the applicant may need to prepare various studies to confirm on-ground conditions and delineate the features, regulated areas and any required buffers.

Should the application proceed, it will do so in accordance with the Planning Act requirements and provisions for land division. Staff have been advised by the Clerk of the Land Division Committee that a public meeting will be held to decide on the applications as at least one letter of objection has been received from a member of the public. Notification of the meeting would be provided in accordance with provisions of the Planning Act, which require a circulation radius of 60 m from the property boundary. In addition, a notification sign would need to be erected on the site at least 14 days prior to the hearing date. The meeting would be a public meeting under the Planning Act and could be attended by any member of the public. In addition, any decision made by the Land Division Committee would be subject to appeal provisions of the Planning Act, which state that any person or public body can appeal the decision of the Committee within 20 days of the giving of the notice of decision.

At present, Planning staff have not provided formal comments on the applications to the Land Division Committee. Staff's position on the applications will be provided to the Committee through these comments, to be considered by the Committee in conjunction with comments from other agencies (i.e. Region of Halton, Conservation Halton, etc.), the applicant, and members of the public.

### **Site Alteration By-law 6-2003 and Permit**

The Ward Councillor contacted the Engineering and Planning departments for assistance in responding to ongoing concerns expressed by residents regarding the deposit of fill on the airport site. Based on advice received from the Legal department, City staff advised the airport owner that the City's site alteration is applicable and by-law must be complied with. This information was communicated to residents at a meeting held on May 1, 2013.

As a result, on May 3, 2013 the Engineering Department issued an "Order to Comply", related to the City's Site Alteration By-law 6-2003, to the Airport owner Mr. Vince Rossi. The serving of the Order to Comply was done in person in a meeting with Mr. Rossi. The Order to Comply included instructions that the current dumping and filling operations were required to stop and that the owner would be required to apply for and obtain a Site Alteration Permit in order to continue the dumping and filling operations.

The owner was contacted again by phone on Monday, May 6, 2013 and the Order to Comply was reconfirmed and that the dumping and filling operations were to be stopped immediately. Also that the Order to Comply would require the owner to apply for and obtain a Site Alteration Permit in accordance with the Site Alteration By-law in order to continue the filling.

The owner has since advised the City that they do not agree that the City has jurisdiction on their operations and thus have instructed their contractor to continue the dumping and filling operations.

The Order to Comply required compliance to be achieved (in this case meaning a permit to be obtained) within 10 days (in accordance with our by-law). The owner indicated that he would not apply for a permit. The 10 day period to comply expired on May 13th, and on this date a Notice of Violation was served to the owner. This Notice is the next step in the "Order to Comply" process. It set out the potential penalty (up to \$50,000 for a first offence) and required immediate attention to avoid the laying of charges.

The Airport owner has communicated that he is not interested in acquiring a Site Alteration Permit, however he has expressed that they would be cooperative and meet with the City "without prejudice" to discuss the typical conditions required under a Site Alteration Permit. The owner indicated there are approximately 2 months of filling operations remaining at the current fill location.

A meeting with the Airport representatives was held on Wednesday, May 15, 2013 @ 1:30pm at Burlington City Hall. This meeting was held "without prejudice" to the Burlington Executive Airport's right to assert that it does not require a site alteration permit, and also "without prejudice" to the City's right to assert that the Burlington Executive Airport does require a site alteration permit and may be charged for the contravention. The Airport representatives will convey the typical conditions, as discussed at the meeting, and required under a Site Alteration Permit to the owner for consideration.

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### **Financial Matters:**

The Ward Councillor has indicated a desire to have the City hire an aviation consultant to help clarify and address issues associated with the airpark, such as expansion plans and assessment of aircraft take off and landing requirements (i.e. what types of aircraft could utilize existing and planned runway length). This request is in the initial stages and staff have not initiated the process for selecting a consultant. It is expected that there will be a financial requirement, but the amount is not known at this time.

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### **Environmental Matters:**

N/A

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**Communication Matters:**

Previously staff have communicated with Greg Cross, who is a Civil Aviation Inspector at Transport Canada. Mr Cross was contacted by City staff again on May 14, 2013. Mr. Cross has re-affirmed his familiarity with the Burlington Airpark and indicated he is the appropriate Transport Canada contact for initial inquiries related to the airpark. His contact information is:

Phone: (905) 405-3306  
Email: [greg.cross@tc.gc.ca](mailto:greg.cross@tc.gc.ca)

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**Conclusion:**

This report has been provided for information.

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Respectfully submitted,

Cary Clark, P.Eng.  
Manager of Development & Environmental Engineering  
905-335-7600 ext. 7672

**Appendices:**

A.
B.

**Notifications:**  
(after Council decision)

Name	Mailing or E-mail Address
Ron Glenn – Region of Halton	<a href="mailto:Ron.Glenn@halton.ca">Ron.Glenn@halton.ca</a>
Jennifer Lawrence – Conservation Halton	<a href="mailto:jlawrence@hrca.on.ca">jlawrence@hrca.on.ca</a>

**Approvals:**

\*required

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\*Department

\_\_\_\_\_  
City Treasurer

\_\_\_\_\_  
General Manager

\_\_\_\_\_  
City Manager

To be completed by the Clerks Department	
Committee Disposition & Comments	
	01-Approved 02-Not Approved 03-Amended 04-Referred 06-Received & Filed 07-Withdrawn
Council Disposition & Comments	
	01-Approved 02-Not Approved 03-Amended 04-Referred 06-Received & Filed 07-Withdrawn