Ontario Land Tribunal
Tribunal ontarien de l'aménagement du territoire

ISSUE DATE: June 12, 2024 **CASE NO(S).:** OLT-22-004149

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

Applicant/Appellant:	Millcroft Greens Corporation
Subject:	Request to amend the Official Plan – Failure to make a decision with respect to a requested amendment
Description:	To permit the redevelopment of parts of a golf course to construct a total of 90 single family units and 130 apartment units in five areas
Reference Number:	505-07/20
Property Address:	2155 Country Club Drive and 4274 Dundas Street
Municipality/UT:	Burlington/Halton
OLT Case No:	OLT-22-004149
OLT Lead Case No:	OLT-22-004149
OLT Case Name:	Millcroft Greens Corporation v. Burlington (City)

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

Subject:	Application to amend the Zoning By-law – Refusal or failure to make a decision
Description:	To permit the redevelopment of parts of a golf course to permit a total of 90 single family units in five areas
Reference Number:	520-07/20
Property Address:	2155 Country Club Drive and 4274 Dundas Street
Municipality/UT:	Burlington/Halton
OLT Case No:	OLT-22-004150
OLT Lead Case No:	OLT-22-004149

PROCEEDING COMMENCED UNDER subsection 51(34) of the *Planning Act,* R.S.O. 1990, c. P. 13, as amended

Subject:	Proposed Plan of Subdivision – Failure of Approval Authority to make a decision with respect to permitting the redevelopment of parts of a golf course
Description:	To permit the redevelopment of parts of a golf course to permit a total of 90 single family units in five areas
Reference Number:	510-02/20
Property Address:	2155 Country Club Drive and 4274 Dundas Street
Municipality/UT:	Burlington/Halton
OLT Case No:	OLT-22-004151
OLT Lead Case No:	OLT-22-004149

Heard: March 5 to March 29, 2024 by Video Hearing

APPEARANCES:

Parties	**Counsel**
Millcroft Green Corporation	Patrick Harrington Alexander Suriano
City of Burlington	Isaac Tang Brett Davis Katrina Martin (Student of Law)
Region of Halton	Kelly Yerxa Melanie Benedict
Conservation Halton	Konstantine Stavrakos
Millcroft Coalition Against Bad Development	Chantal de Sereville
Millcroft Greenspace Alliance	David Donnelly

DECISION DELIVERED BY ERIC S. CROWE AND D. CHIPMAN AND INTERIM ORDER OF THE TRIBUNAL

Link to Order

INTRODUCTION

[1] The Tribunal held a 17-day hearing regarding appeal proceedings brought by Millcroft Green Corporation ("Applicant") under the *Planning Act* ("Act") for the failure of the City of Burlington ("City") to make a decision within the prescribed timelines regarding applications for an Official Plan Amendment ("OPA"), Zoning By-law Amendment ("ZBA") and a Plan of Subdivision ("(PoS"). Millcroft Coalition Against Bad Development ("MABD") and Millcroft Greenspace Alliance ("MGA") were previously granted Party status to these appeals. The appeals all relate to the properties located 2155 Country Club Drive and 4274 Dundas Street ("Subject Lands").

[2] The applications seek to reconfigure the existing 18-hole golf course in a manner that would create five parcels of developable urban lands (Areas A through E). The proposed applications sought the following:

(i) The proposed OPA would redesignate Areas A-D from Major Parks and Open Space to Residential-Low Density and Area E from Residential-Medium Density to Residential-High Density.

(ii) The proposed ZBA would rezone Areas A-D from an Open Space (O1) Zone to a Low Density Residential (R3-2-Exception) Zone and Area E from an Open Space (O1) Zone to a High Density Residential (RH3-Exception) Zone.

(iii) The proposed draft PoS involved 98 lots (future parcels of tied land) for detached dwellings, and blocks for a creek/pond, 6 metre ("m") wide landscape buffers adjacent to existing residential uses, private roads,

easements, CN berms, walkways and open space. The proposed draft PoS relies on private roads/driveways rather than municipal rights-of-way.

[3] The implementing draft PoS for Areas A-D proposed a total of 98 single-detached dwellings. A revised proposal reduced the number of single-detached dwellings to 90.

[4] In Area E, the applications would facilitate the development of either townhouses or a six (6)-storey mid-rise building consisting of 130 apartment units. Area E is on the periphery of the Millcroft community.

[5] Although the development application includes development Areas A-D and Area E in the same application, given the differences between Areas A-D and Area E, the Tribunal will consider the development of Area E an issue that is separate from Areas A-D only for the purposes of this Decision and not for the application overall.

[6] Through the Procedural Order and during this Hearing, the main issues are related to the following:

1. Legislative Scheme
2. Planning and Urban Design
3. Natural Heritage and Stormwater Management
4. Area E

[7] For the following reasons, the Tribunal grants the appeals in part, having found that the proposal represents good land use planning, and is in the public interest. The reasons are as set out herein after careful consideration of the policy and legislative framework, the appeal documentation and the evidence.

Subject Lands and the Surrounding Area

[8] The Subject Lands are located within the Millcroft Community, generally bounded by Dundas Street to the north, Upper Middle Road to the south, Appleby Line to the east, and Walker's Line to the west. Five areas (Areas A-E) of redevelopment are proposed, with a total area of approximately 11.7 hectares ("ha"). The municipal address of Areas A-D is 2155 Country Club Drive; Area E is 4274 Dundas Street. These proposed development blocks on the Subject Lands can be summarized as follows:

Areas A-E (Exhibit 2)



- **Areas A and B** are located in the southeast corner of the Millcroft Community. The two parcels have a total development area of 3.88 ha with

frontage onto Millcroft Park Drive. The two parcels are distinct development areas (north and south) connected by a strip of open space. These blocks currently form part of the golf course, as Holes #6 and #7 respectively, consisting of golf greens and fairways, and golf cart paths with varied vegetation along the edges including a pond. Hadfield Court, a local street containing single-detached dwellings, lies between the two parcels. Parklane Crescent is adjacent to the northeast. A tributary of the Appleby Creek is located on the westerly edge of the subject lands and feeds into an existing dug pond (identified as "Mill Pond") at the southwest corner of the lands, generally adjacent to Country Club Drive to the west and adjacent to Upper Middle Road to the south.

Areas A-B (Exhibit 2)



- **Areas C and D** have a combined area of approximately 1.36 ha. Area C has frontage onto Country Club Drive northeast of Berwick Drive and currently

comprises a portion of Hole #1. This area is 0.94 ha in area. The adjacent area to the east is characterized by 1.5 and 2 storey townhomes with private driveways. A pipeline easement and existing portions of the golf fairway lie adjacent to the north. Single-detached homes fronting Berwick Drive are to the west. Area D is located on Millcroft Park Drive between Latimer Crescent and Chasewood Court. The area is 0.41 ha in area. The subject lands currently comprise Hole #16. Surrounding uses include single-detached dwellings on Latimer Crescent, Chasewood Court and Millcroft Park Drive. An existing condominium townhouse cluster lies to the west on the opposite side of Millcroft Park Drive.

Area C-D (Exhibit 2)



- **Area E** has frontage on Dundas Street between Millcroft Park Drive and Tim Dobbie Drive/Westlock Common. A maintenance shed currently occupies the

0.66 ha area and is accessed via Dundas Street. The adjacent lands to the west have been developed as residential townhomes on a private road accessed from Westlock Common off Dundas Street. To the south and east is the existing hydro corridor. Dr. Frank J. Hayden Secondary School and Haber Community Centre are both situated across Dundas Street to the north.

Area E (Exhibit 2)



LEGISLATIVE TEST

[9] In making a decision with respect to an OPA, ZBA, and PoS appeals, the Tribunal must have regard to matters of provincial interest as set out in s. 2 of the Act, In addition, s. 3(5) of the Act requires the Tribunal's decision be consistent with the Provincial Policy Statement, 2020 ("PPS") and conform to the applicable Growth Plan which, in this instance, is a Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2019 ("Growth Plan").

[10] In consideration of the statutory requirements set out above, the Tribunal is directed to render a decision that it must be satisfied that the proposed development conforms to the City OP and the ZBA must conform with the OP and the draft PoS applications represent good planning and are in the public interest.

ORDER OF EVIDENCE AND WITNESSES

[11] It was agreed that the following Order of Evidence and Witnesses would govern the Hearing:

1. Jennifer Lawrence, Environment Planner (Applicant)
2. Ash Baron, Ecologist and Arborist (Applicant)
3. John Richard, Urban Design and Landscape Architecture (Applicant)
4. Shaheen Ahmed, Geotechnical Engineering (Applicant)
5. Shelly Gorenc, Fluvial Geomorphology (Applicant)
6. Travis Mikel, Hydrogeology (Applicant)
7. Stephen Kajan, Water Resource Engineer with a special focus on golf courses (Applicant)
8. Andrew Fata, Civil and Water Resource Engineering (Applicant)
9. Boyd Montgomery, Urban Design (Applicant)
10. Alexander Fleming, Transportation and Traffic Engineering (Applicant)
11. Glenn Wellings, Land Use Planning (Applicant)
12. Michael Manett, Land Use Planning and Urban Design (City)
13. Ron Scheckenberger, Water Resource Engineering (City)
14. Steve Chipps, Water Resource Engineering (City)
15. Melissa Torchia, Arborist (City)
16. Umar Malik, Water Resource Engineering (City)
17. Allan Ramsay, Land Use Planning (MABD)
18. Michael Frind, Hydrogeology (MGA)

[12] Evidence in support of the applications were provided by the above noted Applicant's experts. Evidence opposing the applications were from the City, MABD and MGA experts. All experts were duly qualified without objection to provide expert opinion evidence in their above noted field except for Michael Manett and Michael Frind.

[13] Mr. Manett was questioned on his urban design qualifications by the Applicant. The Tribunal ruled that Mr. Manett was previously qualified by the Tribunal on urban design and based on his experience was qualified to provide his opinion on land use planning and urban design.

[14] Counsel for MGA requested Michael Frind be qualified to give opinion evidence in the area of hydrogeology including surface ground water interface and climate change. The Applicant consented to qualify Mr. Frind in hydrogeology but not surface water ground water interface and climate change. After discussions with the Parties, the Tribunal agreed with the Applicant and qualified Mr. Frind in hydrogeology.

[15] Counsel for MABD advised she had a limited scope retainer and would participate for examination and cross-examination of their respective witness and therefore, twelve (12) different association members stood in as the self-representatives in her absence.

[16] Similarly, Counsel for MGA, advised he would periodically be absent throughout the hearing as they only have one witness, and an association member would stand in as the self-representative in his absence. In addition, Conservation Halton ("CH") and Region of Halton ("Region") would only be selectively attending the balance of the hearing. All Parties consented to this arrangement.

LAND USE PLANNING

[17] The Tribunal will first briefly summarize the policy scheme in regard to the previous OPA 117 and the new OP 2020 and the in-force-and-effect OP 1997.

OPA 117

[18] The Parties agree the original approval process for the Millcroft Greens community occurred through an OPA and PoS approval processes known as OPA 117.

[19] The Tribunal heard from Allan Ramsay a land use planner for MABD. Mr. Ramsay held senior positions in planning departments with the City (22 years) and was the project lead on OP 1997.

[20] Mr. Ramsay advised that according to OPA 117 the community plan was based on the integration of residential development adjacent to the open space land of the golf course and other natural features. Specifically, OPA 117 indicated:

> …It is also the intent of the Plan that, should the operation of the golf course discontinue, these lands will remain as permanent open space, since portions of these lands contain creek features which are part of the stormwater management system for the Community. The open space associated with the golf course will be an important element in the concept and therefore the marketing of the Community. It is also the policy of this Plan that the City neither intends nor will be obliged to purchase the golf course lands in order to ensure their existence as permanent open space.

[21] Mr. Ramsay testified that although OPA 117 is no longer in force and effect, it clearly demonstrates the intention of the City to maintain the open space lands in the community as a permanent feature.

[22] Mr. Manett, a land use planner for the City, opined, there was a clear intent by municipal staff at the time OPA 117 was adopted to maintain the open space as part of the neighbourhood in perpetuity, even if the golf course use was to be discontinued.

[23] Mr. Manett highlighted the planning staff report at the time that established that the open space, which the fairways contribute to, as a key part of the concept and marketing of the community.

[24] Michael Frind, a Hydrogeology witness for MGA also advised that the golf course was designed to function as two distinct but interrelated entities: a golf course, thus providing recreation, as well as natural stormwater attenuation, thus providing flood-risk mitigation and therefore prevention of property damage.

[25] MGA Counsel advised OPA 117, keeps alive an important flood attenuation feature, and allows for decision-making that properly reflects Provincial, Regional and local policy.

[26] The City's Counsel also submitted, in regard to OPA 117, the golf course lands were to remain as open space in perpetuity. This principle has been carried forward in the in-force 1997 OP and in the 2020 OP which both designate Areas A-D as Major Parks and Open Space.

[27] Mr. Wellings a land use planner for the Applicant, testified the suggestion that the golf course was intended as a permanent land use at the time it was first developed, is incorrect. This suggestion he noted is also inconsistent with restrictive covenants contained in offers of purchase and sale advising homeowners that the golf course may cease to exist in the future.

[28] Mr. Wellings testified the policies of OPA 117 including those specifically related to the golf course, were not carried forward in OP 1997 or OP 2020.

[29] Mr. Wellings advised that from the language of the amendment, one can conclude that while the golf course was intended as a significant feature within the community, there was an acknowledgement that its configuration and indeed its existence at all, might be subject to change in the future.

[30] Mr. Wellings advised OPA 117 references those portions of the golf course containing creek features which are part of the stormwater management system would

remain as open space. Mr. Wellings emphasized the applications, the creek features and associated hazard lands will remain designated and zoned as ‘Open Space’.

Burlington Official Plan 2020 (“OP 2020”)

[31] The Parties agree the OP 2020 was initially adopted by the City Council on April 26, 2018. Subsequent modifications were undertaken and a further modified version of the OP 2020 was adopted by City Council on October 7, 2020. The OP 2020 was approved with modifications by the Region on November 26, 2020, with many of the key policies still under appeal and not currently in effect.

[32] The City submits the policies of the OP 1997 are outdated. The OP 2020 is more indicative of City Council's intent with respect to updated and modern land use policies and is responsive to the Growth Plan and the PPS 2020.

[33] The City contends that OP 2020 should be read in conjunction with OPA 117 and OP 1997 since that is the future intention of the City land use plans.

Summary on OPA 117 and OP 2020

[34] The Tribunal finds that OPA 117 and OP 2020 are informative but not determinative. The Tribunal heard evidence of certain aspects of the proposed application conforming and not conforming to the under-appeal OP 2020.

[35] OPA 117 is no longer in force and effect which was confirmed by Mr. Ramsay, who was the planner at the City responsible for the current OP 1997, that proceeded and repealed OPA 117.

[36] The Tribunal also heard evidence that OPA 117 is the development foundation of the Millcroft community and that it should be weighed in conjunction with OP 2020 and OP 1997 in a manner that shows the intent of the open space and the golf course.

[37] While there were significant arguments and evidence on the application conforming with either OPA 117 or OP 2020, the Tribunal finds it is unnecessary to detail each argument.

[38] The Tribunal is alive to the facts and submissions on both the OPA 117 and OP 2020 as being informative and will discuss when necessary and weigh that information accordingly.

[39] However, the Tribunal finds OP 1997 was in effect at the time of the application and is the determinative OP and therefore, the focus of this Decision will rely on the majority of that evidence.

LEGISLATIVE SCHEME - EVIDENCE

Does the proposed application have appropriate regard for the matters of provincial interest, is it consistent with the PPS, and does it conform to the Growth Plan, the Region and City OP?

Agreed Statement of Facts (“ASF”)

[40] The Parties’ planners, specifically the Applicant, MABD, City and Region came to general areas of agreement and also came to general areas of understanding on other issues. The Tribunal will highlight those ASF when it is necessary.

Section 2 of the Act – Provincial Interest

[41] With regard to Provincial interests including providing a range of housing, planning conflicts, location and growth, and climate change, Mr. Manett and Mr. Ramsay both opined that the applications fail to have regard to the directions set out in the Act.

[42] Mr. Manett highlighted s. 2(a), (q) of the Act, in regard to protection of ecological systems, and the proposed development not being pedestrian or transit oriented.

[43] As to whether the applications are transit oriented, Mr. Manett contends, the Millcroft community area is served by a number of bus routes, however, most of these buses only offer half-hour service, with varying schedules. In Mr. Manett's opinion, given the suburban nature of the area, the transportation mode of any new residents will be most likely by car.

[44] Ron Scheckenberger, Water Resource Engineer testified on behalf of the City. Mr. Scheckenberger's experience includes investigation into the August 2014 flood on behalf of the City. He was also the Senior advisor in the preparation of the most current flood line mapping for the East Burlington Creeks Flood Hazard Mapping Study prepared for CH.

[45] In Mr. Scheckenberger's opinion, to fully address s. 2(s) of the Act, both the Scoped Shed Water Study ("SSWS") and Functional Servicing Report ("FSR") will need to be updated to address comments from CH and the City which has been acknowledged by the Applicant.

[46] In response, Mr. Wellings testified the applications are proposed within a designated urban area ("Settlement Area") with full municipal services being available (s. 2(f)). Municipal services, utilities and school sites are adequate, and the subdivision design is efficient to optimize existing and available infrastructure. The Subject Lands are

in close proximity to Norton Park, Dr. Frank J. Hayden Secondary School and Haber Community Centre that are situated on the north side of Dundas Street (s. 2(i)).

[47] The proposed development will efficiently utilize existing and available infrastructure including roads and services and rely on the existing road network established in the Millcroft community. The Applications and proposed pattern of development will result in orderly development of safe and healthy communities (s. 2(h)).

[48] In response to whether the applications were transit oriented (s. 2(q)), Mr. Wellings advised that Route 48 provides connections to the existing GO stations and the downtown. In Mr. Wellings' opinion, any level of intensification will assist in increasing ridership and support existing transit routes across the City.

[49] Alexander Fleming, Transportation and Traffic Engineer for the Applicant, testified, a Traffic Impact Study ("TIS") was prepared by Crozier Consulting Engineers and applied a 5% modal split for alternative modes of travel. According to Mr. Fleming, walking, cycling and transit will be viable modes of transportation for future residents.

[50] Jennifer Lawrence, an Environmental Planner, on behalf of the Applicant, who was a former environmental planner for CH, highlighted s. 2(a) of the Act, matters of provincial interest in regard to protection of ecological systems and natural areas, and concluded the Environmental Evaluation Report ("EER") identified only one natural feature exists which is fish habitat located in only Area A. Based on the EER, Ms. Lawrence advised there would be no negative impact.

[51] Ash Baron, an Ecologist and Arborist for the Applicant also testified the protection of the Regional Natural Heritage Systems ("RNHS") is achieved by the proposed development by avoiding development and grading within sensitive natural heritage features and mitigating impacts through enhancements, buffers and construction best management practices.

[52] Ms. Baron also testified that in regard to climate change, climate-resilient species will be included in the landscape plans for streetscape and natural areas (s. 2(s)).

Findings on s. 2 of the Act – Provincial Interest

[53] The Tribunal is required to address s. 2 of the Act in regard to public interest.

[54] The Tribunal has heard the evidence and submissions of the Parties and finds that although Mr. Manett and Mr. Ramsay provided significant arguments on several policies, the Tribunal prefers the compelling evidence of expert witnesses Mr. Wellings, Mr. Fleming, Ms. Lawrence and Ms. Baron.

[55] In regard to transit, although there are limited bus routes in the Millcroft community and the walking distance to each was raised as a concern, the Tribunal is satisfied that the level of intensification will assist in increasing ridership and support existing transit routes across the City. The Tribunal finds the proposed development will also promote other modes of transportation such as walking and cycling as described through the evidence of Mr. Fleming.

[56] The Tribunal agrees and prefers the evidence of Mr. Wellings who advised the applications were the result of a comprehensive planning assessment and review, which included the integration of selected development parcels within the golf course redesign. The Tribunal would also note the extensive reports and plans provided for in this application and does not find the proposed development was completed in a “piecemeal” or “ad hoc” fashion.

[57] The Tribunal finds that the applications respond to s. 2(n) which speaks to the resolution of planning conflicts involving public and private interests as the proposed housing and the maintaining of the 18-hole golf course (refigured) provide for a balance of

interests by meeting the necessity for housing while maintain the open space value of the golf course.

[58] The Tribunal is satisfied through the evidence of Mr. Wellings, the applications will provide needed housing close to educational, health and recreational facilities. Since lands are not within a PMTSA, the Tribunal notes there no policy requirements for an affordable housing compliment.

[59] The Tribunal was persuaded by the evidence of Ms. Lawrence and Ms. Baron and is satisfied ecological protection is provided for the natural areas proposed. The fish habitat is the only natural feature and with the pond going offline this will ensure no disruption or impact to the fish habitat.

[60] The Tribunal finds that the proposed development has taken into consideration climate change under s. 2 (s) of the Act by including climate-resilient species of trees. The broader issue of climate change is addressed further below in this Decision.

[61] Therefore, the Tribunal finds the proposed development has regard to matters of provincial interest as set out in s. 2 of the Act.

Section 51 (24) of the Act

[62] The Act requires in considering a Plan of Subdivision, regard shall be had for matters under s. 51(24) of the Act which lists 14 criteria (a-m).

[63] Mr. Ramsay advised the proposed draft PoS does not have sufficient regard for the criteria set out in the Act specifically:

- (b) whether the proposed subdivision is premature or in the public interest and
- (h) conservation of natural resources and flood control;

[64] Mr. Ramsay stated that the Subject Lands have not been identified by the City of Burlington as being within a Strategic Growth Area and are not locations where major intensification is directed.

[65] The proposed redevelopment will result in the loss of major open space areas within the community and the removal of 60% of the healthy trees in Areas A to D. These open space and tree removals do not represent enhancement to existing natural features. The Subject Lands have a desirable aesthetic quality as open space lands and provide a necessary infrastructure function related to stormwater management and flooding.

[66] Mr. Manett's primary concern was that the application compromises an established sense of place without adequate consideration for whether these changes are necessary or desirable. He stated the Millcroft community is quite unique in the way that the subdivision and golf course are integrated with one another, including in policy.

[67] Mr. Wellings testified the draft PoS is not premature and responds to various matters of public interest including the protection of natural heritage and natural hazard features and the provision of housing opportunities through intensification.

[68] Mr. Wellings stated the draft PoS design accounts for natural resources and flood control. The proposed residential development is located outside the natural hazard and protects and enhances existing natural heritage features in Area A.

[69] Ms. Lawrence testified the re-grading of the lands on the east side of Appleby Creek between Upper Middle Road and Millcroft Park Drive will be reconfigured, and the low flow channel of Appleby Creek will be re-instated by the removal of the on-line weir. The SSWS

demonstrates that the proposed flood plain alteration will not result in any increased flood risk to properties upstream, downstream or on the adjacent lands.

Findings on s. 51 (24)

[70] The Tribunal prefers the evidence of Mr. Wellings and Ms. Lawrence.

[71] The Tribunal finds the draft PoS is not premature and is in the public interest as it seeks responds to various matters of public interest including the protection of natural heritage and natural hazard features while adding to the provision of housing opportunities through intensification. The land is suitable for the purposes for which it is to be subdivided and the dimension and shape of the proposed lots is appropriate and consistent with the existing pattern of development that surrounds the Subject Lands.

[72] Therefore, the Tribunal also finds that the draft PoS has appropriate regard for the criteria set out in s. 51(24) of the Act.

Provincial Policy Statement ("PPS")

[73] Mr. Ramsay highlighted policies dealing with Managing and Directing Land Use (s. 1.1.1), Settlement Areas (s. 1.1.3.1, 1.1.3.2, 1.1.3.3 and 1.1.3.4), Public Spaces, Recreation, Parks, Trails and Open Spaces (s. 1.5.1), and Energy Conservation, Air Quality and Climate Change (s. 1.8.1) which he states are relevant to the matters before the Tribunal.

[74] Mr. Ramsay and Mr. Manett maintain the proposed amendments are not appropriate for the Subject Lands and will result in an overdevelopment, does not promote intensification, loss of open space, and will not foster active transportation, or community connectivity. Further, the development does not accommodate an appropriate affordable

and market-based range and mix residential types, nor does it promote appropriate integration of land-use planning, and growth management.

[75] In addition, the removal of open space lands in Areas A-D compromises the full range and distribution of open space lands in the community. Mr. Manett stated that although these are private lands, they are part of the open space lands were designed into and are integral to the overall community's character.

[76] Mr. Manett, testified that the Applicant is seeking to significantly redevelop some of the fairways, without a comprehensive planning process to consider the golf course and neighbourhood as a whole, as was done when this community was established and therefore considers it "piecemeal" or "ad hoc" planning on the part of the Applicant. The Application in his view fails to comprehensively plan for 90 additional residential units being introduced into an established community that are spread haphazardly in four disconnected areas within the existing community.

[77] He explained that the nature of the existing community is fundamentally one in which the open space was and continues to be, a key component of its original layout, and its marketing. Therefore, the removal of the open space areas and replacement with low density, large lot residential development in a piecemeal manner, is not managing land use in an appropriate manner.

[78] Mr. Manett emphasized that the development Application fails to consider the character of the established community, by compromising a significant portion of the established open space without identifying any benefits to the City and community or sufficiently justifying the need for the change. Further, he opined that given the unique nature of this planned community, it would not constitute good planning to support piecemeal redevelopment that compromises the integrity of the golf course community and the open space that makes up a significant component of the original design.

[79] He further stated that the proposed development does not support the principle of protecting both public and private open spaces, and Areas A-D should not be considered underutilized or vacant parcels of land in the existing community since they are an integral part of the existing open space and natural features that form part of the overall ambience of the golf course community.

[80] According to Mr. Scheckenberger, the application is consistent with s. 1.6.6.7, specifically sub-policies b), c) and f) of the PPS and based on the information submitted to-date which is understood to require updating to address comments from CH and the City.

[81] Mr. Wellings testified the applications are consistent with the PPS. The proposed development is located within a Settlement Area, represents an efficient land use pattern, promotes intensification through the ROP, provides additional housing opportunities in the community, is transit-supportive and is located outside of natural hazards/natural heritage features.

[82] Mr. Wellings testified, the Applications promote efficient development and land use patterns and provide a mix of residential types including single-detached dwellings (Areas A-D) and apartments/townhouses (Area E). All development is proposed outside of the natural hazards.

[83] The Applications will provide housing to meet market-based needs for current and future residents including single-detached dwellings which are in limited supply within the City. Development is proposed in locations where infrastructure and public service facilities are presently available, and the development proposes densities for new housing which efficiently use lands, infrastructure and transit.

[84] The Applications promote a compact form of development in the context of the surrounding development, support active transportation and existing transit, and

encourage intensification. Compensation planting will be provided for the vegetation to be removed to facilitate development.

[85] In response to affordable housing, Mr. Wellings testified there is no policy requirement that the applications must provide affordable housing since the Subject Lands are not within a Protected Major Transit Station Area (“PMTSA”).

[86] John Richard, an Urban Design and Landscape Architect for the Applicant, testified he completed the Millcroft Greens Conceptual Open Space Report. According to Mr. Richard, the plan proposes a network of publicly accessible pathway and sidewalk connections that are linked with existing sidewalks, existing multi-use trails and future City proposed multi-use trail connections, leading to area parks, as well as the Bruce Trail system. In his opinion, there is adequate community connectivity.

[87] Ms. Lawrence and Ms. Baron highlighted s. 2.1, 2.2 and 3.1 of the PPS in regard to natural heritage, water and flooding and erosion. In their opinions, the natural heritage features are protected, maintained, and will be restored or improved. Area A is consistent with the PPS regarding the natural hazard policies.

Findings on the PPS

[88] The Tribunal prefers the expert evidence of Mr. Wellings, Ms. Lawrence, Ms. Baron and Mr. Richard in regard to the PPS.

[89] The Tribunal finds the City and MABD did not sufficiently demonstrate that the proposed development is an overdevelopment, does not promote intensification, does not provide adequate community connectivity, is not transit supportive, and does not promote open space.

[90] The Tribunal is satisfied through the evidence of Mr. Wellings, that the proposed development is located within a Settlement Area, represents an efficient land use pattern, and promotes intensification.

[91] The Tribunal finds that in regard to intensification, Areas A-D are located within the delineated built-up area. The Tribunal agrees with Mr. Wellings, the proposal promotes intensification and increased density in support of complete communities, and it accommodates growth that is compact and transit supportive.

[92] In addition, the Tribunal prefers the evidence of Ms. Lawrence and Ms. Baron who testified the natural features will be protected for the long term and that the proposed development will be directed to areas outside of hazardous lands.

[93] As noted previously, the Tribunal finds the proposed development is transit supportive with the level of intensification that will assist in increasing ridership and having bus routes along Millcroft Park Drive.

[94] In regard to community connectivity and open space arguments by the City and MABD, the Tribunal is satisfied based on the evidence of Mr. Richard that active transportation links including foot paths to all community amenities are maintained.

[95] Therefore, based on the evidence the Tribunal finds that the proposed development is consistent with the PPS.

Growth Plan for the Greater Golden Horseshoe, 2019 as amended (“Growth Plan”)

[96] In the environmental Planning ASF, all planners agreed that the Growth Plan natural heritage system does not apply to the Subject Lands.

[97] Mr. Manett contends the single-family homes proposed in Areas A- D do not constitute compact built form, and therefore do not contribute to building a complete community, especially given the open space that is being replaced. Both also contend the low-density housing proposed will impact the original community design.

[98] Mr. Manett and Mr. Ramsay advised that the development proposal is unlikely to promote transportation modes that decrease reliance on the automobile, and the Subject Lands are inappropriate for intensification as they are located outside a prescribed area of intensification the Strategic Growth Area.

[99] Mr. Scheckenberger advised the Applicant's SSWS and SWM Plan, per the FSR, must be updated to conform with the Growth Plan.

[100] In response, Mr. Wellings testified, policy 2.2.1(2) (c) of the Growth Plan, specifies that within Settlement Areas, growth will be focused in delineated built-up areas. According to Mr. Wellings, areas A-D are within the "Delineated Built Boundary" while Area E is situated within a "Designated Greenfield Area".

[101] In regard to compact built form argument from the City and MABD, Mr. Wellings testified, the applications promote built form that facilitates intensification that is compatible with the adjacent and surrounding land uses. The proposed development provides a more compact built form than the present use of the Subject Lands the golf course and maintenance shed (Area E).

[102] In addition, Mr. Wellings testified a single-detached built form was chosen to be sensitive to the existing abutting-built forms, which are predominantly detached dwellings. According to Mr. Wellings the provisions in the draft ZBL provide for a more compact built form based on modest increase to the lot coverage and setback requirements.

[103] In Mr. Wellings opinion, the applications conform to the Growth Plan by supporting complete communities, providing a range and mix of housing options, prioritizing intensification, promoting transit supportive development and protecting existing natural heritage features.

[104] Mr. Fleming testified the Growth Plan provides policies to promote transit use and active transportation, a complete streets approach that considers all road-users and not just automobiles, and implementation of Transportation Demand Management policies by municipalities. Walking, cycling and transit will be viable modes of transportation for future residents.

[105] On cross-examination, Mr. Manett conceded that provided the City, Region, and CH's concerns and interests have been addressed to each party's satisfaction (e.g. through the Applicant accepting appropriate conditions of approval and updating the appropriate reports), it was possible for the development application to conform with these Growth Plan policies.

Findings on Growth Plan

[106] The Tribunal has reviewed the evidence on the Growth Plan and the overlapping issues such as transportation, intensification and open space as contained in the PPS.

[107] In regard to intensification (Policy 2.2.1(2)(c)), the Tribunal prefers the evidence of Mr. Wellings, that the effect of the proposed development, Areas A-D conform to policies in the GP which speak to focusing growth in the delineated built-up boundary.

[108] The Tribunal finds that the Applications support the achievement of complete communities and will offer a mix of residential land uses and housing options, provide an opportunity for existing and future residents to purchase a home in the Millcroft community,

and support a more compact built form that is compatible with the existing community and appropriately responds to the impacts of climate change (Policy 2.2.1(4)).

[109] The Tribunal is satisfied that the Applications will protect existing natural heritage features identified within the Subject Lands. These features are contained within Block 91 of the Subdivision and will remain in an Open Space (O1) Zone. The Tribunal heard the intention of the Applicant is to dedicate Block 91 into public ownership but private stewardship through an associated condominium corporation or through continued ownership/management by the golf course itself are also options should the City not wish to accept the dedication.

[110] The Tribunal is satisfied that the Applications conform to the Growth Plan by supporting complete communities, providing a range and mix of housing options, prioritizing intensification, promoting transit supportive development and protecting existing natural heritage features.

[111] In regard to transportation (Policy 2.2.1(4)), the Tribunal prefers the evidence of Mr. Fleming who testified a complete streets approach considers all road-users and not just automobiles, and this would include walking, cycling and transit as other viable modes of transportation, Policy 1.2.1 – Guiding Principles.

[112] Therefore, the Tribunal finds that the proposed development conforms with the Growth Plan.

Region of Halton Official Plan (“ROP”)

[113] The ROP designates the Subject Lands as “Urban Area” on Maps 1 and 1h (Regional Structure). Area A is partially designated Regional Natural Heritage System (RNHS) on Map 1G (Key Features within Greenbelt and RNHS). The Regional Official Plan Amendment Nos. 48 (“ROPA 48”) and 49 (“ROPA 49”) were approved following the submission of the Applications.

[114] Mr. Manett contends the development proposal will impact the City's urban structure and the need for a Municipal Comprehensive Review ("MCR") in the consideration of the applications for Areas A-D is necessary according to the ROP Amendment ("ROPA 49") as well as being the direction contained in the OP 2020.

[115] Mr. Manett commented on the ROP and advised with regard to conformity with the ROP, he would defer to the Region. He stated if in the Region's view adequate conditions of approval have been agreed to, then the City has no issue with regard to the ROP.

[116] Mr. Ramsay's only concerns with the ROP were in regard to Healthy Communities policies, specifically to protect tree covered areas, promote conservation and promote soil conservation and minimize soil erosion.

[117] In Mr. Ramsay's opinion, the proposed tree removal does not conform with Policy 146 (6) of the ROP. The removal of these trees will neither protect the existing tree resources nor enhance the woodland coverage in the Region.

[118] In response to the requirement for a MCR for these applications through ROPA 49, Mr. Wellings advised the previous provincial approval of ROPA 49 was recently revoked through Bill 150 (the *Official Plan Adjustments Act, 2023*).

[119] Mr. Wellings referenced OP 2020 which will require that any proposal to redesignate lands within Major Parks and Open Space designation shall only be considered by the City through a statutory OP review. OP 2020 is still under appeal and not in force and effect and noted the Applicant has appealed this specific policy.

[120] Ms. Baron testified there would be no negative impacts with the removal of the online pond and the natural heritage features and hazards will be protected. ROP

objectives to land specifically s.146 (6) and (7) include protecting significant tree covered areas as a natural resource and promoting conservation, and wise economic use of trees.

[121] Ms. Baron advised Areas A-E do not represent significant tree covered resources and woodlands are not present in these areas so s.146 (6) is not relevant to the proposed development.

[122] In regard to s. 146 (7) Ms. Baron testified the Subject Lands do not represent economic opportunities related to trees. Thus, preservation of planted trees has been afforded reasonable consideration and prioritization and will be revisited at detailed design.

Findings on ROP

[123] The Tribunal finds there is not a requirement for a MCR as outlined in ROPA 49 since it was revoked by Bill 150 and there is no requirement for a statutory OP review since OP 2020 is under appeal not in force and effect. Furthermore, both ROPA 48 and ROPA 49 were approved following the submission of the Applications.

[124] The Tribunal prefers the evidence of Mr. Wellings and Ms. Baron. It has clearly been demonstrated that the natural features will be protected. In regard to the ROP policies and objectives related to lands and specifically trees, the Subject Lands are not considered significant tree covered areas and do not represent economic opportunities related to trees (e.g., logging, maple syrup production).

[125] The Tribunal is satisfied that at the detailed design stage the consideration and prioritization preservation of planted trees and the requested conditions of the PoS will take place between the experts and in accordance with the City, ROP and CH guidelines. As previously noted, the loss and compensation of trees is further reviewed later in this Decision.

[126] The Tribunal having been advised that the Region's interests have been satisfied through the pre-requisite conditions of the draft PoS approval finds the proposed development conforms to the ROP.

City of Burlington Official Plan 1997 ("OP 1997")

[127] All the Parties agree the OP 1997 is in effect and was in effect at the time of the applications.

[128] Schedule A of the 1997 OP designates the Subject Lands and the broader Millcroft community as "Residential Areas". Schedule B (Comprehensive Land Use Plan – Urban Planning Area) designates Areas A-D as "Major Parks and Open Space" based on the existing golf course use. Area E is designated "Residential – Medium Density".

Compatibility/Character

[129] Mr. Manett opined that the proposed development would not be sympathetic to the neighbourhood character, nor would it enhance it. He explained that the nature of the existing community is fundamentally one in which the open space was and continues to be, a key component of its original layout, and its marketing. Therefore, the removal of the open space areas and replacement with low density, large lot residential development in a piecemeal manner, is not appropriate.

[130] With respect to the City sustainable design policies, his concern is that the proposed development in Areas A-D clearly does not expand the types of housing within the community, and the housing that is proposed does so at the expense of open space.

[131] According to Mr. Manett, the existing neighbourhood is defined by the nature and layout of its open space as an integral component of the community. Therefore, the proposed development of Areas A-D, undermine the form and structure of the

neighbourhood. This form of intensification will have the negative effect of undermining the integrity of the original intent of the community design.

[132] Finally, it was Mr. Manett's opinion that the proposed development would not contribute a more balanced transportation system through the process of development.

[133] Mr. Ramsay identified aesthetics as one issue from the compatibility criteria that the application does not comply with. He asserts, the redesignation of Areas A-D from Major Parks and Open Space to a Residential Low-Density designation to facilitate the conversion of portions of the existing golf course to residential subdivision is neither compatible with nor an enhancement of existing natural features.

[134] In Mr. Ramsay's opinion, with respect to compatibility, the reduced development standards (coverages, setbacks, building heights) and smaller right of way standards will result in an overdevelopment of the Subject Lands and development that is out of character with the scale and massing of building in the surrounding area.

[135] Mr. Wellings emphasized that the Applications contribute to a range of housing in the City and provide for compatible development. He referred to the definition of "Compatible" in OP 1997 is as follows:

> **Compatible** – Development or re-development that is capable of co-existing in harmony with, and that will not have an undue physical (including form) or functional adverse impact on, existing or proposed development in the area or pose an unacceptable risk to environmental and/or human health. Compatibility should be evaluated in accordance with measurable/objective standards where they exist, based on criteria such as aesthetics, noise, vibration, dust, odours, traffic, safety and sun-shadowing, and the potential for serious adverse health impacts on humans or animals.

[136] In Mr. Wellings' opinion, the proposed development meets the definition of compatible. The chosen built form/development co-exists in harmony without causing unacceptable impacts. There are no identified issues/concerns with respect to aesthetics,

noise, vibration, dust, odours, traffic, safety, and sun-shadowing nor are there demonstrated unacceptable risks to the environment and/or human health. The Applications propose development that can co-exist in harmony with and will not result in undue physical or functional adverse impacts on existing development.

[137] He stated that the Subject Lands are suitable for the purposes for which it is to be subdivided and the dimension and shape of the proposed lots are appropriate and consistent with the existing pattern of development. Mr. Wellings testified the applications promote residential intensification in the “Urban Planning Area” and “Settlement Areas” of the City.

[138] In Mr. Wellings’ opinion, adequate municipal services are available to accommodate the proposed development. Off-street parking satisfies the City’s current parking standards, there are no capacity issues on the municipal transportation system and the proposed development is in proximity to existing transit services.

[139] Mr. Wellings testified that Millcroft community is well served by publicly owned/operated parks and open space. Notwithstanding that the Millcroft Greens golf course is a leisure amenity and recreational asset to the surrounding community, the golf course does not form part of the City’s municipal parks system.

[140] According to Mr. Wellings, Areas A-D propose single-detached dwellings of a similar nature to the existing development premised on an enhanced rear yard setback that includes a 7.5 m setback for a two (2)-storey dwelling plus a 6 m landscape buffer (total of 13.5 m) between existing and proposed development. The rear yard setback for all built forms exceeds the existing 9 m rear yard setback requirement presently contained in the R2-3 and R3-2 Zones (see sketch Exhibit 1 vol 5, Millcroft Greens Urban Design Brief) The provision of a buffer would effectively provide a larger rear yard setback. Various restrictions will be reviewed in the condominium documents and discussed with the City to ensure the long-term protection of the buffer.



Fig. 1.4e - View of the 6.0m Green Buffer between existing and proposed residential

[141] Mr. Wellings testified, the Millcroft community currently contains a variety of ground related built forms, lot sizes and tenures that presently co-exist in a compatible land use arrangement.

[142] According to Mr. Wellings, the proposed development of Areas A-E is compatible, and appropriate and compensation will be provided for the loss of vegetation. There are no unacceptable sun-shadow impacts, the area is well served by community services.

[143] Mr. Richard testified that in consideration of the existing character of the Millcroft neighbourhood, the integration of the proposed residential lotting and open space features will be consistent with and complementary to the established existing community.

[144] According to Mr. Richard, the design of all dwellings within the Millcroft Greens community shall offer a harmonious mix of architectural themes derived from either traditional or contemporary styles. The use of distinctive and well-designed architecture employing high-quality materials (brick, stone, and stucco depending on architectural style) align with the characteristics of all existing development, linking various communities in the surrounding area.

[145] Mr. Richards testified, unlike existing private roads within Millcroft, the proposed private roads will include sidewalks and will provide safe, convenient and barrier-free travel within the site and between the site and adjacent uses, similar in this respect to “normal” municipal rights of way.



[146] Portions of existing pathways will be reconfigured pathways or golf cart pathways to ensure active transportation links to all community amenities are maintained, including to area parks, schools and transit.

[147] In Mr. Richard’s opinion, in consideration of the landscape design and open space study including tree preservation and planting strategy and integration of rear yard setback, sidewalks and trails to existing infrastructure, the landscape architectural design will be consistent with established Millcroft community.

[148] Boyd Montgomery, Urban Design for the Applicant, advised the proposal represents the promotion of built form that is well-designed, encourages the existing sense of place within the Millcroft community and provides for public spaces (while realigning and retaining a significant private recreational feature) that are of high quality, safe, accessible, attractive, and vibrant.

Findings on Compatibility/Character

[149] The Tribunal prefers the evidence of Mr. Wellings, Mr. Richard and Mr. Montgomery. The expert witnesses testified the proposed development is consistent with the OP 1997.

[150] The Tribunal agrees that compatibility does not mean being the same as, or even being similar to, but instead “implies nothing more than being capable of existing together in harmony”. The Tribunal is satisfied that the proposed development is compatible with the adjacent residential properties, in lotting pattern, built form, scale and architectural design.

[151] In addition, the extent of differences pertaining to dwelling, lot and setback scale, and dimensions between what is proposed and existing is consistent with the general character of the established community. Examples of similar or greater differences in dwelling scale within existing lot adjacencies can be found in the community. Furthermore, perceived differences in the proposed development are further mitigated by the placement of the lots to the rear of existing lots, and by the 6m landscape buffer.

[152] Finally, the proposed development will not destabilize the existing neighbourhood’ s physical character; the neighbourhood has a variety of lot sizes and frontages which serves to make the neighbourhood interesting as it provides for buildings with varied relationships.

[153] There is no evidence of adverse impacts on the neighbourhood character by virtue of the compatibility.

Roads

[154] Mr. Fleming advised the proposed development Areas A, B and D will be accessible via Millcroft Park Drive. Development Area C is accessible from Country Club Drive, and Development Area E is accessible from Dundas Street.

[155] According to Mr. Fleming intersections within the TIS area were reviewed under existing traffic conditions and five-year forecasted future conditions (with and without development) for weekday morning and afternoon peak hours. The study was completed in accordance with the Region of Halton's TIS Guidelines.

[156] According to Mr. Fleming on the TIS, the proposed development is expected to have a negligible impact on the surrounding road network as future total traffic is expected to operate in a similar fashion to the existing scenario with the signal split optimizations. The proposed site accesses meet the Transportation Association of Canada's guidelines for sight distances, site access spacing and configuration.

[157] Mr. Richard notes unlike existing private roads within the Millcroft community, the proposed private roads will include sidewalks and will provide safe, convenient and barrier-free travel within the site and between the site adjacent uses, similar in this respect to "normal" municipal rights-of-way.

[158] Mr. Ramsay testified that he has seen new information from the Applicant since his witness statement pertaining to roads, and he no longer has concerns with the roads in the proposed development.

Findings – Roads

[159] The Tribunal is satisfied that based upon the evidence the proposed roads will have a negligible impact on the surrounding road network and meet the Transportation Association of Canada's guidelines.

Parks and Open Space

[160] The Parties agree that the objectives of OP 1997, s. 2.9 (Neighbourhood Parks) are to provide opportunities for neighbourhood parks to meet local recreational and open space needs of the residents. The Subject Lands are privately owned and do not form part of the City's municipal parks system.

[161] As previously discussed, Mr. Manett advised, the proposed development is not sympathetic to the neighbourhood character, nor does it enhance it. The nature of the existing community is fundamentally one in which the open space was and continues to be, a key component of its original layout, and indeed its marketing.

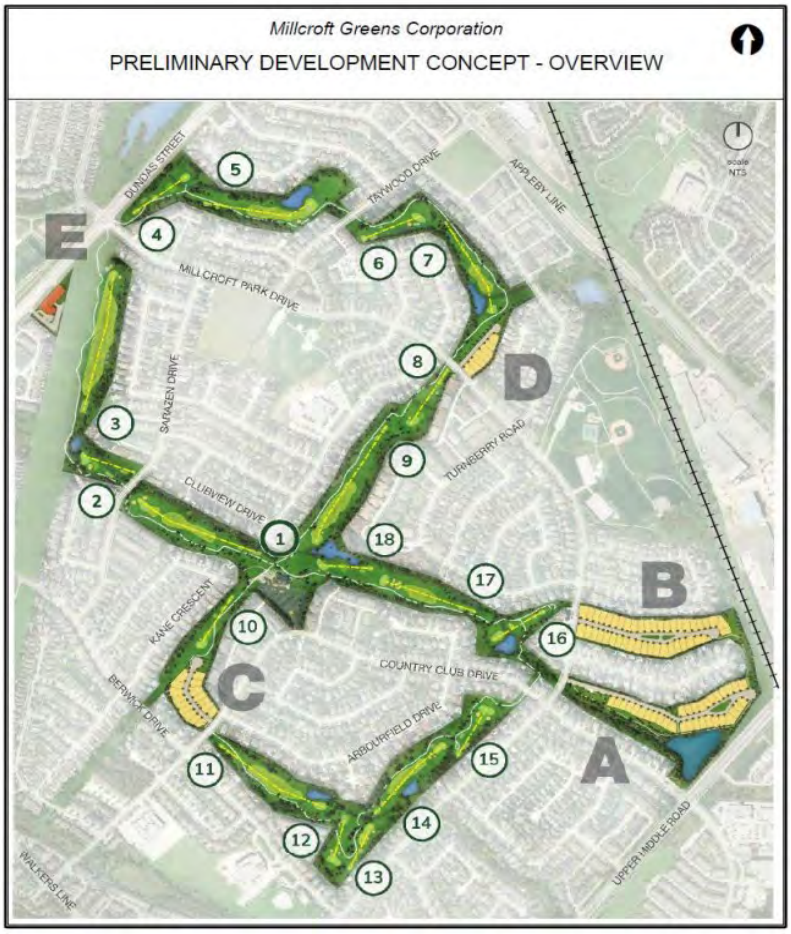
[162] Therefore, in Mr. Manett's opinion, the removal of the open space areas and replacement with more low-density, large-lot residential development in a piecemeal manner, is not appropriate (see the proposed to existing condition for Areas A and B diagram Millcroft Greens Conceptual Open Space Report Exhibit 36, below).





[163] Counsel for the City submits, while a landowner can pursue an application to redesignate lands from Major Parks and Open Space to another designation, such an application ought to take into consideration the impact of the loss of the open space to the Millcroft Community.

[164] In response, Mr. Wellings testified, the Millcroft Greens Golf Course is a privately owned and operated recreational and leisure facility that is open to paying patrons of the golf course, but not open to the general public. The golf course has been described through testimony, as a semi-private golf course. While the applications propose to develop portions of the Millcroft Greens Golf Course, the 18-hole private golf course will remain in a reconfigured format. (See concept plan of golf course below);



[165] In Mr. Wellings' opinion, the Millcroft community is well served by publicly owned/operated parks and open space. Notwithstanding that the Millcroft Greens Golf Course is a leisure amenity and recreational asset to the surrounding community, the golf course does not form part of the City's municipal parks system.

[166] According to Mr. Wellings it is the intention of the City (as expressed through its policies) to service the outdoor recreational needs of its residents through publicly owned and operated spaces. OP 1997 policies respecting parks and open space do not rely upon and do not require private outdoor recreational facilities to remain *in situ* in order to service the public space needs of their surrounding communities.

[167] Mr. Wellings testified, in response to City comments and the desire for additional parkland, a Parkland and Open Space Opportunities submission (March 11, 2022) was filed with the City in April 2022. He confirmed that the document provides recommendations for parkland in Areas A, B and C and open space opportunities that will benefit existing and future residents. Mr. Wellings testified that the City did not provide a response to this document.

[168] Mr. Richard stated, the plan provides residents with additional natural and passive use open space features, including a parkette amenity within Area C. The proposed development will also provide recreational opportunities in Area A through the provision of a linear park and trail connecting Millcroft Park Drive to Upper Middle Road through the natural heritage system.

[169] Mr. Richard, during cross examination by the City, provided comments related to the Linear Park concept in Area A, which allows for internal pedestrian and cyclists to move through the area freely between Area A and Area B.

[170] The City raised concerns that the Linear Park was in an inappropriate location for pedestrian safety. The City took the Tribunal to the Crime Prevention Through Environmental Design Principles (“CPTED”) to outline lighting issues and the lack of signage as their concerns. The Tribunal heard on re-examination from Counsel to the Applicant, Mr. Richard testified that the City never raised nor had concerns about the public recreational trails or options from the open space park or provided any comments to the consulting team for the Applicant.

[171] Counsel for the City questioned the Parkland Open Space and Opportunity Study, specifically locations of options 1 and 2 contained in that study. Mr. Richard stated Options 1 and 2 in the Study were no longer considered open spaces because the function of the park was the most determinative factor in where to place the parks.

[172] Mr. Richards advised the Parkland proposal is required to have 4.3 ha and the proposal has 5.6 ha of parkland, therefore, the parkland and open space to be provided would exceed the parkland requirements for Areas A-D. Area E would be subject to cash-in-lieu of parkland.

[173] Mr. Ramsay conceded that the parkland requirement is normally dealt with through the conditions of draft plan approval stage.

[174] Mr. Manett on cross-examination confirmed that an adequate amount of parkland is to be provided by the application.

Findings – Parks and Open Space

[175] The Tribunal finds there was no dispute that the Millcroft golf course does not form part of the City's municipal parks system.

[176] The Tribunal prefers the evidence of Mr. Wellings that the 1997 OP's policies that are in force and effect, respecting open space do not rely upon and do not require private outdoor recreational facilities to remain *in situ* in order to service the public space needs of their surrounding communities.

[177] As noted in the Parties' Brief of Authorities examples (which are discussed in further detail below), many golf courses cease to exist in redevelopment while in this case the golf course is remaining only to be reconfigured. The golf course will be maintained as a semi-private course, privately owned.

[178] The Tribunal has not been provided substantive evidence to make a finding that the Subject Lands are intended to be permanent open space.

[179] The Tribunal finds that proposition from the City's and MBAD witnesses that the open space provides ambience, and that it will be a loss of a public amenity is fundamentally incorrect. While the ambience was enjoyed by those homeowners backing onto the open space, the Tribunal is not persuaded that there will be a loss of ambience to be enjoyed by all. In fact, through the proposed pathways and linear park public access the ambience of the open space will remain for all to enjoy.

[180] In regard to the City argument of the location and the options of Parks, the Tribunal aligns its view with that of the Applicant's Counsel, in that the Applicant received no responses from the City when the Park plans were filed or on the two options of the park locations.

[181] The Tribunal finds the City's position regarding parks, is slightly disingenuous to now put it before the Applicant in the process of this hearing.

[182] The Tribunal finds that the only concern with regard to the Parks and their location is CPTED principles specifically, lighting and signage.

[183] The Tribunal agrees with the City and has highlighted these conditions that lighting, and signage pursuant to the CPTED principles be a requirement for the linear park in Area A.

[184] The Tribunal finds that there is an adequate amount of parkland to be provided within these applications and is in fact in excess of the parkland requirement.

NATURAL HERITAGE AND STORMWATER MANAGEMENT

[185] The Parties' environmental planners, specifically the Applicant, City, Region and CH came to general areas of agreement in the area of environmental planning on various

policies of the PPS, Growth Plan and OPs. Additionally, the following excerpts from the Agreed Statement of Facts reference the below materials as “SSWS”, “BAR” and “EER”:

- *Scoped Subwatershed Study* (SSWS), Urbantech, 2nd Submission September 2023
- *Benefit Analysis Report* (BAR), Jennifer Lawrence and Associates, 2nd Submission July 2023
- *Scoped Environmental Evaluation Report* (EER), Beacon Environmental, July 2023

a) Millcroft Greens agrees to update the SSWS, BAR and EER based on CH’s letter of October 30th, 2023, and to consider forthcoming comments from the City.

b) The detailed design plans and management recommendations of the final SSWS, BAR, EER will be implemented through conditions of subdivision approval.

[189] The Tribunal will highlight other agreed facts when it is necessary.

Natural Heritage Features

[190] Umar Malik, Stormwater Engineer for the City testified, the application proposes to install underground storage tanks to manage stormwater impacts in Areas A and B. Millcroft has not acceptably demonstrated in the FSR that the proposed underground storage tanks, are appropriately sized to capture, retain and release at an acceptable rate the runoff associated with the application.

[191] Mr. Malik advised, an updated FSR that addresses the City’s comments on the Scoped SWS and the proposed design to the City’s satisfaction has not been submitted.

[192] The Tribunal heard evidence through Mr. Wellings that the natural heritage and natural hazard features have been identified through the evaluation of the applications and incorporated into Block 91 of the Subdivision.

[193] According to Mr. Wellings, Block 91 will remain in an Open Space (O1) Zone which precludes development. The current intent of Block 91 is that the lands may remain in private ownership.

[194] According to Ash Baron, an Arborist for the Applicant, setbacks of 7.5 m to flooding and erosion hazards and buffers of 15 m to natural heritage features has been provided for, pursuant to s. 2.5.2 (a) (ix) of OP 1997.

[195] Ms. Baron advised that natural heritage features including watercourses, fish habitat and wetlands have been identified in Areas A and D. However, the proposed development is planned to be directed away from the natural heritage features.

[196] Ms. Lawrence testified, Areas B, C, D and E do not contain any areas regulated by CH, pursuant to Ontario Regulation 162/06. Therefore, there are no flooding or erosion hazards, regulated wetlands or associated regulatory allowances within these four areas.

[197] As previously discussed, Ms. Lawrence advised the proposed development protects the existing natural heritage features within Area A and proposes the creation of additional natural habitat in an area that is currently occupied by an online pond.

[198] Ms. Lawrence advised the EER has demonstrated that, in addition to CH's policy requirements, the proposed flood plain alteration:

- will not increase the risk to life or property upstream or downstream;
- provides a benefit to the overall system; and
- is in the public interest.

[199] On cross-examination, Mr. Manett and Mr. Scheckenberger advised, in regard to the City natural heritage policies, if the Applicant complies with the process and comments provided by CH providing the required updates to the Scoped SWS, Scoped EER and

BAR, and addressing certain comments through detailed design and accepts CH's recently released Draft Plan Conditions, the application will have appropriately addressed the flood and erosion risks of Appleby Creek and Sheldon Creek.

Findings – Natural Heritage Features

[200] The Tribunal acknowledges Area A is the only location with Natural Heritage Features with a flood plain alteration.

[201] The Tribunal finds there has been no substantive evidence to show the flood plain alteration will not provide a benefit to the overall system.

[202] The Tribunal is satisfied that through the detailed design plans and management recommendations of the final SSWS, BAR and EER will be implemented through conditions of subdivision approval.

Mill Pond

[203] Ms. Lawrence testified, the existing online irrigation pond is proposed to be taken entirely offline as part of the proposed development. This will result in beneficial alterations to the watercourse (i.e., reinstatement of a low flow channel) as well as flood plain alterations (i.e., construction of the offline pond and sculpting of those lands currently occupied by the online pond, part of which will result in the construction of a wetland adjacent to Appleby Creek). The watercourse in Area A is regulated by CH, (Ontario Regulation 162/06) and flows into an existing dug online Mill Pond (see photo of Mill Pond and Pump House below).



[204] Ms. Lawrence advised; the removal of the online pond will result in the following significant benefits to the Appleby Creek system which is encouraged by CH:

- the re-instatement of approximately 180 m of low flow channel for Appleby Creek;
- no reliance on the watercourse for irrigation purposes;
- improved fish passage through the removal of the downstream weir;
- improved sediment transport;
- wetland creation;
- provision of riparian vegetation along the entire length of the creek; and,
- reduced thermal loadings to the creek.

[205] Mr. Frind advised the current function of the Mill Pond provides critical storage in hot, dry, summer conditions and the possibility where the pond level is depleted through irrigation of the golf course lands which could lead to a brown hole.

[206] Mr. Frind contends, conversion of the existing online Mill Pond to an offline, active stormwater pond will increase the risk of downstream flooding based on the Dillon Appleby

Creek Study, 1977 which states the storage pond is not a practical solution due to the shape of the watershed which is long and narrow, and storage ponds for controlling major storm runoff in narrow watersheds will have to be sited on and form an integral part of the main creek, as this is the only place where they can intercept a worthwhile amount of overland flow.

[207] Steve Chipps, a Water Resource Engineer testified on behalf of the City and agreed with Mr. Scheckenberger that there is currently inadequate detail in the submitted information to support this conceptual design, as there will need to be supporting rationale for the use of the hazard lands (where the proposed offline Mill Pond is currently planned to be sited) for private irrigation purposes.

[208] Mr. Malik testified, typically hazard lands are dedicated to the City. Hazard lands are required to be free and clear of encumbrances, structures or any impediments that could restrict or impede the City's access to such lands. The City is not opposed to the relocation and reconfiguration of the Mill Pond but is not prepared to accept its location within the dedicated hazard lands, and the associated maintenance responsibilities.

[209] On cross-examination Mr. Malik expanded his concerns with the access to the Mill Pond for emergency vehicles in cases such as floods. Mr. Malek testified he understands the Mill Pond is regulated by CH but the City is the one responsible in case of emergencies because it is the one that receives the telephone calls.

[210] Stephen Kajan, a Water Resource Engineer with a special focus on golf courses testified for the Applicant. He advised R. J. Burnside & Associates was retained to develop an irrigation water management strategy in support of an application for a Permit to Take Water ("PTTW") from the Ministry of the Environment, Conservation and Parks ("MECP").

[211] According to Mr. Kajan, sufficient existing irrigation pumps and underground infrastructure currently originates from the existing pond location and only modest modifications are needed to facilitate irrigation of the realigned golf course.

[212] Mr. Kajan advised, the offline pond will be primarily fed by storm flows and supplemented with municipal water supply as needed. Municipal water usage is estimated to increase to 25-60 days on an annual basis once the on-site irrigation water management strategy is finalized and the pond is taken completely offline.

[213] On cross-examination from the City, Ms. Lawrence was asked if removing the pond was considered. She advised it was never asked by the consultation team or the City, and that in any event, the infrastructure is already in place including the pump house which is required to move water around the golf course. Therefore, in her opinion it made sense to keep pond in the same area.

[214] Mr. Manett confirmed on cross-examination, that with respect to the City's watercourses principles, City staff and consultants have noted some concerns. If these can be mitigated or addressed to the satisfaction of the City, Region, and CH (e.g., through the Applicant accepting appropriate conditions of approval and updating the appropriate reports), it is possible for the development application to conform with these policies.

Findings – Mill Pond

[215] The Tribunal prefers the evidence of Ms. Lawrence and Mr. Kajan. The Tribunal is satisfied that the offline pond proposal was peer reviewed by CH and they support this approach.

[216] The Tribunal is satisfied through the evidence of Mr. Kajan there is sufficient detail in the design and only modest modifications are required to facilitate irrigation of the realigned golf course.

[217] The Tribunal is satisfied that the amount of water that may be required to resupply the pond from municipal water consumption in dry periods is reasonable and that a concern for a “Brown Pit” if water is not maintained to a certain level is without merit.

[218] In regard to Mr. Malik’s concern for access for City emergencies such as floods, the Tribunal is satisfied that nothing will change from either a private ownership or City ownership since all infrastructure will basically be the same with a slightly smaller pond.

Stormwater Management

[219] The Tribunal heard through the evidence of the Parties, stormwater management is the responsibility of the City, and the OP 1997 contains considerable policy direction under Part II, s. 2.11 with respect to appropriate management to ensure protection against flooding and erosion, maintaining groundwater recharge functions and maintain or improve the quality of stormwater runoff.

[220] To achieve these objectives, the OP 1997 includes policies (s. 2.11.3) which require new development to incorporate stormwater management techniques to control quantity and quality of storm runoff.

[221] Mr. Chipps advised it is appropriate to use underground storage tanks as part of a system to manage flooding and erosion impacts from planned development as per the City guidelines.

[222] However, in Mr. Chipps’ opinion, the level of detail for the underground storage tank provided within both the SSWS and FSR is at a conceptual design level and is currently inadequate to support the conceptual design. The design for underground storage tanks will need to be further detailed and revised based on comments provided by the City and CH comments.

[223] Mr. Frind testified, in regard to use of underground storage tanks, concerns about the City having to depend on its municipal by-law enforcement staff and legal order letters when such privately engineered stormwater management devices require maintenance.

[224] Mr. Frind advised in regard to modelling for stormwater management, the industry use of HEC-RAS - a 2D(dimensional) modelling system is simply not the best tool for modelling the complexities of an infill proposal to be built on areas with flood history it is a surface-water model that does not take hydrogeology into account, the interactions between groundwater and surface water have simply been ignored.

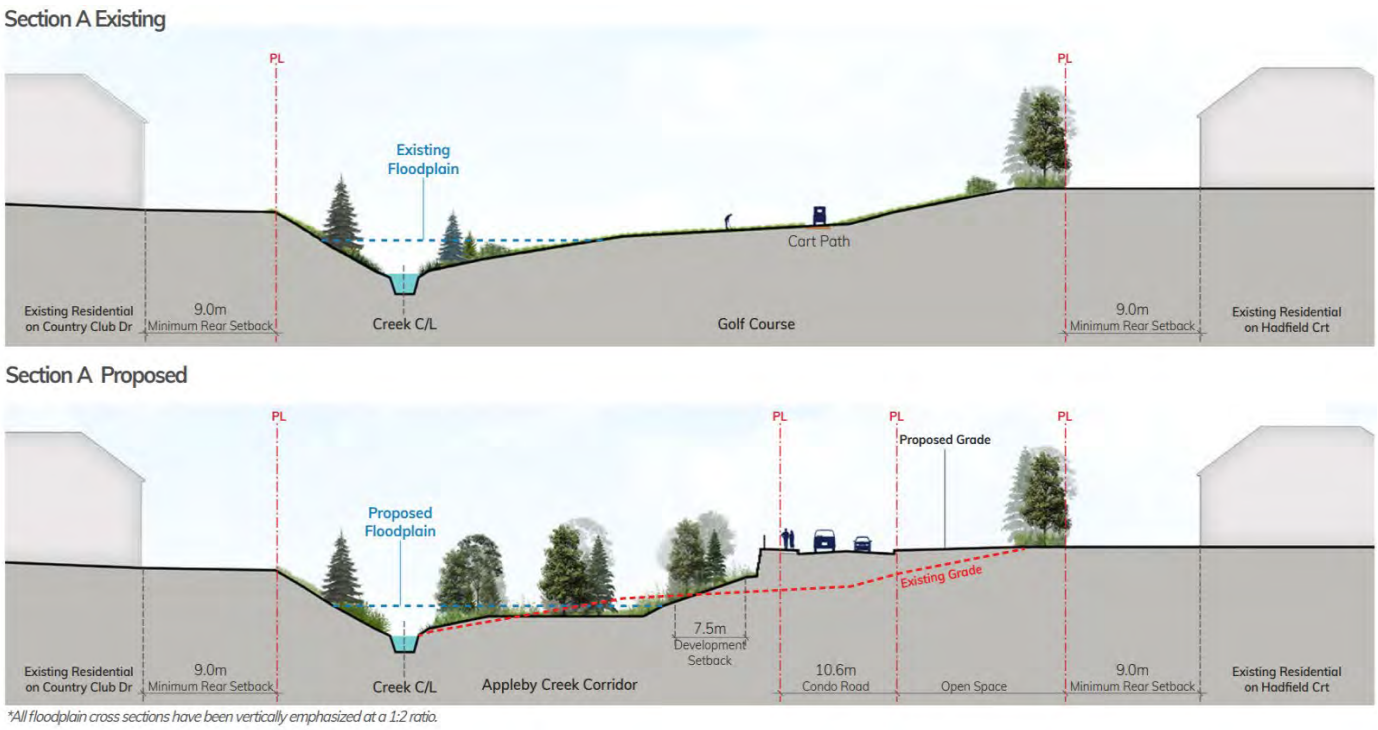
[225] Mr. Frind contends, insurance industries currently use a three-dimensional fully integrated, high-resolution, whole-watershed modelling of groundwater-surface interactions model like MIKE-SHE or HydroGeoSphere (HGS) state of the art 3D modelling system would also be more accurate in modelling and assessing multiple complex worst-case scenarios.

[226] On cross-examination Mr. Frind conceded he has never completed a stormwater management design himself.

[227] According to Mr. Wellings through the Justification Report, the existing pond at present has limited stormwater management controls and was not specifically designed to provide for such controls. The pond’s current function is to provide for the irrigation needs of the golf course. Quality and extended detention controls are not currently provided.

[228] According to Ms. Lawrence, to accommodate a portion of the Area A development, alterations are proposed to the Regional Storm floodplain as documented in the FSR, Scoped SWS and EER (see below, Exhibit 36 Millcroft Greens conceptual plan Area A floodplain). This involves re-grading the lands on the east side of Appleby Creek between Upper Middle Road and Millcroft Park Drive. Additionally, the irrigation pond will be

reconfigured, and the low flow channel of Appleby Creek will be re-instated by the removal of the online weir.



[229] Ms. Lawrence testified, no negative impacts to the fluvial processes of Appleby Creek are anticipated within Area A as a result of the floodplain alteration. Finally, the removal of the online irrigation pond, and reinstatement of a naturalized channel and functional floodplain, will result in significant improvements to the fluvial processes through this reach of Appleby Creek.

[230] Ms. Lawrence testified that at the request of CH, a Scoped SWS was prepared and the stormwater management plan (“SWM”) was completed. The SWM plan that was prepared prior to the Scoped SWS incorporates an integrated approach to minimize stormwater flows by incorporating low impact development (LID) measures, underground stormwater tanks as well as an end-of-pipe stormwater pond.

[231] Mr. Wellings testified, the City has previously endorsed the use of underground storage tanks in other recent developments. The underground storage of stormwater results in a more efficient development rather than consuming land with a SWM pond. The future condominium corporation will be responsible for the ongoing maintenance of the underground stormwater storage tanks.

[232] Mr. Fata a water resource engineer for the Applicant, advised he participated in the completion of the SSWS and FSR, and testified, tanks are a suitable stormwater management measure to manage drainage areas less than 10 ha (for which conventional ponds are not recommended by the MECP). All proposed development parcels are less than 10 ha. Tanks allow for controlled infiltration into the ground (where infiltration is feasible). Tanks promote efficient land use by providing additional usable land for development, amenity areas, or parking.

[233] Mr. Fata testified, the Regional flood hazard limit which was used to confirm/establish the development limits is based on the historical Hurricane Hazel storm. According to Mr. Fata, CH has confirmed that this is the appropriate storm distribution for use in establishing flood hazards in the subject watersheds.

[234] Travis Mikel, Hydrogeology expert for the Applicant, advised he prepared water balance calculations to assess the potential impacts of land development on the local groundwater conditions. He worked directly with Urbantech Consulting Inc. to develop a stormwater management strategy to maintain water balance in post-development.

[235] In Mr. Mikel’s opinion, the proposed development will not negatively impact the hydrogeologic regime on the Subject Lands. The stormwater management strategy outlined in the FSR and the implementation of LID measures will make sufficient water available to offset the predicted deficit in post-development recharge. The implementation of LID measures is part of a best management practices approach to development and will

result in a significant reduction in the estimated deficit and represent maintenance of recharge to the fullest extent possible.

[236] Shaheen Ahmed, Geotechnical Engineer for the Applicant, testified he has reviewed the proposed design of the development and SWM plan for the Subject Lands and in his opinion the proposed development raises no concerns from a geotechnical perspective.

[237] Mr. Manett, Mr. Scheckenberger and Mr. Chipps all testified regarding the City's stormwater management policies, if the Applicant complies with the process and addresses the comments provided by CH providing the required updates to the Scoped SWS, Scoped EER and BAR and addressing certain comments through detailed design, and accepts CH's recently released Draft Plan Conditions, the application will have appropriately addressed the flood risks of Appleby Creek and Sheldon Creek.

[238] Mr. Fata testified following their review of the SWS and updates to the East Burlington Creek hydrologic and hydraulic models, CH staff have confirmed that they have no fundamental concerns with the study findings and subject to a list of requested conditions, no objections to the approval of the planning applications for the Subject Lands. CH staff have requested additional report refinements, which they have indicated can be deferred to detailed design as they do not anticipate that the updates will impact development limits.

Findings – Stormwater Management

[239] The Tribunal heard extensive evidence on stormwater management and all of what that entails.

[240] The Tribunal is satisfied based through the evidence of Ms. Lawrence, and acceptance of CH, the removal of the online pond, will result in significant improvements to the fluvial processes through the reach of Appleby Creek.

[241] The Tribunal finds through the evidence of Mr. Ahmad, Mr. Mikel and Mr. Fata, the stormwater management design is appropriate. There is no dispute that the City and CH guidelines use of 2D modelling are appropriate based on the 100-year storms criteria and uses the most recent guidelines from the Province of Ontario.

[242] Through the evidence of Mr. Fata, the Tribunal finds that the August 14, 2014, rainfall event in the City, is not the design standard for evaluation of the floodplain. Hurricane Hazel is the designated rainfall event for evaluating flood hazards in this area as required by the Province through the *Conservation Authorities Act* and by CH through O.Reg.162/06.

[243] Although Mr. Frind contends none of these sources specifically address the increasing prevalence of extreme storms, the Tribunal is satisfied through the evidence of the Applicant's witnesses that Hurricane Hazel is the design standard for evaluating floodplain and are used today for stormwater management.

[244] In addition, the Tribunal is satisfied the implementation of LID measures is part of a best management practices approach.

[245] The Tribunal finds that the Applicant's updated Scoped SWS (December 2023) and FSR (February 2024) satisfies the City's witnesses' concerns in regard to stormwater management.

[246] Based on evidence from the three witnesses for the City, the Tribunal is satisfied that the CH's draft plan conditions are appropriate to address the flood risks and is a condition of this Order in Schedule "C".

Tree Removal and Compensation

[247] The Parties, specifically the Applicant and City came to general areas of agreement on the Applicant's Arborist Report. The Tribunal will highlight those excerpts of the Agreed Statement of Facts when it is necessary.

[189] Mr. Ramsay highlighted the Arborist's Report submitted in April 2022, in the proposed redevelopment of Areas A-D which will result in the removal of a large number of trees.

[190] In Mr. Ramsay's opinion, the anticipated removal of 60% of the healthy trees (312 of the 516 healthy trees) will neither protect the existing tree resources nor enhance the woodland coverage in Halton.

[191] Melissa Torchia, Supervisor, Forest Protection for the City, testified City staff review development proposals and evaluate the proposal using a hierarchical approach, whereby the avoidance of impacts or removals shall be considered first, then minimization followed by mitigation, with compensation as a final option.

[192] According to Ms. Torchia, City staff identified that the plans should be revised to consider and prioritize tree preservation, rather than existing trees being preserved as an afterthought.

[193] She stated that staff had made comments to consider reviewing alternate layouts and grading options to protect and preserve more existing trees. More specifically, staff identified options for consideration to include: reducing the number of lots, providing lots on one side of the road instead of on both, revising lot configurations, modifying road and turning bulb layouts, eliminating proposed landscaped islands in roads, increasing the width of landscape buffers between proposed and existing lots, and providing retaining

walls as required to maintain the grades in the minimum tree protection zone (the “MTPZ”) of existing trees.

[248] Ms. Baron testified she completed the Arborist Report in accordance with, or exceedance of, the City’s Site Plan Application Guidelines (December 2019). In addition, tree protection measures provided in the Arborist Report are in accordance with the City’s Tree Protection and Preservation Specification number SS12A. The Arborist Report includes a tree protection plan, details the location, species, diameter, crown size, health, structural condition, minimum tree protection zone, percent incursion of development/grading into the tree protection zone, critical root zone, and retention status of all trees measuring at least 10 centimeter’s (“cm”) in diameter at breast height (“DBH”) within the Subject Lands and adjacent road rights-of way.

[249] A total of 577 trees measuring at least 10 cm DBH were assessed in accordance with the City’s Site Plan Guidelines. Approximately half of all trees inventoried are not native to Ontario and 12.6% are considered invasive. In Ms. Baron’s opinion, the Subject Lands are not considered significant tree covered areas and that woodlands are not present. She noted that the use of the term “significant” under the guidelines are not the same as the definition of significant provided in the PPS.

[194] Ms. Baron opined, the tree planting and restoration activities proposed represent a significant improvement over existing conditions and represent an overall benefit to the urban tree canopy and natural heritage system. The positive effects of proposed natural heritage system interventions extend beyond (e.g., upstream and downstream) of the Subject Lands.

[195] In Ms. Baron’s opinion, the removal of these trees can be appropriately mitigated by planting replacement trees and through the implementation of a landscape plan that will include tree plantings in streetscapes, 6 m wide landscape buffers, and restoration plantings within the Appleby Creek corridor. Compensation for trees removed exceeds the

City's Site Plan Application Guidelines. A minimum of 15 cm caliper trees will replace any that are removed.

[196] According to Ms. Baron, adaptation to a changing climate, will include climate-resilient species in the landscape plans for streetscape and natural areas. These are species that are reasonably expected to exhibit resilience to the predicted effects of climate change. The Tribunal heard that compensation plantings will consist of locally native species, resulting in an urban forest canopy that is improved with significantly more trees on the Subject Lands.

[197] On cross-examination from the City, Ms. Baron demonstrated that the calculations of the caliper of the tree for compensation will result in the same amount of trees to be compensated.

[198] Ms. Baron testified that in her opinion and experience, refinements to the Arborist Report, including tree retention status, compensation, and aftercare and the development of a detailed landscape plan, should and typically does occur at the detailed design stage. This process is an appropriate condition of draft plan approval.

[199] According to Ms. Lawrence within the EER, the primary impacts to Area A resulting from the proposed floodplain alterations is a temporary disruption of habitat use during construction and removal of trees. As there is ample suitable habitat available to wildlife using the floodplain cut and fill area elsewhere on the landscape and given that the area will be subject to an extensive planting plan, these temporary minor impacts will not be detrimental to wildlife carrying out their life processes.

[200] Furthermore, according to Ms. Lawrence, proposed plantings and ceasing of golf course turf maintenance within the floodplain will expand and enhance opportunities for wildlife, increase urban forest canopy cover and increase water quality in Appleby Creek.

Findings – Trees

[201] The Tribunal heard evidence from two Arborists. Ms. Baron's testimony for the Applicant was forthright and unwavering in her Arborist Report methodology and conclusions.

[202] Ms. Torchia testified the importance of OP 1997 policy 2.7.3. b) (viii) which states; "preservation of existing trees and other vegetation," was not given the full weight it deserved.

[203] While Ms. Torchia confirmed that the experts all agreed on the methodology for the calculations of number of replacement trees required and that Ms. Baron's calculations are correct resulting in 2066 replacement trees on cross-examination, her interpretation of certain policies appeared to become more reliant on her personal views as a City supervisor than the relevant wording of the policy.

[204] Ms. Torchia was directed to policy vi) effects on existing vegetation are minimized – appropriate compensation is provided for significant loss of vegetation if necessary to assist in maintaining neighborhood character. On cross-examination Ms. Torchia confirmed the definition of vegetation included trees and the OP on compensation is an appropriate tool and appropriate compensation loss of vegetation including trees.

[205] The Tribunal does not find, as suggested by Ms. Torchia, that the preservation of trees was an afterthought. Nor does it find it reasonable that the Applicant is to consider reviewing alternate layouts and grading options to protect and preserve more existing trees after plans have already been submitted and peer reviewed.

[206] The Tribunal finds that the Arborist Report prepared by Ms. Baron was appropriate and within the City's tree guidelines. For the City to suggest numerous options as outlined by Ms. Torchia, such as reducing or revising lot patterns, increase of buffers or providing

retaining walls as noted above, that have no policy requirement, is an overreach in the Tribunal's view.

[207] The Tribunal is satisfied there has been extensive communication between the Parties and the peer review comments by the Region and CH concerning these reports and plans have been addressed.

[208] The Tribunal agrees with Ms. Torchia, that the preservation of mature trees is important and does not take lightly, that out of the 577 total mature trees within the proposed development, 373 trees are to be removed and only 204 are to be preserved with the lag time of decades for the trees to mature.

[209] However, as noted in *Abingdon Meat Packers v. West Lincoln (Township),* [1990] O.M.B.D. No. 1054, decision, Member Chapman states in para. 5:

> For the benefit of the members of the public that are here today, I would like to make a couple of general statements about the way the Board reaches its decisions. We can't make decisions with our hearts, because once you do that, you make bad decisions. We do not make decisions arbitrarily because to do that, you need the wisdom of Solomon and very few people have that. What we do is get the facts which are obtained from the evidence or any reasonable inference that can be drawn from that evidence and then apply the law of the land, including approved government policy. Whatever decision we arrive at doing that is the one we are obliged to give.

[210] The Tribunal agrees with Ms. Baron that from an Arborist planning perspective, "you have to strike a balance concerning trees and a reasonable use of land."

[211] Therefore, based on the City's tree guidelines that allows for trees to be compensated with no policies required for minimum thresholds for removal of trees, the Tribunal is satisfied that the applications, are within the statutory requirements and the plan is appropriate to ensure an improvement over existing condition.

[212] The Tribunal would also note that it heard very little evidence in regard to wildlife that would be impacted by the removal of trees or pond configuration except for fish habitat which was highlighted by several Participants and in closing submissions by MABD Association president in regard to a Trumpeter Swan.

[213] However, as noted in the EER, much of the golf course has limited ecological function and supports common urban-adapted wildlife such as American Robin and European Starling and turtle nesting. The Tribunal is satisfied that as per the EER the standard best management practices (e.g., sediment and erosion control, timing of vegetation removals to avoid the bird nesting season, etc.) will be implemented during construction.

[214] In response to some discrepancies in regard to a few trees of Ms. Baron's Arborist report or not enough information in the report for Ms. Torchia to make a determination, the Tribunal finds these discrepancies as minor and are not determinative to the overall Arborist Report and does not significantly change the results. Subsequently, as noted earlier in the ASF the conceptual development plan is subject to revision at the detailed design stage and is where these small discrepancies and more information can be addressed.

Soil and Erosion

Soil

[215] Shaheed Ahmad, a geotechnical engineering expert, testified he has over 50 years of experience and has been involved with over 25,000 projects. He has experience in over 100 projects where slope instability was considered.

[216] Mr. Ahmad testified he completed a geotechnical investigation for the proposed development Areas A-D. In this study, the stability of the slope and creek/pond bank

erosion conditions in the areas of the existing residential lots (122 to 125 Country Club Drive) near the pond area was assessed, as requested by CH.

[217] Mr. Ahmad explained, the borehole data showed that provided the foundation soil is undisturbed during the construction, in general, soil would be suitable for the use of conventional spread and strip footings to support normal single-family dwellings and construction of other structures within the proposed development. Geotechnical conditions at the site are suitable for this development.

[218] Mr. Ahmad testified there will be a 2 m buffer as per the Ministry of Natural Resources and Forests ("MNRF") guidelines for erosion risk around creeks. This is to ensure a buffer in case the creek moves closer to the slope.

[219] In Mr. Ahmad's opinion, both the existing and proposed conditions on the Subject Lands raise no long-term slope stability issues. The proposed re-instatement of the low flow channel of Appleby Creek and removal of the online pond will not adversely affect the general long-term stability of the subject slopes.

Erosion

[220] Ms. Gorenc testified the EER development constraint limit incorporated the meander belt and 7.5 m regulatory allowance to the meander belt, as relevant to Areas A and D. Ms. Gorenc explained to the Tribunal, the meander belt is the lateral extent that a meandering channel has historically occupied and will likely occupy in the future and includes an allowance/factor of safety to account for potential future erosion over the 100-year planning timeframe (100-year erosion rate).

[221] In Ms. Gorenc's opinion, impacts on erosion potential within downstream receiving reaches of Appleby Creek are not anticipated as a result of the proposed Area A development plan.

[222] In Ms. Gorenc's opinion, from a fluvial geomorphic perspective, risks related to watercourse erosion hazards (Riverine Erosion Hazard Limit) have been identified and based on CH's Comment Letter dated October 30, 2023, it is her understanding that CH have no concerns with the delineation of the meander belt, as applicable for Appleby Creek and Sheldon Creek, as outlined in the EER and that the risks related to watercourse erosion hazards have been identified and addressed.

Findings – Soil and Erosion

[223] The Tribunal finds that through the evidence provided by Mr. Ahmad, based on the analyses undertaken in a geotechnical investigation it is concluded that Geotechnical conditions at the site are suitable for this development.

[224] The Tribunal is satisfied that the proposed development containing a 2 m buffer required by the MNRF guidelines for erosion risk around creeks has been met and the proposed conditions on the Subject Lands raise no long-term slope stability issues.

[225] In regard to soil erosion the Tribunal relies on the evidence of Ms. Gorenc and is satisfied based upon her evidence, impacts on erosion are not anticipated as a result of the proposed development plan.

[226] The Tribunal is satisfied that the CH's comments have been addressed satisfactorily in regard with the delineation of the meander belt and risks related to watercourse erosion hazards.

Climate Change

[227] The Tribunal has heard evidence and submissions regarding climate change specifically from MGA. The Tribunal finds it is necessary to comment on this since some Participants have also raised this issue.

[228] Counsel for MGA submits the United Nations, Secretary General stated that climate change is an "existential threat to humanity." Counsel submitted the Supreme Court of Canada ("SCC") agrees climate change is an "existential challenge" (re. *Greenhouse Gas Pollution Pricing Act*) and the City declared a Climate Emergency.

[229] Counsel for MGA submitted in closing submissions, the application needs a complete revision of the precipitation inputs, focusing on the intensity, duration, and frequency of future storm events, to account for the latest science regarding acceleration of climate change.

[230] Mr. Frind highlighted on August 4, 2014, the City experienced a significant rain event which dropped 192 millimeteres ("mm") of rain in seven hours between 2 and 9 p.m. according to the nearby Mainway rain gauge. This rainfall amount was comparable in volume to that of Hurricane Hazel, which in mid-October 1954 dropped 211 mm over a 12-hour period.

[231] According to Mr. Frind, officially 6,000 Burlington properties were flooded and roughly 3,500 homes experienced basement flooding. Insured damages were reported to be just over $90 million, mostly as a result of flood waters overtopping banks of watercourses.

[232] Mr. Scheckenberger testified planning for infrastructure requires consideration of climate change influences. This consideration is highlighted in the PSS, Growth Plan and City policy standards and guidelines applicable to water resources management.

[233] The Parties' witnesses have referenced the City Current Rainfall IDF Curves. There is no dispute that the University of Western Ontario developed a "Computerized Tool for the Development of Intensity-Duration-Frequency Curves under a Changing Climate" ("IDFCC").

[234] The IDFCC tool was used to also produce projected rainfall intensities. A five-year and 100-year event showed the increase in intensities ranges from 8 to 15%. The City has since adopted a 15% increase for climate change for the City Stormwater Management Guidelines.

[235] Mr. Scheckenberger advised, these directions are echoed in the City's OP 2020 policies which the City requires that technical assessments of drainage infrastructure apply climate adjusted (plus 15%) rainfall timeseries, referred to as "design storms", when sizing stormwater management works.

[236] The Tribunal has heard evidence from the Applicant's witness Mr. Fata who testified, the Applicant's stormwater management plan has considered climate change considerations including the design of new storm sewers, hydrologic and hydraulic models, and SWM infrastructure which has used the City's 2020 rainfall (IDF) parameters, which reflect the assessment of future rainfall.

[237] Mr. Fata testified that the regional flood hazard limit which was used to confirm/establish the development limits is based on the historical Hurricane Hazel storm. CH has confirmed that this is the appropriate storm distribution for use in establishing flood hazards in the subject watersheds.

[238] Based on Table 3.1 (noted below) in regard to the August 14, 2014 storm event, the 2017 Urban-Area Flood Vulnerability, Prioritization and Mitigation Study (“AMEC Study”), only one resident adjacent to Appleby Creek reported flooding due to riverine flooding.

[239] The 2017 AMEC study included a summary of all calls that the Region and City received following the August 2014 rainfall event, which was a total of 3,122. Of that, only 13 were due to riverine/creek overflow in the entire City, and of those, only one was adjacent to Appleby Creek.

[240] The City did note that there were 34 complaints for Appleby Creek.

[241] On cross-examination Mr. Fata acknowledged there was only one report of riverine flooding and there were over 900 reports of flooding in total. However, on re-examination Mr. Fata confirmed that over the 900 complaints, the Appleby Creek stretches for kilometers beyond Millcroft community to Lake Ontario, and the majority of these complaints were due to storm sewer backup (see summary below).

Table 3.1: Summary of August 4, 2014 Flood Impacts by Watershed - Reported by Residents													
Type of Flooding	Mechanism	Watershed											
		Grindstone	Aldershot	Falcon	Indian	Hager-Rambo	Roseland	Tuck	Shoreacres	Appleby	Sheldon	Bronte	Total
Basement	Storm Sewer Backup	1	0	0	0	13	27	31	49	34	11	0	**166**
Basement	Sanitary Sewer Backup	0	0	0	0	1	5	4	1	6	0	0	**17**
Other	Region of Halton Workorders (Sanitary)	2	2	0	5	146	354	394	487	814	170	4	**2378**
Basement	Riverine	0	0	0	0	0	0	6	4	1	0	0	**11**
Surface	Lot Grading or Major System	1	0	2	1	10	21	22	36	32	7	1	**133**
Surface	Sanitary Backup	0	0	0	0	0	11	9	5	10	1	2	**38**
Surface	Storm Sewer Backup	4	0	0	0	22	36	46	50	31	12	3	**204**
Surface	Storm Sewer Backup & Creek Overflow	0	0	0	0	0	0	2	0	0	0	0	**2**
Other	COB Multiple Complaint Properties	2	0	0	0	14	31	40	43	33	6	4	**173**
Total		**10**	**2**	**2**	**6**	**206**	**485**	**554**	**675**	**961**	**207**	**14**	**3122**

Findings – Climate Change

[242] The Tribunal is satisfied that climate considerations have been taken into account for these applications whether through climate-resilient species which will be included in the landscape plans to climate adjusted (plus 15%) rainfall timeseries for stormwater management.

[243] There is no dispute that Hurricane Hazel is the rainfall design standard for Provincial and CH for stormwater management. In addition, the City requires that technical assessments of drainage infrastructure apply climate adjusted (plus 15%) rainfall timeseries.

[244] The Tribunal agrees with the Applicant's Counsel submission, that the Tribunal cannot depart from approved standards and instead make a decision that is either arbitrary or based on some unidentified standard associated with a general recognition of climate change.

[245] Submissions from MGA on potential future changes to these standards are appropriately directed to the standard-approving bodies and not to the Tribunal on *Planning Act* appeals.

AREA E SIX-STOREY MIDRISE BUILDING, TOWNHOUSES

Appropriate Height, Density, Scale and Massing

[246] The Parties, specifically the Applicant and City came to general areas of agreement in the area of Transportation and some City OP policies. The Tribunal will highlight those Agreed Statement of Fact when it is necessary.

[247] As previously noted, Area E has frontage on Dundas Street between Millcroft Park Drive and Tim Dobbie Drive/Westlock Common. A maintenance shed currently occupies the 0.66 ha area and is accessed via Dundas Street (see proposed development Area E below):

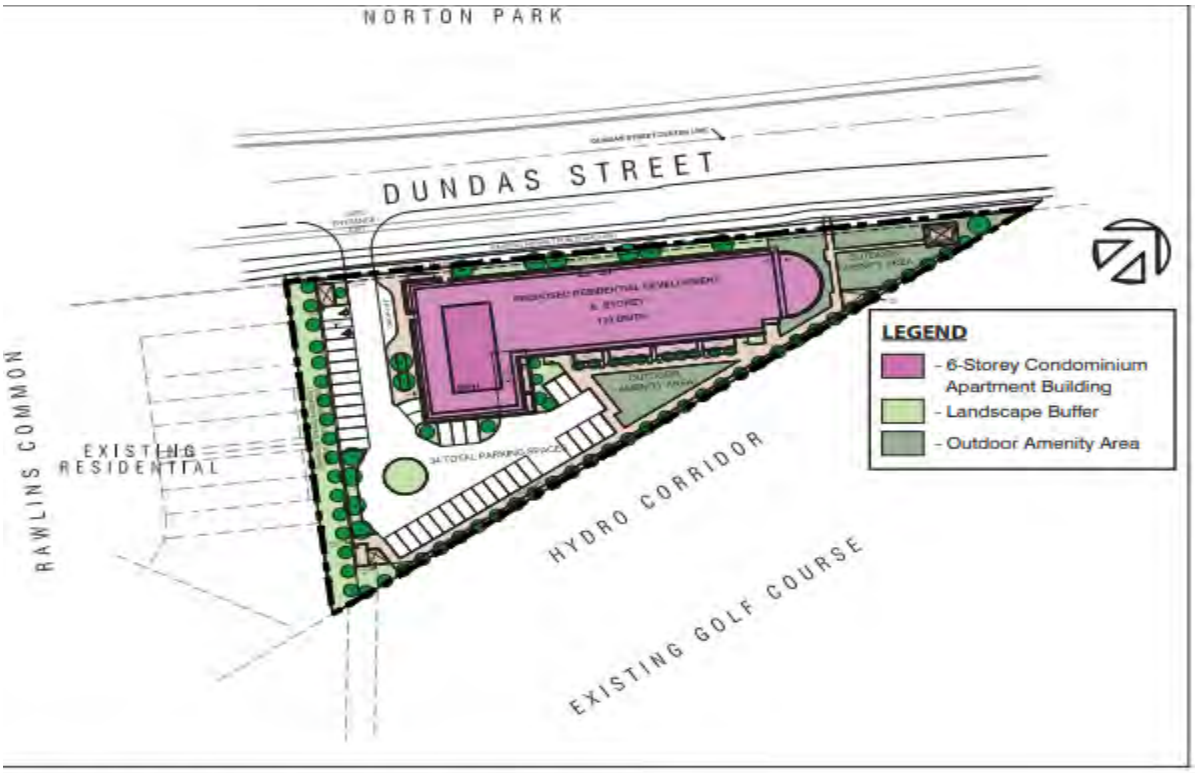


Fig. 2.1f - Millcroft Greens Corp. proposed Development Area E

[248] In regard to City OP 1997, Area E is proposed to be designated to “Residential – High Density”. In the Residential – High Density designation, s. 2.2.2 e) permits either ground or non-ground-oriented housing with a density ranging between 51 and 185 units per net ha.

[249] Mr. Manett explained, the potential exists for redevelopment of the site for residential use. However, compatibility with its surrounding area with respect to scale and massing cannot yet be determined since no preferred option has been presented. An apartment building might be appropriate if designed to fit on the site with respect for the applicable guidelines and development criteria.

[250] According to Mr. Manett, it is not appropriate for the Applicant to advance a few options for development of Area E that rely on different access options, setbacks,

densities, and built form and ask the Tribunal to approve all options and allow market forces to dictate the option that the Applicant will seek to advance for approval.

[251] In Mr. Manett's opinion, given the locational attributes of Area E, a site-specific redevelopment to higher density residential built form would be appropriate in principle, subject to appropriate site planning being carried out.

[252] Mr. Montgomery, prepared "*The Millcroft Greens Corporation Urban Design Brief*," and advised, development in Area E offers an opportunity for greater intensification, given its position (fronting onto a higher order Regional road) and context (adjacent to existing townhouse development).

[253] Mr. Wellings testified that on March 31, 2020, he made a submission on behalf of the Applicant to the Burlington Urban Design Advisory Panel ("BUD") with respect to Area E. The submission included a comprehensive architectural package, a sun study, conceptual rendering, a landscape concept and Urban Design Brief.

[254] According to Mr. Wellings, on May 19, 2020, BUD considered the proposal for Area E and provided several design and landscape recommendations. BUD was supportive of the loading and garbage pick-up being located to the rear of the building and shielded from the Dundas Street frontage. BUD advised it was generally supportive of the built form and pedestrian scale of the mid-rise building and agreed that the size and height of the building was appropriate given the unique site.

[255] Mr. Wellings advised that the recommendations of BUD would be further addressed at the Site Plan Approval stage.

[256] According to Mr. Wellings, on April 11, 2022, revisions to the applications were submitted to the City in response to public agency circulation comments and public feedback received through public engagement. The revised applications also included

modifications to the Subdivision, revised draft OP and ZBA and updated architectural plans and townhouse concepts for Area E.

[257] Mr. Wellings advised that on May 27, 2022, a further submission was made to the City in response to a request for a comparison between the initial and revised applications, and providing further details on the maintenance shed relocation. The further submission included a spreadsheet prepared by the Applicant providing a comparison between the original and revised submissions including a conceptual maintenance shed/area relocation plan.

[258] In regard to compatibility, Mr. Wellings advised Area E proposes either mid-rise or townhouses. The mid-rise building provides a significant separation with landscaping between the existing townhouses to the west to avoid an overlook condition or potential shadow impacts.

[259] The proposed front yard setback takes into account additional road widening along Dundas Street. The proposed setbacks including the setback to Dundas Street (i.e., 2.8 m) and the underground parking (i.e.,1.0 m) are appropriate. The Region having jurisdiction over Dundas Street has not raised any concerns regarding setbacks (Exhibit 36, Millcroft Greens conceptual plan);



[260] According to Mr. Wellings, the density of the development proposed in the draft ZBLA is a maximum of 65 units per net ha. The 65 units/ha conforms to the existing Residential – Medium Density designation which provides a range between 26-75 units per net ha (2020 OP). In addition to private rear yards for the townhouses, common amenity and landscape buffer is also provided.

[261] In Mr. Wellings opinion, the re-designation to Residential – High-Density to facilitate either a mid-rise building or townhouses is appropriate and compatible at this location. The 1997 OP recommends high density uses at the periphery of the community and along major transportation corridors. Sufficient setback and separation of the proposed mid-rise building is achieved with significant landscape opportunity to avoid any adverse impact on the townhouses immediately west. There is also no adverse sun shadow or overlook impacts.

[262] According to Mr. Wellings the April 2022 submission included four (4) townhouse concepts. Zone provisions for these concepts are addressed in the draft ZBL. There is currently no preferred development concept that is being advanced by the Applicant. In his opinion, it is reasonable and appropriate to produce a ZBL, in conformity with the 1997 OP, which provides multiple permitted uses and appropriate zone provisions for redevelopment. Compliance with the implementing ZBL would be addressed at a future Site Plan Approval stage.

[263] Mr. Wellings testified, that if the Applicant were to move forward with a townhouse development, the studies/reports would be updated accordingly through the Site Plan Approval process. It is his opinion that the updated studies are not necessary to rezone Area E in conformity with the 1997 OP or 2020 OP in a manner that provides permission for either a mid-rise building or a townhouse development. The determination between those two forms of development should be left to the landowner and market demand.

[264] Mr. Montgomery, prepared "*The Millcroft Greens Corporation Urban Design Brief*," and advised, development in Area E offers an opportunity for greater intensification, given its position (fronting onto a higher order Regional road) and context (adjacent to existing townhouse development).

[265] In Mr. Montgomery's opinion, a six-storey proposed built-form for Area E can be deployed in a manner that is appropriate in scale and would not represent overdevelopment, given the separate position and context of Area E.

[266] Mr. Montgomery elaborated that the proposed building for Area E has been conceptually designed with appropriate height and massing; however, it is his opinion that it is premature to engage in a detailed review of the building's potential design. A site-specific design review exercise is more appropriately undertaken through Site Plan Approval. It is also at that stage that the proponent will have determined whether to proceed with a townhouse or mid-rise development on Area E.

[267] In Mr. Montgomery's opinion, it is appropriate to provide for both options in the zoning of Area E.

Findings – Area E

[268] The Tribunal prefers the evidence of Mr. Wellings and Mr. Montgomery that the six-storey height and building massing is appropriate to the context of the adjacent major thoroughfare (Dundas Street) and the surrounding area.

[269] The Tribunal is satisfied that the Region has no concerns with the proposed development and the options whether a townhouse or midrise building can be determined with a site-specific design review exercise and can appropriately be undertaken through the Site Plan Approval stage.

[270] Area E is an isolated pocket of land fronting a major transportation corridor (i.e., Dundas Street) and backing onto a hydro corridor. Consideration of higher density residential uses in this context is appropriate and represents orderly development of safe and healthy communities.

[271] The Tribunal notes the City's concerns in relation to the proposed reduction in outdoor amenity area and adjacent exhaust vent and its potential noise. These matters are properly addressed at the site plan approval stage.

Zoning By-law

[272] In Mr. Ramsay's opinion, the proposed increase in scale and massing of the proposed single-detached dwellings arising from the draft ZBL will result in over development and be out of character with the surrounding area. The additional 2.5 m of building height will contribute to unacceptable scale and massing.

[273] In Mr. Wellings' opinion, the provisions in the draft ZBL provide for a more compact built form based on modest increases to the lot coverage and setback requirements. These modest increases to the zone provisions are appropriate.

[274] The Tribunal is satisfied that there is only modest increase to the lot coverage and setback requirements as set out in the draft ZBL.

[275] The Tribunal finds the draft ZBA provisions to provide for a detached dwellings to have a maximum height of two storeys (12.5 m) is compatible with the abutting-built form.

BOOK OF AUTHORITIES

[276] The Tribunal has considered the Books of Authorities from the Parties and finds the cases noted below as having similar facts based on golf courses and redevelopment. Even

though in some cases golf courses were closed there are similar fact patterns for the Tribunal to consider and reference. The other jurisprudence provided either did not have similar fact patterns or were not relevant and thus were not considered to be of assistance to the Tribunal in making its decision on the matters before it.

[277] In *Marianneville Developments Ltd. v. Newmarket (Town)*, [2014] O.M.B.D. No. 933, a golf course was closed. A Resident Association opposed development and intensification was a leading argument which proposed a town wide study to be completed first. Open space was also a concern. In this case the Board allowed the appeals in part to allow for redevelopment and also noting there was no evidence before the Board that the Town took any steps to acquire these lands for public open space and public park purposes.

[278] In *ClubLink Corporation ULC v. Ottawa (City),* 2022 CarswellOnt 4034, a proposed ZBA and Plan of Subdivision were requested to facilitate the redevelopment of the existing Golf course on the Subject Lands. Issues were again open space for the community. In this case the redevelopment will convert the private open spaces to public open spaces. While the Subject Lands are currently privately owned, approximately 30% of the lands would be conveyed to the City for public open space under the proposal, including four new public parks.

[279] Similarly, the Tribunal noted “the subject property's private open spaces are not for general public use and random people who walk on those lands are likely trespassing. The Tribunal finds that the private open spaces are not there to serve the general existing residential community.” The Tribunal allowed the appeals for redevelopment.

[280] In *Flintshire Building Group Corp. v. Brampton (City),* 2019 LNONLPAT 497, a OPA and ZBLA and Draft Plan of Subdivision proposed development of three irregularly shaped parcels, for single family residential development on a closed golf course. The Tribunal allowed the appeals for redevelopment.

[281] In *Kangappaden v. Brampton (City)*, 2021 LNONLPAT 447, a Motion on a proposed development is on a site of a former golf course no longer in operation. The balance of the golf course lands has been sold to the City of Brampton on the understanding that these lands will become public open space.

[282] Similar concerns were raised by the Participants impacts on privacy; they were not “warned” of potential residential redevelopment of the site when they purchased their home, and that the approval of the redevelopment will negatively impact their property value. The Tribunal granted the Motion and dismissed the appeal without a hearing of a resident couple opposing the redevelopment.

[283] In regard to privacy the member stated:

> As a result of the approval, the Appellants' rear yard will abut the rear yard of adjacent residential lots and will continue to be separated by mature vegetation and an existing masonry wall that is two metres high. The building to building separation will exceed what existed previously and will exceed the minimum required by the residential zoning in the area.

[284] The view of the golf course was also another concern of the residents which the Member stated:

> but instead raise a general apprehension of privacy impacts, disconnected from the proposed development and its impacts. The alleged loss of privacy is, therefore, not a genuine land use planning concern worthy of adjudication. The Appellants' previous view from their backyard was to a masonry wall/trees and a maintenance/equipment building and parking lot. The proposed development does not remove the masonry wall but will introduce a residential rear yard-to-rear yard condition between the Appellants' home and the proposed new lots and, as noted earlier, a more generous building to building separation.

[285] In regard to right to a view of the golf course the Tribunal Member states:

> It is trite to suggest that there is no right to a view under the Act and therefore, this is not a genuine land use planning ground worthy of adjudication at a full hearing. The Appellants have asserted that the proposed development will negatively impact their previous view of the golf course from their back yard. The Appellants' offer no evidence or explanation as to how the proposed development will negatively impact their views from their backyard.

[286] Although determinations in other cases are neither binding nor do they fetter the discretion exercised by the Tribunal, they were considered instructive given their similar fact patterns. The Tribunal has exercised its discretion in referencing the above noted cases for the purposes of this proceeding.

PARTICPANT STATEMENTS

[287] This Hearing has a wide public interest not only in Millcroft community but in the City itself. There were two Resident Associations represented at the proceedings along with over 80 Participant Statements. The general themes of the Participants' written comments can be summarized below:

1. Loss of open space and trees;
2. Impacts on wildlife habitat, air quality and public health;
3. Impacts on property values, privacy and residents' enjoyment of their backyards;
4. Impacts on stormwater management and flooding in neighbourhood;
5. Climate change;
6. Proposed lot sizes are much smaller than existing lots and do not fit in with existing neighbourhood;
7. Golf course provides needed park space in neighbourhood and is enjoyed by residents for golf and walking;
8. Proposal will lead to overcrowding on existing parks and schools;
9. Traffic and traffic safety impacts during and after construction;
10. Noise and dust impacts during construction; and
11. Concerns that the proposal will lead to redevelopment of remaining lands in the future and that the remaining lands will not be suitable to accommodate a popular and safe redesigned course.

[288] Although some concerns fall outside the jurisdiction of the Tribunal and some are not relevant within a land use planning context, the Tribunal weighed all Participant Statements accordingly in the findings on this matter and is satisfied that from a land use planning perspective these concerns and issues have been adequately addressed not only by the Applicant but also by the peer reviewers of this application.

[289] Concerns such as property values, flood insurance and enjoyment of backyards are all concerns not within the jurisdiction of the Tribunal or in context of the Act or as a public interest consideration. Even though the Tribunal is not deaf to these issues and concerns it relies on the statutory authority of the Act and the various City and Regional guidelines. As noted in *Ruscio Investments Inc.,* OMB Decision PL121280 which states in paras. 42, 43, 44 and 58:

> [42] That is where one encounters the second source of their frustration. The supposed "guarantee of their investment" was apparently the OP and zoning, which both designated and zoned the subject property for "Parks and Recreation." However, the neighbours have now discovered that this OP designation and zoning were not necessarily permanent.
>
> [43] In hindsight, it is easy – and arguably glib – to suggest that there should have been more robust legal guarantees, like restrictive covenants, which might address contingencies like this. One reason to have such an agreement is that, in Ontario, the longstanding reality is that golf courses come and go. Even the most famous courses in the province are the subject of routine conjecture about possible sale to developers. Every time that such a sale occurs, it raises the same questions about the representations that might have been made to surrounding homebuyers, and the premium they may have paid for their own “vista of green”, which is clearly at risk.
>
> [44] In this instance, and in many others across Ontario, the homeowners' expectations were not based on a registered legal document like a covenant, but instead on (a) the word of their seller, and (b) the apparent authority of the applicable planning documents. In essence, this is no different from the situation where any member of the general public makes a real estate decision, having reviewed his/her lawyer's opinion letter – including the zoning – and taken the latter at face value.
>
> [58] In reaching that conclusion, the Board has no illusions about the frustration which the neighbours must feel. For them, this must appear to be an unsatisfactory outcome, from an unsatisfactory system.

[290] This Tribunal has similar sentiments, for the Participants and Millcroft community, however, agrees with the Applicant's Counsel comments, that the Millcroft community was, and will continue to be, a very enviable community in that it has been a pleasant and convenient place for its residents to live. As one Participant noted in one part of their statement (Exhibit 1 (H) Vol 8) (TAB 133) (pg. 213):

> The area has grown at a sustainable and controlled manner and Burlington North now has police, fire, EMS, schools, library, doctors, dentists, lawyers, insurance agents, grocery shops, large and small shops, restaurants, recreational opportunities such as a swimming pool, fitness centre's, parks, biking, tennis, and of course, golf, to name a few of its services and amenities. There are a diverse sized attractive home, single family, townhouses, condos, retirement apartments where residents can enjoy living in close proximity to all these services. Further, transportation access has developed to enable easy accessibility.

[291] The Tribunal agrees with Counsel that the proposed development will not change any of the above noted characteristics but will continue to enhance the Millcroft community.

[292] The Counsel for the Applicant did take exception to MABD specifically during closing submissions. Counsel pointed out MABD's website (Exhibit 55) which showed a doctored air photo or overlay of the existing Subject Lands and the proposed development which covered all areas of the Millcroft community including the existing golf course that was to be retained. Counsel submits this is a total misrepresentation of the proposed development which leads mistaken assumptions, adds to concerns, fear and anxiety which many Participants have addressed in their statements.

[293] Counsel submitted he emphatically encourages Resident Associations to be part of the public planning process and proceedings but there has to be a level of accountability and transparency within their associations.

[294] The Tribunal does not weigh lightly into this discussion, but under the evidence provided it, agrees wholeheartedly with Counsel that Resident Associations provide a

valuable Public component to the planning process but when there are misrepresentations that are blatant as in this case, with the proposed development overlay on the website, this only undermines the Public confidence in the entire Tribunal administrative process and the Resident Associations themselves.

[295] As Counsel noted this may have caused the unnecessary fear and anxiety regarding this proposed development and adds to mistaken assumptions especially with over 6000 members of MABD as described by its Director.

CONCLUSION

[296] These Applications require balancing the private right to develop against the public interest in protecting open space and the environment. The assessment of the Applications should not be approached as an exercise to prevent development on this land, but rather to balance such proposed development within the Provincial, Regional and Local planning framework.

[297] Ideally, the owner of golf course should not be left with vacant land they cannot use, and for which they have not received any compensation from the City. However, such lands, with natural heritage features, should only be developed in a way that respects the applicable provincial, regional and municipal policies, represents good planning and is in the public interest.

[298] The Applicant, Region and CH have worked to try to find this balance between public and private interests in these Applications. Through updated studies and conditions required to be provided by the Applicant, the Tribunal is satisfied that balance will continue.

[299] Finally, this hearing was of a non-decision by City Council and therefore, the Tribunal did not have to have regard to a Council decision as one was never made. In the

course of a 17-day Hearing of evidence, the Tribunal reached its own conclusions and decision based on the evidence provided.

[300] The Tribunal would describe these proceedings as professionally conducted by all Counsel and witnesses involved. Many witnesses were qualified as experts for the first time in these proceedings. During the hearing Counsel presented their evidence on behalf of their clients in a reasonable and thorough manner. The many local representatives that stood in for their Associations were also professional and courteous.

[301] The Tribunal is satisfied that procedural fairness was maintained for each Party and finds that through the comprehensive public and agency consultation, the Applicant has met the planning process obligations under the Act.

[302] The Tribunal's only unease was with the City raising issues or options at the Hearing rather than during consultative phases of this application.

[303] Evidence was heard that different Applicant witnesses were never asked about certain options such as removal of the pond or relocation of the parks or phases of development in Area E, that were not brought forward earlier or commented on. At times it appeared the City was grasping at technical straws to make suggestions and options now at the Hearing that were never brought up as a concern before, which teetered on procedural fairness concerns.

[304] The City is now requesting various plans and reports to be redone and imposing significant conditions to each specifically:

i) The parkette in Area C should be expanded to include the entirety of the parkland dedication;
ii) The size and justification of the conceptual irrigation pond adjacent to Area A should be reconsidered;

iii) The draft plan conditions should be updated to address the evidence heard in the Hearing. This should include requirements for updates to the Scoped Subwatershed Study, Functional Servicing Reports and associated modelling. Based on Ms. Torchia's evidence that the most recent Arborist Report contains various discrepancies, errors, missing information, and takes an approach of removing trees first, the Arborist Report should also be updated to the satisfaction of the City.

Area E:

(1) Increase the minimum setbacks on Dundas Street;
(2) Increase the articulation in the center of the six-storey mid-rise option to account for its length to address the City's Mid-Rise Design Guidelines;
(3) Reduce the amount of surface parking; and
(4) Relocate the amenity area away from Dundas Street.

[305] The Tribunal has reviewed the reports, plans and conditions and is satisfied the proposed Conservation Halton Draft Plan of Conditions as set out in **Attachment "C"** to this Order and the Region of Halton Draft Plan of Conditions as set out in **Attachment "D"** to this Order and the City's Draft Plan of Conditions as set out in **Attachment "E"** are appropriate for the purposes of this application.

[306] The Tribunal is confident that with these conditions to be fully addressed to the satisfaction of both Parties, the City's witnesses will be satisfied as per their testimony that the proposed development will appropriately address Provincial, CH, Region and City policy and guidelines.

[307] In regard to comments from the City and its witnesses on setting a dangerous or negative precedent for Major Parks and Open Space Lands. The Tribunal has heard the phrase "Words Matter" numerous times in these proceedings and finds it fitting the words

“danger” or “negative” are based on hypotheticals of what might happen in the future and to whose position these words represent.

[308] The Tribunal agrees with the Applicant’s Counsel that each application is based on its own planning merits within each specific application that the City oversees.

[309] In addition, in regard to MGA’s closing submission that as a legal matter, the Tribunal should not delegate its responsibility to another day, and another agency or entity.

[310] In this case, the City did not make a decision within the prescribed timelines as per the Act and the Tribunal has stepped in and conducted a 17-day Hearing on the merits to achieve “fair, just and expeditious resolution of the merits of the proceedings” which it did in this case. The Tribunal is confident that it has not delegated its responsibility in these proceedings and has made determinations on the issues before it.

[311] Therefore, based on the evidence, findings and reasons summarized, and after due consideration for all of the arguments set forth in the opening and closing submissions of the Parties, the Tribunal finds that the Applicant has demonstrated that the requested applications have appropriate regard for matters of provincial interest pursuant to s. 2 and the criteria under s. 51(24) of the Act.

[312] Furthermore, the applications are consistent with the PPS and conform to the Growth Plan and the ROP. The applications conform and further the goals, objectives and policies of the OP 1997. The applications propose development that is reasonable, appropriate and compatible. The applications represent good planning and are in the public interest.

INTERIM ORDER

[313] **THE TRIBUNAL ORDERS** that the appeal is allowed in part, and the Official Plan Amendment for the City of Burlington is modified as set out in Attachment A to this Order, and as modified, is approved principle.

[314] **THE TRIBUNAL ORDERS** that the appeal against By-law No. 2020 of the City of Burlington is allowed in part, the Zoning By-law Amendment set out in Attachment B to this Order, is approved in principle.

[315] **THE TRIBUNAL ORDERS** that the draft Plan of Subdivision appeal is allowed, and the draft plan shown on the plans prepared by Wellings Planning Consultants Inc. dated October 9, 2020 comprising BLOCKS 107 AND 108, PLAN 20M-414, BLOCK 13, PLAN 20M-421 AND PART OF LOT 8, CONCESSION 1, SOUTH OF DUNDAS STREET and PART OF BLOCK 247, PLAN 20M-535 AND PART OF BLOCK 109, PLAN 20M-694, is approved, subject to the fulfillment of the conditions set out in Attachments “C”, “D” AND “E”.

[316] That pursuant to subsection 51(56.1) of the *Planning Act*, the City of Burlington shall have the authority to clear the conditions draft plan approval and to administer final approval of the plan of subdivision for the purposes of subsection 51(58) of the Act.

[317] The Tribunal will withhold issuance of its Final Order in relation to the Official Plan and Zoning By-law Amendment(s) contingent upon receipt of confirmation from the City Solicitor that the Draft Official Plan and Zoning By-law Amendment(s) have been finalized to the satisfaction of the City Solicitor.

[318] If the Parties do not submit the final draft of the Official Plan and Zoning By-law Amendment(s), and provide confirmation that the contingent pre-requisites to the issuance

of the Final Order set out above have been satisfied, and do not request the issuance of the Final Order, by **Friday, January 31, 2025**, the Applicant and the City shall provide a written status report to the Tribunal by that date as to the timing of the expected confirmation and submission of the final form of the draft Official Plan and Zoning By-law Amendment(s) and request for issuance of the Final Order by the Tribunal. In the event the Tribunal fails to receive the required status report, and/or in the event that the contingent pre-requisites are not satisfied by the date indicated above, or by such other deadline as the Tribunal may impose, the Tribunal may then dismiss the Appeal.

[319] The Panel will remain seized for the purposes of reviewing and approving the final draft of the Official Plan and Zoning By-law Amendment(s) and the issuance of the Final Order.

[320] The Tribunal may, as necessary, arrange the further attendance of the Parties by Telephone Conference Call to determine the additional timelines and deadline for the submission of the final form of the instrument and the satisfaction of the contingent pre-requisites to the issuance of the Final Order.

[321] The Tribunal may be spoken to in the event matters arise in connection with the implementation of this Order.

“Eric S. Crowe”

ERIC S. CROWE
MEMBER

“*D. Chipman*”

D. Chipman
MEMBER

ATTACHMENT "A"

980
SCHEDULE 3

AMENDMENT NO. XXX TO THE OFFICIAL PLAN OF THE BURLINGTON PLANNING AREA

CONSTITUTIONAL STATEMENT

The details of the Amendment, as contained in Part B of this text, constitute Amendment No. xxx to the Official Plan of the Burlington Planning Area, as amended.

PART A – PREAMBLE

1. PURPOSE OF THE AMENDMENT

The purpose of this Amendment is to replace the existing Major Parks and Open Space designation on four separate areas of land within the Millcroft Golf Course with a Residential - Low Density designation, and to replace the existing Residential - Medium Density designation with Residential - High Density on a 0.66 hectare area fronting onto Dundas Street. The redesignation of these lands is required to permit the redevelopment of these areas for residential uses.

2. SITE AND LOCATION

The subject lands are located between Upper Middle Road on the south and Dundas Street (Regional Road No. 5) on the north. Appleby Line is situated to the east. The subject lands which make up the development areas total approximately 11.7 hectares (29 acres) in area. The subject lands form part of a larger 53.12 hectares (131.25 acres) land holding, which comprises the Millcroft Golf Course.

3. BASIS FOR THE AMENDMENT

What is now known as Millcroft Golf Club was originally approved as part of the secondary plan for the Rose Community, subsequently renamed Millcroft. Since its development by Monarch Construction in 1987, Millcroft has operated as a semi-private golf course allowing for public play.

The Amendment to the Official Plan provides for infill residential development that is compatible with and provides a consistent built form to the surrounding single-detached lots. In case of the proposed mid-rise building, the building is similarly a compatible development adjacent to the existing townhouses immediately west, and an appropriate redevelopment of the maintenance facility property.

The proposal makes efficient use of land and infrastructure by providing for modest intensifications and infill development. The proposed reconfiguration of the golf course

with the addition of the residential areas maintains the intent and purpose of the original Official Plan Amendment for the Millcroft Community in that the golf course will be retained and continue as a significant feature within the community in its reconfigured form, and a significant portion of the open space lands will be retained. Natural areas within the community will continue to be protected through the redesign of the golf course. The proposed development conforms to, and is in keeping with, the residential infill policies of the Official Plan.

PART B – THE AMENDMENT

1. DETAILS OF THE AMENDMENT

Map Change: Schedule B to the Official Plan is hereby amended as follows:

A) Areas A, B, C and D on the attached Schedule "A" are hereby redesignated from "Major Parks and Open Space" to "Residential – Low Density".

B) Area E on the attached Schedule "A" is hereby redesignated from "Residential – Medium Density" to "Residential – High Density".

2. INTERPRETATION

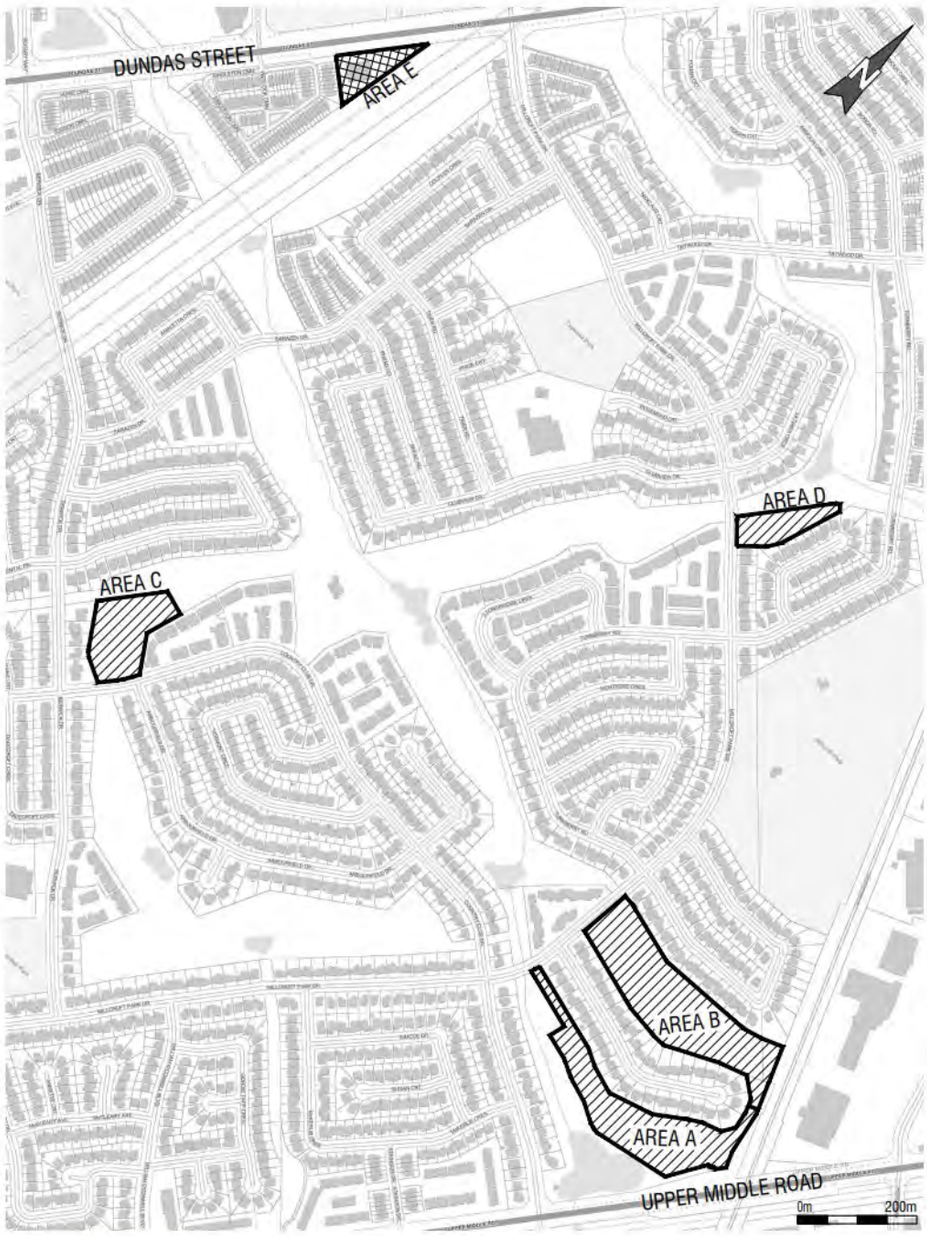
This Official Plan Amendment shall be interpreted in accordance with the "Interpretation" policies of Part VI, Implementation, Section 3.0, Interpretation, of the Official Plan of the Burlington Planning Area.

3. IMPLEMENTATION

This Official Plan Amendment will be implemented in accordance with the appropriate "Implementation" policies of Part VI of the Official Plan of the Burlington Planning Area.

982

Schedule "A"
to Official Plan Amendment No.____



Lands to be Redesignated from "Major Parks and Open Space" to "Residential - Low Density"

Lands to be Redesignated from "Residential - Medium Density" to "Residential - High Density"

ATTACHMENT “B”

THE CORPORATION OF THE CITY OF BURLINGTON

BY-LAW NUMBER 2020.xxx

A By-law to amend By-law 2020, as amended; Millcroft Greens Corporation

File No.: TBC

WHEREAS Section 34(1) of the Planning Act, R.S.O. 1990, c.P.13, as amended, states that

Zoning By-laws may be passed by the councils of local municipalities; and,

WHEREAS the Council of the Corporation of the City of Burlington approved Recommendation

PL-xx-20 on _____, 2020 to amend the Zoning By-law 2020, as amended, to permit 98 single detached dwellings on four (4) parcels of land, and one (1) six (6) storey residential condominium apartment building at 4252 Dundas Street.

Now, therefore, the Council of the Corporation of the City of Burlington hereby enacts as follows:

1. Zoning Map Number 24 of PART 15 to By-law 2020, as amended, is hereby amended as shown on Schedule “A” attached to this By-law.

2. The lands shown as “Area A” on Schedules “A” and “B” attached hereto are hereby rezoned from O1 to R3.2-xxx.

3. The lands shown as “Area B” on Schedules “A” and “B” attached hereto are hereby rezoned from O1 to R3.2-xxx.

4. The lands shown as “Area C” on Schedules “A” and “C” attached hereto are hereby rezoned from O1 to R3.2-xxx.

5. The lands shown as “Area D” on Schedules “A” and “D” attached hereto are hereby rezoned from O1 to R3.2-xxx.

6. The lands shown as “Area E” on Schedule “A” attached hereto are hereby rezoned from O1 to RH3-xxx.

7. PART 14 of By-law 2020, as amended, Exceptions to Zone Classifications, is amended by including Exceptions xxx and xxx as follows:

Exception	Zone	Map	Amendment	Enacted
xxx (Parcels A-D)	R3.2	24	2020.xxx	

1. Regulations for Detached Dwellings/Parcels of Tied Land (Areas A-D):

a) Front Yard: 6 m to attached garage and 4.5 m to dwelling

b) Minimum Driveway length: 6 m

c) Rear Yard:

i) One storey: 4.5 m

ii) One and one-half storey: 6.0 m

iii) Two storeys: 7.5 m

d) Side Yards:

i) One and One and one-half storey: 1.2 m and 0.6 m

ii) Two storeys or more: 1.2 m and 1.2 m

iii) Exterior Side Yard: 3.0 m

iv) Abutting a creek block: 1.2 m

e) Building Height:

i) One storey: 7.5 m

ii) One and one-half storey: 9.0 m

iii) Two storeys or more: 12 m

f) Lot Coverage/Floor Area Ratio/Dwelling Depth: The Lot Coverage, Floor Area Ratio and Dwelling Depth provisions in Sections 4.2, 4.5 and 4.6 of By-law 2020 shall not apply.

g) Building setback abutting a pipeline easement: 7 m

h) Building setback abutting a railway right-of-way: 30 m

i) Notwithstanding the provisions of Section 2.13, Encroachment into Yards is permitted as follows:

i) 1.5 m into a Front Yard and Exterior Side Yard for an unenclosed porch and/or stairway.

ii) 3.0 m into a Rear Yard for a lanai/loggia.

Except as amended herein, all other relevant provisions of this By-law, as amended, shall apply.

Exception	Zone	Map	Amendment	Enacted
xxx (Parcel E)	RH3	24	2020.xxx	

1. Regulations for Apartment Building:

a) Lot Area: 0.65 ha

b) Front Yard: 3.0 m to building and 0.5 m to below grade parking garage

c) Side Yards: 20 m (west) to building and 3 m to below grade parking garage; and 6 m (east)

d) Rear Yard: 3.0 m to building and 0.5 m to below grade parking garage

e) Density: 200 units/ha

f) Building Height: 6 storeys or 24 m

g) Amenity Area: 20 m2 per unit

Except as amended herein, all other relevant provisions of this By-law, as amended, shall apply.

8. When no notice of appeal is filed pursuant to the provisions of the Planning Act, R.S.O. 1990, c.P.13, as amended, this By-law shall be deemed to have come into force on the day it was passed.

9. If one or more appeals are filed pursuant to the provisions of the Planning Act, as amended, this By-law does not come into force until all appeals have been finally disposed of, and except for such parts as are repealed or amended in accordance with an order of the Local Planning Appeal Tribunal this By-law shall be deemed to have come into force on the day it was passed.

984

ENACTED AND PASSED this _____day of _____2020.

_____

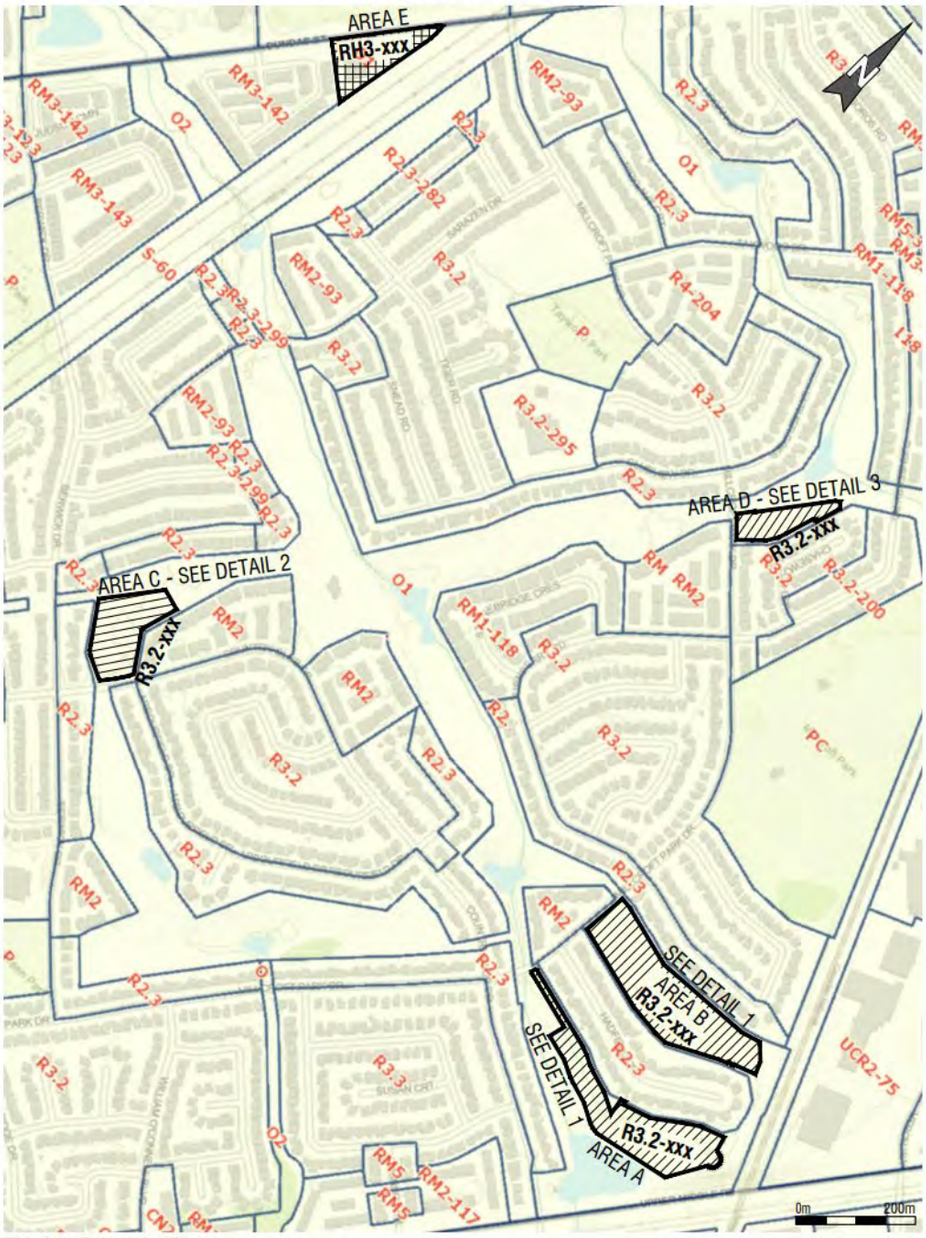
MAYOR

_____

CITY CLERK

986

Schedule "A"
By-Law No.____
City of Burlington



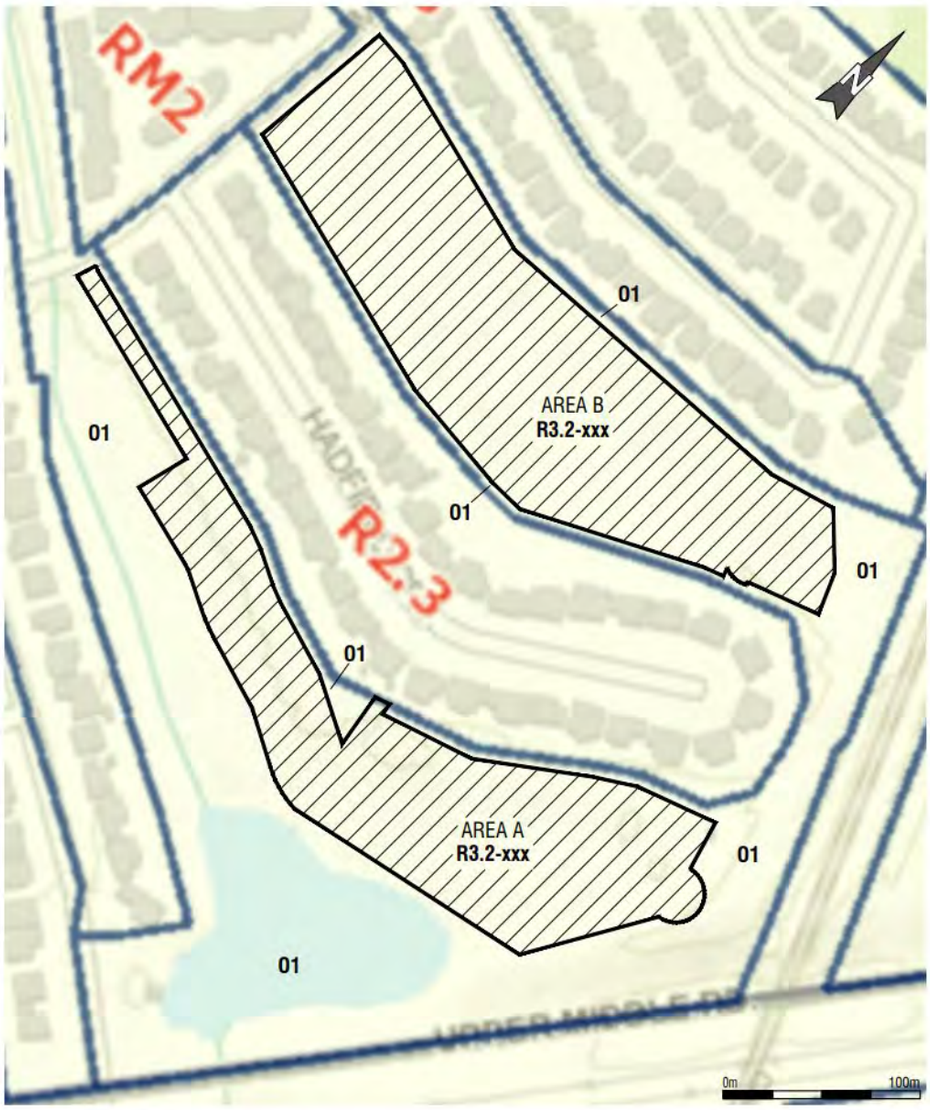
This is a Schedule "A"
To By-Law No. ____ Passed
This __Day of __, 2020

Lands to be Rezoned from "01" to "R3.2-xxx"

Lands to be Rezoned from "01" to "RH3-xxx"

Schedule "B"
By-Law No.____
City of Burlington

987

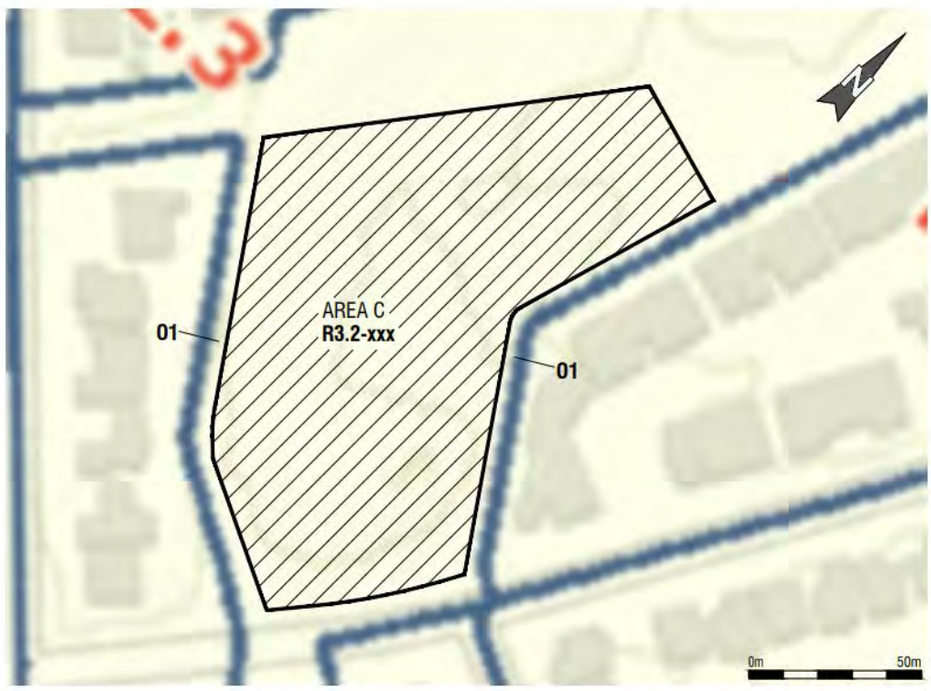


This is a Schedule "B"
To By-Law No. ____ Passed
This __Day of __, 2020

Lands to be Rezoned
from "01" to "R3.2-xxx"

Schedule "C"
By-Law No.____
City of Burlington

988



This is a Schedule "C"
To By-Law No. ____ Passed
This __Day of __, 2020

Lands to be Rezoned
from "01" to "R3.2-xxx"

989

Schedule "D"
By-Law No.____
City of Burlington



This is a Schedule "D"
To By-Law No. ____ Passed
This __Day of __, 2020

Lands to be Rezoned
from "01" to "R3.2-xxx"

ATTACHMENT "C"

Conservation Halton
Planning & Watershed Management
905.336.1158 | Fax: 905.336.6684
2596 Britannia Road West
Burlington, Ontario L7P 0G3
conservationhalton.ca

November 29, 2023

Scott Bland, President
Argo Development Corporation
4900 Palladium Way
Burlington, ON L7M 0W7

BY E-MAIL ONLY (scott@argoland.com)

To Scott Bland:

Re: Draft Plan of Subdivision, OPA, ZBA
File Numbers: 24T-20002/B (510-02/20), 505-07/20 (CH File No. PSDG-54)
OLT Case Numbers: OLT-22-004149, OLT-22-004150, OLT-22-004151
2155 Country Club Drive & 4274 Dundas Street, City of Burlington
Millcroft Greens Corporation

Conservation Halton (CH) issued a letter on October 30, 2023, to confirm that staff had no fundamental concerns with the approval of the above-referenced planning applications and that remaining comments could be addressed through report updates or detailed design and through Conditions of Draft Plan Approval, as the comments are not anticipated to impact development limits. Staff indicated that CH's Conditions of Draft Plan Approval would be provided under a separate cover. As such, attached as Appendix A are CH's Draft Plan Conditions.

We trust the above is of assistance. Please contact the undersigned with any questions.

Sincerely,

Emma DeFields, RPP, MCIP
Senior Environmental Planner
905.336.1158 ext. 2265
edefields@hrca.on.ca

Cc: Glenn Wellings, Wellings Planning Consultants Inc. (By Email)
Jennifer Lawrence, Jennifer Lawrence and Associates Inc. (By Email)
Frank Bon, FBDev Consulting Inc. (By Email)
Elyse Meneray, City of Burlington (By Email)
Adam Huycke, Region of Halton (By Email)

Encl: **Appendix A: Millcroft Greens - Conservation Halton Draft Plan Conditions**

Appendix A: Millcroft Greens - Conservation Halton Draft Plan Conditions

General:

1. That the Owner agrees to redline revise/update the draft plan, as necessary, to address the conditions listed below, to the satisfaction of Conservation Halton, Region of Halton and the City of Burlington.

Prior to Pre-Grading or Pre-Servicing:

2. That the Owner agrees to revise/update the **Scoped Subwatershed Study** to reflect comments from Conservation Halton dated October 30, 2023, and agrees to implement all final recommendations contained within the approved **Scoped Subwatershed Study** including any addendums to the satisfaction of Conservation Halton.
3. That the Owner implements the approved **Scoped Environmental Evaluation Report** to the satisfaction of Conservation Halton, the Region of Halton and the City of Burlington.
4. That the Owner submits **grading plans** for all lots and blocks that back onto Conservation Halton's regulated areas to the satisfaction of Conservation Halton and the City of Burlington.
5. That the Owner prepares and implements a report outlining **erosion and siltation control measures** required prior to and during the construction of the subdivision to the satisfaction of Conservation Halton and the City of Burlington. A separate sediment and erosion control plan will be required for the following three phases of construction: a) earthworks b) servicing c) home construction.
6. That the Owner erects a **temporary barrier to work fence** prior to and during construction or regrading along Conservation Halton's regulated area.
7. That the Owner obtains a Permit from Conservation Halton, pursuant to **Ontario Regulation 162/06**, for any site alteration within Conservation Halton's regulated area associated with pre-grading or pre-servicing.

Prior to Registration:

8. That the Owner agrees to **redline revise/update the draft plan** such that the limits of Block 92 are outside of Conservation Halton's regulated area, to the satisfaction of Conservation Halton and the City of Burlington.
9. That the Owner obtains a Permit from Conservation Halton, pursuant to **Ontario Regulation 162/06**, for any development or site alteration within Conservation Halton's regulated area including, but not necessarily limited to, placement or excavation of fill, grading, stormwater outfalls, watercourse alterations or realignments, and watercourse crossings.
10. That the Owner prepares and submits a **Functional Servicing Report** and **Stormwater Management Plan** in accordance with the approved Scoped Subwatershed Study and the watershed's current hydrologic model to the satisfaction of Conservation Halton and the City of Burlington.
11. That the Owner designs, constructs, stabilizes and has in operation all **stormwater management facilities** and stormwater outfalls, or appropriate alternative measures, in accordance with the approved Stormwater Management Plan, to the satisfaction of Conservation Halton and the City of Burlington.

12. That the Owner designs, constructs, stabilizes and has in operation all **creek realignments and alterations** as well as any other alterations to natural hazards to the satisfaction of Conservation Halton and the City of Burlington.

13. That the Owner agrees that any **phasing of development** of the subject lands must be to the satisfaction of Conservation Halton and the City of Burlington.

14. That the Owner prepares and implements a **landscape restoration and enhancement plan** for the restorative works within Conservation Halton's regulated areas, in keeping with Conservation Halton Guidelines for Landscaping and Rehabilitation Plans, to the satisfaction of the City of Burlington and Conservation Halton

15. That the Owner submits the required **restoration and enhancement monitoring plans** for Conservation Halton's regulated areas, in accordance with the approved Scoped Environmental Evaluation Report to the satisfaction of Conservation Halton and the City of Burlington.

16. That the Owner **provides digital copies of the registered plan of subdivision** including all approved natural hazard delineations (e.g., wetland boundaries, stable top of bank, flood plain, meander belt, shoreline flooding limits, dynamic beaches and karst features) to Conservation Halton, prior to registration of the plan. Digital data should be delivered in one of the following formats:

    a) ESRI geodatabasev10.x (or newer) feature classes
    b) ESRI shape file format.
    c) AutoCAD DWG or DXF Format, version 2019 or earlier

    If the Project Consultant uses ESRI products to produce maps, the matching mxd will be provided that corresponds to the map figure. Digital data will be provided in UTM NAD 83 Zone 17 NAD 83 datum. Data referencing elevations (e.g., floodplains) shall be referenced to appropriate vertical benchmarks. The datum must be specified as one of Canadian Geodetic Vertical Datum of 1928 (CGVD28) with 1978 adjustment, or Canadian Geodetic Vertical Datum of 2013 (CGVD2013). Vertical datums must be clearly identified in the survey documentation. Flood plain models used in the delineation of flood hazards must be provided to Conservation Halton and referenced to the above mapping standards.

17. That the Owner pays any **outstanding review fees** to Conservation Halton, if it is determined that a balance is outstanding. Conservation Halton reserves the right to adjust the fees owing based on the current plan review schedule, if time has lapsed since the initial application.

18. That the Owner submits the **final clearance fee** to Conservation Halton immediately prior to registration of the draft plan. If the development is phased, each phase will require a separate clearance fee.

Closing Conditions:

19. That the Owner agrees to obtain confirmation from **Conservation Halton** that conditions XXX inclusive have been satisfied prior to the execution of the final plan.

Subdivision Agreement

20. That the Owner agrees to provide **as-built drawings** for watercourse and natural hazard alterations. Surveys undertaken to delineate any hazard shall be provided to Conservation Halton in digital format. Digital data should be delivered in one of the following formats:

d) ESRI geodatabasev10.x (or newer) feature classes
e) ESRI shape file format.
f) AutoCAD DWG or DXF Format, version 2019 or earlier

If the Project Consultant uses ESRI products to produce maps, the matching.mxd will be provided that corresponds to the map figure. Digital data will be provided in UTM NAD 83 Zone 17 NAD 83 datum. Data referencing elevations (e.g., floodplains) shall be referenced to appropriate vertical benchmarks. The datum must be specified as one of Canadian Geodetic Vertical Datum of 1928 (CGVD28) with 1978 adjustment, or Canadian Geodetic Vertical Datum of 2013 (CGVD2013). Vertical datums must be clearly identified in the survey documentation. Flood plain models used in the delineation of flood hazards must be provided to Conservation Halton and referenced to the above mapping standards.

21. That the Owner agrees, that should it be determined through detailed design that **grade changes** are required in order to accommodate development of lots/blocks adjacent to Conservation Halton's regulated areas, any grade changes that are separate of the floodplain alteration in Area A must be accommodated outside of the regulated areas, and the lot lines must be adjusted accordingly, to the satisfaction of Conservation Halton and the City of Burlington.
22. That the Owner agrees to submit monthly (or after significant rainfall equal or greater than 10mm or snowmelt events) **sediment and erosion control reports** during construction to the satisfaction of Conservation Halton and the City of Burlington.
23. That the Owner agrees to post **acceptable securities** with the City of Burlington as part of the subdivision agreement, for the purpose of ensuring the construction and completion of all works identified on the approved plans including the rehabilitation of Conservation Halton's regulated areas to the satisfaction of Conservation Halton and the City of Burlington which may be disturbed during the development of the subdivision.
24. That the Owner agrees that any **exposed soil** within Conservation Halton's regulated area, either as a result of realignment or rehabilitation works, will be seeded or otherwise stabilized within 24 hours of exposure to minimize the transport of sediment downstream.
25. That the Owner agrees that no fill from the site may be **dumped on or off-site** in an area regulated by a Conservation Authority without the prior written permission of the appropriate Conservation Authority.
26. That the Owner agrees to not **stockpile fill** within Conservation Halton's regulated area without prior written approval from Conservation Halton.
27. That the Owner agrees to include in the offers of purchase and sale to the homeowners for all lots adjacent to the watercourse block or other areas regulated by Conservation Halton, a statement which advises that the area is regulated by Conservation Halton and that **no encroachment is permitted** without approval from Conservation Halton.

ATTACHMENT "D"

Millcroft Golf Course
Halton Region Conditions
File: 510-02/20 (24T-20002/B)

1. That prior to registration the Owner is required to provide digital copies of the registered plan of subdivision in AutoCAD 2012 or later version with the following coordinate system NAD 83 / UTM Zone 17 to the Regional Municipality of Halton and the City of Burlington.

2. Prior to registration, the Owner shall submit to the City of Burlington digital copies of the final draft plan of subdivision along with applicable Land Registry Office Appendix D form for sign off. Upon acceptance, the City will forward these materials to the Region of Halton for final sign off.

3. The Owner agrees that should the development be phased, a phasing plan shall be submitted prior to registration of the first phase. The phasing plan will indicate the sequence of development, the land area in hectares, the number of lots and blocks for each phase and the proposed use of all blocks including the proposed number of units, the specific lots to be developed, site access to each phase, grading and the construction of public services. The phasing must be reflected in all engineering reports.

4. The Owner agrees, if imported fill is to be used within the proposed subdivision limits and external works that service this subdivision, the Owner is responsible for its environmental quality and must provide to the satisfaction of Halton Region, documentation to certify that all fill material meets applicable MECP standards as per Ontario Regulation 153/04 and/or O. Reg. 406/19.

5. The Owner should obtain authorization from the Department of Fisheries and Oceans (DFO) for the Harmful Alteration, Disruption or Destruction of Fish Habitat, pursuant to the Fisheries Act, where necessary, to the satisfaction of the Region of Halton.

6. That the Owner should obtain authorization of the Ministry of the Environment, Conservation and Parks (MECP) and/or Ministry of Natural Resources and Forestry (MNRF) to capture, handle and relocate fish and other wildlife that may be encountered in Appleby Creek and pond, and provide a copy of such correspondence and authorization to the satisfaction of the Region of Halton.

7. That the final Landscape/Restoration Plan for lands within the Natural Heritage System comprised of native species and is compatible with the surrounding Natural Heritage System, consistent with the Scoped Environmental Evaluation Report (December 2023), to the satisfaction of the Region. As part of the Landscape/Restoration Plan, wildlife habitat such as turtle nesting areas within Area A watercourse corridor landscape design should be considered to improve habitat availability within Appleby Creek and pond.

8. That the final Landscape/Restoration Plan for lands within the Natural Heritage System comprised of native species and is compatible with the surrounding Natural Heritage System, consistent with the Scoped Environmental Evaluation Report (December 2023), to the satisfaction of the Region. As part of the Landscape/Restoration Plan, wildlife habitat such as turtle nesting areas within Area A watercourse corridor landscape design should be considered to improve habitat availability within Appleby Creek and pond.

9. That the Owner agrees that those lands that are to be graded within the Natural Heritage System for the alteration of the regulated floodplain in accordance with the final Grading Plan and will be restored as identified in the final Landsca\pe/Restoration Plan and in accordance with the Scoped Environmental Evaluation Report (December 2023), to the satisfaction of the Region of Halton.

10. That the Owner submits a final trail design for Area A that is consistent with the Scoped Environmental Evaluation Report (December 2023) and the Regional Official Plan to the satisfaction of the Region of Halton.

11. That the Owner submits the construction drawings for the two stormwater management outlets in Block 91 that are consistent with the Scoped Environmental Evaluation Report (December 2023) and the Regional Official Plan to the satisfaction of the Region of Halton.

12. That the Owner agrees to construct the proposed wetland in Area A in accordance with the Scoped Environmental Evaluation Report (December 2023), to the satisfaction of the Region of Halton.

13. That the Owner agrees to develop and implement an adaptive monitoring plan for the proposed Natural Heritage System in Area A in accordance with the Scoped Environmental Evaluation Report (December 2023), to the satisfaction of the Region of Halton.

14. That the Owner agrees, that all maintenance access for retaining walls must be accommodated outside of the Natural Heritage System in Block 91 of the Plan of Subdivision, to the satisfaction of the Region of Halton.

15. That the Erosion and Sediment Control measures are installed as per the Erosion and Sediment Control Plan (December 2023) prior to construction and be maintained in place to prevent the migration of sediment and debris into the natural areas during construction activities, to the satisfaction of the Region of Halton.

16. That the Owner agrees to implement the prescribed Environmental Monitoring Framework for the Restoration and Enhancement Plan Monitoring and Aquatic Community Monitoring as outlined in the Scoped Environmental Evaluation Report (December 2023), to the satisfaction of the Region of Halton.

17. That the Owner agrees that a fish community survey occur in years two and three post-construction. Monitoring reports should be provided to the Region and City.

18. That the Owner agrees to replace any plantings in Block 91 for a period of two years following date of planting, to the satisfaction of the Region of Halton.

19. The owner acknowledges and agrees to update the Transportation Impact Study (by C.F. Crozier & Associates dated February 2022) as follows and to the satisfaction of the Region of Halton:
    a) Staff note that further revisions to the Study may be required should site statistics at Areas A - D be modified (upward) which may trigger or necessitate an update to the submitted February 2022 TIS report and require further Regional Review. Staff therefore reserve the right to review any updated traffic information and amend the comments and/or recommendations previously provided.
    b) Should any road improvements be identified resulting from proposed Areas A - D in an approved Transportation Impact Study, the applicant acknowledges and agrees to implement all road improvements identified as required to support the subdivision to the satisfaction of Halton Region. The owner is responsible for all costs associated with the improvements identified.

20. That the Owner submits an updated Noise Study prior to final approval of the Subdivision Agreement, including but not limited to, the installation of noise attenuation barriers, implementation of noise warning clauses etc., to the satisfaction of Halton Region.

21. That, the Owner agrees that noise mitigation barrier(s) will be required to mitigate the noise generated from adjacent roadways. Required noise barrier(s) shall be constructed by the owner at their cost and maintenance of the noise barrier(s) will be the responsibility of the owner until such time as the subdivision has been assumed by the local municipality.

22. The Owner agrees that should the registration of Area A not occur within a three (3) year time period, additional lands that are part of the subject property and have been identified as required for the future widening of Upper Middle Road (Regional Road 38) per a Municipal Class Environmental Assessment Study / Environmental Study Report shall be dedicated to the Regional Municipality of Halton for the purpose of road right-of-way widening and future road improvements.

23. The Owner agrees that all daylighting triangles must reference the ultimate Regional Road right-of-way limits and shall be dedicated to the Regional Municipality of Halton for the purpose of the road right-of-way widening and future road improvements, as follows:

    a) A daylight triangle measuring 15m along Upper Middle Road and 15m along all Country Club Drive shall be dedicated to the Regional Municipality of Halton for the purpose of road right-of-way widening and future road improvements.

24. That the owner agrees, by entering into Subdivision Agreement(s), to satisfy all the requirements, financial or otherwise of the local municipality and the Region including but not limited to, the phasing of the plan for registration, investigation of soil contamination and soil restoration, the provision of roads, boulevard grading and restoration, installation of watermains, wastewater mains, drainage works, stormwater facilities and utilities. These agreements are to be registered on title to the lands.

25. That a detailed engineering submission shall be prepared and submitted to the Region's Development Project Manager for review and approval prior to the preparation of the Regional subdivision agreements.

26. All works which are the responsibility of the Owner to complete shall be supervised during construction by a licensed Professional Engineer of the Province of Ontario with all professional engineering fees paid by the Owner. The Owner's engineer must provide competent full time inspection staff on site during construction activities to obtain the required "as constructed" field information, and to ensure compliance with the approved drawings and the Region's Current Construction and Design Standards.

27. Upon draft approval Regional services within the plan of subdivision may be installed, provided that the engineering drawings have been approved by the Region and City of Burlington, the Regional subdivision agreement has been executed, appropriate financial security has been posted, all relevant fees have been paid to the satisfaction of the Region, and all requisite government approvals have been obtained and notices given to all public utilities.

28. The Owner agrees to provide the Region with "as constructed" drawings of the water and wastewater services, certified by a professional engineer, before commissioning of the services takes place.

29. That the owner acknowledges, in writing, that registration of all or part of this plan of subdivision may not take place until notified by Halton's Development Project Manager that sufficient water capacity exists to accommodate this development.

30. The owner acknowledges, in writing, that registration of all or part of this plan of subdivision may not take place until notification by Halton's Development Project Manager that sufficient Wastewater Plant capacity exists to accommodate this development.

31. That the owner acknowledges, in writing, that registration of all or part of this plan of subdivision may not take place until notification by Halton's Development Project Manager that sufficient storage and pumping facilities and associated infrastructure relating to both water and wastewater are in place.

32. The owner acknowledges that there may not be sufficient water or wastewater plant capacity; storage or pumping facilities and associated infrastructure to accommodate this development and that additional capacity may not become available within the term of this draft approval. The owner acknowledges that granting of draft plan approval does not imply a guarantee by the Region to service this development within the term of draft approval. The Region's Development Project Manager will advise the owner in writing at the time of first submission for engineering design approval of the availability of capacity of Regional services and the capacity available for the owner's development. The registration of all of part of this plan shall not take place until the Region's Development Project Manager has confirmed that capacity exists to accommodate this development.

33. The owner agrees to conduct a survey of the static water level and quality of all wells within 500 metres of the plan. The owner further agrees to resolve any claims of well interruption due to the construction of municipal services to the satisfaction of Halton's Development Project Manager.

34. The owner shall agree that pre and post development storm water flows to the site and from the site to the existing drainage system on Upper Middle Road (Regional Road # 38) and Dundas Street (Regional Road # 5) are maintained both during and after construction, such that there are no adverse impacts to the existing system on Upper Middle Road (Regional Road # 38) and Dundas Street (Regional Road # 5), to the satisfaction of Halton Region's Development Project Manager.

35. The owner shall ensure that the grading works on the site will match up with the existing elevation at the property line with Upper Middle Road (Regional Road # 38) and Dundas

Street (Regional Road # 5) and also ensure that grading operations will not encroach on the existing right-of-way unless approved by the Region.

36. The owner shall provide the subdivision with a looped water system to help ensure a safe, secure and reliable water supply. This can be accomplished with two or more feeds from the Region's water supply. Should the connection points not be readily available adjacent to the site then the owner will be required to extend watermains to the site for this purpose, if required as determined through the detailed engineering submission.

37. The owner acknowledges that while their Functional Servicing Report, Urbantech Consulting, Revised April 2022, has been prepared in support of the re-zoning and subdivision applications, some aspects of the report are general in nature and can only be finalized at the detail design stage when the consultant's servicing design has been drafted by them and reviewed by the Region against the Region's most current servicing standards, policies and guidelines, that are in effect at the time of future development of the subdivision, and the lots and the future blocks.

38. That the Owner agrees to implement design requirements for all private roads to accommodate Regional Waste collection, designed in accordance with the Development Design Guidelines for Source Separation of Solid Waste, to the satisfaction of the Region of Halton.

39. That the owner acknowledges, in writing, that the developer will be responsible for collection and disposal of all waste until the developer is able to confirm that the development has reached 90% occupancy and demonstrate that a waste collection truck is able to safely and consistently perform collection services without obstruction or delay, to the satisfaction of the Region.

40. That the owner acknowledges, in writing, that appropriate warning clauses with respect to waste collection timing be added to the Subdivision agreement, to the satisfaction of the Region.

41. That the owner acknowledges, in writing, As part of the Purchase and Sale Agreement, the Developer, Owner, Property Manager or Agent for the development must disclose in writing, to a prospective buyer of a unit within the development, that waste collection for the proposed development will not commence until he proposed development is 90% occupied and that a Waste collection truck is able to safely and consistently perform collection services without obstruction or delay, to the satisfaction of the Region.

42. Prior to signing the final plan, the Director of Community Planning shall be advised by Halton Region that conditions outlined herein have been carried out to the satisfaction of Halton Region with a brief but complete statement detailing how each condition has been satisfied.

NOTES:

i. The Owner will be required to pay all applicable Regional development charges in accordance with the Region of Halton Development Charges By-law(s), as amended. If a subdivision (or other form of development) agreement is required, the water, wastewater and road portions of the Regional development charges are payable upon execution of the agreement or in accordance with the terms and conditions set out in the agreement. In addition, commencing January 1, 2017 every owner of land located in Halton Region intended for residential development will be subject to the Front-ending Recovery payment. Residential developments on lands located in Halton Region that prior to January 1, 2017 are part of a Regional allocation program, or have an executed Regional/Local Subdivision or consent agreement, or have an executed site plan agreement with the Local Municipality, or received a notice in writing from the Local Municipality that all requirements under the Planning Act have been met, or obtained a building permit are not subject to the Front-ending Recovery Payment.

   The above note is for information purpose only. All residential development applicants and every owner of land located in Halton Region assume all of the responsibilities and risks related to the use of the information provided herein.

   Please visit our website at www.halton.ca/developmentcharges to obtain the most current development charge and Front-ending Recovery Payment information, which is subject to change.

ii. Fees are required by Halton Region for each extension to draft approval and for major revisions to the draft plan or conditions.

iii. Please note the Owner should be made aware that Halton Region will have the following requirements at the time of registration of the subdivision:
- Final draft M plans signed and dated by the Owner, Surveyor and initialed by the City's Planner
- Regional Registration fee
- Registry Office review form

ATTACHMENT E

WITHOUT PREJUDICE

CONDITIONS APPLYING TO THE APPROVAL OF THE FINAL PLAN FOR REGISTRATION OF PLAN OF SUBDIVISION BY:

Millcroft Greens Corporation – 24T-20002/B

The Conditions which shall be fulfilled prior to final approval of this Plan of Subdivision as follows:

1. This approval applies to the following draft plan of subdivisions prepared by:

   (a) Wellings Planning Consultants Inc. Draft Plan of Subdivision Blocks 107 and 108, Plan 20M-414, Block 13, Plan 20M-421 and Part of Lot 8 Concession 1, South of Dundas Street, dated October 9, 2020.

   (b) Wellings Planning Consultants Inc. Draft Plan of Subdivision Block 247, Plan 20M-535 and Part of Block 109, Plan 20M-694, dated October 9, 2020.

2. Prior to final approval, the Owner shall sign the City of Burlington's Standard Subdivision Agreement and any other necessary agreement(s) in effect on the date of signing thereof, within three years of the date of draft approval; and acknowledge the implications of the standard conditions contained in the City's Standard Subdivision Agreement, failing which, the draft approval shall lapse.

3. The Owner agrees to pay fees and post securities for all works shown in the approved Engineering Plans, Transportation Services Plans, Streetlighting Plans, Tree Protection Plans and Landscape Plans, as calculated/determined by the City of Burlington, in general accordance with the City's standard subdivision agreement schedules.

4. The Owner agrees to procure and pay for full time inspection by the Owner's consulting engineers, landscape architect and arborist, for the subdivision works.

5. Complete the following to the satisfaction of the Director of Engineering Services:

   a) Gratuitously dedicate to the City of Burlington, including all legal and survey costs, free of encumbrances, the following:

      i. Block 91 (Conservation Halton regulated hazard and setbacks (i.e., the Creek Block)), which shall be free and clear of any privately owned features, i.e., the Creek Block cannot include a golf course irrigation pond, pump house, or any other privately owned buried or above ground infrastructure, structures, encumbrances, etc., except for the pipe from the irrigation pond to the pump house. The Owner acknowledges and agrees

that revisions to the draft plan or a consent application may be necessary to remove lands encumbered by such infrastructure from the balance of Block 91. Be advised, any existing or proposed municipal infrastructure (i.e., storm sewers/inlets/outlets) would require an easement over privately owned lands, and any privately owned infrastructure (i.e., pipe from the irrigation pond under the creek to the pump house) within the creek block would require an easement over the City of Burlington owned lands.

ii. A minimum area of 0.1981 ha in the location shown as Block 103 on the Draft Plan of Subdivision, prepared by Wellings Planning Consultants Inc. in fulfillment of parkland dedication requirements. Block 103 on the Draft Plan is intended to identify the approximate land area, frontage, dimensions, and general location of the required parkland dedication. Any parkland dedication over and above the minimum requirements shall be dedicated gratuitously to the City.

b) Convey to the City of Burlington free of charge, including all legal and survey costs, the following all to the satisfaction of the City Burlington:

i. Easement **in gross** over Blocks 92, 93, 94, 95, 96, 97 and 98 for access, drainage, inspection, and maintenance of buried municipal stormwater infrastructure, **and to provide a pedestrian connection to the path system connecting Areas A & B to the creek block and Upper Middle Road.**

ii. Easement **in gross** over Blocks 101 and 102 for access to the creek block and stormwater easement blocks, **and to provide a pedestrian connection to the path system connecting Areas A & B to the creek block and Upper Middle Road.**

iii. Easement over the entire length of Appleby Creek from Dundas Street to Upper Middle Road, encompassing the Conservation Halton regulated hazard and setbacks, in favor of the City of Burlington for access, inspection and drainage purposes. The golf course Owner, its successors and assigns, will continue to be responsible for maintenance of the lands, ponds and creeks. Be advised that "maintenance" includes regular inspection, removal of debris, dredging of ponds as required, compliance with Conservation Halton regulations, creeks channels to be kept free of debris and blockages, etc.

iv. Easement over the entire length of Sheldon Creek from Dundas Street to Turnberry Road, encompassing the Conservation Halton regulated hazards and setbacks, in favor of the City of Burlington for access. inspection and drainage purposes. The golf course Owner, its successors and assigns, will continue to be responsible for maintenance of the lands, ponds and creeks. Be advised that "maintenance" includes regular inspection, removal of

debris, dredging of ponds as required, compliance with Conservation Halton regulations, creeks channels to be kept free of debris and blockages, etc.

v. Easements over existing online ponds within the golf course lands that provide stormwater outlets and/or inlets for the Millcroft community and municipal rights-of-way, for access and inspection. The golf course Owner, its successors and assigns, will continue to be responsible for maintenance of the lands, ponds and creeks. Be advised that "maintenance" includes regular inspection, removal of debris, dredging of ponds as required, compliance with provincial guidelines, City of Burlington standards, Conservation Halton regulations, etc.

vi. Any easements over the subject property required for access, drainage, services and/or utilities;

vii. Any easements over adjacent properties as required to accommodate access, services and/or overland flow swales;

viii. Any other lands, easements, or reserves, determined through detailed review.

c) Dedicate to the (future) Condominium Corporation(s) free of charge, including all legal and survey costs, the following:

i. The 6m wide landscape buffers adjacent to the rear yards of Lots 1 to 18, 30 to 68, 70 to 76 and 81 to 90. The condominium corporation is responsible for ensuring the landscape buffer trees/shrubs are inspected and maintained in accordance with the approved plans in perpetuity;

ii. Convey to the (future) Condominium Corporation(s) any easements over the subject property(ies) required for access and maintenance of, drainage, services and/or utilities, and the landscape buffer.

iii. The 6m wide landscape buffers shall be kept free and clear of any encumbrance or encroachment from abutting property owners, including but not limited to, hard surfacing, addition of structures (i.e., no backyard trampolines, play structures, equipment, sheds, etc.

d) Prepare and deposit all reference plans required for the foregoing dedications and a reference plan showing the boundaries of the property to UTM, NAD 83 Datum and provide the City a digital copy of the plan in .dwg format with all points and line work on separate layers.

e) Submit a copy of the updated parcel register when survey plans are submitted for the preparation of the Subdivision Agreement.

f) Pay for the cost of lifting 0.3 meter reserves, as may be required.

g) Pay for the cost of dismissing/amending existing easements, as may be required.

h) Agree to amend any existing rights-of-way or mutual easement agreements for access and maintenance of both sides of the sound wall and berm as necessary.

i) Cause all walkways/golf cart paths to be fenced with min. 1.8m tall 9 gauge (pool grade) black vinyl chain link fence with top and bottom rail and paved.

j) Cause all POTL lots adjacent to Blocks 92 to 98 (i.e., containing stormwater easements), and all POTL lots adjacent to Conservation Halton hazard lands/setbacks, to be fenced with min. 1.8m tall 9 gauge (pool grade) black vinyl chain link fence with top and bottom rail.

k) Agree to provide, bollards, gates, signage, etc. at accesses to municipal easements for creek access, stormwater infrastructure, overland flow routes, etc., to be determined at the detailed design stage, to the satisfaction of the Director of Engineering Services.

l) Submit a Record of Site Condition acknowledged by the Ministry of Environment Parks and Conservation, for each development area (or one RSC that covers all areas), including copies of all supporting documents listed on the RSC, prior to development of the lands.

m) Acknowledge that the suitability of the land for the proposed use is the responsibility of the landowner, and that prior to registration of the plan, the Owner shall undertake an environmental assessment performed by a Qualified Person to ensure that the land is suitable for the proposed use. If in the opinion of the Qualified Person, the environmental site assessment indicates the land may not be suitable for the proposed use, the Qualified Person must so advise the Ministry of the Environment Conservation and Parks and the City of Burlington. The Owner undertakes to do further investigative studies and to do all works required to make the lands suitable for the proposed use. The Owner shall also agree to make available for inspection to all prospective purchasers copies of the completed Environmental Site Assessment and Record of Site Condition, if applicable.

n) In the event that during ongoing subdivision and house construction the land is determined not to be suitable for the proposed use, agree (at no cost to the City) to undertake further investigative studies and perform all necessary works required to make the land suitable for the proposed use.

o) Agree to pay all costs related to the extension of services through City of Burlington road allowances and/or property owned by the City of Burlington as may be necessary to facilitate the proposed development. The costs that the Owner agrees to pay will include, but not be limited to, design, contract administration, construction, inspection, testing, sampling, contingencies, certification, as-

constructed drawings, applicable taxes, agreement fees, legal fees and registration of agreements including all applicable fees as required by the City of Burlington and the Owner's solicitor. The Owner agrees to pay all invoices from the City of Burlington within 30 days of receipt.

p) Agree to submit a Geotechnical Study, for approval, and to implement the recommendations of the approved Geotechnical Study for subdivision servicing, road construction as well as house construction (including details for house construction on fill lots, and recommendations for sump pump systems due to high groundwater).

q) Agree to submit a Functional Servicing Report (including stormwater management), for approval, and to implement the necessary stormwater management recommendations of the approved Functional Servicing Report. The Owner shall also agree to make any revisions to the draft plan necessary to implement the approved recommendations.

r) Agree to submit detailed servicing, grading and plan profile (private road) drawings, including details and general notes for approval and implementation.

s) Agree to submit an Erosion and Siltation Control Plan, for approval, and implementation during all phases of construction, including servicing and building construction.

t) Agree to submit an overall Utility Coordination Plan, for approval and implementation, addressing the location (shared or otherwise), timing and phasing of all required utilities (on-grade, below-grade or above-grade), including gas, electrical, telecommunications, water, wastewater and stormwater services. Such overall utility distribution plan shall be to the satisfaction of all utility providers and shall be approved by the City prior to construction of any of the required utilities.

u) Agree to submit a pavement marking and street sign plan for approval and implementation, for each (private/common element) street.

v) Agree to submit a Construction Mobility and Management Plan for approval and implementation, including applying for and receiving the associated Municipal Consent Permits.

w) Agree that in areas where basements are to be constructed below the bedrock surface, methane gas monitoring will be carried out during excavation. If methane gas is encountered during excavation, gas venting systems may be required depending upon the gas concentration readings. A qualified professional will be required to provide a summary of inspections/gas monitoring and mitigation measures implemented on each lot prior to security release.

x) Prior to security release, provide written confirmation from a Qualified Person that all monitoring wells have been decommissioned in accordance with O. Reg. 903.

y) Agree to submit a private street Lighting and Photometrics Plan, for approval and implementation.

z) Agree to submit a Detailed Environmental Noise and Vibration Study, for approval, and to implement the recommendations of the approved Detailed Environmental Noise and Vibration Study.

aa) Agree to provide certification by an Acoustical Engineer that the builder's plans are in conformance with the approved recommendations of the Detailed Environmental Noise and Vibration Study prior to the issuance of building permits. The Owner shall also agree that all affected lots will be deemed unbuildable until such certification is received and accepted by the City.

bb) Agree to verify the actual indoor and outdoor environmental sound levels on-site and provide certification by an Acoustical Engineer that the approved recommendations of the Detailed Environmental Noise and Vibration Study have been implemented and satisfy the criteria of the City and the MECP prior to the release of securities.

cc) Agree that no stockpiling on, or use of, Municipal Rights-of-Ways for construction staging will be permitted without the written approval of the Director of Engineering Services.

dd) Agree that should the development be phased; a phasing plan must be submitted prior to the registration of the first phase of subdivision. The phasing plan will incorporate an Agreement (to the satisfaction of the Director of Engineering Services) that must indicate the timing and sequence of development (including tree removal) for each phase and include securities to guarantee the implementation of the plan.

ee) Agree to ensure construction access, traffic and parking to the satisfaction of the Director of Engineering Services during all stages of construction and agree to pay for any required signage, barricades or other measures, as needed.

ff) Agree to design, locate and erect signs prior to the sale of any lots and prior to commencement of subdivision construction which provide notification of: the proposed land uses, road pattern, lotting, phasing of the proposed subdivision, the properties abutting the development, location of postal facilities, transit route locations and lots subject to warning clauses. The signs shall be resistant to weathering and vandalism. All lots and blocks shall be deemed unsuitable for building until the above has been satisfied.

gg) Agree to obtain the necessary demolition permit(s) and post the necessary securities to ensure the proper removal of all existing onsite buildings and structures, and buried infrastructure/servicing, if applicable.

hh) Agree to pay for any alterations to existing utilities, pavement and services that may be necessary to accommodate the proposed subdivision.

ii) Agree to complete all construction works, including but not limited to grading, servicing, retaining walls, roads, sidewalks and driveway locations, in accordance with the approved engineering drawings.

jj) Agree to install all servicing and utilities (including hydro) throughout the development underground.

kk) Agree to provide written certification by the Civil Engineering Consultant prior to final assumption of the subdivision that the municipal and private infrastructure, including the underground services (i.e., storm sewers, etc.) and aboveground services (i.e., roads, sidewalks, boulevards, etc.) has been constructed in conformance to the City standards and in accordance with the approved engineering drawings.

ll) Agree to provide written certification from the Lighting Consultant prior to final assumption of the subdivision that the private street lighting has been installed in accordance with the approved lighting drawings.

mm) Prior to servicing of the plan, the Owner agrees to inform the City which telecommunications and electrical utilities will be installing services in the subdivision. Once identified, these telecommunications and electrical utilities shall confirm in writing with the City that their requirements have been satisfied.

nn) The Owner shall agree to the following:

i. Permit the following telecommunication providers to locate their plant in a common utility trench within any future public highway of the Plan provided they have entered into, or are in the process of entering into, a Municipal Access Agreement with the City ("Telecommunications Providers"):

   a. All "Canadian carrier" telecommunications service providers (as defined in subsection 2(1) of the Telecommunications Act);

   b. A "distribution undertaking" (as defined in subsection 2(1) of the Broadcasting Act).

ii. Within 10 business days of receiving a list of Telecommunications Providers from the City, the Developer shall notify all Telecommunications

Providers of the Plan and request to be notified within 10 business days as to whether they intend to locate their plant within any future public highway of the Plan.

iii. Make satisfactory arrangements (financial and otherwise) with the City, Telecommunications Providers and other utilities for the installation of each facility in a common utility trench within future public highways prior to commencing any work within any future public highway of the approved draft plan of subdivision.

iv. The ability of any Telecommunications Provider to install its plant in a timely and efficient manner shall not be limited.

v. Where works have commenced on Plans that have not been granted final approval as of September 24, 2001, the City and the Developer shall work with any Telecommunications Providers excluded from the development to allow for expeditious installation of the Telecommunications Providers' plant in a reasonable manner and location, as approved by the City.

vi. Install, at the Developer's own expense, 100mm diameter ducts at all road crossings for the use of Telecommunications Providers. The exact location and detailed specifications for these ducts shall be shown on the approved drawings.

vii. Acknowledges and agree that the City may refuse to accept or assume any or all streets within the Plan until the provisions of this section have been complied with.

oo) Agree that foundation drainage shall discharge directly into the storm sewer either by gravity or sump pump installation, unless it can be demonstrated that surface outlet has clear conveyance to a swale and catch basin system, and not to a side yard. Connections by gravity will not be permitted unless hydraulic grade line analysis confirms that surcharging of the storm sewer during a 100-year design storm will not result in any basement or foundation damage.

pp) Agree to install temporary street name and stop signs on streets throughout the development after placement of base asphalt and prior to building permits being issued and maintain the signs until such time as the permanent signs have been installed by the City.

qq) Agree to install and maintain temporary barriers across the entrances to the private streets after placement of base asphalt and prior to building permits being issued.

rr) Agree to construct the necessary fencing as shown on the approved engineering drawings, namely between all residential boundaries abutting either open

space/creek blocks, ponds, parks, walkway blocks, school blocks or commercial blocks and business blocks abutting either open space/creek blocks or transit corridor block, if applicable.

ss) Agree to comply with the City Policy in effect at the time of subdivision registration with respect to "Site Conditions in Subdivisions";

tt) Agree to provide a cash deposit to be used by the City for contracted or in-house expenses for dealing with non-compliance with City requirements for control of mud, dust and debris on roads and further agree that inspection staff time for invoicing on work undertaken will be charged at double the normal rate;

uu) Agree to hire a contractor on retainer to deal with after hour problems related to unsafe situations in active subdivisions and provide the City with the contractor's 24 hour/7 days a week emergency contact phone number;

vv) Agree to install "Illegal Dumping Prohibited" signs at all lots/blocks intended for future development;

ww) Agree to regrade and seed within 7 days, and cut weeds and remove debris within 48 hours, of a request by the City on any undeveloped lots or blocks as may be requested;

xx) Agree to grade, place topsoil and seed any lot or block within 7 days of initial grading or topsoil stripping which is not intended for development within 45 days. This requirement may vary depending on the season of the activity. The City will exercise discretion in applying the seeding requirement. In addition, temporary perimeter post and wire fencing is to be installed for any school, if applicable;

yy) Agree to provide an overall phasing schedule identifying proposed house construction (start dates/occupation dates), tentative grading, sodding and tree planting schedules in accordance with the City's grading and sodding policy and schedule;

zz) Agree that sidewalk installation, lot and boulevard grading/sodding will be completed within 9 months of occupation and agree that at the time of sidewalk installation, the boulevard is to be rough graded to the level of the sidewalk should the boulevard sodding be delayed.

aaa) Agree to provide all new home purchasers in the subdivision with an information brochure containing information on the ecological value and function of natural areas within the community to be preserved and appropriate stewardship behavior such as domestic pet control, no debris/dumping. No vegetation removal, etc.

bbb) Agree to make available to all purchasers a copy of the City of Burlington "Information Sheet for New Home Buyers."

ccc) Agree to display copies of the signed engineering drawings (including the "Utility Coordination Plan, and Landscape Plans") in the sales office when they become available, for the information of purchasers.

ddd) Agree to display a copy of the approved draft plan and draft plan conditions in the sales office for the information of purchasers.

eee) Agree to provide copies of the draft plan conditions for the review of purchasers, if requested.

fff) Agree to provide and pay for storm sewer video inspection of the municipal storm sewers that the proposed development areas will connect to, to confirm they are in good clean working condition, prior to connection, if not, remedial works would be at the cost of the Owner/Developer. An after video will also be required, prior to security release. All videos shall be to the current City standard.

ggg) Agree to provide and pay for storm sewer video inspection of the municipal storm sewers fronting the development areas, and within the private development areas, as per the current City standard, after installation, and again prior to surface course asphalt placement, before securities are released.

hhh) Agree to provide and pay for (passing) mandrel testing for all municipal pvc storm sewers fronting the development areas and for pvc storm sewers within the private development areas, after construction, and again prior to surface course asphalt placement, prior to security release.

iii) Agree to survey and inspect or provide funds for City staff/contractor to survey and inspect, existing overland flow routes between 2056 and 2054 Hadfield Court, 2061 and 2063 Hadfield Court, 2041 and 2043 Hadfield Court, and 2028 and 2030 Parklane Crescent, to confirm the existing overland flow routes are unobstructed and grades are in conformance with original design, and if not, agree to undertake and/or pay for remedial works.

jjj) Agree to provide or provide funds for bathymetric sediment surveys prepared by a Professional Engineer of all existing online ponds located on golf course lands servicing the Millcroft community and municipal rights-of-ways.

kkk) Agree that if bathymetric sediment surveys identify remedial works are required to confirm conformance to original as-designed plans, for the existing online ponds located on golf course lands servicing the Millcroft community and municipal rights-of-ways, that the remedial works will be undertaken and all construction and engineering costs paid for by the Owner/Developer, including dredging, chemical analysis, disposal of excess materials, replanting, repair of storm sewers and appurtenances, consultant fees, permitting fees, etc., as may be required.

lll) Agree to provide historical and current maintenance records for all existing online ponds located on golf course lands in the Millcroft community, that provide outlet for the municipal storm sewer system.

mmm) The golf course Owner, its assigns and successors, agrees to inspect and maintain Appleby Creek, Sheldon Creek and all associated online ponds within the golf course property in accordance with approved plans and City standards, and agrees to provide the City of Burlington with copies of the maintenance records on an annual basis, and indemnify the City of Burlington from any liability or maintenance costs associated with these areas.

nnn) The Area A and B Condominium Corporations agree to regularly inspect and maintain the overland flow routes on Blocks 92 through 98 inclusive, to ensure they are in accordance with the approved plans and City standards and indemnify the City of Burlington from any liability or maintenance costs associated with the overland flow routes within the condominium/POTL lands. A warning clause shall be included in the Condominium Declaration to this effect.

ooo) Obtain written approval/permit from Canadian National Railways (CNR) for proposed cul-de-sac/other above ground infrastructure within Block 101, and stormwater infrastructure within the CNR setback/easement.

ppp) Obtain Ministry of Environment, Conservation and Parks Environmental Compliance Approval (ECA) for the (new) proposed outlet(s) to Appleby Creek.

qqq) Obtain a Conservation Halton permit for any works within or adjacent to Conservation Halton regulated lands, or any other permits that may be required by Conservation Halton.

rrr) Agree to provide erosion mitigation measures in Appleby Creek from Dundas Street to Upper Middle Road. Additionally, to provide erosion mitigation measures downstream of Upper Middle Road, if it is determined by the supporting reports and documentation that construction of the proposed development warrants mitigation measures, as determined by City of Burlington and Conservation Halton staff. Costs, including construction and engineering for remedial erosion mitigation measures will be at the Owner/Developers' cost.

sss) The golf course Owner agrees to provide an Irrigation Water Management Report, approved by vested approval authorities supporting the use of an offline pond, for irrigation purposes.

6. Complete the following to the satisfaction of the Director of Engineering Services and Burlington Hydro Incorporated

a) agree to satisfy all of the conditions and requirements, financial or otherwise, of Burlington Hydro Incorporated and provide the Director of Engineering with a clearance letter from Burlington Hydro Incorporated when its requirements have been met;

b) sign Burlington Hydro Incorporated's subdivision agreement and any other agreements required by Burlington Hydro Incorporated; and

c) provide the Director of Engineering with a clearance letter from Burlington Hydro Incorporated when its requirements have been met.

7. The Owner shall complete the following to the satisfaction of the Manager of Parks Design and Construction:

a) Agree that upon registration of the subdivision, the Owner shall convey to the City parkland pursuant to the provisions of the Planning Act and the City's associated parkland dedication By-law. Any under dedication of parkland shall be compensated as cash in lieu of parkland paid to the City.

8. Prior to executing the Subdivision Agreement, the Owner shall complete the following to the satisfaction of the Manager of Parks Design and Construction:

a) Coordinate with the City on the development of a Park Concept Plan to determine program options and locations of servicing in coordination with hard surfacing. Work on the park plan can commence following the submission of an AutoCAD plan from the Owner to the City. Upon completion, the plan will be shared with the Owner to implement/coordinate grading, servicing plans and utility coordination plans.

b) The Owner will be responsible for the design of the required park base conditions as determined by the City at the sole cost of the Owner. The park base conditions shall include:

i. Coordination, and implementation of the recommendations of the approved the Arborist Report(s), Tree Preservation Plans and any other associated documents.

ii. Coordination with the approved engineering drawings and all other associated approved drawings to ensure all proposed private infrastructure (e.g., utilities, utility cabinets, servicing, fire access or turn-around lanes) remain outside Park Block 103.

iii. Grading within Park Block 103 resulting in a minimum 2% slope to ensure adequate drainage. The Owner agrees that any grading or drainage requirements for the subdivision infringing on Park Block 103 requires the written approval of the Executive Director of Engineering Services, prior to commencement of the works.

iv. Coordination, supply and installation of all proposed park catch basins with a minimum 3 levels of 2" (50mm) concrete rings. Proposed catch basins and storm sewers must be located on future City-owned lands or within the City rights-of-ways.

v. Coordination, supply and installation of all servicing to Park Block 103 in accordance with City and Region standards including:

   a. Appropriately sized storm sewer connection(s) with one or more catch basin(s);

   b. Appropriately size culvert(s).

vi. Coordination, supply and installation of all engineered fill and all backfill material used to grade Park Block 103. All engineered fill and backfill material shall be compacted to City standards and shall be selected material from excavation or other sources for the use intended, unfrozen and free of rocks larger than 75 mm, cinders, ashes, sods, refuse or other deleterious materials.

vii. Coordination and installation of approved finished elevations of Park Block 103. Approved elevations are to include a minimum 30 cm topsoil depth and match the proposed finished grade at all property lines for all abutting land uses.

viii. Where parkland, natural heritage features, stormwater management facilities and pedestrian walkway blocks abut non-municipal lands, supply and installation of permanent chain link fencing, noise walls, privacy fencing or alternative approved fencing consistent with City standards.

ix. Coordination, supply and installation of temporary post and page wire fencing with gate access points along the perimeter of Park Block 103 where it abuts road allowances or other potential access points, to prohibit access to such lands until such time as parkland improvements proceed. Page wire fencing and all components are to be inspected regularly and kept in good working order until assumption. If the construction of the park by the City is planned beyond the date of assumption, the City will accept maintenance responsibilities of the fence and/or erosion control measures.

c) Submit detailed cost estimate(s) that relate to the Park Drawings for approval and sign-off by the City.

d) Ensure all approved submission documents reflect no community mailboxes located within Park Block 103 or within adjacent boulevards.

e) Submit a Phase 1 Environmental Site Assessment (ESA) that includes Block 103 and certify it is prepared in accordance with the Canadian Standards Association Standard Z768-01. The Owner shall implement at their expense the recommendations of the Phase 1 Environmental Site Assessments including the undertaking of a Phase II ESA and/or preparation and implementation of a remediation plan, if such work is recommended. The Owner shall be responsible to pay for all costs associated with the preparation of the plan and associated implementation. Any required ESA/Remedial Plan should not contain a limitation upon the right of the City to rely upon it and/or the information contained therein.

9. Prior to tree removals, site grading site servicing or other site alterations, the Owner shall complete the following to the satisfaction of the Manager of Parks Design and Construction:

a) enter into any applicable agreement(s) or permit(s) with the City,

b) post all necessary securities and pay all necessary fees as required by the City, and

c) obtain the necessary clearances for all other applicable draft plan conditions associated with the agreements.

d) the Owner shall remove from the City owned Park Block (Block 103) any existing intrusions and/or structures and restore the lands to the satisfaction of the City. This includes, but is not limited to, the removal of tile drains, culverts, irrigation, structures, fences, construction materials, debris and refuse.

e) The Owner shall provide the necessary information for the City to determine the total caliper measurement associated with proposed tree removals in order to determine the final count of replacement trees required to facilitate the development.

10. The following clauses shall be included in the Subdivision Agreement to the satisfaction of the Manager of Parks Design and Construction:

a) The Owner will be responsible for the construction and installation of the required park base conditions as per the approved design at the sole cost of the Owner.

b) Upon completion of the grading and servicing works and prior to application of topsoil, the Owner shall provide the City at their expense with post-grading geotechnical soil tests, and a topographic survey that meets City requirements, confirming that the grading and servicing of Park Block 103 are consistent with the approved plans. The Owner shall consult with the City

regarding the parameters and quantity of geotechnical soil tests, prior to commencement.

c) The Owner shall provide topsoil on Park Block 103 to City standards as per the approved plan(s). Prior to application of the topsoil, the Owner will conduct and provide the City with the results of a topsoil fertility analysis and topsoil depth verification confirming that the topsoil to be applied to the park meets City standards. The Owner shall consult with the City regarding the quantity of samples required for topsoil analysis and depths. If amendments are required of the topsoil, a pre-and-post testing analysis report shall be provided. Following application of the topsoil to Park Block 103, the Owner will provide the City with a finished grade topographical survey consistent with City requirements.

d) The Owner shall be responsible to sod and/or seed Park Block 103 as directed by the City. The Owner shall consult with the City prior to site alteration on the requirements of seeding vs sodding. All seeding and/or sodding shall be at the Owner's expense.

e) The Owner shall be responsible to design and install a sign on Park Block 103 notifying residents of the future park planned for the site and include language that no dumping is permitted on the future park lands. The Owner shall inspect and maintain the sign until formal acceptance of the subdivision by the City.

f) The Owner shall be responsible to maintain Park Block 103 including grass cutting and debris removal until park construction commences or until time of Assumption by the City, whichever occurs first.

g) The Owner agrees that no stockpiling of material or construction staging shall occur on Park Block 103 without the written approval of the Executive Director of Engineering Services. Such approval will stipulate timing of removal of all material from Park Block 103 for the construction of the park. Such approval shall also require posting of applicable securities based upon an approved cost estimate provided to by the Owner at their expense to the satisfaction of the City.

11. Prior to registration, the following clauses shall be included in the Subdivision Agreement to the satisfaction of the Manager of Parks Design and Construction:

a) Prior to parkland dedication and conveyance of land to the City by the Owner, the following shall be submitted to the City:

i. A stamped and signed certification letter from the consulting Engineer verifying that the park base conditions have been implemented as per

the approved park base condition requirements in conjunction with the Park Concept Plan.

The certification letter is to note as-built top of grate and pipe invert elevations for all catch basins and manholes. In addition, an Auto-CAD drawing is to be submitted showing the as-constructed survey of all finished (compacted) sub-grades, finished (topsoil) grades and servicing information overlayed on top of the proposed grading information. The drawing is to include 0.5m contour intervals and spot elevations at key points on site (e.g., catch basin rim elevations, high point swales and ridges).

b) A Record of Site Condition, to ensure the proposed parkland is clean and free of contaminants prior to dedication.

The Record of Site Condition could be part of the larger development but must include the Park Block 103.

12. Prior to executing the Subdivision Agreement, the Owner shall complete the following to the satisfaction of the Manager of Parks Design and Construction:

a) The Owner shall submit detailed Landscape Construction Drawings to the satisfaction of the City, prepared and stamped by a full member of the Ontario Association of Landscape Architects (OALA) in good standing. The Landscape Construction Drawings shall be completed in accordance with the City of Burlington Official Plan, any associated secondary plans, City of Burlington Development Standards, general or site-specific Guidelines and industry best practices.

b) The Landscape Construction Drawings shall include, but are not limited to:
- landscaping and signage in and around the stormwater retention pond block,
- conceptual public street tree plantings,
- private street tree plantings,
- 6.0m rear yard landscape buffer planting,
- wetland vegetation,
- creek block vegetation,
- open space block vegetation,
- landscape island planting,
- compensation planting,
- screen planting
- trails (including any associated assets e.g., signs, fencing),
- measures to protect existing vegetation, permanent and during construction,
- fencing for the delineation between City and private owned lands.

c) The Owner shall submit detailed cost estimate(s) that relate to the Landscape Drawings for approval and sign-off by the City.

d) The Owner shall be required to consult with the City's Parks Design and Construction Staff, alongside Stormwater Engineering and Park Maintenance Staff should the provision of trails and trail connections within and/or adjacent to future City owned creek blocks and proposed streets be proposed through detailed design by the applicant. The Owner is to provide options and details of such trails for review and approval by way of the landscape drawings and detailed design process.

e) Prepare an Arborist Report and Tree Inventory and Preservation Plan, by a Certified Arborist to the satisfaction of the City. The report and plans shall document and inventory all existing trees (minimum 10cm dbh) within and adjacent to the subject lands (3.0m beyond property line) and provide an assessment of significant trees to be preserved, removed, or monitored together with the proposed methods of tree protection and preservation of endangered species and the removal of invasive species. The report shall be prepared in accordance with the City's guidelines and indicate if a subsequent hazard tree monitoring report is required.

f) The Owner shall submit detailed cost estimate(s) that relate to the Arborist Report and Drawings for approval and sign-off by the City.

g) Removal of trees on neighboring properties, or that are located on a shared property line (boundary trees) will require consent from the adjoining and/or adjacent Owner(s) in writing.

h) The Owner acknowledges and agrees that the landscape buffer abutting lots 1 to 18, 30 to 68, 70 to 76 and 81 to 90 will contain trees planted to replace trees removed to facilitate development of the lands and shall be owned and maintained by the future condominium corporation as part of the common elements. It shall remain as a naturalized vegetated landscape strip containing trees and shrubs, in perpetuity. No encroachments of any kind, including but not limited to, hard surfacing, addition of structures (i.e., no backyard trampolines, play structures, equipment, sheds, etc.), or changes to the grading of the landscape buffer shall be permitted.

13. Prior to tree removals, site grading, site servicing or any other site alterations, the Owner shall complete the following to the satisfaction of the Manager of Parks Design and Construction:

a) enter into any applicable agreement(s) or permit(s) with the City,

b) obtain City Public Tree By-law 06-2013, as amended for removal or injury of city owned trees as where required.

c) post all necessary securities and pay all necessary fees as required by the City, and

d) obtain the necessary clearances for all other applicable draft plan conditions associated with the agreements.

14. The following clauses shall be included in the Subdivision Agreement to the satisfaction of the complete the following to the satisfaction of the Manager of Parks Design and Construction:

a) From the start of site grading until formal assumption by the City, the Owner shall be responsible for ongoing maintenance, repairs and replacements of future owned City assets (e.g., trails, stormwater facilities, open space areas) that are on all future City owned lands. Examples of maintenance includes debris removal, grass cutting, etc. and must be to the satisfaction of the City.

b) Prior to assumption, the Owner shall implement the approved Landscape Construction Drawings, at the sole cost of the Owner, to the satisfaction of the City.

c) Prior to assumption, the Owner shall submit a final certification from the same Landscape Architect who is a full member of the Ontario Association of Landscape Architects (OALA) in good standing, confirming that all deficiencies have been addressed. Certification shall be accompanied with as constructed drawings and all applicable certifications, to the satisfaction of the City.

d) All landscape works to be warrantied minimum two years after substantial completion or at time of assumption, whichever is later.

e) Prior to assumption, the Owner shall submit a summary of proposed new assets (e.g., proposed entry or gateway features) with their expected useful life and associated maintenance costs for the full lifecycle. The Owner will be responsible to submit maintenance fees to the City for the full lifecycle of these new assets or up to 10 years whatever is less (If not comment element condo).

f) The Owner's Certified Arborist to carry out, or cause to carry out, in a timely manner, the recommendations set out in the Arborist Report(s), Tree Preservation Plans and any other associated documents (i.e., Public tree By-law) to the satisfaction of the City. The consultant is required to certify in

writing, that the tree preservation fencing has been installed and contact city staff for inspection and approval prior to injury and/or removal(s).

g) Upon completion of the implemented works, the consultant is required to certify in writing that the removals have been completed as per the approved Arborist Report(s), Tree Preservation Plans and any other associated documents.

h) An additional certification from the same Certified Arborist shall be required prior to assumption, confirming that any long-term requirements and recommendations (e.g., mitigative measures) in the report(s), plan(s) and document(s) have been carried out, to the satisfaction of the City.

i) In the event that trees, vegetation, or environmentally significant features are removed or altered without the written consent of the City, the Owner shall restore the lands and/or provide compensation to the satisfaction of the City.

j) It is the sole responsibility of the Owner for ongoing maintenance and repairs to tree protection fencing to the satisfaction of the City.

k) Tree protection fencing and associated measures are to be inspected daily by the Owner or Owner's designate, with all noted deficiencies rectified within 24 hours to the satisfaction of the City. All tree protection fencing and tree protection measures are to remain in place on site until written permission for removal is granted by the City.

15. The Owner and (future) Condominium Corporations(s) and their residents and visitors, covenants and agrees to indemnify and save harmless the City from any losses, damages, claims, actions, demands, suits, costs , or any other liability which may arise from the golf course operations inclusive of golf course operations, maintenance, repair, movement of motorized or other golf carts, golf course maintenance vehicles using the public road allowance at grade crossings, nuisance, trespass including damage caused by golf balls and the activities of golfers, noise or other inconvenience. This clause shall also be included in the Condominium Declaration(s).

16. The Owner covenants and agrees to do the following in relation to the golf course, at its expense and to the satisfaction of the Director of Engineering Services:

a) Provide fencing on the common lot lines between the residential lots and the golf course, where required;

b) Make adjustments to the golf course at the Owner's expense should problems related to the golf course occur at any phase of development, or post development, and the Owner will make such adjustments at the Owner's expense if required to do so by the City of Burlington. Physical

changes to grading and drainage of the remaining golf course lands after development, may require a Site Alteration Permit or Site Plan Application. Any works within the Conservation Halton regulated area requires a Conservation Halton permit.

c) As there are potential inconveniencies and risks associated with lots abutting the golf course, including the following warning clause advising of potential inconveniences and risks related to the golf course in all Offers of Purchase, Agreements of Sale and Purchase or Lease and Reservation Agreements, and within the Condominium Declaration, for any Lot abutting the golf course:

"Purchasers are advised that because their Lots back onto, front or flank an operating golf course they may be inconvenienced by golfers, golf balls entering onto their property, nuisance including nuisance from golf course maintenance and early morning golf play. The Owner and Purchasers covenant and agree that they will not object to the City or make any claims against the City with respect to problems related the golf course. Further, the Owner and Purchasers and (future) Condominium Corporations covenant and agree to save harmless, release, discharge and quit claim the City from any losses, damages, claims, actions, demands, suits, costs, compensation, injurious affection, interest or any other liability as a result of any noise, nuisance, trespass or other inconvenience resulting from the golf course."

d) Provide adequate signage and appropriate design of all golf cart crossings of the roadways to the satisfaction of the Director of Transportation Services and Director of Engineering Services.

17. The Owner agrees to install water efficient faucets, showerheads, water closets and urinals as required by Section 7.6.4 of the Building Code to the satisfaction of the City.

18. The Owner agrees that no blasting for construction/servicing shall be permitted.

19. The Owner shall complete the following to the satisfaction of the Director of Engineering Services,

a) Agree to include the following in a registered portion of the subdivision agreement and agree to ensure that warning clauses to this effect are included on all offers to purchase and sale and reservation agreements, and within the Condominium Declaration, for all residential units:

i. "Purchasers/tenants are advised that there may be above-ground utility facilities such as fire hydrants, hydro transformers and cable pedestals located in front of their property within common element, the City's road allowance or on easements."

ii. "Purchasers/tenants are advised that a drainage swale may exist across the rear or flankage of the property and that the drainage swale as indicated on the approved engineering drawings is not to be altered or blocked in any way, nor are any structures, (sheds, etc.) fencing excepted, to be erected within the drainage swale without the prior approval of the City of Burlington."

iii. "Purchasers/tenants are advised that Millcroft Park Drive is a public transit route, and that bus stops, and passenger shelters may be located adjacent to any property along this route."

iv. "Purchasers/tenants are advised that due to high groundwater levels, houses may have been constructed with oversized sump pits, dual sump pump systems, battery backup, etc., as per the Geotechnical Engineers recommendations, and despite mitigation measures, sump pumps may run continually."

b) Agree to make provisions in all Offers, Leases and Reservations Agreements and in the Condominium Declaration, inserting the necessary environmental noise and vibrations warning clauses of the approved Environmental Noise and Vibration Study, including but not limited to the following:

i. All Lots:

"Warning: Canadian National Railway Company or its assigns or successors in interest has or have a rights-of-way within 300 meters from the land the subject hereof. There may be alterations to or expansions of the railway facilities on such rights-of-way in the future including the possibility that the railway or its assigns or successors as aforesaid may expand its operations, which expansion may affect the living environment of the residents in the vicinity, notwithstanding the inclusion of any noise and vibration attenuating measures in the design of the development and individual dwelling(s). CNR will not be responsible for any complaints or claims arising from use of such facilities and/or operation son, over or under the aforesaid rights-of-way."

"Purchasers are advised that due to the proximity of the adjacent commercial/institutional facilities, sound levels from these facilities may at times be audible."

ii. Lots 1 to 69:

"Purchasers/tenants are advised that the above ground inspection and maintenance costs for Blocks 92 through 98 are the responsibility of the Condominium Corporation, to ensure overland flow routes are maintained

in accordance with the approved plans and to City of Burlington standards." The City of Burlington would be responsible for inspection and maintenance of the underground storm sewer infrastructure that provides an outlet for the drainage from municipal rights-of-way. If maintenance of the underground storm infrastructure that provides an outlet for a municipal right-of-way within the easement is required, the surface restoration would be the Condo Corporation(s) responsibility."

iii. Lots 18 to 29:

"Purchasers/tenants are advised that despite the inclusion of noise control features in the development and within the building units, sound levels due to increasing road and rail traffic may occasionally interfere with some activities of the dwelling occupants as the sound levels exceed the City's and the Ministry of the Environment, Conservation and Parks' noise criteria. The acoustical barrier as installed shall be maintained, repaired or replaced by the Owner (condominium corporation) Any maintenance, repair or replacement shall be with the same material, to the same standards and having the same colour and appearance of the original."

iv. Lots 16 to 22 and Lots 67 to 69 inclusive:

"This dwelling unit has been supplied with a central air conditioning system which will allow windows and exterior doors to remain closed, thereby ensuring that the indoor sound levels are within the noise criteria of the Municipality and the Ministry of the Environment, Conservation and Parks."

"Purchasers/tenants are advised that despite the inclusion of noise control features in the development and within the building units, sound levels due to increasing road and rail traffic may occasionally interfere with some activities of the dwelling occupants as the sound levels exceed the noise criteria of the Municipality and the Ministry of the Environment."

v. Lots 14, 15, 23 to 30, and Lots 64 to 66, and Lot 84:

"This dwelling unit has been fitted with a forced air heating system and the ducting etc., was sized to accommodate central air conditioning. Installation of central air condition will allow windows and exterior doors to remain closed, thereby ensuring that the indoor sound levels are within the noise criteria of the Municipality and Ministry of the Environment, Conservation and Parks. (Note: the location and installation of the outdoor air conditioning device should be done so as to minimize the noise impacts and comply with criteria of MECP publication NPC-300, and NPC-216 as applicable)."

"Purchasers/tenants are advised that despite the inclusion of noise control features in the development and within the building units, sound levels due

to increasing road and rail traffic may occasionally interfere with some activities of the dwelling occupants as the sound levels exceed the noise criteria of the Municipality and the Ministry of the Environment."

vi. Lots 17 to 29:

"Purchasers are advised that the construction of elevated decks within their yards may compromise the effectiveness of the noise mitigation measures and controls which have been established within the subdivision for their lots."

c) Include in all offers of purchase and sale and within the Condominium Declaration, for all residential lots (parcels of tied land) abutting Block 103, the following warning clause:

"Purchasers/tenants are advised that Block 103 will be used for general passive public recreation and leisure uses."

20. The Owner shall complete the following to the satisfaction of the Manager of Parks Design and Construction:

a) Agree to include the following in a registered portion of the subdivision agreement and agree to ensure that warning clauses to this effect are included on all offers to purchase and sale and reservation agreements, and within the Condominium Declaration, for all residential units:

i. "Purchasers and/or tenants are advised that publicly owned open spaces, natural features and stormwater management facilities will be left in a naturally vegetated condition. In accordance with O. Reg. 162/06, these areas will not be manicured and shall receive minimal maintenance. Uses such as private picnics, barbequing, garden areas, storage of materials, dumping of refuse, snow storage or erection of structures, etc. shall not be permitted on these lands."

ii. "Purchasers and/or tenants are advised that unauthorized encroachment onto natural heritage and vegetative protection blocks shall not be permitted. Furthermore, vehicle and machinery access through the natural heritage and vegetative protection blocks shall not be permitted."

iii. "Purchasers and/or tenants are advised that trees planted on public property are City owned assets and are regulated under the City's Public Tree By-law (06-2013), as amended. Planting of trees on public property by the purchaser and/or tenant is prohibited and subject to enforcement under the City's Public Tree By-law. No decorative or hard landscaping in permitted in the municipal boulevard."

iv. "Purchasers and/or tenants of lots 1 to 18, 30 to 68, 70 to 76 and 81 to 90 are advised that the 6.0m wide rear yard landscape buffer is within the common element and is to be left in a naturalized vegetated condition, in compliance with the approved landscape plans. No encroachments of any kind, including but not limited to, hard surfacing, addition of structures (i.e., no backyard trampolines, play structures, equipment, sheds, etc.), or changes to the grading of the landscape buffer shall be permitted. Trees within the buffer shall be subject to the City of Burlington's Private Tree By-law for alteration and/or removal."

v. "Purchasers and/or tenants are advised that street tree planting (if required) is a requirement of the subdivision agreement and will be completed by the City after formal assumption is granted. The City of Burlington will not accept requests for changes to tree species, sizes or the elimination of any planting. The locations of utilities, driveways, and associated setbacks may cause landscape modification or deletions within the right-of-way and upon City owned lands. Purchasers and/or tenants are advised to confirm with the City of Burlington for proposed final locations of plant material and landscape features.

vi. "Purchasers and/or tenants are advised that existing trees retained on private residential lots are the sole responsibility of the lot Owner and/or tenant to maintain. These trees shall be subject to the City of Burlington's Private Tree By-law for alteration and/or removal."

vii. "Purchasers and/or tenants are advised that trail development may occur in the Natural Heritage System Blocks, Natural Heritage Enhancement Blocks, vegetative protection zone buffer areas and/or other areas as deemed appropriate by the City."

viii. "Purchasers and/or tenants are advised that chain link (or approved equal) fencing along the lines of Lots and/or Blocks abutting publicly owned lands is a requirement of the Subdivision Agreement. All required fencing, with the exception of noise fence and privacy fence, shall be constructed with all fencing materials, including foundations, entirely on public property as shown on the approved construction drawings. The fencing installed shall not be altered in any way, including the addition of gates. Any costs to repair modifications will be the responsibility of the Owner."

21. The Owner shall complete the following to the satisfaction of the Director of Transportation Services:

a) Agree to include the following in a registered portion of the subdivision agreement and agree to ensure that warning clauses to this effect are included on all offers to purchase and sale and reservation agreements, and within the Condominium Declaration, for all residential units:

i. "Purchasers/tenants are advised that a 1.5-meter concrete sidewalk may be constructed adjacent to the property line and that this may limit the parking space in front of the unit to one vehicle in the driveway between the garage and sidewalk."

ii. "Purchasers/tenants are advised that the City of Burlington Zoning By-Law standards require a minimum of two parking spaces to be provided per dwelling unit, one of which may be provided in the garage. Furthermore, the City of Burlington Parking By-Law limits on-street parking to five hours. Purchasers/tenants are advised that City of Burlington Parking and Idling By-Law standards do not permit parking on any public street between 1 am and 6 am or beyond 5 hours."

22. The Owner shall complete the following to the satisfaction of the Canadian National Railways (CN):

a) The following clause should be inserted in all development agreements, offers to purchase, and agreements of Purchase and Sale or Lease of each dwelling unit within 300m of the railway right-of-way:

i. "Warning: Canadian National Railway Company or its assigns or successors in interest has or have a rights-of-way within 300 metres from the land the subject hereof. There may be alterations to or expansions of the railway facilities on such rights-of-way in the future including the possibility that the railway or its assigns or successors as aforesaid may expand its operations, which expansion may affect the living environment of the residents in the vicinity, notwithstanding the inclusion of any noise and vibration attenuating measures in the design of the development and individual dwelling(s). CNR will not be responsible for any complaints or claims arising from use of such facilities and/or operations on, over or under the aforesaid rights-of-way. "Purchasers/tenants are advised that a 1.5-meter concrete sidewalk may be constructed adjacent to the property line and that this may limit the parking space in front of the unit to one vehicle in the driveway between the garage and sidewalk."

23. The Owner shall complete the following to the satisfaction of the Director of Community Planning:

a) provide a list of lot and block widths and areas prepared by an Ontario Land Surveyor, to ensure all blocks conform to Zoning By-law 2020, as amended.

b) prior to final approval, pay any outstanding City staff processing costs incurred to that date in the processing of the application.

c) prior to the issuance of draft approval, provide proposed street names for all streets in the plan.

24. The Owner shall complete the following to the satisfaction of the Director of Transportation Services:

a) Dedicate to the City and/or the Region free of charge lands in accordance with Fourth Schedule of the Subdivision Agreement which includes:

i. A daylight triangle at the intersection of Upper Middle Road and Country Club Drive with the ultimate measurements of a 15 m x 15 m triangle with an approximate hypotenuse of 21 m.

b) Submit for approval a new and/or updated Draft Plan(s) of Subdivision.

c) Submit for approval a Transportation Impact Study, and to implement the recommendations of the approved Traffic Impact Study.

d) Submit written confirmation the Region have reviewed and approved the Transportation Impact Study.

e) Design, secure for, and install infrastructure improvements, including an updated works cost estimate, based on the findings of the Transportation Impact Study and/or Transportation Services requirements.

f) Submit for approval a pavement marking, parking, and street sign plan, for each, private/common element street, including but not limited to all existing and proposed above ground utilities such as fire hydrants, poles, and Canada Post Community Mailbox locations.

g) Submit for approval a pavement marking, parking, and street sign plan, for each public street, including but not limited to all existing and proposed above ground utilities such as fire hydrants, poles, and Canada Post Community Mailbox locations.

h) Install temporary street name, stop signs and other traffic control measures on streets throughout the development after placement of base asphalt and prior to building permits being issued and maintain the signs until such time as the permanent installations have been completed by the City.

i) Submit an overall Utility Coordination Plan, for approval and implementation, addressing the location (shared or otherwise), timing and phasing of all required utilities (on-grade, below-grade, or above-grade), including street lighting, gas, electrical, telecommunications, water, wastewater, and stormwater services. Such overall utility distribution plan shall be to the

satisfaction of all utility providers and shall be approved by the City prior to construction of any of the required utilities.

j) Submit for approval Street Lighting Photometric Drawings, Temporary Photometric and Electrical Drawings and final Electrical Drawings, for the public rights-of-way affected by this development.

k) Should the development be phased; a phasing plan be submitted prior to the registration of the first phase of subdivision and must indicate the timing and sequence of development for each phase and include securities to guarantee the implementation of the plan.

l) Submit for approval plans showing all golf cart and pedestrian crossings of public and private streets including but not limited to design, signage, Street Lighting Photometric Drawings, Temporary Photometric and Electrical Drawings and final Electrical Drawings.

m) Submit for approval Private Property Parking and Fire Route Signage plans.

n) Deposit the Transportation Services securities identified in the Second Schedule of the subdivision agreement.

o) Provide a cash deposit to be used by the City for contracted or in-house expenses for dealing with non-compliance with City requirements and further agree that inspection staff time for invoicing on work undertaken will be charged at double the normal rate.

p) Submit for approval a Construction & Mobility Management Plan (CMMP), which includes but is not limited to:

i. Installation of temporary street lighting, street name, stop signs and other traffic control measures on streets throughout the development after placement of base asphalt and prior to building permits being issued and maintain the signs until such time as the permanent installations have been completed by the City.

q) Prior to a full security release,

i. Dedicate to the City and/or the Region free of charge lands in accordance with the Fourth Schedule of the subdivision agreement.

ii. Inspection(s) of the completed Private Property Parking and Fire Route Signage works are necessary for a full security release. To arrange for an inspection of the installation please contact mike.weir@burlington.ca 905-335-7600 Ext 7906 (downtown area),

kelly.hall@burlington.ca 905-335-7600 Ext 7560 (outside the downtown), or stephen.camm@burlington.ca 905-335-7600 Ext 7692.

iii. Inspection(s) of the completed Transportation Services works as set out in the agreed terms are necessary for a full security release. To arrange for an inspection please contact josip.kafadar@burlington.ca at 905-335-7600 Ext 7799 or steve.vrakela@burlington.ca 905-335-7600 Ext 7320.

iv. Submit written confirmation that warning clauses have been included in all Purchase and/or Lease Agreements and/or Condominium Declarations for any Transportation and Parking related items as set out in the agreed terms, prior to a full security release.

25. The Owner shall complete the following to the satisfaction of the Director of Engineering Services, the Region of Halton and the Halton District School Board.

a) The developer shall agree that, should development be phased, a phasing plan shall be submitted prior to final approval of the first phase. The phasing plan will indicate the sequence of development, the land area in hectares, the number of lots and blocks for each phase, and the proposed use of all blocks including the proposed number of units, all to the satisfaction of the City of Burlington, Region of Halton and the Halton District School Board. The phasing plan will incorporate an agreement (to the satisfaction of the City's Director of Engineering) that must indicate the timing and sequence of development for the remaining lands and include securities to guarantee the implementation of the plan.

26. Complete the following to the satisfaction of the Halton District School Board:

a) The Owner agrees to place the following notification in all offers of purchase and sale for all lots/units and in the City's subdivision agreement, to be registered on title:

i. Prospective purchasers are advised that schools on sites designated for the Halton District School Board in the community are not guaranteed. Attendance at schools in the area is also not guaranteed. Pupils may be accommodated in temporary facilities and/or be directed to schools outside of the area.

ii. Prospective purchasers are advised that school busses will not enter cul-de-sacs and pick up points will be generally located on through streets convenient to the Halton District School Board Transportation

Services. Additional pick-up points will not be located within the subdivision.

b) That in cases where offers of purchase and sale have already been executed, the Owner sends a letter to all purchasers which include the above statement.

c) That the Owner shall supply, erect and maintain signs at all major entrances into the new development advising prospective purchasers that pupils may be directed to schools outside of the area. The Owner will make these signs to the specifications of the Halton District School Board and erect them prior to the issuance of building permits.

d) That the Owner take responsibility for all required signage on the various blocks which are part of this plan of subdivision and further, that in the event that the City installs any signs on the Owner's behalf, the Owner agrees to reimburse the City for the supply, erection, and relocation of appropriate signs which depict land uses and other information on the subject and adjacent lands including notices relating to the bussing of children until the school sites are available and developed, that portables and/or portapaks may be required for student accommodation and that construction of a school is not guaranteed.

e) That a copy of the approved sidewalk plan, prepared to the satisfaction of the City of Burlington be submitted to the Halton District School Board.

f) The Owner shall provide Halton District School Board a geo-referenced AutoCAD file of the Draft M-plan once all Lot and Block numbering has been finalized. Should any changes occur after the initial submission to Lot and Block configuration or numbering on the draft M-plan the Owner shall provide a new AutoCAD file and a memo outlining the changes.

27. The Owner shall complete the following to the satisfaction of the Halton Catholic District School Board:

a) The Owner agrees to place the following notification in all offers of purchase and sale for all lots/units and in the City's subdivision agreement, to be registered on title:

i. Prospective purchasers are advised that the Catholic school accommodation may not be available for students residing in this area, and that you are notified that students may be accommodated in temporary facilities and/or be bused to existing facilities outside of the area.

ii. Prospective purchasers are advised that the HCDSB will designate pick up points for the children to meet the bus on roads presently in

existence or other pick-up areas convenient to the Board, and that you are notified that school busses will not enter cul-de-sacs or private roads.

b) In cases where offers of purchase and sale have already been executed, the Owner is to send a letter to all purchasers which include the above statements.

c) That the Owner agrees in the subdivision agreement to the satisfaction of the HCDSB, to erect and maintain signs at all major entrances into the new development advising prospective purchasers that if a permanent school is not available alternative accommodation and/or busing will be provided. The Owner will make these signs to the specifications of the HCDSB and erect them prior to final approval.

d) That the developer agrees that should the development be phased, a copy of the phasing plan must be submitted prior to final approval to the HCDSB. The phasing plan will indicate the sequence of development, the land area, the number of lots and blocks and units for each phase.

e) That a copy of the approved sidewalk plan, prepared to the satisfaction of the City of Burlington be submitted to the HCDSB.

f) The Owner shall provide HCDSB a geo-referenced AutoCAD file of the Draft M-plan once all Lot and Block numbering has been finalized. Should any changes occur after the initial submission to Lot and Block configuration or numbering on the draft M-plan the Owner shall provide a new AutoCAD file and a memo outlining the changes.

28. The Owner shall agree to the following to the satisfaction of the Director of Engineering Services and the Canada Post Corporation:

a) The Owner/developer will consult with Canada Post to determine suitable permanent locations for the placement of Community Mailboxes and to indicate these locations on appropriate servicing plans.

b) The Builder/Owner/Developer will confirm to Canada Post that the final secured permanent locations for the Community Mailboxes will not be in conflict with any other utility; including hydro transformers, bell pedestals, cable pedestals, flush to grade communication vaults, landscaping enhancements (tree planting) and bus pads.

c) The Owner/developer will install concrete pads at each of the Community Mailbox locations as well as any required walkways across the boulevard and any required curb depressions for wheelchair access as per Canada Post's concrete pad specification drawings.

d) The Owner/developer will agree to prepare and maintain an area of compacted gravel to Canada Post's specifications to serve as a temporary Community Mailbox location. This location will be in a safe area away from construction activity in order that Community Mailboxes may be installed to service addresses that have been occupied prior to the pouring of the permanent mailbox pads. This area will be required to be prepared a minimum of 30 days prior to the date of first occupancy.

e) The Owner/developer will communicate to Canada Post the excavation date for the first foundation (or first phase) as well as the expected date of first occupancy.

f) The Owner/developer agrees, prior to offering any of the residential units for sale, to place a "Display Map" on the wall of the sales office in a place readily available to the public which indicates the location of all Canada Post Community Mailbox site locations, as approved by Canada Post and the City of Burlington.

g) The Owner/developer agrees to include in all offers of purchase and sale a statement, which advises the prospective new home purchaser that mail delivery will be from a designated Community Mailbox, and to include the exact locations (list of lot #s) of each of these Community Mailbox locations; and further, advise any affected homeowners of any established easements granted to Canada Post.

h) The Owner/developer will be responsible for officially notifying the purchasers of the exact Community Mailbox locations prior to the closing of any home sales with specific clauses in the Purchase offer, on which the homeowners do a sign off.

29. The Owner shall provide to Enbridge Inc. the necessary easement and/or agreements required for the provision of gas services for this project in a form satisfactory to Enbridge Inc.

30. The Owner shall complete the following to the satisfaction of Hydro One Inc. and the Director of Engineering Services:

a) prior to final approval, a copy of the lot grading and drainage plan, showing existing and final grades, must be submitted to Hydro One Inc. for review. Drainage must be controlled and directed away from Hydro One Inc. property.

b) temporary fencing must be installed along the edge of the right-of-way prior to the start of construction, at the developer's expense. This fence must be maintained in an upright position throughout construction.

c) permanent galvanized steel chain link fencing, a minimum of 1.2 metres high with no gates must be installed after construction is completed along Hydro One Inc. owned land, at the developer's expense.

d) Hydro One Inc. property is not to be used without the express written permission of Hydro One Inc. The proponent will be responsible for restoration of any damage to the right-of-way resulting from construction of the subdivision.

e) the Owner shall make arrangements satisfactory to Hydro One Inc. for the dedication of the proposed road allowance to the City of Burlington. A separate proposal shall be submitted to Hydro One Inc. for this future road crossing.

f) the costs of relocations or revisions to Hydro One Inc. facilities which are necessary to accommodate this subdivision will be borne by the developer.

31. The Owner shall complete the following to the satisfaction of the Canadian National Railways (CN):

a) Safety setback of habitable buildings from the railway rights-of-way to be a minimum of 30 metres in conjunction with a safety berm. The safety berm shall be adjoining and parallel to the railway rights-of-way with returns at the ends, 2.5 metres above grade at the property line, with side slopes not steeper than 2.5 to 1.

b) Shall install and maintain a chain link fence of minimum 1.83 metre height along the mutual property line.

c) Shall engage a consultant to undertake an analysis of noise (dwellings within 150 metres). At a minimum, a noise attenuation barrier shall be adjoining and parallel to the railway rights-of-way, having returns at the ends, and a minimum total height of 5.5 metres above top-of-rail. Acoustic fence to be constructed without openings and of a durable material weighing not less than 20 kg. per square metre of surface area. Subject to the review of the noise report, the Railway may consider other measures recommended by an approved Noise Consultant.

d) Ground-borne vibration transmission to be evaluated in a report through site testing to determine if dwellings within 75 metres of the railway rights-of-way will be impacted by vibration conditions in excess of 0.14 mm/sec RMS between 4 Hz and 200 Hz. The monitoring system should be capable of measuring frequencies between 4 Hz and 200 Hz, ±3 dB with an RMS averaging time constant of 1 second. If in excess, isolation measures will be required to ensure living areas do not exceed 0.14 mm/sec RMS on and above the first floor of the dwelling.

e) Any proposed alterations to the existing drainage pattern affecting railway property must receive prior concurrence from the Railway and be substantiated by a drainage report to the satisfaction of the Railway.

f) Shall through restrictive covenants to be registered on title and all agreements of purchase and sale or lease provide notice to the public that the safety berm, fencing and vibration isolation measures implemented are not to be tampered with or altered and further that the Owner shall have sole responsibility for and shall maintain these measures to the satisfaction of CN.

g) Shall enter into an Agreement with CN stipulating how CN's concerns will be resolved and will pay CN's reasonable costs in preparing and negotiating the agreement.

h) Shall be required to grant CN an environmental easement for operational noise and vibration emissions, registered against the subject property in favour of CN.

32. The Owner shall complete the following to the satisfaction of Trans Canada Pipelines (TCPL):

a) No buildings or structures shall be installed anywhere on TCPL's right-of-way. Permanent buildings and structures are to be located a minimum of 7 metres from the edge of the right-of-way. Temporary or accessory buildings are to be located a minimum of 3 metres from the edge of the right-of-way.

b) A minimum setback of 7 metres from the nearest portion of a TCPL pipeline right-of-way shall also apply to any parking area or loading area, including any parking spaces, loading spaces, stacking spaces, bicycle parking spaces, and any associated drive aisle or driveway.

c) Written consent must be obtained from TCPL prior to undertaking the following activities:
- Constructing of installing a facility across, on, along or under a TCPL right-of-way. A facility may include, but is not limited to: driveways, roads, access ramps, trails, pathways, utilities, berms, fences/fence posts;
- Conducting a ground disturbance (excavation or digging) on TCPL's right-of-way or within 30 metres of the centreline of TCPL's pipeline (the "Prescribed Area");
- Driving a vehicle, mobile equipment or machinery across a TCPL right-of-way outside the travelled portion of a highway or public road;
- Using any explosives within 300 metres of TCPL's right-of-way; and
- Use of TCPL's Prescribed Area for storage purposes.

d) during construction of the site, temporary fencing must be erected and maintained along the limits of the right-of-way by the Owner(s) to prevent unauthorized access by heavy machinery. The fence erected must meet TCPL specifications concerning type, height and location. The Owner is responsible for ensuring proper maintenance of the temporary fencing for the duration of construction.

e) Permanent fencing may be required along the limits of TCPL's right-of-way. The fence erected must meet TCPL's and the municipality's specifications concerning type, location, and height. Any excavations for fence posts on, or within 30 metres of the pipeline must be done by hand or hydro vac. There shall be no augers operated on the right-of-way. The Owner shall notify TCPL 3 business days prior to any excavation for fence posts located on or within 30 metres of the pipeline. All fences made of metallic materials must be approved by TCPL prior to being erected on or within 30 metres of the pipeline.

f) Storage of materials and/or equipment on TCPL's right-of-way is not permitted.

g) Planting and Vegetation Plans will minimize vegetation on TCPL's right-of-way and ensure:
- A 5 metre wide, continuous access way is provided on each side of the pipeline within the right-of-way;
- TCPL's right-of-way is seeded with Canada #1 seed;
- No portion of a tree or shrub (including the canopy) at the time of maturity encroaches within 5 metres of the edge of TCPL's facilities;
- No trees or shrubs that will reach a height greater than 4 metres are planted within the right-of-way;
- Tree roots do not interfere with or cause damage to the pipeline.
- A minimum 10 metre separation is established between all groups of trees/shrubs. A group may consist of no more than 5 trees/shrubs; and
- Where high-pressure gas is contained within an enclosed building (such as a metre station or building housing a compressor plant), trees and shrubs should be separated from the building by a minimum of 30 metres.

h) Sidewalks/Pathways may be permitted within the right-of-way but must:
- Not exceed 3 metres in width;
- Maintain a minimum separation of 5 metres from the edge of the facility at all points where the pathway travels along the same direction (i.e., paralleling) as the facility within the right-of-way;

- Cross TCPL's pipeline as close to 90 degrees as possible, but no less than 45 degrees;
- Limit crossings to 1 per city block (approx. 200 metres)
- Use company supplied signage for crossings installed by a Third Party; and
- Have expansion joints installed 3 metres on either side of TCPL's pipeline(s) if the pathway is cement or asphalt.

i) Original depth of cover over the pipelines within TCPL's right-of-way shall be restored after construction. This depth of cover over the pipelines shall not be compromised due to rutting, erosion or other means.

j) Facilities shall be constructed to ensure drainage is directed away from the right-of-way so that erosion that would adversely affect the depth of cover over the pipelines does not occur. Catchment basins, drainage swales or berms are not permitted within TCPL's right-of-way.

k) Should pooling of water or erosion occur on the right-of-way as a result of any facility installation or landscaping, the Owner will be responsible for the remediation to TCPL's satisfaction.

l) Any large-scale excavation adjacent to the right-of-way, which is deeper than the bottom of the pipe, must incorporate an appropriate setback from TCPL's right-of-way and must maintain a slope of 3:1 away from the edge of the right-of-way.

m) Mechanical excavation within 1.5 metres of the edge of TCPL's pipeline is prohibited. Hand or hydrovac excavation must be utilized within this distance.

n) In no event shall TCPL be held liable to the Owner respecting any loss of or damage to the Owner's Facility which the Owner may suffer or incur as a result of the operations of TCPL. The Owner shall be responsible for all costs involved in replacing the Owner's Facility damaged or removed during TCPL's operations and shall indemnify and save harmless TCPL from all actions, proceedings, claims, demands and costs brought against or incurred by TCPL as a result of the presence of or damage to the Owner's Facility on the TCPL right-of-way.

o) Vehicle barriers, of a design acceptable to TCPL or as may be required by law, shall be installed across the width of the right-of-way, where public roads cross the right-of-way. The location of these barriers must be approved by TCPL.

p) All display plans in the lot/home sales office shall identify the TCPL pipeline right-of-way corridor within the proposed linear park block(s).

q) The Owner shall include notice of the following in all offers of purchase and sale:
- Notice of the easement agreement registered against the property which may affect development activities on the property;
- Notice of the 30 metre Prescribed Area as regulated by the CER Act;
- The number of high-pressure natural gas pipelines within the easement and the location of the easement in relation to the development;
- The setback for all permanent structures and excavations from the limits of the right-of-way; and,
- The local One Call number 1-800-400-2255 or www.clickbeforeyoudig.com.

r) TCPL's prior approval must be obtained for the Site Plans for the permanent structures to be erected on lots and/or Blocks which are encumbered by or are adjacent to TCPL's right-of-way.

s) In the event that TCPL's pipelines experience contact damage or other damage as a result of construction, stop work immediately and notify TCPL at once.

t) All associated work, signage or any other engineering protection measures must be completed by TCPL or its qualified contractors at the sole expense of the Owner. The complete scope of work that may be required is subject to other conditions that may be necessary related to a finalized design that is approved by TCPL. Additionally, prior to TCPL or its contractors conducting any associated work, TCPL and the Owner must execute a reimbursement agreement, including financial assurances, which provides that the entire cost of conducting this associated work is 100% reimbursable to TCPL.

33. The Owner shall complete the following to the satisfaction of Bell Canada:

a) The Owner acknowledges and agrees to convey any easement(s) as deemed necessary by Bell Canada to service this new development. The Owner further agrees and acknowledges to convey such easements at no cost to Bell Canada.

The Owner agrees that should any conflict arise with existing Bell Canada facilities where a current and valid easement exists within the subject area, the Owner shall be responsible for the relocation of any such facilities or easements at their own cost.

34. Prior to signing the final plan, the Director of Community Planning shall be advised by the City Engineering Services Department that Conditions 5 to 6, 7 to 20, 25, 28 and 30 inclusive have been carried out to their satisfaction with a brief but complete statement detailing how each condition has been satisfied.

35. Prior to signing the final plan, the Director of Community Planning shall be advised by City Transportation Services Department that Conditions 21 and 24 inclusive have been carried out to their satisfaction with a brief but complete statement detailing how each condition has been satisfied.

36. Prior to signing the final plan, the Director of Community Planning shall be advised by the Halton District School Board that Conditions 25 to 26 inclusive have been carried out to their satisfaction with a brief but complete statement detailing how each condition has been satisfied.

37. Prior to signing the final plan, the Director of Community Planning shall be advised by the Halton Catholic District School Board that Condition 27 has been carried out to their satisfaction with a brief but complete statement detailing how each condition has been satisfied.

38. Prior to signing the final plan, the Director of Community Planning shall be advised by Canada Post Corporation that Condition 28 has been carried out to their satisfaction with a brief but complete statement detailing how the condition has been satisfied.

39. Prior to signing the final plan, the Director of Community Planning shall be advised by Enbridge Inc. that Condition 29 has been carried out to their satisfaction with a brief but complete statement detailing how the condition has been satisfied.

40. Prior to signing the final plan, the Director of Community Planning shall be advised by Hydro One Inc. that Condition 30 has been carried out to their satisfaction with a brief but complete statement detailing how the condition has been satisfied.

41. Prior to signing the final plan, the Director of Community Planning shall be advised by the Canadian National Railways (CN) that Conditions 22 and 31 have been carried out to their satisfaction with a brief but complete statement detailing how the condition has been satisfied.

42. Prior to signing the final plan, the Director of Community Planning shall be advised by Trans Canada Pipelines that Condition 32 has been carried out to their satisfaction with a brief but complete statement detailing how the condition has been satisfied.

43. Prior to signing the final plan, the Director of Community Planning shall be advised by Bell Canada that Condition 33 has been carried out to their satisfaction with a brief but complete statement detailing how the condition has been satisfied.

44. All of the above conditions shall be satisfied within 3 years of the granting of draft approval, being _____, 2026.

_____ _____
J. Tellier Date
Director of Community Planning

If there are no appeals, Draft Approval is deemed to have been made on

_____

NOTES:

a) At any time prior to the final approval of the plan for registration, the City or Region or any other vested agency may amend, delete, or add to the conditions and this may include the need for amended or new studies in accordance with Section 51 (18) of the Planning Act 1990.

b) The Owner is advised that additional fees are required by the City of Burlington and the Region of Halton for each Extension to Draft Approval and for Major Revisions to the draft plan or conditions.

c) The Owner, its successors and assigns, is hereby notified that City-wide Development Charges may be payable in accordance with By-Law No. 72-2004, as may be amended, upon issuance of a building permit at the rate in effect on the date issued. For further information, the Owner is advised to contact the City Building Department at 905-335-7731

d) Note: The Owner will be required to pay all applicable Regional development charges in accordance with the Region of Halton development Charges By-Law(s), as amended. If a subdivision (or other form of development) agreement is required, the water, wastewater and road portions of the Regional development charges for residential units are payable upon execution of the agreement or in

accordance with the terms and conditions set out in the agreement. In addition, commencing January 1, 2017 every Owner of land located in Halton Region intended for residential developments on lands located in Halton Region that prior to January 1, 29=017 are part of a Regional allocation program, or have an executed Regional/Local Subdivision or consent agreement, or have an executed site plan agreement with the local Municipality, or receive a notice in writing from the Local Municipality that all requirements under the Planning act have been met, or obtained a building permit are not subject to the Front-ending Recovery Payment.

The above note is for information purpose only. All residential development applicants and every Owner of land located in Halton Region assume all of the responsibilities and risks related to the use of the information provided herein.

Please visit our website to obtain the most current information on Development Charges (DCs and Front-ending Recovery Payment (FERP), which is subject to change.

e) Should deeply buried archaeological materials be found on the property during any of the above development activities the Ministry of Culture (MCL) should be notified immediately (416-326-8392). In the event that human remains are encountered during construction, the proponent should immediately contact both MCL and the Registrar or Deputy Registrar of the Cemeteries Regulation Unit of the Ministry of Small Businesses and Consumer Services (416-326-8392).

f) Please note the Owner should be made aware that Halton Region will have the following requirements at time of registration of the subdivision:

- Final draft M plans signed and dated by the Owner, Surveyor and initialed by the City's Planner
- Regional Registration fee
- Registry Office review form

g) Educational Development Charges are payable in accordance with the applicable Education Development Charge By-Law and are required at the issuance of a building permit. Any building permits which are additional to the maximum unit yield which is specified by the Subdivision Agreement are subject to Education Development Charges prior to the issuance of a building permit, at the rate in effect at the date of issuance.

h) An electrical distribution line operating at below 50,000 volts might be located within the area affected by this development or abutting this development. Section 186 – Proximity – of the Regulations for Construction Projects in the Occupational Health and Safety Act, requires that no object be brought closer than 3 meters (10 feet) to the energized conductor. It is the proponent's responsibility to be aware,

and to make all personnel on site aware, that all equipment and personnel must come no closer than the distance specified in the Act. They should also be aware that the electrical conductors can raise and lower without warning, depending on the electrical demand placed on the line. Warning signs should be posted on the wood poles supporting the conductors stating "Danger – Overhead Electrical Wires" in all locations where personnel and construction vehicles might come in close proximity to the conductors.

i) The Owner is advised that additional fees are required by the City of Burlington and the Region of Halton for each Extension to Draft Approval and for Major Revisions to the draft plan or conditions.

j) Regional Development Charges and Surcharges are payable in accordance with the applicable Regional Development Charges By-law and are required at the following stages:

Subdivision Agreement: Water and wastewater (including blocks intended for future development at the maximum density permitted under the applicable zoning By-law)

Building Permit Issuance: All remaining Region-wide Development Charges in effect at the date of issue.

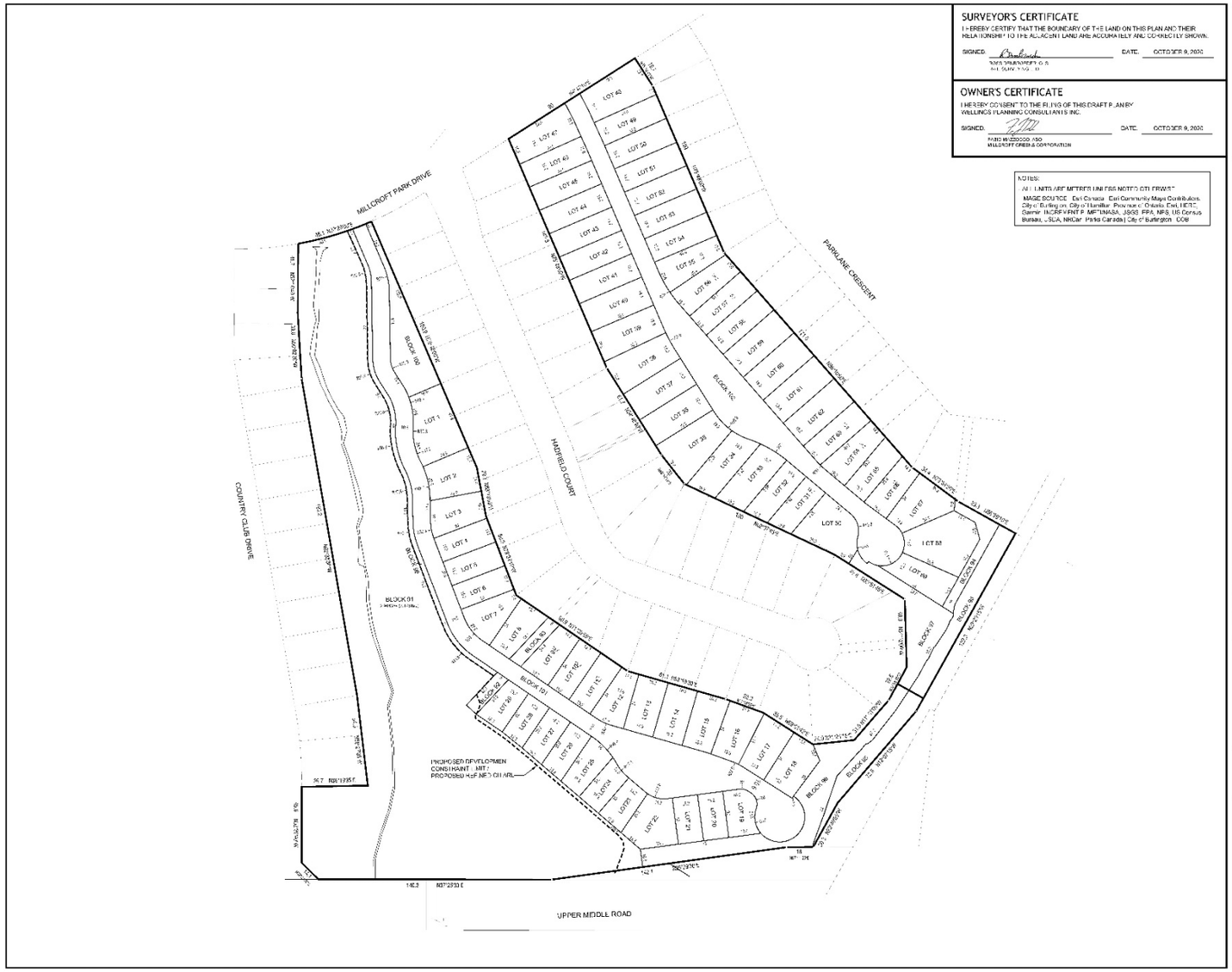
NOTE: Any building permits which are additional to the maximum unit yield which is specified by the Subdivision Agreement are subject to all Regional Development Charges (including water, wastewater and surcharges not collected at subdivision agreement) prior to the issuance of the building permit, at the rate in effect at the date of issue.

k) The Owner/developer of any condominiums will be required to provide signature for a License to Occupy Land agreement and provide winter snow clearance at the Community Mailbox locations.

l) Enhanced Community Mailbox Sites with roof structures will require additional documentation as per Canada Post Policy

m) There will be no more than one mail delivery point to each unique address assigned by the Municipality.

n) Any existing postal coding may not apply, the Owner/developer should contact Canada Post to verify postal codes for the project.



SURVEYOR'S CERTIFICATE

I HEREBY CERTIFY THAT THE BOUNDARY OF THE LAND ON THIS PLAN AND THEIR RELATIONSHIP TO THE ADJACENT LANDS ARE ACCURATELY AND CORRECTLY SHOWN.

SIGNED: _____ DATE: OCTOBER 9, 2020

[illegible]
ONTARIO LAND SURVEYOR

OWNER'S CERTIFICATE

I HEREBY CONSENT TO THE FILING OF THIS DRAFT PLAN BY WELLINGS PLANNING CONSULTANTS INC.

SIGNED: _____ DATE: OCTOBER 9, 2020

PARS INVESTMENTS LTD.
MILLCROFT GREEN CORPORATION

NOTES:

ALL UNITS ARE METRES UNLESS NOTED OTHERWISE

IMAGE SOURCE: Esri Canada, Esri Community Maps Contributors, City of Burlington, City of Hamilton, Province of Ontario, Esri, HERE, Garmin, INCREMENT P, METI/NASA, USGS, FAO, NPS, US Census Bureau, USDA, NRCan, Parks Canada | City of Burlington, COB

DRAFT PLAN OF SUBDIVISION

BLOCKS 107 AND 108,
PLAN 20M-414, BLOCK 13,
PLAN 20M-421 AND
PART OF LOT 8, CONCESSION 1,
SOUTH OF DUNDAS STREET,
(GEOGRAPHIC TOWNSHIP OF NELSON),
CITY OF BURLINGTON,
REGIONAL MUNICIPALITY OF HALTON

KEY PLAN NOT TO SCALE



SUBJECT PROPERTY

ADDITIONAL INFORMATION REQUIRED UNDER SECTION 51(17) OF THE PLANNING ACT [illegible]

(a) - AS SHOWN	(h) - MUNICIPAL WATER
(b) - AS SHOWN	(i) - CLAYEY SILT / SANDY SILT TILL
(c) - AS SHOWN	(j) - AS SHOWN
(d) - SEE SCHEDULE	(k) - MUNICIPAL SANITARY AND STORM SEWERS
(e) - AS SHOWN	
(f) - AS SHOWN	
(g) - AS SHOWN	

SITE STATISTICS

LOTS 1-99	DETACHED HOMES	5.9825ha (14.783ac)
BLOCK 91	CHURCH / HOME	2.9018ha (7.170ac)
BLOCKS 92-94	EASEMENT	0.1028ha (0.254ac)
BLOCK 95-96	CN BERM AREA	0.2037ha (0.503ac)
BLOCKS 97-100	OPEN SPACE / PARK LAND	0.5793ha (1.431ac)
BLOCKS 101-102	PRIVATE ROAD	1.2206ha (3.016ac)
BLOCKS 103	PARKETTE	0.1861ha (0.460ac)
BLOCKS 104	EASEMENT	0.0111ha (0.028ac)
BLOCKS 105-109	OPEN SPACE	0.1342ha (0.332ac)
BLOCKS 106-110	PRIVATE ROAD	0.3051ha (0.754ac)
TOTAL SITE AREA		**11.696ha (28.901ac)**

Wellings Planning Consultants Inc.
513 Locust Street, Unit B - Burlington, Ontario
t - 905-881-1769 e - glenn@wellingsplann ng.ca

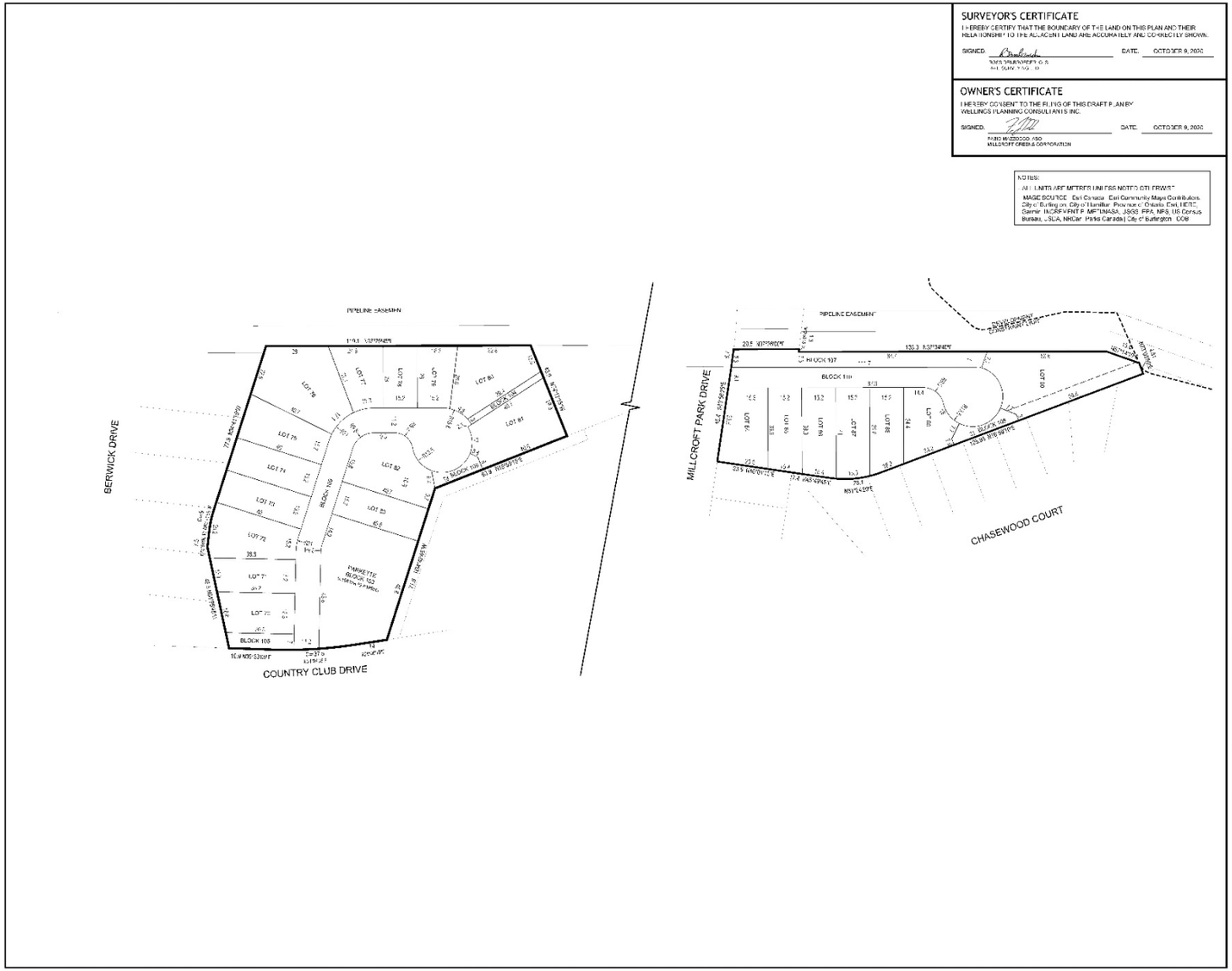
REVISIONS

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SHEET 1 OF 2
DWG DATE: MARCH 2022
FILE NO: 2017-06

OLT-22-004149

146



SURVEYOR'S CERTIFICATE

I HEREBY CERTIFY THAT THE BOUNDARY OF THE LAND ON THIS PLAN AND THEIR RELATIONSHIP TO THE ADJACENT LAND ARE ACCURATELY AND CORRECTLY SHOWN.

SIGNED: _____ DATE: OCTOBER 9, 2020

[illegible]
ONTARIO LAND SURVEYOR

OWNER'S CERTIFICATE

I HEREBY CONSENT TO THE FILING OF THIS DRAFT PLAN BY WELLINGS PLANNING CONSULTANTS INC.

SIGNED: _____ DATE: OCTOBER 9, 2020

PARIS MEZZOGIORNO ASO
MILLCROFT GREEN 4 CORPORATION

NOTES:

ALL UNITS ARE METRES UNLESS NOTED OTHERWISE

IMAGE SOURCE: Esri Canada, Esri Community Maps Contributors, City of Burlington, City of Hamilton, Province of Ontario, Esri, HERE, Garmin, INCREMENT P, METI/NASA, USGS, FAO, NPS, US Census Bureau, USDA, NRCan, Parks Canada | City of Burlington, COB

DRAFT PLAN OF SUBDIVISION

PART OF BLOCK 247, PLAN 20M-535 AND PART OF BLOCK 109, PLAN 20M-694,

CITY OF BURLINGTON,
REGIONAL MUNICIPALITY OF HALTON

KEY PLAN NOT TO SCALE



SUBJECT PROPERTY

ADDITIONAL INFORMATION REQUIRED UNDER SECTION 51(17) OF THE PLANNING ACT [illegible]

(a) - AS SHOWN	(h) - MUNICIPAL WATER
(b) - AS SHOWN	(i) - CLAYEY SILT / SANDY SILT TILL
(c) - AS SHOWN	(j) - AS SHOWN
(d) - SEE SCHEDULE	(k) - MUNICIPAL SANITARY AND STORM SEWERS
(e) - AS SHOWN	
(f) - AS SHOWN	(l) - AS SHOWN
(g) - AS SHOWN	

SITE STATISTICS

LOTS 1-99	DETACHED HOMES	5.9825ha (14.7839ac)
BLOCK 101	CHEVRON	2.9018ha (7.1706ac)
BLOCKS 92-94	EASEMENT	0.1028ha (0.2541ac)
BLOCKS 95-96	CN BERM AREA	0.2007ha (0.4960ac)
BLOCKS 97-100	OPEN SPACE / PARK LAND	0.5763ha (1.4216ac)
BLOCKS 101-102	PRIVATE ROAD	1.2200ha (3.0159ac)
BLOCK 103	PARKETTE	0.1881ha (0.4650ac)
BLOCK 104	EASEMENT	0.0111ha (0.0285ac)
BLOCKS 105-108	OPEN SPACE	0.1342ha (0.3317ac)
BLOCKS 109-110	PRIVATE ROAD	0.0851ha (0.0021ac)
TOTAL SITE AREA		**11.696ha (28.901ac)**

Wellings Planning Consultants Inc.
513 Locust Street, Unit B - Burlington, Ontario
t - 905-681-1769 e - glenn@wellingsplann ng.ca

REVISIONS

SCALE
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SHEET 2 OF 2
DWG DATE: MARCH 2022
FILE NO: 2017/06