Preconsultation Meeting Notes

720-740 Oval Court & 5135 and 5155 Fairview Street – March 6, 2024

Attendees:
City of Burlington – Mark Johnson, Ben Kissner, Kyle Plas, Tina Vassalli, Samantha Romlewski, Karyn Poad, Junior Mohammed, Peter Dimitroulias, Dan Ozimkovic, Nick Pirzas, Kyle Poole
Region of Halton – Adam Huycke
Conservation Halton – Emma DeFields
Metrolinx – Luka Medved, Alvin Chan
Proponent – Ruth Victor, Thomas Kastelic, Enzo Bertucci, Shelly Gorenc, Steve Hader, Jennifer Lawrence

Description of Development Concept:

A draft plan of subdivision consisting of 8 blocks, and a public road (Oval Court).

Planning Comments:

- With respect to the background on the planning process, an OPA and ZBA were approved by the OLT in November 2023.
- As part of this work the principle of use was established for the lands.
- It is noted that the basis for the amendments are subject to the existing limits of flooding and erosion hazards being refined as a result of future upgrades to the Fairview Street creek crossing and alterations to Appleby creek and associated hazard lands to ensure development is outside of hazardous lands and to provide safe access, all of which is to be confirmed through the use of a holding provision.
- With respect to the OPA, it provides direction on the following matters:
    - Height
    - FAR
    - Land use compatibility
    - Provision of employment jobs
    - Urban Design elements and guidelines
    - Affordable housing
- With respect to the ZBA, it provides regulations on the following matters:
    - Use
    - Height
    - FAR
    - Minimum Floor area for non-residential uses
    - Setbacks for below grade parking structures
    - Building stepbacks and podium heights
    - Space for the pedestrian promenade
    - A Holding symbol was established as it relates to completion of creek and hazard alterations and Fairview Street crossing upgrades to ensure development is outside of hazardous lands and to provide safe access to the site.
    - A Holding symbol was also established as it relates to the submission of an MOE acknowledged Record of Site Condition.
    - A Minutes of Settlement was also prepared as part of settlement process.
    - The MoS provide direction on next steps with respect to future planning application processes.
    - Regarding an application for draft plan of subdivision, Branthaven shall resubmit the materials filed in support of the OPA and ZBA applications, and any amendments required as part of the draft plan of subdivision application. In addition, Branthaven

may be required to submit any other reports as needed to review the draft plan of subdivision application.
    - Branthaven has recently resubmitted electronic copies of the materials, and they will be circulated as part of the technical circulation process following this meeting. 6 weeks will be provided to staff and external agencies to review and provide feedback on the documents. As part of this process the commenting partners will identify if updates/amendments are needed to review the draft plan application.
- The list of requirements in support of the subdivision application from a Planning perspective are the following:
    - Planning Justification Report
    - Phasing Plan – Zoning will also speak to this as part of their comments
- The following may be completed concurrently with the Draft Plan of Subdivision:
    - Master Plan Concept – show comprehensively how the site can develop and alignment of future planning processes

Policy Planning:

The lands municipally identified as 720-740 Oval Court and 5135 & 5155 Fairview Street are designated Mixed-Use Corridor – General, with Site Specific policies under Subsection 5.3.2, as per the OLT-22-003893 Decision.

Part VI -Implementation - 1.0 Implementation Tools - Section 1.3 General Policies

f) For an application for Official Plan Amendment, Zoning By-law Amendment, plan of subdivision, or consent (other than those consent applications made for the purposes outlined in Part VI, Subsection 4.4 c) of this Plan), City Council may require the provision of additional supporting information or material required to allow full consideration of the application. The scope of the information or material required for each application shall be determined by the City and Region of Halton as part of the pre-consultation process. This information may include, but shall not be limited to, the following:

(i) Planning justification report for Official Plan Amendment and rezoning applications only (including a Land Use or Major Policy change rationale for Official Plan Amendment applications);
(ii) conceptual site plan layout;
(iii)storm water/Functional Drainage Report or storm services plan and flood plain delineation;
(iv) water & waste water service report;
(v) tree inventory and preservation study;
(vi) traffic/transportation impact and/or parking study;
(vii) hydrogeology study/ water budget & hydrology study;
(viii) agricultural impact assessment report;
(ix) market impact study; (x) financial impact study;
(xi) top-of-bank demarcation/geotechnical report to identify the stable top of bank;
(xii) environmental evaluation report;
(xiii) noise and vibration study; (xiv) shadow analysis plan;
(xv) park concept plan; (xvi) Phase I Environmental Assessment;
(xvii) Phase II Environmental Assessment/Record of Site Condition;
(xviii) land assembly documents;
(xix) height survey of adjacent buildings;
(xx) hydro corridor land use application;
(xxi) sensitive land use report;
(xxii) landfill impact study;
(xxiii) employment/residential needs analysis;
(xxiv) archaeological report;
(xxv) risk study;

(xxvi) utility and telecommunications service report;
(xxvii) heritage impact study. *D40, D53

g) All required reports and technical studies shall be carried out by Qualified Persons retained by and at the expense of the applicant. The City may require a peer review of any report or study by an appropriate public agency or a professional consultant retained by the City at the applicant's expense. In addition to City requirements, the applicant shall ensure that all additional requirements as set out in the Region of Halton Official Plan are addressed.

Part VI – Implementation – 2.0 Land Use Controls and Implementation Tools – 2.2 Holding Zones

Section 2.2.2 b) Removal of the "H" prefix shall depend on meeting the specific City conditions identified by the Holding Zone By-law. As per the as per OLT-22-003893 Decision.

Area-Specific Plan for Appleby GO MTSA Special Planning Area (Appleby Gateway) Background

The Major Transit Station Area Area-Specific Planning project commenced in 2017 with the purpose of establishing a policy framework that guides future development and investment within the Major Transit Station Areas to plan for the location and form of new housing, offices, industries, anticipated needs for services such as parks, new infrastructure, schools and community amenities. The policy framework will also guide the growth of complete communities in a transit supportive manner.

On October 11, 2023 staff released proposed draft Official Plan Amendment No. 2 (OPA 2) and draft Community Planning Permit (CPP) By-law for public engagement throughout Fall 2023. The draft OPA and draft CPP By-law are being advanced in conformity with both Provincial and Regional plans and reflect the culmination of the visioning, technical work and public consultation that has been completed to date. They largely reflect the vision for the MTSAs as outlined in the Council-endorsed Recommended Preferred Precinct Plans (Dec 2021) and the Major Transit Station Area Area-Specific Planning Study Final Report (June 2022), as well as technical study and additional areas of analysis as directed by Council that have been completed since then. For a detailed overview of key project milestones and documents that informed the preparation of the draft OPA and CPP By-law, visit www.getinvolvedburlington.ca/mtsa.

The land use schedules included in the draft OPA and draft CPP By-law are to be read in conjunction with the policies and regulations of both documents. Together they establish a vision for future growth in the MTSAs to the year 2051 and set the standards for future development over the long term. The CPP By-law will replace minor variance, site plan and zoning amendment processes for sites located in the MTSAs, however the CPP By-law will not regulate subdivision applications.

MTSA Project – Community Planning Permit By-law
The OLT Minutes of Settlement for 720, 735, 740 Oval Court (OLT-22-003893) included the following:

37. The City agrees that its proposed Community Planning Permit By-law (the "CPP By-law") will not in any way impact the proposed Zoning By-law Amendment, and that the Oval Court Lands will be exempt from the CPP By-law."

City Staff are bringing forward a proposed OPA and CPPS By-law to a Statutory Meeting on June 11, 2024 with a recommendation that City Council adopt OPA No.2 and approve the CPP By-law. If approved, the OPA and CPP By-law will implement the vision for accommodating growth in the City's Major Transit Station Areas (MTSAs). A copy of the proposed OPA No.2 and CPP By-law are available on the MTSA Project webpage.
As per the Minutes of Settlement, 720, 735, 740 Oval Court is not included within the CPP-By-law permit area as shown on Schedules A, D-1, D-2, D-3 and D-4 of the proposed May 2024 CPP By-law and is therefore not subject to the provisions of the CPP By-law. Zoning By-law 2020 will not be repealed from the subject lands.

As per the Minutes of Settlement, OPA No.2 excludes 720, 735, 740 Oval Court from direction for lands in the MTSA to be regulated by a CPP By-law. Section 8.1.2 (4.2) b) [Appleby GO MTSA Authorized Uses of Land] in the proposed OPA No.2 includes the following:
v) The lands at 720, 735, 740 Oval Court and 5135, 5155 Fairview Street are excluded from the Community Planning Permit policies and any Official Plan policies to be implemented through the Community Planning Permit process.

Zoning Comments:

Plans:

1) Applicant will be required to provide a survey plan, signed and stamped by an OLS and have it confirm all existing building yards to all proposed lot lines.
2) Applicant to confirm all lot widths, as per Zoning By-law 2020, as amended. (def below)
3) Provide a phasing plan for the proposed subdivision implementation/site development and demolition of the existing buildings.

Notes:

1) Pending the review of the outstanding information, additional planning approvals may be required to facilitate the plan of subdivision.
2) The 'H' is required to be removed prior to building permit issuance.

Part 1, Section 1.6 - Compliance with this By-Law

1.6.1 No person shall use, cause, or permit the use of any land, building, structure, or part thereof, or erect, repair, or alter, or cause or permit the erection, repairing, or altering of any building or structure which is not in conformity with the provisions of this By-law, EXCEPT as follows:

(g) No lot shall be changed in area or width by either the conveyance of land or otherwise so that:
    (i) The lot coverage exceeds the maximum permitted by this By-law,
    (ii) The existing or resulting lot area, width or yards will be less than the minimum permitted by the provisions of this By-law.

Part 16 - Definitions
Lot Width

The horizontal distance between the side lot lines measured along the front lot line, PROVIDED that where the front lot line is not a straight line, or where the side lot lines are not parallel, the lot width shall be measured by a line 9.1 metres back from and parallel to the chord of the front lot line.

For the purposes of this By-law the chord of the front lot line is a straight line joining the two points where the side lot lines intersect the front lot line.

Regional Comments:

Urban Area and Employment Area – Overlay, as amended by ROPA 48 & 49

- The Subject Lands are designated Urban Area (Built Boundary) in the 2009 ROP, as amended by ROPA 48 and 49. The Urban Area policies of the ROP provide that the range of permitted uses and the creation of new lots within the Urban Area will be in accordance with Local Official Plans and Zoning By-laws. All development, however, shall be subject to all other relevant policies of the ROP.
- The goal of the Urban Area and the Regional Urban Structure is to manage growth in a manner that fosters complete communities, enhances mobility across Halton, addresses climate change, and improves housing affordability, sustainability and economic prosperity.
- Section 72.1 (6) identifies a Regional Urban Structure that directs growth to the *Strategic Growth Area*. The policies of the ROP provide for a structure and hierarchy in which to direct population and employment growth.
- Staff note that the subject lands are located along a Regionally mapped *Strategic Growth Area,* being within the Major Transit Station Area.
- Reginal Staff note that the principle of use for the subject lands was addressed and implemented through an OPA and ZBA approved by the Ontario Land Tribunal (OLT) in 2023.
- Regional Staff note that the proposed Draft Plan of Subdivision is intended to implement Minutes of Settlement (MOS) executed through the OLT process. These MOS outline the process and extent of study that may be required to address and implement the proposed development.
- Of specific interest to the Region with the proposed Draft Plan of Subdivision is how the development will be implemented (what process will be pursued to implement the creek works, bridge works, etc.), and how those works will be corradiated and secured. The studies identified within the MOS should be updated to speak to the phasing and implementation of measures that are required to support the proposed development.

Regional Natural Heritage System:

- As noted above, portions of the subject lands are designated and form part of the Regional Natural Heritage System. Staff note that the limits of development were previously discussed through the OLT process, and are currently being considered through City initiated processes.
- In considering the proposed Draft Plan of Subdivision, Regional Staff recommends that the studies identified within the MOS be updated to reflect recent discussions and processes, and the address how the development will be phased, implemented and secured.

Municipal Servicing:

- Section 89 of the Regional Official Plan require that approvals for all new development within the Urban Area be on the basis of connection to Halton's municipal water and wastewater systems, unless otherwise exempt by other policies of this Plan.
- There are Halton Region local watermains located within Oval Court and Fairview Street adjacent to the proposed development. There is a Halton Region trunk watermain located within Fairview Street adjacent to the proposed development. Generally, no trunk/transmission watermain service connection laterals are permitted. Any proposed trunk/transmission watermain connection laterals require special review and Regional permission to connect into, and it should be noted that permission is not always guaranteed.
- There is a Halton Region local wastewater main (sanitary sewer) located within Oval Court adjacent to the proposed development. There is a Halton Region trunk wastewater main (sanitary sewer) located within Fairview Street adjacent to the proposed development. Similarly, generally no trunk wastewater main service connection laterals are permitted. Any proposed trunk wastewater main connection laterals require special review and Regional permission to connect into, and it should be noted that permission is not always guaranteed.
- The developer should undertake to locate the size and location of all watermains, water services, water meters, wastewater mains (sanitary sewers), wastewater (sanitary) services, property line wastewater (sanitary) inspection manholes, stormwater mains and stormwater services that exist within the road right-of-ways, to the properties and within the properties and place them on an Existing Site Servicing Plan drawings within their reports. Public and private utility companies can be utilized for this purpose.

- A Functional Servicing Report (update, if necessary) is required to be prepared by the developer's civil engineering consultant (watermains, water services, fire hydrants, sanitary sewer mains, sanitary sewer services, property line wastewater (sanitary) inspection manholes, stormwater mains and stormwater services) to show options for how the properties are proposed to be serviced according to City of Burlington and Halton Region standards. Local watermain and wastewater main (sanitary sewer) hydraulic analysis should be completed by the developer's consultant as well for the local sewers and the drainage area down the to the nearest trunk sewer. (if it has not been done already based on any new site plan statistics, to the Region's satisfaction) The consultant should include details about all other developments properties in the drainage area in their analysis of the local sewers. The report should speak to the number/type of units proposed, and the phasing of the development with respect to the impacts on the Region's water distribution system and wastewater collection system. Phasing, timing of the development, and required/available capacity shall be detailed in the report. The consultant will include details about the potential external main upsizing and main extensions to accommodate the development, etc.. (Provide more details about the main extension if you have them.). Also future forecast Regional capital works projects. The proposed development (FSR) must align with the Area Servicing Plan and Master Servicing Plan that is required for the area, City and Region.
- The FSR report should incorporate Fire Flow Rate Testing. The proponent should undertake fireflow rate testing of representative Regional fire hydrants in the area, with the proponent's fireflow contractor and Region forces present. Include within the Report a copy of the fireflow rate testing results, and the Fire Underwriters Survey (FUS) requirements for the development. This information will help to assist in informing the watermain design and watermain hydraulic modelling analysis that is being undertaken by the proponent's consultants. Note, should this have already been undertaken, then it does not have to be repeated.
- Further to the formal hydraulic analysis requirement, the developer's consultant can utilize the Region's current water and wastewater models (if required).
- The FSR should include information related to all the other Utilities infrastructure in the area and potential conflicts.
- The FSR should show the existing site services and note how they are proposed to be decommissioned to make way for the development, and to be disconnected right at the respective mains.
- The developer must physically locate the watermains and wastewater mains (sanitary sewers) that are located immediately adjacent to the properties. The developer's Professional Engineer that is preparing the FSR must consult with the Region regarding the proximity of the proposed development to the watermains and wastewater mains (sanitary sewers), and the Region's approved set-back of the development from the watermains and wastewater mains. There shall be no impact from the development on the Region's watermains and wastewater mains. The Engineer shall prepare a number of cross-section engineering drawings along the east, west and south portions of the properties and the City's road boulevards, for discussion with the Region. Proposed footings, foundation walls, overhangs, excavation, shoring, tie-backs, municipal mains and utilities will require to be detailed for review by the Region.
- Please note that this development will require additional municipal watermain isolation and security of supply (i.e. looping, multiple connections), and full size water chambers (including three/four valves) for the proposed development's water service connections, to the Region's water distribution system. The developer's civil engineering consultant must undertake a design exercise within the FSR in order to demonstrate that full size water chambers, where required, can fit within the roads/boulevards, while giving adequate separation distances from the other utilities in the area. The Engineer shall prepare a number of detail drawings, for discussion with the Region early in the process.
- At the Site Plan application stage the proposed street tree planting and proposed street furniture will have to be reviewed closely in order to avoid tree planting/street furniture conflicts with the Region's watermains and wastewater mains (sanitary sewers) located within Oval Court and Fairview Street, to the satisfaction of the City and the Region.
- New development must be on the basis of full municipal services.

- The developer should be aware of the Region's Multi-Unit Servicing Policy with respect to the number and location of water meters, and in-building backflow prevention devices in the meter/mechanical rooms.
- Regional policies state that water and sanitary services cannot cross lot lines, the owner will ensure this throughout the process. Each lot must be independently serviced if it is proposed to be a separate lot.
- Any major servicing works required for this project would fall under the Regional Servicing Agreement process, Regional Subdivision Agreement process, including securities, Agreement registration, developer's liability insurance and the payment of Agreement fees.
- Servicing of a standard nature is required to go through the Regional Services Permit process.
- The size and scope of, utility trench and road cut, road restoration shall be to the satisfaction of the City of Burlington for local roads.
- Watermain and wastewater main (sanitary) servicing capacity is not guaranteed at the Subdivision stage. Servicing of development in the Burlington area of Halton Region is currently on a first-come-first-serve basis. The owner can pre-consult about servicing capacity with the Region at any time in the future going forward. This current development proposal capacity will be reviewed closely and commented upon at the time of Planning application receipt. Should a servicing capacity issue be identified at that time then it will have to be dealt with, working through it with the Region. Servicing capacity is deemed to be in hand at the issuance of a Regional Servicing Agreement, Regional Subdivision Agreement, Special Financial Agreement, and Regional Services Permit, which is reviewed and obtained toward the end of the City's Site Plan approval process, or Regional Servicing Agreement, Regional Subdivision Agreement.
- The property is located within the urban area of the City of Burlington. Halton Region has initiated an Integrated Water, Wastewater and Transportation Master Plan review exercise for the Region, together with, and in time, Background Studies and formal Programs. Please see the Planning comments for more context.
- As always, acquiring land for development purposes and hiring consultants, at this time, is at the risk of the developer.
- The developer's site servicing consultant can preconsult with the Region at any time regarding their proposed draft site servicing water design, wastewater design and identified utility conflicts (including storm).
- The Region would like to receive confirmation in writing when any required formal land assembly has taken place at the Subdivision stage in order for servicing to conform with Regional Policies, that water and wastewater services do not and will not cross lot lines for different property owners.
- Please note that Halton Region has an online portal website for its Development Engineering Review Service, for the submission of civil engineering drawings and the related civil documents. In this case, for the off-site Regional watermain/wastewater main extensions or main reconfigurations. The Civil Engineering can access the service and instructions online at https://one.halton.ca/ders/s/ .

Submission Requirements:

- All submission materials (digitally)
- Applicable Regional Fee(s)
- Complete Application forms
- Reports indicated within the MOS as updated to address the following:
    - The phasing of the development
    - What processes the required works will follow to be implemented, reviewed and secured
    - Ay updates, revisions, or agreements that have occurred since the reports have been finalized and the OLT approved the OPA and ZBA.

Engineering Comments:

1. The Owner / Applicant will be required to satisfy all the subdivision related requirements as agreed upon in the Minutes of Settlement between the City and the Applicants, approved by the OLT on November 24, 2023. Please resubmit the materials filed in support of the Official Plan Amendment and Zoning By-Law Amendment application and any amendments thereto as part of the Draft Plan of Subdivision Application.

2. Information: It is our understanding that the Environmental Assessment is currently being amended.

3. Information: The Owner / Applicant will be required to enter into a Subdivision Agreement with the City of Burlington to address the detailed design of the Subdivision Works.

4. Information: Development can only occur on the Oval Court Development Lands following the lifting of the Holding Provision which requires the filing of a Record of Site Condition and the completing of the agreed Creek Works, to ensure that all hazards and their associated regulatory allowances are contained within the O2 Zone to the west of Oval Court Lands with the exception of the 7.5m regulatory allowance from the floodplain that follows the drainage ditch along the northwest edge of the Oval Court Lands and that safe access and egress to the Oval Court Lands is available under regulatory storm conditions.

5. Information: A Construction and Mobility Management Plan (CMMP) must be provided in accordance with the City's Construction and Mobility Management Policy, as amended, to ensure the development may be completed to the satisfaction of the Director of Engineering Services and the Director of Transportation Services (https://burlingtonpublishing.escribemeetings.com/filestream.ashx?DocumentId=34323).

RIGHT OF WAY (INFORMATION):

1. Provided a Draft Reference Plan identifying any land conveyances and easements that are clearly labeled with part numbers. The items shall include but not be limited to full right of way labelled with full dimensions matching the criteria received from the Transportation staff, daylight triangle, park dedication, POPS, woodlot, easements, setbacks, etc.

2. Please be advised that any land conveyances are to be free and clear of contamination and will not be accepted with a Certificate of Property Use. As such, for sites with contamination concerns, environmental investigations should clearly delineate between lands to be conveyed and those to be retained.

3. Conduct daylighting to confirm the servicing feasibility and include the confirmed servicing inverts on the servicing plan.

4. A Municipal Consent Permit is required for any works on public lands, including but not limited to daylighting, temporary staging, grading, servicing, construction, or disturbance of vegetation. Fees for a Municipal Consent Permit shall be in accordance with the City's Rates and Fees By-law, as amended. Please contact engpermitrequests@burlington.ca for any Municipal Consent Permit related questions.

ENVIRONMENTAL SITE ASSESSMENTS (INFORMATION):

1. Provide a Remediation Plan if remedial works are identified within the Phase Two ESA.

2. The development proposes a change of property use to a more sensitive use and therefore, a Record of Site Condition (RSC) is required to be filed with the Ministry of Environment,

Conservation and Parks (MECP). Once the RSC has been filed with the MECP, copies of all RSC documents shall be submitted to the City, for records purposes. An RSC that has been filed with the MECP is required prior to the issuance of building permits.

3. If a Risk Assessment (RA)/Certificate of Property Use (CPU) approach is proposed for the RSC, please contact City staff to discuss prior to starting the RA/CPU process with the MECP. Please be advised that the City may require a peer review, to the City's satisfaction, at the applicant's expense, in accordance with City's Official Plan.

Metrolinx comments:

Please see PDF attached.

Transportation Comments:

Transportation Planning offer the following comments, recommendations, and information to assist the Applicant/Developer when preparing to implement the Subdivision Plan. If they choose not to follow them, it is at their risk of reducing the efficiency of the approval process. From a Transportation perspective, successfully addressing these comments will support a more efficient and successful application.

Site Context

1. The proposed development site at 720, 735, 740 Oval Court and 5135, 5155 Fairview Street is on the north side of Fairview Street, immediately east of the Appleby GO Station.
   The Burlington Official Plan 2020:
   a. Classifies Fairview Street as a *Multi Purpose Arterial* per Schedule O-1, Classification of Transportation Facilities – Urban Area;
   b. Classifies Oval Court as a *Local Road* per Table 1, Classification of Transportation Facilities;
   c. Schedule B, Urban Structure, shows that the subject property is within a *Mixed Use Node and Intensification Corridor*, as well as the Appleby GO *Major Transit Station Area (MTSA) Special Planning Area*;
   d. Schedule B-1, Growth Framework, shows that the subject property is within a *Primary Growth Area*;
   e. Schedule B-2, Growth Framework and Long Term Frequent Transit Corridors, shows that Fairview Street is a *MTSA Primary Connector* and *Frequent Transit Corridor*;
   f. Schedule C, Land Use – Urban Area, shows that the subject property is within a *Mixed Use Urban Corridor – Employment* area. However, under the OPA, the subject property has been designated as a *Mixed Use Urban Corridor – General* area with a site specific policy.
   g. Schedule P, Long-Term Cycling Master Plan, shows Fairview Street with bike lanes.

2. The Burlington Zoning By-Law identifies the current zoning of the subject property:
   a. MXT – Mixed Use Transit Station Area

3. The Integrated Mobility Plan (IMP) identifies the Preferred Network Solution:
   a. The subject property is within a Pedestrian Priority Area;
   b. Fairview Street is identified as part of the On-Road Cycling Spine Network;
   c. Fairview Street is earmarked to have Bus Rapid Transit with Dedicated Lanes.

4. Appleby Creek runs along the west border of the proposed development. As such, the west portion of the subject property falls within the Conservation Halton Approximate Regulation Limit. Conservation Halton will need to be engaged as part of the Site Plan Approval process.

5. West of the subject site, Fairview Street has a four-lane cross section. East of the subject site, Fairview Street has a two-lane cross section with on street parking in the curb lanes. A sidewalk and bike lane are present on both sides of the road. At the intersection of Oval Court and Fairview Street, it has an eastbound and westbound auxiliary left-turn lane. Fairview Street has a posted speed limit of 60 km/h.

6. Oval Court has a two-lane basic cross section. Sidewalks are not present along the road. Oval Court has a speed limit of 50 km/h.

7. The nearest intersections and driveways:
    a. to the west of the subject site, Fairview Street intersects with the Appleby GO Station entrance at an unsignalized intersection;
    b. to the east of the subject site, Fairview Street terminates in a cul-de-sac.

Deemed Right-of-Way Widths

8. Fairview Street is under the authority of the City of Burlington. The deemed right-of-way width of Fairview Street is 36 metres per the Burlington Official Plan and Zoning By-Law. The existing right-of-way adjacent to the subject site is approximately 36 metres and no additional lands are required.

9. Oval Court is under the authority of the City of Burlington. The deemed right-of-way per the Burlington Official Plan and Zoning By-Law for Oval Court is 20 metres (Per Section 2.27.1 of the Zoning By-Law). Per the Official Plan 6.2.7(2)d, the width is the “actual width”, since it is not identified in Chapter 14, Table 2: Public Right-of-Way widths. The existing right-of-way adjacent to the subject site is approximately 20 metres and no additional lands are required.

Other Comments

10. Comments on site plan specific items such as visibility triangles, parking supply, transportation impact, and site layout will be included with the subsequent pre-consultation for each parcel within the development.

Conservation Halton Comments:

CH Comments:

Conservation Halton (CH) staff has reviewed the preconsultation submission for the draft plan of subdivision for the lands owned by Branthaven 735 Oval Inc. located at 720, 735, 740 Oval Court and 5135, 5155 Fairview Street (i.e., the ‘Oval Court lands’) as per our regulatory responsibilities under the *Conservation Authorities Act* (CA Act) and Ontario Regulation 41/24 and our provincially delegated responsibilities under Ontario Regulation 686/21 (e.g., acting on behalf of the province to ensure decisions under the *Planning Act* are consistent with the natural hazards policies of the Provincial Policy Statement [PPS, Sections 3.1.1-3.1.7] and/or provincial plans). Comments are provided below:

Proposal

An Official Plan Amendment (OPA) and Zoning By-law Amendment (ZBA) for this development were approved by the OLT on November 24, 2023 (files 505-03/21 & 520-04/21). Staff understands the purpose of the forthcoming subdivision application is to realign the internal lot lines at the rear of the property, to establish the new block area to be dedicated to the City for the expanded creek area and to provide an agreement to secure the works related to the creek, upgrades to Oval Court, the bridge and other infrastructure.

Conservation Authorities Act and Conservation Halton Regulations

Effective April 1, 2024, Conservation Halton’s (CH) previous regulation, *Ontario Regulation 162/06*: “Regulation of Development, Interference with Wetlands and Alterations to Shorelines and

Watercourses" under Section 28 of the *Conservation Authorities Act* (CA Act) was repealed and replaced by *Ontario Regulation 41/24*: "Prohibited Activities, Exemptions and Permits". Under *Ontario Regulation 41/24*, Conservation Halton regulates all watercourses, valleylands, wetlands, Lake Ontario Shoreline and hazardous lands, as well as lands adjacent to these features, including lands within 15 metres of flooding and erosion hazards associated with watercourses and valleys, and 30 metres from the limit of all wetlands. Permission is required from CH prior to undertaking any development activities or activities to change or interfere with watercourses or wetlands within CH's regulated area.

On April 18, 2024, CH's Board approved CH's Interim Transitional Policies and Guidelines for the Administration and Implementation of the *Conservation Authorities Act* and *Ontario Regulation 41/24*. These interim policies are required to ensure consistency with legislative updates that came into effect April 1, 2024. Applications are currently reviewed under CH's current Policies and Guidelines and our Interim Policies and Guidelines (https://www.conservationhalton.ca/policies-and-guidelines/). Where there is contradiction, decisions will be based on ensuring conformity with legislation.

As it relates to the subject lands, CH regulates a distance of 15 metres from the greater of the floodplain or stable top of bank limits. CH previously regulated a distance of 7.5 metres from the greater hazard under Ontario Regulation 162/06, which was reflected in the prior OPA and ZBA designations and zoning limits. Based on CH's Interim Policies and Guidelines, CH can permit development on the subject lands within 7.5m-15m of the hazards subject to CH issuing Letter(s) of Permission for those works.

Ontario Regulation 686/21 - Provincial Policy Statement (PPS) Natural Hazards Policies

In addition to CH's regulatory responsibilities (described above), CH also has provincially delegated responsibilities under Ontario Regulation 686/21: Mandatory Programs and Services, including acting on behalf of the Province to ensure that decisions under the *Planning Act* are consistent with the Natural Hazards Sections (3.1.1-3.1.7) of the PPS.

The PPS generally directs development outside flooding and erosion hazards and requires that safe access and egress appropriate for the nature of the development and natural hazard be provided. Under existing conditions, the subject lands are partially within the flooding and erosion hazards and safe access and egress to the site is not available. Alterations to the flood hazard, valley, and Fairview Street creek crossing are proposed to modify the flooding and erosion hazard limits such that the development limit will be outside of the hazards and safe access will be provided.

Alterations to Natural Hazards

Through the related OPA/ZBA process, a Holding symbol was incorporated into the zone designation, requiring creek and hazard alterations and Fairview Street crossing upgrades to be completed such that all hazards and lands within 7.5m of the hazards would be contained within the creek block (except for a portion of the regulatory allowance from the floodplain along the northwest drainage ditch in the subject lands), and that safe access and egress to the subject lands would be available under regulatory storm conditions, to the satisfaction of Conservation Halton and the City of Burlington. In addition, as per the Minutes of Settlement, an Addendum for the Appleby Creek Flood Mitigation Environmental Assessment (EA) is necessary to evaluate the upgraded culvert or bridge structure in combination with the widening of the creek channel. The activities required to remove the Holding provision will also need to be completed in support of the subdivision and will be included as conditions of draft approval.

Complete Application Requirements

CH should be circulated for review of the forthcoming subdivision application. As per minutes of settlement, the materials filed in support of the OPA and ZBA applications (and any amendments thereto) should be resubmitted with the draft plan of subdivision application to support the established development limits. In addition to the list of materials within the preconsultation submission, any materials that were relied upon to establish the existing and proposed limits of the flooding and

erosion hazards through the OPA/ZBA process must be submitted for the subdivision application , including the most current versoins of the following (i.e at minimm, the latest versoins as reviewed through the OPA/ZBA process):

- Hydrologic and hydraulic modelling
- Floodplain mapping and preliminary engineering drawings for the proposed creek/valley alterations and Fairview Street creek crossing, including location of the proposed pedestrian bridge
- Slope stability assessment and supplementary letters/memos that confirm long term stable slope limits
- Existing and proposed constraints figures (overlayed on subdivision plan) including the limits of the regulatory flood hazards, physical and stable top of bank, 7.5m limit from the greater of the hazards, and 15m regulation limit from the greater of the hazards.
- Surveys signed and stamped by an Ontario Land Surveyor delineating the physical top of bank as staked by CH staff
- Drawing sets that delineate regulation limits established as per the above

Staff understands a Planning Justification Report will be included with the subdivision application, which should reference the updated legislation, regulations and policies noted above.

CH understands revisions to the rail safety berm may be necessary to meet Metrolinx requirements. Should this involve works in CH's regulated area, CH may provide comments and requirements as part of the submission. CH is also available to review preliminary details in advance of a formal submission.

Additional details to support the proposed works within CH's regulated area will be necessary as conditions of draft plan approval, and through the EA Addendum review and CH permitting processes. In a letter to the applicant February 2, 2024, CH provided comments to be addressed through the subsequent planning processes and detailed designs, which should be addressed through the forthcoming subdivision application as applicable (i.e through detailed design and as conditions of draft approval) CH will confirm all draft plan conditions and related requirements in review of the forthcoming subdivision application. At a minimum, CH staff expect the following will need to be submitted through conditions of Draft Plan Approval. We acknowledge some of these materials have been prepared through the OPA/ZBA process, and some will be coordinated through the Appleby Creek Flood Mitigation EA Addendum:

- Landscape Plans for lands within CH's regulation limit. Refer to CH Guidelines for Landscaping and Restoration Plans, 2024: https://www.conservationhalton.ca/policies-and-guidelines/
- Finalized Arborist Report
- Finalized EIA
- Stormwater management report
- Updated Hydrologic and hydraulic modelling
- Detailed designs for creek works, Fairview St crossing and pedestrian bridge crossing
- Engineering drawing sets
- CH permits

Landscaping

Requirements for the Draft Plan of Subdivision

1. A landscape concept plan is required for the entire plan of subdivision showing the general layout and intent of what will be proposed, including but not limited to buffer planting, fencing and site furniture. Staff will be satisfied with the latest rendering of a concept plan.

2. A pedestrian circulation/trail master plan is required for the entire plan of subdivision. This may be included in the landscape plan provided all information is clearly shown. Staff will be satisfied with the latest rendering of the concept plan.

Conditions of the Draft Plan of Subdivision

3. Detailed Landscape Plans, construction details and a cost estimate will be required for all of Block 1, the Appleby Creek block, the Apply Creek Block pedestrian bridge, and the boulevards (City property only) along the frontages of Fairview Street and Oval Court. The Landscape Plan must show the general layout and intent of what is proposed for landscaped areas, including but not limited to landscape buffer planting, environmental remediation planting, street tree planting, furniture, fence location and types and pedestrian circulation. See the Pre-Submission Checklist for requirements. It is recommended that the landscape consultant reach out to City landscape staff to discuss design items prior to first submission.
    a. The Landscape Plan must show proposed tree plantings that follow the ESA's guide *Planting Under or Around Powerlines & Electrical Equipment:* trees and/or shrubs with a max. mature height and spread of 4.5m in the Low Zone (to 4.5m from the power lines), trees with a max. mature height and spread of 7.6m in the Medium Zone (7.6m from the power line), and trees of any size beyond 7.6m from the power line. See the ESA Guidelines for Planting Under or Around Powerlines & Electrical Equipment.
    b. Where trees are proposed within the municipal right-of-way, ensure the minimum required soil volumes are provided and documented on the Landscape Plans using good quality soil. The minimum requirements are as follows: $30m^3$ of soil per tree in a single tree pit, $20m^3$ per tree in a shared planting environment. Excavation for each planting environment should be 0.75m to 1.2m depth and should not exceed 1.5m depth and be tailored to stock size used. Smaller rooting volume (minimum 15-$20m^3$) may be proposed for smaller trees.
    c. Where trees, shrubs and herbaceous material is proposed, ensure material is suitable for the existing and proposed conditions to ensure success (i.e., salt tolerant, and suitable for existing and proposed soil and other environmental conditions).
4. An Arborist Report, Tree Inventory and Protection Plan is required to document **all existing trees greater than 10cm DBH on and within 6m of the property lines** as well **all trees of any size on city property**. Ensure that the most up-to-date draft plan of subdivision with pertinent grading, servicing, and site access requirements are illustrated on the Tree Protection Plan. The Arborist Report and TP drawings shall address all preservation and removal in detail for Block 1, Appleby Creek block, Oval Court, Fairview street and any other future publicly owned lands. Future SPA blocks 2 to 8, shall be inventoried and represented as "TBD at future SPA". Ensure your Tree Inventory Table is provided as an Excel file. Please see the City of Burlington: Pre-Submission Checklist for further requirements.
    a. Existing trees within the Appleby Creek block should be retained as much as possible to facilitate the detailed design scope for the erosion works as part of the Environmental Assessment.
    b. Tree protection hoarding should be shown as per the City of Burlington's Tree Protection and Preservation Specification SS12A. Include a copy of the specification on the Tree Inventory and Protection Plan that includes all notes (1-8) from the specification. The specification can be found using this link: https://www.burlington.ca/en/home-property-and-environment/resources/Forestry/Tree-Protection/City-of-Burlington-Standard-Specification-for-Tree-Protection-and-Preservation.pdf
    c. Consider alternative design concepts that will result in fewer trees being proposed for removal. In the case that alternatives to the design are not possible, please provide detailed justification for the removal of every individual tree. The City of Burlington does

not support the removal of trees due to condition alone. Similarly, work shall be modified to avoid working inside the minimum tree protection zone of all trees.

d. The City's Public Tree By-law 68-2013 is applicable to the proposed development. A tree permit is required for all work around city trees, including the payment of the Tree Permit fee and securities for trees to be retained.

e. Removal of public trees will require replacement plantings that are to be proposed shown on City property. Where there is no room for replacement trees, cash-in-lieu of replacement will be required. Specific compensation and replacement quantities will be identified at the permitting plan stage.

f. The removal of private trees shall be considered as a last resort as any existing private tree should be prioritized for preservation. Trees that are to be removed will require a plan for replacement. Private trees that are 15cm in DBH will be counted toward replacement requirements using the City's aggregate caliper method. Tree replacements will be based on 50mm caliper replacement sizes. Proposals for private tree replacements shall be shown on the subject property. Where there is no room for replacement trees, cash-in-lieu of replacement will be required. Specific compensation and replacement quantities will be identified at the site plan stage.

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).

h. Where impacts are proposed (i.e., encroachment / injury) to neighboring and/or boundary trees the adjoining and/or adjacent owner(s) shall be consulted and made aware of the proposed development and potential impacts to their trees and/or boundary trees and the applicant shall submit a document in writing from adjoining and/or adjacent owner(s) that there are no concerns with the proposal for those trees, or the applicant's qualified tree professional (as defined in Pre-Submission Checklist) shall address the potential impacts to the neighbor's trees and/or boundary trees and provide an attestation in the Arborist Report that the impacts proposed will not be a detriment to the trees, and they will remain in healthy condition. Information in the report shall also include the preservation methods, including pruning and fertilizing, that can be implemented by the owner to ensure the health of trees on neighboring properties.

i. Private trees that are regulated and require removal or injury to facilitate project works may require a private tree permit depending on the timing of removal and/or injury relative to planning application(s). Please consult with the City at all stages of your project (i.e., demolition) to ensure compliance. Additional documentation may be required.

j. All trees proposed to be retained and their corresponding tree protection hoarding (vertical and/or horizontal) shall be illustrated on all Civil drawings and on the Construction Management and Mobility Plans.

Requirements of Future Site Plan Applications

5. Detailed landscape drawings, details, and cost estimates will be a requirement for Blocks 2 through 8 at time of site plan application.

6. Up-to-date Arborist Reports, Tree Inventories, and Protection Plans will be a requirement for Blocks 2 through 8 at time of site plan application.

Additional Notes

7. The City of Burlington recommends consulting with Conservation Halton for additional comments related to the proposed scope of work associated with Appleby Creek.

8. The property of 720-740 Oval Court is regulated by Conservation Halton (CH), and Canadian National Rail (CNR). Please ensure the Landscape Plan shows all regulated limits/hazard lines to the satisfaction of Conservation Halton (CH)and Canadian National Rail (CNR). Additionally, please ensure all active easements are outlined and labeled on the Landscape Plan.
9. Review and apply the City's Sustainable Building and Development Guidelines.

Pre-Submission Checklist – Landscape Plan

The Landscape Plan shall be prepared by a qualified member of the Ontario Association of Landscape Architects (OALA). Documents prepared by non-qualified professionals will not be accepted.

Landscape Plan Requirements

The Landscape Plan shall be prepared by a qualified member of the Ontario Association of Landscape Architects. Documents prepared by non-qualified professionals will not be accepted.

1. Contains legible drawings on 24 X 36.
2. Drawn to a metric scale of 1:100, 1:200, 1:250 or 1:300, and include a scale bar.
3. Drawing stamped and signed by a qualified member of the Ontario Association of Landscape Architects
4. Identifies the location and general design intent of the proposed plantings and amenity areas.
5. Shows location and dimensions of pedestrian walkways and crossings. Include dimensions from open doors if doors open out onto walkways.
6. Identifies minimum required soil volumes, and location of any structural soil cell installation areas to achieve minimum soil volumes ($30m^3$ of soil per tree in a single tree pit, $15m^3$ per tree in a shared planting environment. Excavation for each planting environment should be 0.75m to 1.2m depth and should not exceed 1.5m depth)
7. Identifies the location, type, and height of proposed fencing.
8. Identifies snow storage and bicycle parking areas.
9. Identifies the location of air vents/shafts.
10. Identifies property lines, easements, regulated areas, impermeable surfaces (including curbs, roads, driveways, sidewalks, etc.), buildings and entrances, landscaped beds, lawns or other permeable surface areas, other information as needed.
11. Identifies the location of all underground, at grade and overhead utilities with the connection to the proposed or existing building (if applicable).
12. Identifies the location of any stormwater management infrastructure, including swales, sub-drains, catch basins, pipes, and other quality and quantity controls as required.
13. Is coordinated with the Site Plan, Grading and Servicing drawings, Planning Justification Report, Noise Study, Wind Study, and shows any recommended mitigation measures (i.e., buffer planting, screening, fencing) conceptually on the Landscape Concept Plans.

Pre-Submission Checklist – Arborist Report

The Arborist Report, Tree Protection Plan, and Tree Inventory Table are to be prepared by a qualified tree professional (i.e., Arborist certified by the International Society of Arboriculture (ISA), including ISA number; qualified by Ministry of Training, Colleges and Universities (MTCU) or Ontario Training and Apprentice Board (OTAB); registered professional Forester in Ontario, etc.). Documents prepared by non-qualified professionals will not be accepted.

Arborist Report Requirements

1. The address of the subject site.
2. The author, contact information, and relevant qualifications (e.g., ISA, RPF)
3. The date(s) that the assessment was conducted, methodology and limitations; ensure assessments were completed within the last year (365 days)

4. An overview of the proposed work and explain what arboricultural work is to be undertaken for each tree(s) (e.g., tree to be injured, tree to be destroyed (removed), tree to be preserved and protected)
5. Where applicable, a description of the trees to be removed including the specific reason(s) (e.g., new sanitary service) per tree. Alternate layouts and construction measures should be considered and discussed to ensure all proposed removals are necessary and justified (i.e., there are no alternatives)
6. Where applicable, a description of the trees to be injured where construction activities will be in the minimum tree protection zone and the mitigation measures to be implemented to minimize impacts (e.g., exploratory air-spade and root prune)
7. Where applicable, a description of the trees to be fully protected and the methods to be implemented to ensure no impacts.
8. Tree inventory (table of tree details) (refer to the tree inventory section)
9. Please ensure that all multi-stem trees are shown as one consolidated caliper in the chart using the sum of squares method below:

Method 1 – Measure the DBH of each trunk. The DBH for the tree is found by taking the square root of the sum of all squared stem DBHs rounding to the nearest whole number. Example: You have three stems that all measure 5", 6" and 8" so the DBH would be $\sqrt{(5^2+6^2+8^2)} = \sqrt{(25+36+64)} = \sqrt{(125)}=11$". It should be noted in the comments that it is a multi-stem tree.

10. A proposal for the replanting or replacing of trees that are to be removed. Cash-in-lieu compensation requirements should be referenced in the report if applicable. Please ensure that the numerical costs are not included as City staff will make that determination.
11. Confirmation that the Tree Protection Zones established and maintained around any trees on the property and all mitigative measures prescribed are in accordance with the City's relevant policies, procedures, and specifications (SS12A)
12. Where applicable the minimum frequency of site inspections by a qualified tree professional during proposed works
13. Recommendations for post-construction care and/or monitoring (as required) for regulated trees and proposed replacement trees.
14. Please indicate if a subsequent hazard tree management report may be applicable to the subject site.
15. Where applicable a consent letter for the removal of boundary tree(s) (those located along the shared property line) or a neighbour tree(s) to be attached to the report document
16. Where applicable a consent letter for the injury to a boundary and/or neighbour tree(s) to be attached to the report document or an attestation.
17. Where applicable any additional relevant information (e.g., legal survey, TRAQ form, pre-construction exploratory review etc.) to be attached to the report document.
18. Abbreviations should be defined, and industry standard terminology used.

Tree Protection Plan Requirements:

1. Contains legible drawings on 24 X 36.
2. Drawn to a metric scale of 1:100, 1:200, 1:250 or 1:300, and include a scale bar.
3. Illustrates the proposed development (including property lines, easements, regulated areas, paved areas, buildings and entrances, landscaped areas, regulated limits, etc.) and is coordinated with the Site Plan and civil drawings (i.e., grading, servicing etc.).
4. A label and location of all existing tree(s) over 10cm diameter at breast height (DBH) measured at 1.4m above the ground) on site and within 6m of the property lines, and trees of any size on city property. Trunk for each tree to be scaled to size.
5. Legend that defines symbols, lines and/or colours used on the plan. The elements included in the legend should match shown on the plan. Do not include other elements that are not applicable.
6. Label and dimension minimum tree protection zones (circles) and critical root zones (circles) in accordance with City's Tree Protection and Preservation Specification SS12A
7. Label and dimension protective tree hoarding (fencing) and root protection (as required) in accordance with the City's Tree Protection and Preservation Specification SS12A
8. Label all mitigative work around trees as necessary (i.e., air-spade and root pruning etc.)
9. Location and labelling of all associated construction activities, including but not limited to:
    - Construction access route (with width measurements)

- Construction material storage area(s)
- Excavation area including limits of over-dig
- Trenching and/or boring locations (with depths and width measurements)
- All proposed servicing and utilities on both public and private property
- Fill placement from excavation, or material being brought to the lot
- Grade and surface changes

Tree Inventory Table Requirements

1. The address of the subject site.
2. Tree Identifier No. as indicated on the Tree Protection Plan.
3. The common and botanical name of tree species
4. Diameter at Breast Height (DBH) for each individual tree identified on the Tree Protection Plan. For multi-stemmed trees, each stem diameter is to be provided in addition to the DBH using the sum of square formula.
5. Health and structural condition rating for each tree as a percentage (%). (E: excellent= 90%, G: good= 80%, FG: fair/good= 70%, F: fair= 60%, FP: fair/poor= 50%, P: poor= 35%, VP: very poor=20%).
6. Please identify any tree related commentary such as evidence of pests and diseases or structural issues (e.g., EAB).
7. The minimum tree protection zone, and critical root zone and associated impacts as a percentage based on the City's standard specification SS12A, refer to link page 6: Tree Protection and Preservation Specification SS12A
8. Tree ownership (i.e., private, public, boundary, neighbour) and corresponding address. Where multiple types of public property are identified, please further clarify the public property (e.g., public row, public parkland, public creek corridor or creek block) so it is clear. City staff may require verification by legal survey.
9. Please identify the proposed recommendation for each tree, i.e., preserve, injury (encroachment), destruction (removal).
10. Please include the critical root zone (CRZ) as identified in the City's specification document.
11. Please include percentage of impact in MTPZ and that of the CRZ
12. General notes on the subject tree and mitigative measures (e.g., hydro-vac)

Please provide a table in an excel format to be included with the report

Parks Comments:

Regarding parkland dedication and cash in lieu of parkland:

1. Parks wishes to collect cash-in-lieu of parkland separately for all applicable development blocks at time of site plan approval and building permit.
2. Parkland shall be paid to the City by way of cash in lieu of parkland (CILP), with CILP charged at the rate in effect at the time of building permit issuance. Kristen Ljubicic (kristen.ljubicic@burlington.ca) in Realty Services will be able to provide further details with respect to the amount and calculations.
3. Parks notes that public access easements will not be eligible for parkland dedication.

Regarding site design and public easements:

4. Parks suggests that the proposed connection from Sherwood Forest Park to the Appleby Creek pedestrian bridge be owned and maintained by each respective Condominium Board and function as a public access easement. Further discussions with PD&C are required to confirm this.
5. Further discussions are required between the applicant and PD&C to discuss the design of the pedestrian connections from Sherwood Forest Park to the Appleby Creek pedestrian bridge.
6. The applicant is to identify on the Draft Plan of Subdivision any, and all easements associated with each block in relation to the public access easement.

7. The applicant shall confirm if Blocks 7 & 8 (lands fronting Fairview Street) will form part of the proposed plan of subdivision.
8. The City envisions the pedestrian bridge over Appleby Creek to be dealt with as part of the proposed plan of subdivision.