

**Rod Northey**

<contact information removed>

Matter No. T1001328

July 12, 2019

Via E-Mail: [ceaa.miltonlogisticshubpanel.acee@canada.ca](mailto:ceaa.miltonlogisticshubpanel.acee@canada.ca)

Lesley Griffiths, Panel Chair  
Milton Logistics Hub Project Review Panel  
c/o Canadian Environmental Assessment Agency  
160 Elgin Street  
Ottawa ON K1A 0H3

Dear Ms. Griffiths / Members of the Review Panel:

**Re: Milton Logistics Hub Project – Undertaking #32**

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Attached please find the Halton Municipalities' response to Undertaking #32.

Sincerely,

Gowling WLG (Canada) LLP  
<Original signed by>

Rodney Northey "

RVN;mh  
Encl.

**Milton Logistics Hub Project – CEA Ref. No. 80100**  
**Response to Undertaking #32 – Separation Distance between railways and residences**  
**(July 12, 2019)**

This responds to the July 9<sup>th</sup> undertakings by the Halton Municipalities to provide the Panel with: (a) a brief explanation of the municipal approval process to ensure that mitigation measures such as berms and separation distances are implemented to provide compatibility between existing and proposed land uses, and (b) whether local roads exist between southern-facing residences in the Boyne Survey nearest to the proposed Project and Britannia Road.

*(a) Municipal approval process re berms*

Briefly stated, the municipal approval process relevant to implementing mitigation measures such as berms to address land use compatibility is as follows:

1. Under the Ontario *Planning Act*, lower-tier municipalities such as the Town of Milton have lead regulatory responsibility over several approvals relevant to providing land use compatibility, particularly official plans<sup>1</sup>, zoning by-laws<sup>2</sup>, and subdivisions<sup>3</sup>, subject to the right of interested persons to appeal to the Local Planning Appeal Tribunal (formerly, the Ontario Municipal Board) for a hearing and decision<sup>4</sup>.
2. Subdivision approvals are the lead municipal instrument to require berms and related measures to mitigate effects from certain kinds of “major facilities” including railway lines and railway yards upon “sensitive land uses” such as residential land uses.
3. The photo reviewed on July 9<sup>th</sup> from the December 2015 EIS Planning Justification Report (Appendix E.11, Figure 12, PDF p.42) illustrates the use of structural berms between the existing mainline track and Phase 3 of the Boyne secondary plan.

Attached to this response is a topographic illustration of a full subdivision approval provided by the Town for a subdivision described as Mattamy-Willmott Limited – West Biason Phase 1, approved in 2012 (24T-11006). Given its date, this reflects the approach taken to berms for the existing CN mainline. In this case, the subdivision is north of Britannia, south of Saint Laurent, and on the east side of the mainline. The attached illustration shows a 30m separation between the rail line and the nearest houses, using a combination of vegetation zone and local roads. The lands providing this separation distance have been conveyed to the Town to ensure the permanence of this separation distance.

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<sup>1</sup> Official plans address separation distances principally through approval of the boundaries of different land uses such as residential, commercial, industrial, institutional, infrastructure, and open space land use designations. They also provide guidance on areas of study around existing features and uses to require studies by new uses that may harm the feature or the use. Official plans govern municipal decisions on land use.

<sup>2</sup> Zoning by-laws govern land use. Zoning by-laws typically provide setbacks from property lines, even among compatible uses. Zoning by-laws may also include “overlays” – a demarcation that may constrain, but not necessarily prohibit land use within the overlay, such as soil stability setbacks from watercourses or wetlands.

<sup>3</sup> Through plans of subdivision, municipalities (by statute upper-tier municipalities, with power to delegate to lower-tier municipalities) such as the Town may approve new blocks of property such as new residential districts. Subdivision approvals result in figures called plans of subdivision that set out property boundaries, street locations, open spaces, and other details. These plans may thus provide separation distances through the establishment of properties that act as buffers between conflicting land uses.

<sup>4</sup> LPAT decisions must comply with Planning Act direction to ensure conformity with provincial plans and consistency with the provincial policy statement. LPAT decisions must also conform with applicable official plans unless relevant official plan policies are also under appeal.

**Milton Logistics Hub Project – CEA Ref. No. 80100**  
**Response to Undertaking #32 – Separation Distance between railways and residences**  
**(July 12, 2019)**

The implementation process for this mitigation also includes detailed conditions of approval resulting from CN input. Attached also is an excerpt from Schedule “H” to these conditions of approval for this subdivision that focuses exclusively on CN. Also, Schedule “M” to the Agreement provides the following warning clause to be provided to future land owners within the subdivision:

WARNING CLAUSES AND/OR RESTRICTIVE COVENANTS

Notwithstanding that this Agreement may be subsequently released or discharged, Schedule M shall remain on title and shall not be released or discharged.

The Owner agrees to place the following notification in all offers of purchase and sale for all lots and/or units and in the Town's development agreement to be registered on title:

...

bb) “Warning: Canadian National Railway Company or its assigns or successors in interest has or have a right-of-way within 300 metres from the land the subject hereof. There may be alterations to or expansions of the rail facilities on such right-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). CN will not be responsible for any complaints or claims arising from use of such facilities and/or operations on, over or under the aforesaid right-of-way.”

*(b) Existence of local roads as buffer between residences and Britannia Road at the southern boundary of the Boyne Survey*

While the Halton Municipalities have been preparing this response, the panel received Exhibit 15 (CEAR 951) from Great Gulf. It includes as slides 6 and 7 an answer to the second aspect of this undertaking. For ease of reference, Attachment C to this response is Slide 6 to CEAR 951). It provides a visual of the *draft* subdivision plan for the southernmost part of the Boyne Survey. This is not approved: it is still in discussions, with the western part proceeding and the eastern part deferred pending Region service capacity approval.

The visual shows the area north of Britannia Road and west of the mainline. The visual shows the proposed widening of Britannia and both roads and small buffers between Britannia and the nearest residences. As above, these lands are to be conveyed to the Town to ensure their permanence.

The visual also shows a green buffer and roads between the mainline and the nearest residences.

The panel also inquired about the possibility of residences occupying lands without mitigation in place. The Town practice is to ensure that construction of any required mitigative berms is secured through the Subdivision agreement between the Town and the Developer. The Town would then require that, prior to any residential occupancy, the mitigation measures (i.e. berms) must be in place.

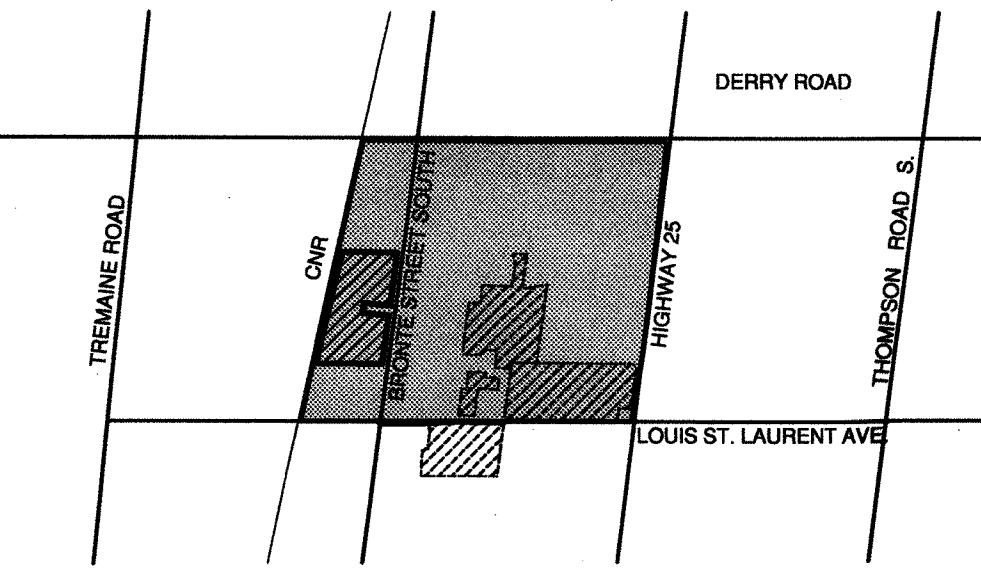


DRAFT PLAN OF SUBDIVISION  
File 24T-11006/M

PART OF LOT 9,  
CONCESSION 1, NEW SURVEY

(GEOGRAPHIC TOWNSHIP OF TRAFALGAR)  
TOWN OF MILTON  
REGIONAL MUNICIPALITY OF HALTON

MATTAMY - WILLMOTT WEST



WILLMOTT NEIGHBOURHOOD  
MATTAMY WILLMOTT  
ADDITIONAL LANDS OWNED  
BY APPLICANT

OWNER'S AUTHORIZATION

I HEREBY AUTHORIZE KORSIAK & COMPANY LTD. TO PREPARE AND SUBMIT THIS  
DRAFT PLAN OF SUBDIVISION TO THE TOWN OF MILTON FOR APPROVAL.

SIGNED Frank Dorcin DATE October 13, 2011

Frank Dorcin  
Mattamy (Willmott) Limited  
2360 Bristol Circle  
Oakville, Ontario L8H 6M5  
Tel: (905) 929-2424 Fax: (905) 929-7610

SURVEYOR'S CERTIFICATE

I HEREBY CERTIFY THAT THE BOUNDARIES OF THE LANDS TO BE SUBDIVIDED AS  
SHOWN ON THIS PLAN AND THEIR RELATIONSHIP TO ADJACENT LANDS ARE  
CORRECTLY AND ACCURATELY SHOWN.

SIGNED C.P. Edward DATE October 12, 2011

C.P. Edward, Ontario Land Surveyor  
RPE  
RADI-PENTEX & EDWARD SURVEYING LTD.  
ONTARIO LAND SURVEYORS  
643 CHRISLEA ROAD, SUITE 7, WOODBRIDGE, ONTARIO L4B 8A3  
Tel: (416) 635-5000 Fax: (416) 635-5001

ADDITIONAL INFORMATION (UNDER SECTION 51 (17) OF THE PLANNING ACT)

- A) SHOWN ON PLAN  
B) SHOWN ON PLAN  
C) SHOWN ON PLAN  
D) SHOWN ON PLAN  
E) SHOWN ON PLAN  
F) SHOWN ON PLAN  
G) SHOWN ON PLAN  
H) MUNICIPAL AND PIPED WATER TO BE PROVIDED.  
I) CLAY LOAM  
J) SHOWN ON PLAN  
K) SANITARY AND STORM SEWERS TO BE PROVIDED  
L) SHOWN ON PLAN

LAND USE SCHEDULE

Land Use	Blocks	Block Total	Area (ha)	Units	SDE
Detached Residential	1-19	19	5.75	204	204.00
Townhouse	20-22, 25-29	8	1.85	95	70.49
Back to Back Townhouse	23,24,30-33	6	0.99	104	55.95
Lane Based Townhouse	34,35	2	0.45	35	25.97
Residential Reserve	36-40	5	0.47		
Open Space	41,42	2	0.50		
Neighbourhood Park	43	1	2.10		
SWM Pond	44	1	0.98		
Buffer Blocks	45,47-51	6	0.85		
Walkway	46	1	0.03		
0.3m Reserve	52,53	2	0.00		
11.0m ROW (154m)			0.17		
16.0m ROW (2231m)			3.59		
20.0m ROW (938m)			1.88		
Totals	53	53	19.61	438	356.41

PHASE 1 - LAND USE SCHEDULE

Land Use	Blocks	Block Total	Area (ha)	Units	SDE
Detached Residential	6,7,10-13	6	1.49	55	55.00
Back to Back Townhouse	23,24,30-33	6	0.99	104	55.95
Open Space	41,42	2	0.50		
Neighbourhood Park	43	1	2.10		
SWM Pond	44	1	0.98		
Buffer Blocks	45,48,49,51	4	0.82		
Walkway	46	1	0.03		
0.3m Reserve	52	1	0.00		
16.0m ROW (752m)			1.21		
20.0m ROW (729m)			1.46		
Totals	22	22	9.58	159	110.95

PHASE 2 - LAND USE SCHEDULE

Land Use	Blocks	Block Total	Area (ha)	Units	SDE
Detached Residential	1-5,8,9, 14-19	13	4.26	149	149.00
Townhouse	20-22, 25-29	8	1.85	95	70.49
Lane Based Townhouse	34,35	2	0.45	35	25.97
Residential Reserve	36-40	5	0.47		
Buffer Blocks	47,50	2	0.03		
0.3m Reserve	53	1	0.00		
11.0m ROW (154m)			0.17		
16.0m ROW (1479m)			2.38		
20.0m ROW (209m)			0.42		
Totals	31	31	10.03	279	245.46

DATE	REVISION	BY
04/06/12	Phasing Revisions	G MP
23/05/12	General Revisions	F MP
17/05/12	General Revisions	E THK
17/04/12	Phasing Revision	D THK
09/03/12	Neighbourhood park, unit mix & phasing	C MP
11/01/12	Addition of Manaman	B THK
03/10/11	Original submission	A MP
DATE [D.M.Y.]	REVISION	DWG BY

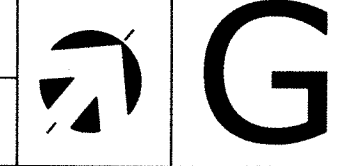
NOTES:  
\* Local/Local corner radii = 5m  
\* Local/Collector corner radii = 7m  
\* Collector/Collector corner radii = 10m  
\* Collector/Arterial corner Triangle = 10m



SCALE 1:1250

JUNE 4, 2012

Mary Bialon/Draft Plan/June 12/Mary Bialon DP Jun 4 12.dwg





68. The Owner agrees to have prepared by a qualified consulting Engineer(s) and submitted to the Town for approval, certification that the traffic design for this subdivision will accommodate the future development of all park and open space lands owned by the Town. This information is required for the Town to achieve Site Plan Approval for the development of all parks and open space lands. The Owner agrees to be responsible for providing / updating / revising as necessary, the information provided, as directed by Community Services and Development Engineering, to ensure that Site Plan Approval for the Willmott West park and open spaces are successfully achieved.
69. The Owner agrees to design, grade and oversee where necessary, the Terrestrial Corridor Blocks (Block 71 and Block 72) as directed by the Town through review of the detailed landscape and engineering design submissions. The Owner is required to depict the Union Gas Corridor / Terrestrial Corridor grading in detail and ensure that there will be no ponding in the Union Gas Corridor / Terrestrial Corridor as a result of the new development. The Owner is responsible for the stormwater control of the Terrestrial Corridor Blocks conveyed to the Town.
70. The Owner agrees to conduct all conveyance works within the park blocks, including hauling and stockpiling of topsoil, to the satisfaction of the Director of Community Services. The Owner further agrees to backfill, stockpile, fence, test, amend and survey the topsoil to the satisfaction of the Town.
71. The Owner agrees to install any protective measures required to ensure the health and survival of all existing vegetation in accordance with the approved studies and current professional practice. The Owner further agrees to maintain the protective fencing in a state of good repair at all times.
72. The Owner agrees to remove any unnatural debris, fencing, encroachments, construction debris or other garbage which accumulates in the Neighbourhood Park block, the Terrestrial Corridor blocks and the Union Gas Corridor until such time at which Community Services staff undertakes a final inspection of the blocks for conveyance to the Town of Milton.

#### **CN Railway**

73. A 30 metre safety setback of habitable buildings from the railway rights of way is required in accordance with the CN Railway mainline requirements.
74. Drainage, servicing and stormwater management plans/reports, demonstrating that there will be no adverse impacts on the Railway's existing drainage pattern, must be reviewed and approved by CN Rail.
75. The Owner is required to engage a consultant to undertake an analysis of noise and vibration in order to recommend abatement measures necessary to achieve the maximum level limits set by the Ministry of Environment and Canadian National Railway. Upon review and approval of the noise and vibration reports, all recommendations provided should be included in the Subdivision Agreement.
76. The Owner shall agree in the Subdivision Agreement, in wording satisfactory to CN, to the following:
  - a) construct and maintain an earthen berm a minimum of 2.5 metres above grade at the property line, having side slopes not steeper than 2.5 m to 1, adjoining and parallel to the railway right-of-way with returns at the ends;
  - b) construct and maintain an acoustic barrier along the top of the berm a minimum combined height of 5.5 metres above top-of-rail. The acoustic fence is to be constructed without openings and be of a durable material weighing not less than 20 kg per square metre of surface area. The Railway may consider other measures, subject to the review of the noise report;
  - c) install and maintain a chain link fence of minimum 1.83 metre height along the mutual property line; and
  - d) that 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.

77. The Owner 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.
78. The Owner will enter into an agreement with CN Rail stipulating how CN's concerns will be resolved and will pay CN's reasonable costs in preparing and negotiating the agreement.
79. The Owner agrees to include a clause in the Subdivision Agreement to ensure that CN Rail's warning clause survives the release of the Owner's obligations under the subdivision agreement and remains on title.
80. The Owner shall grant CN an environmental easement for operational noise and vibration emissions, registered on title against the subject lands in favour of CN Rail.

#### **Postal Services**

81. The Owner agrees to the following to the satisfaction of Canada Post Corporation:
  - a) c  
 consult with Canada Post Corporation to determine and provide suitable temporary mailbox locations which may be utilized by Canada Post until the curbs, sidewalks and final grading has been completed at the permanent community mailbox locations
  - b) c  
 consult with Canada Post Corporation to determine suitable locations for the placement of community mailboxes and to indicate these locations on appropriate servicing maps
  - c) p  
 provide the following for each community mailbox site and include these requirements on appropriate servicing plans:
    - i) an appropriately sized sidewalk section (concrete pad) as per municipal and Canada Post standards, on which to place the community mailboxes
    - ii) any required walkways across the boulevard, as per municipal standards
    - iii) any required curb depressions for wheelchair access
82. The Owner agrees that multiple blocks will have the appropriate Canada Post Delivery Policy applied as the required information becomes available and it is requested that information be provided to Canada Post by the Developer.

