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File No. 039206-000001

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DELIVERED BY EMAIL AND COURIER

(townclerk@oakville.ca)

Town Clerk
Clerk's Department
Oakville Town Hall
1225 Trafalgar Rd
Oakville, ON L6H 0H3

Dear Town Clerk:

Re: 11087258 Canada Inc.
560, 570 and 580 Winston Churchill Boulevard, Oakville, Ontario
Municipal File: 1601.028/01
Appeal of Site Plan Conditions – *Planning Act*, s. 41(12.0.1)

We are counsel to 11087258 Canada Inc. (“**11087258**”), the owner of lands municipally known as 560, 570, and 580 Winston Churchill Boulevard, Oakville (“**Subject Properties**”). The Subject Properties are approximately 12.9 hectares, located west of Winston Churchill Boulevard and south of the CN Railway.

The Subject Properties are currently vacant and are zoned to permit the three warehouse buildings intended to be constructed thereon. On June 27, 2022, the Town approved 11087258’s SPA Application subject to conditions. Since then, our client has worked to clear site plan conditions, including resubmissions in July 2022, August 2023, December 2023 and May 2024, and has satisfied all conditions. As the Town will not or cannot clear the conditions and issue final site plan approval, our client must appeal the site plan conditions.

Please accept this letter as notice of appeal of the conditions of site plan approval imposed by the Town of Oakville (“**Town**”) regarding the development of the Subject Properties, pursuant to s. 41(12.0.1) of the *Planning Act*.

SPA Application and Conditional Approval

11087258 submitted an application for site plan approval in July 2019 to facilitate the development of three industrial buildings on the Subject Properties (“**SPA Application**”). The SPA Application was

submitted in accordance with in-effect official plan designations and the applicable zoning by-law – the SPA Application was “as of right” and did not depend on any related *Planning Act* approvals.

In response to public input and Town staff comments, 11087258 resubmitted the SPA Application in March 2021 and again in December 2021. As revised, the SPA Application proposes construction of three warehouse buildings with a total floor area of approximately 59,000 square metres.

The lands immediately north of the Subject Properties (700 and 750 Winston Churchill Boulevard) are subject of an application for site plan approval (SP.1601.029/01) for two warehouse buildings (the “**Adjacent Properties**”). The owner of the Adjacent Properties is represented by Denise Baker of WeirFoulds. Our client and the owner of the Adjacent Properties are co-ordinating on matters of mutual interest, such as servicing.

On June 9, 2022, Ms. Baker delivered a commitment letter to the Town on behalf of both 11087258 and the proponent of the site plan application for the Adjacent Properties. The letter recorded the landowners’ commitment to (1) make a financial contribution towards trail construction, a splash pad and tree plantings; (2) agree to a colour for the exterior of the buildings (which is a matter otherwise beyond site plan control); and (3) include certain clauses in the site plan agreements regarding lease restrictions and phasing of development.

On June 27, 2022, the Town’s Planning and Development Council approved the SPA Application, subject to conditions set out in Appendix A of the June 14, 2022, Staff Report (which conditions are attached to this letter as Schedule A) and the following, additional condition:

The Owner shall evaluate the ultimate operating condition of the site, based on full build-out, and identify any required traffic, noise and vibration mitigation measures, prior to final approval of the site plan. This evaluation shall be reviewed by the Town's peer review consultants at the expense of the Owner. Installation of any mitigation measures identified and required by the evaluation shall be incorporated into the final plans and studies and implemented prior to occupancy of any of the proposed buildings.

(together with the conditions attached as Schedule “A”, the “**Site Plan Conditions**”).

The site plan application for the Adjacent Properties was also approved on June 27, 2022, subject to similar conditions.

Following conditional approval of the SPA Application in June 27, 2022, 11087258 submitted materials in July 2022, August 2023, December 2023 and May 2024 in order to clear the conditions of site plan approval. In our client’s view, all conditions within its control have been satisfied. Conditions that require submission of a peer review have been satisfied to the extent of submission of the peer review, including the condition noted above. Even where our client understands Town staff to be satisfied with the peer review submission, staff have not been permitted to clear the associated condition.

On April 18, 2024, 11087258 requested an extension for SPA Application. The Town approved the request on April 23, 2024, extending the conditional approval of the SPA Application to June 27, 2026.

Appeal of Unsatisfactory Conditions

11087258 is not satisfied with the requirements imposed by the Town pursuant to s. 41(7) of the *Planning Act* and hereby appeals the unsatisfactory requirements (all conditions), including the terms of any agreement required, to the Tribunal pursuant to s. 41(12.0.1) of the *Planning Act*. Our client has requested that the site plan agreement be produced by the Town, as execution of same is a condition, and the Town has not produced the agreement.

The SPA Application conforms with the Town's Official Plan, Halton Region's Official Plan, and the applicable zoning, and represents good planning. Further the SPA Application satisfies all requirements under section 41 of the *Planning Act*, and 11087258 has satisfied all of the Site Plan Conditions. If the Town is of the view that the Site Plan Conditions, or some of them, have not been satisfied, then our client appeals those conditions as inappropriate and unreasonable, given the Town's delay in clearing conditions, establishing fee payments as required by some conditions, and generally responding to attempts to clear the conditions.

11087258 has worked diligently and on a timely basis to provide information and reports that would enable the Town to properly fulfill its statutory requirements regarding the clearance of the Site Plan Conditions for the Subject Properties. Each new submission is met with further requests for information, beyond that which our client believes is necessary or appropriate to clear the conditions, such that the conditions remaining to be cleared must be unreasonable or incapable of satisfaction.

Notwithstanding the delegation of authority to approve site plans in accordance with s. 8 of the Town's Site Control By-law 2019-114 (since repealed and replaced by By-law 2022-093), Town Council withdrew delegated authority for the SPA Application. On February 28, 2022, Council passed a motion requiring the Director of Planning to refer the SPA Application (together with SP.1601.029/01) to Council for review and consideration.

The *More Homes for Everyone Act, 2022* ("Bill 109") received Royal Assent on April 14, 2022. Bill 109 added s. 41(4.0.1) to the *Planning Act*, which requires site plan approval to be delegated to staff for applications made on or after July 1, 2022. While the SPA Application was filed before July 1, 2022, the Bill 109 amendments to the *Planning Act* regarding site plan approval reflect the provincial direction that municipal councils are not the appropriate body to make decisions regarding site plan approvals or clearance of conditions. The intention underlying this statutory change – expeditious processing of site plan matters – has not been met in this case.

Despite 11087258's efforts, the process of clearing the Site Plan Conditions has not progressed in an efficient or timely manner since the SPA Application was approved on June 27, 2022. The construction of the employment use on the Subject Lands has still not commenced – more than 22 months since the Town conditionally approved the SPA Application.

Conclusion

11087258 therefore asks the Tribunal to hear and determine the matters at issue regarding the Site Plan Conditions and determine that the conditions have been satisfied and cleared, establish the terms for any agreement, or in the alternative determine that the conditions are unreasonable.

In accordance with the Tribunal's filing requirements, please find enclosed:

1. Tribunal appeal form "Appeal Form (A1)" completed and signed; and
2. Our firm cheque in the amount of \$1,100.00 payable to the Minister of Finance in respect of the Tribunal's filing fee for this appeal.

It is our understanding that the owner of the Adjacent Properties is filing a similar appeal with respect to its site plan application and the failure of the Town to clear conditions. It is our client's respectful submission that the within appeal should be heard together with the appeal filed for the Adjacent Properties, given a shared interest in certain servicing infrastructure and resulting similarity of site plan conditions. Both appeals have many identical or very similar conditions pertaining to matters on and off site.

Kindly confirm receipt of this appeal and processing of the record for the Tribunal. If you have any questions or concerns, please contact the undersigned.

Yours very truly,

BORDEN LADNER GERVAIS LLP



J. Pitman Patterson

JPP/LE

cc Client
Oz Kemal, MHBC, okemal@mhbcplan.com
Denise Baker, WeirFoulds, Counsel to owner of Adjacent Properties, dbaker@weirfoulds.com



APPENDIX A: Conditions of Approval SP.1601.028/01 – June 11,22

Conditions of Site Plan Approval (560, 570 and 580 Winston Churchill Blvd. formerly 560 WCB)

Please note that the status of the conditions may be subject to change as revisions to satisfy one condition may trigger further revisions in other areas to maintain compliance. Clearance on any one plan does not imply that the plans are approved. Drawings can only be considered approved once a coordinated site plan package is received, compliant with all conditions, and final site plan approval is granted.

- A. The following conditions must be satisfied prior to final site plan approval. Read these conditions in conjunction with the most current Comments Report.
 - 1. **Planning Services** – That the Owner submits the following, to the satisfaction of the Planning Services Department:
 - a) **Final Drawings** - That the Owner submits coordinated final drawings, to the satisfaction of the Planning Services Department.
 - b) **Final Reports** – That the Owner submit final stamped versions of the technical reports listed in Schedule “B” to these conditions, including any appendices/updates, to the satisfaction of the Planning Services Department.
 - c) **Site Plan** - That the applicant revise the site plan to the satisfaction of the Planning Services Department.
 - d) **Landscape Plan** - That the applicant revise the Landscape plan to the satisfaction of the Planning Services Department.
 - e) **Tree Canopy Plan and Canopy Calculation Chart** - That the applicant revise the site tree canopy plan and canopy calculation chart to the satisfaction of the Planning Services Department.
 - 2. **Site Plan Agreement:** That the Owner enter into a standard form Site Plan Agreement with the Town, to be registered on title, containing clauses satisfactory to the Director of Planning, Director of Transportation and Engineering, Parks and Open Space and the Town Solicitor, securing the implementation of the approved drawings and reports and compliance with the conditions of site plan approval, including but not limited to the matters listed in Schedule “A” to these conditions.
 - 3. **Cost Estimate:** That the Owner provides a detailed written estimate of costs for any Off-Site Works associated with the servicing through the Towns Park, including but not limited to construction of the services, landscaping, and restoration of the existing berm, walkway, extension of the existing berm and associated landscaping. This estimate is to be reviewed and approved by the Planning Services, Parks and Open Space, and Legal prior to final approval.
 - 4. **Securities:** That the Owner deposit securities with the Finance Department, in a form meeting the Finance Department's requirements, covering the full costs of the items specifically noted in these conditions in addition to the Town’s standard lump sum security requirements. The reference to specific items in this condition is for the purpose of calculating the total amount of security required and shall not affect the ability of the Town to treat the securities as a single lump sum securing compliance with site plan conditions.
 - 5. **Zoning:** That the Owner submits or obtains the following, to the satisfaction of the Building Services Department.
 - a) Provide confirmation that the final Approved Site Plan complies with By-law 2014-014, as amended, specifically with respect to Section 4.14 a).

6.	Transportation and Engineering: That the Owner submits or obtains the following, to the satisfaction of the Transportation and Engineering department:
a)	Stormwater Management Plan and Report - That the Owner submit a revised and final Stormwater Management Report, addressing the detailed comments provided by the Transportation and Engineering Department.
b)	Grading, Drainage and Servicing Plans - That the Owner submit a revised and final grading, drainage and servicing plans, addressing the detailed comments provided by the Transportation and Engineering Department.
c)	That the Owner prepares and implements a report outlining erosion and siltation controls measures required prior to and during the construction of the subject development to the satisfaction of Credit Valley Conservation Authority and the Town of Oakville.
d)	Tree Removal - The owner shall provide written confirmation from the abutting land owner for the removal of trees #3, 8, 37, 40, 53, 1401, 1402, 1404, 1407, 1410 and 1421 or in the alternative provide proof that these are not boundary trees.
e)	Tree Protection Plan - That the Owner submit a revised and final tree protection plan, addressing the detailed comments provided by the Transportation and Engineering Department.
f)	Tree Protection - The Owner shall install tree protection for any retained trees and/or municipal trees in accordance with Town standards.
g)	Transportation Impact Assessment - That a final and revised Transportation Impact Analysis be submitted addressing the transportation requirements outlined by the Town of Oakville Peer review team as well and the Regions of Halton and Peel requirements.
h)	Site Plan/Landscape Plan –That the Owner revises the site plan/landscape plan to include: <ul style="list-style-type: none"> • Pedestrian connections to the future sidewalk, future controlled intersections (traffic signals, stop controls) and/or future transit facilities (bus stops). • Connections to future active transportation facilities (bike lanes/routes) where applicable. • Formal enclosure separating heavy vehicle loading traffic from other private vehicle traffic with the exception for emergency vehicle traffic.
i)	Traffic Peer Review – That the Owner reimburses the Town for the cost of the Town’s Traffic peer review.
7.	Legal: That the Owner submits, obtains or completes the following, to the satisfaction of the legal department:
a)	Easement: The Owner shall compensate the Town the market value of any easement being granted to the Region through the Town’s park lands as determined by the Town’s appraisal and reimburse the Town for all associated costs required to convey the easement including appraisal and legal costs.
8.	Parks and Open Space: That the Owner submits, obtains or completes the following, to the satisfaction of the Parks and Open Space department:
a)	Arborist Report/Tree Preservation Plan - That the Owner submit a revised and final Arborist report/Tree Preservation Plan to reflect any municipal trees being removed to accommodate the servicing and future berm construction within Aspen Forest Park.
b)	Reference Plan – That the Owner provide a draft reference plan depicting the location of both the permanent and construction servicing easements.

	c) Tree Compensation - The Owner provide the Town compensation for the removal of any municipal trees or vegetation as a result of providing any servicing and future berm construction through Aspen Forest Park in accordance with By-law 2009-025 and the Town's "Tree Protection During Construction" procedure. In the alternative, the Owner will prepare and implement a replacement planting plan to compensate for any vegetation removed or injured.
	d) Tree Securities - The Owner shall provide securities to the satisfaction of the Town for the construction taking place in the Town's park.
	e) Tree Protection - The Owner shall install tree protection within Aspen Forest Park in accordance with the approved Tree Protection Plan and Town standards.
	f) Landscape Berm – The Owner shall submit a drawing package to be included in the approved drawings showing the proposed grades and planting of a landscape berm. Drawings shall depict general construction methods, materials, haul routes and final plantings.
	g) Fencing – The Owner revise the site plan/landscape plan to include a 1.2 m black vinyl chain link fence.
9.	Oakville Fire: The Owner shall submit a fire route application package with fee that meets the Town By-law requirements for drawing specification and be acceptable for inclusion onto the Town's By-law.
10.	Oakville Hydro: That the Owner satisfies all of Oakville Hydro requirements as outlined in the comments report.
11.	Region of Halton: That the Owner receives written approval from the Region of Halton. Items to be addressed include, but are not limited to, the following:
	a) That confirmation be received from Credit Valley Conservation that their requirements/conditions in relation to this application have been addressed and that they have no concerns with the approval of the site plan.
	b) That correspondence from the Ontario Ministry of Heritage, Sport, Tourism, and Culture Industries (MHSTC) be provided indicating that they have reviewed the Stage 1 and 2 Archaeological Assessments, are satisfied that the reports were prepared in accordance with Provincial requirements and that they have been entered into the Provincial Registry
	c) That a Land Use Compatibility Study/Studies be submitted to the satisfaction of Halton Region and the Owner confirm/demonstrate that all recommendations have/will be implemented.
	d) The Owner shall contact the Regional Services Permit Section for review and approval of the proposed water and sanitary servicing, to obtain water and sanitary sewer Services Permits, and pay all necessary fees.
	e) As part of the Services Permit Review, the Owner will be required to comply with Halton Region's multi unit servicing policy as set out in report PPW01-96, specifically Section 3.3
	f) That the Owner acknowledges and agrees that of all or part of this development may not take place before all external water and wastewater infrastructure necessary to service the development are secured and/or are in place to the satisfaction of Halton's Development Project Manager.
	g) That the Owner is required to design and construct at their sole expense a minimum 300mm diameter watermain as per the design standards of the Region of Halton along Winston Churchill Boulevard from approximately 650m north of Lakeshore Road (Deer Run Avenue) northerly to Beryl Road.

h)	That the Owner is required to design and construct at their sole expense a minimum 300mm diameter sanitary sewer as per the design standards of Region of Halton within the Town of Oakville's open space block located west of the subject property and walkway block (Block 124A) extending southward to Acacia Court.
i)	That the Owner is required to design and construct a proposed 300mm diameter replacement sanitary sewer on Acacia Court at their sole expense as per the design standards of the Region of Halton.
j)	That a minimum 8.0m wide Regional easement be provided on the Town of Oakville open space block and walkway block (Block 124A) and to be located along the horizontal alignment of the proposed sanitary sewer in favour of the Regional Municipality of Halton for the purpose of sanitary sewer protection. The easement shall be transferred by the Owner free and clear of any and all encumbrances and a Certificate of Title shall be provided in a form satisfactory to the Regional Director of Legal Services and Corporate Counsel.
k)	That the Owner is required to provide a comprehensive written work plan for the construction of the proposed sanitary sewer to be located in the Town of Oakville's open space block, walkway block (Block 124A) and on Acacia Court and submit it to the Town of Oakville and the Region of Halton for review and approval prior to the start of construction. This work plan is to address timing of the construction operations for this sewer and it shall include details on construction methods, sewer excavation, paving operations, landscaping restorations, traffic control, resident disruptions, sewer lateral "switchovers" and methods for replacing a "live" sanitary sewer. The proposed construction methods should also take into account sub surface soil conditions in the area to ensure that the proposed methods are feasible.
l)	That the Owner is to undertake a pre-condition survey of any existing buildings, houses, existing landscape features, fences, structures, etc. that are adjacent to the proposed sanitary sewer and that could possibly be affected by its construction. This survey is to be completed prior to the construction of the proposed sanitary sewer.
m)	The Owner shall prepare a Vibration Impact Report to the satisfaction of the Town of Oakville and the Region of Halton, to address potential vibration impact and/or vibration emissions adjacent to the portion of the sanitary sewer alignment that is located within the Town's walkway block (Block 124A) that may be the result of sub surface tunnel construction, heavy equipment and/or other construction operations in this area. The report shall address any impacts and the means of reducing the impact, and to implement, at the owner's expense, any controls and/or measures recommended in the approved report.
n)	That the Owner prepare and implement at their sole cost a landscape plan that address the restoration of areas disturbed and/or removed as a result of construction activities relating to the proposed sanitary sewer through the Town of Oakville's open space block, walkway block (Block 124A) and Acacia Court to the satisfaction of the Town of Oakville and the Region of Halton.
o)	That the Owner is responsible at their sole cost the restoration of Acacia Court that will be required as a result of construction activities for the proposed sanitary sewer replacement and will include the placement of full top course of asphalt pavement over the full width of the roadway, curb repairs, driveway repairs and landscaping of boulevards to the satisfaction of the Town of Oakville and the Region of Halton.
p)	That the Owner shall prepare a detailed engineering submission to be submitted to the Regional Development Project Manager for review and approval for the proposed 300mm diameter sanitary sewer in the Town's open space block, walkway block and Acacia Court and for the proposed 300mm diameter watermain on Winston Churchill Boulevard prior to the preparation of the Regional servicing agreement.

q)	That the Owner is required to enter into a Servicing Agreement with the Region of Halton for the proposed 300mm diameter sanitary sewer in the Town's open space block, walkway block and Acacia Court and for the proposed 300mm diameter watermain on Winston Churchill Boulevard.
r)	The development shall be subject to full municipal water and sanitary sewer services to the satisfaction of Halton Region
s)	That the Owner agrees to conduct a survey of the static water level and quality of all wells within 500 metres of the plan prior to the commencement of any development of the site. 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.
t)	That the Owner agrees to conduct a survey of the property to identify all existing wells related to the former use of the lands. The Owner further agrees to decommission any existing wells in accordance with MOE guidelines and Region of Halton standards prior to commencing the development of these lands to the satisfaction of Halton's Development Project Manager.
u)	The Owner shall agree that pre and post development storm water flows from the site to the existing drainage system on Winston Churchill Boulevard (Regional Road 19) are maintained both during and after construction, such that there are no adverse impacts to the existing drainage system on Winston Churchill Boulevard (Regional Road 19), to the satisfaction of Halton Region's Development Project Manager.
v)	That the Owner is responsible for all costs involved in transferring any proposed Regional easements required for sanitary sewer protection and that these costs are to include any compensation required by the Town of Oakville for and easements located on Town lands.
w)	That the Owner is required to design and construct a maintenance roadway/pathway as required within the Town's open space block, park land and walkway block (Block 124A) that will provide maintenance vehicle access to the proposed sanitary sewer and easement to the satisfaction of the Town of Oakville and the Region of Halton.
x)	That the Owner is required to arrange and provide any access easements, license agreements, encroachment agreements and/or other arrangements required by the Town of Oakville for the Region of Halton to obtain access within the Town's open space block, park land and walkway block (Block 124A) that will provide vehicle access to the proposed sanitary sewer and easement to the satisfaction of the Town of Oakville and the Region of Halton.
y)	That the Owner obtains all approvals from the Canadian National Railway for the proposed watermain extension and crossing of the existing rail lines north of the property and pays all fees and enters into any required licenses, pipe crossing and/or encroachment agreements, etc. necessary to cross the Canadian National Railway lands with the proposed watermain extension.
z)	That the Owner is responsible for implementing all the design and construction requirements of the Canadian National Railway for the proposed watermain crossing of the Canadian National Railway lands in relation to supporting, monitoring, surveying and coordinating all works and their impact on the existing railway line.
aa)	That a private easement be provided on the subject lands of 560/570/580 Winston Churchill Boulevard for the purpose of servicing the property known as 658 Winston Churchill Boulevard for a proposed private sanitary sewer forcemain to be located in the private easement.

bb)	That the Owner is required to design and construct at their sole expense a private sanitary sewer forcemain on the subject property in order to service the property at 658 Winston Churchill Boulevard.
cc)	The Owner must demonstrate, to the satisfaction of the Region's Development Project Manager that a permanent mutual private domestic sewer easement is to be provided that will ensure that access rights to and the maintenance of the private sanitary sewer forcemain on the subject property are addressed between the properties at 560/570/580 and 658 Winston Churchill Boulevard. The easement will be required to be described as parts on a reference plan. The transfer documents and/or mutual service agreement for the private sanitary sewer forcemain will be required to stand solely on their own, and not part of any other easement or agreement.
dd)	That any lands within 20.75m of the centre line of the original 66ft right-of-way of Winston Churchill Boulevard (Regional Road 19) that are part of the subject property shall be dedicated to the Regional Municipality of Halton for the purpose of road right-of-way widening and future road improvements.
ee)	A 0.3m reserve shall be dedicated to the Regional Municipality of Halton across the entire frontage of the development property along Winston Churchill Boulevard (Regional Road 19) except at approved access points.
ff)	All lands to be dedicated to Halton Region shall be dedicated with clear title (free and clear of encumbrances) and a Certificate of title shall be provided, in a form satisfactory to the Director of Legal Services or designate.
gg)	That the site plan be revised to depict all access locations on the east side of Winston Churchill and further shall demonstrate that the north access is aligned with the access locations on the east side, to the satisfaction of the Region of Halton.
hh)	That a survey sketch confirming the widening requirement, daylight triangle and 0.3metre reserve shall be submitted to the satisfaction of the Region. Any required road widening daylight triangle and the 0.3 metre reserve shall be depicted on the site plan to the satisfaction of the Region.
ii)	<p>That the Owner enter into a Servicing Agreement (with Peel Region) for the completion of required Works (road improvements) and all associated development construction processes and impacts. Road improvements will be determined after the review and approval of the final transportation impact study. The Owner is responsible for all costs associated with the improvements detailed as part of the works and must submit for approval detail design drawings and cost estimates. Detailed design drawings are required for review and approval, by Halton Region and Peel Region, for all proposed/approved intersection/access road improvements, based on the approved Transportation Impact Study.</p> <p>In this regard, Halton Region requests confirmation that any Region of Peel requirements related to access locations and development-related road improvements have been addressed and that they have no concerns with the approval of the site plan.</p>
jj)	That confirmation be received from Peel Region that their requirements/conditions in relation to this application have been addressed and that they have no concerns with the approval of the site plan.
kk)	<p>The owner shall demonstrate:</p> <p>a) that landscaping, stairs, grading/grades, etc., from the proposed development is not located within the ultimate Regional right-of-way, and all development facilities (stairs, landscaping, grading/grades, etc.,) are contained within the development lands</p>

	<p>b) that any proposed signage, plantings etc., for the site must be placed outside of the new Regional right-of-way (on private property).</p> <p>In this regard, submission of a satisfactory landscape plan and grading plan with supporting letter is required confirming that this has been addressed is required.</p>
ll)	The owner shall submit plans of proposed construction methods, for review and approval by Halton Region and prior to proceeding with construction. These plans shall be provided through the Servicing Agreement/detailed design drawing submission.
mm)	<p>The owner will be required to demonstrate that construction of any underground/above ground development infrastructure (underground parking, SWM tanks, buildings, etc.) will not impact or encroach upon the Regional right of way (i.e.: temporary or permanent infrastructure including structural tiebacks will not be permitted within the Regional Right of Way).</p> <p>In this regard, the owner shall submit shoring and other plans demonstrating that the above-noted requirement has been satisfied, to the satisfaction of Halton Region.</p>
nn)	The Owner shall submit a construction management plan to the satisfaction of Halton Region.
oo)	If it is determined that the construction crane swing will impact the Region's right-of-way, the applicant must enter into the Encroachment Agreement and/or submit a Municipal Consent application, with Engineering Drawings, for review and approval, which would go through Halton's internal review process to various staff & departments. There will be specific requirements for the Agreement/Municipal Consent, including fees, security deposit, etc., (to be determined by staff as part of the review process), and a due date for final completion.
12.	Region of Peel - That the Owner receives written approval from the Peel Region. Items to be addressed include, but are not limited to, the following:
a)	The Owner shall address all requirements of the Region of Peel's Site Servicing department including submission of a satisfactory Stormwater Management Report, grading drawings, and servicing drawings which address staff comments, and pay all necessary fees.
b)	The Owner shall agree that is the Region of Peel's mandate that no connections are made to the Region's stormwater infrastructure, no additional flow added to the Region's storm infrastructure, and no additional overland flow shall be directed to the right of way of Regional Road 19 (Winston Churchill Boulevard). The Grading Plan must demonstrate that high point is being maintained at the property line to ensure that there will be no spills and no sheet flow run-off from the private side to the Regional right of way
c)	The Owner shall address all requirements of the Region of Peel's Traffic Development department, including submission of a satisfactory Traffic Impact Study (TIS), satisfactory access requirements, property dedication requirements, and engineering requirements. All submitted documents must address staff comments, and all necessary fees shall be paid
d)	The Owner shall provide a gratuitous dedication of lands to meet the Regional Official Plan requirement for Regional Road 19 (Winston Churchill Boulevard) which has a right of way of 41.5 metres, equivalent to 20.75 metres from the centreline of the road allowance. The Region also requires the gratuitous dedication of a 15 x 15 metre daylight triangle at the intersection of Winston Churchill Boulevard and the future Orr Road, on either side of the access and a 0.3 metre reserve along the frontage of

	Winston Churchill Boulevard behind the property line and daylight triangles except at any approved access points. The applicant is required to gratuitously dedicate these lands to the Region, free and clear of all encumbrances. The applicant must provide the Region with any necessary easements, title documents, and draft reference plan(s) for review and approval prior to the plans being deposited. All costs associated with preparation of plans and the transfer of the lands will be solely at the expense of the applicant
e)	The Owner shall agree that landscaping, signs, fences, cranes, gateway features or any other encroachments are not permitted within the Region's easements and/or right of way limits. Cranes will not be permitted to swing over a Regional Road unless a crane swing licence has been granted
f)	The Owner shall submit a detailed traffic engineering submission of road and access works, designed, stamped, and signed by a Licensed Ontario Professional Engineer. The engineering submission must include the removals, new construction and grading, typical sections and pavement markings and signing drawings. A functional design is to be submitted as part of the engineering submission which addresses auxiliary turn lane requirements and geometrics for all accesses proposed off Winston Churchill Boulevard, including all dimensions. All works within Region of Peel's right of way must be designed in accordance with the Public Works, "Design Criteria and Development Procedures Manual" and "Material Specifications and Standard Drawings Manual".
g)	The Owner shall submit to the Region a detailed cost estimate, stamped and signed by a Licensed Ontario Professional Engineer, of the proposed road and access works within the Regional right of way. Securities shall be submitted in the form of either a letter of credit or certified cheque, in the amount of 100% of the approved estimated cost of road and access works along Winston Churchill Boulevard. A 10.8% engineering and inspection fee shall be paid to the Region based on the approved estimated cost of road and access works (minimum \$1,724.41). All costs associated with the design and construction of road and access works will be 100 percent paid by the Owner
h)	The Owner shall note that prior to commencement of works within the Region's right-of-way, the following is required to be submitted to the Region: <ul style="list-style-type: none"> a. Completed <u>Road Occupancy Permit</u> and a permit fee as per the Region's user fees and charges By-law; b. Completed <u>Notice to Commence Work</u> ; c. Provide proof of insurance with the Region of Peel added to the <u>certificate</u> as an additional insured with \$5 million minimum from the Contractor.
i)	The Owner shall note that any proposed construction within the Region of Peel's right of way is pending PUC approval (minimum six week process).
j)	The Region of Peel requires confirmation from Halton Region that their requirements/conditions in relation to this application have been addressed and there are no concerns with the approval of the site plan.
13.	Credit Valley Conservation (CVC): That the Owner receives written approval from the CVC. Items to be addressed include, but are not limited to, the following:
a)	Provide final detailed engineering/civil drawings prepared by a professional engineer, to the satisfaction of the Town and CVC, including but not limited to the following information:

	<ul style="list-style-type: none"> i. Any associated proposed grading required for this proposed development extending past the subject property onto the adjacent northern property (i.e., 700 & 750 Winston Churchill Boulevard) to be accurately delineated on the grading plans. ii. Accurate delineation of the floodplain hazard limit on the grading plans including any overtopping/impacts to Winston Churchill Blvd. iii. Any proposed grading to be located outside of the existing erosion hazard of the Clearview Creek watercourse and/or confirmation the works would not negatively impact the existing erosion hazard to be satisfactorily addressed. iv. Satisfactory erosion and sediment control measures including any staging and phasing drawings.
<p>b)</p>	<p>Provide final technical floodplain memo(s)/report(s) and hydraulic model prepared by a qualified professional, to the satisfaction of the Town and CVC including but not limited to the following information:</p> <ul style="list-style-type: none"> i. The differences in water surface elevation and velocity from the proposed works within the floodplain to be satisfactorily addressed. ii. The model is to follow the CVC Standard Parameters, unless otherwise directed or justified. iii. The inclusion of the stormwater management pond discharge to be included in the model and confirmation whether there are any resulting changes in water surface elevation from the existing to future conditions. iv. Any potential impacts resulting from the proposed grading to erosion potential to be satisfactorily addressed. v. Any potential impacts resulting from the proposed grading on the conveyance or design of the existing low flow channel to be satisfactorily addressed. vi. Any potential impacts to flood loss storage from the existing to proposed conditions from the 2-year to the 100-year and regional storms to be satisfactorily addressed. vii. Any potential impacts on the changes to the velocity from existing to proposed conditions from the 2-year to the 100 year and regional storm events to be satisfactorily addressed.
<p>c)</p>	<p>Provide a final stormwater management report prepared by a qualified professional, to the satisfaction of the Town and CVC, including but not limited to the following:</p> <ul style="list-style-type: none"> i. Identification of the flow path for uncontrolled runoff to Clearview Creek. ii. Combined flows discharging to Clearview Creek in the post-construction condition to follow CVC's guidelines.
<p>d)</p>	<p>Provide final detailed landscape plans to the satisfaction of the Town and CVC, including but not limited to the following information:</p> <ul style="list-style-type: none"> i. The inclusion of relevant timing windows for proposed tree removal. ii. Details on the design and installation of the proposed bat boxes.

14.	CN Rail (CNR): That the Owner receives written approval from the CNR. Items to be addressed include, but are not limited to, the following:
a)	Approvals - That the Owner obtains all approvals (including a Utility Crossing Agreement) from the Canadian National Railway for the proposed watermain extension and crossing of the existing rail lines north of the property and pays all fees and enters into any required licenses, pipe crossing and/or encroachment agreements, etc. necessary to cross the Canadian National Railway lands with the proposed watermain extension.
15.	Rogers: That the Owner will, in consultation with the applicable utilities and Communications Service Providers, prepare an overall utility distribution plan that shows the locations of all utility infrastructure for the Site Plan, as well as the timing and phasing of installation.
16.	Canada Post: That the Owner satisfies all of Canada Post requirements as outlined in the comments report.
B.	<p>Notes to the Owner:</p> <ol style="list-style-type: none"> 1. Site Plan approval does not include approvals of any proposed signage regulated by the Town of Oakville Sign By-law 2018-153, as amended. The Owner has been advised that all proposed signage must comply with the sign by-law or seek a variance to the by-law. 2. Upon site plan approval, a CVC permit is required prior to the commencement of construction on the subject property and prior to the issuance of municipal building permits. Landowner authorization for all properties where the proposed works, including any proposed grading/site alteration works, is required as part of the CVC permit application. A separate CVC permit fee would apply. 3. The Owner is to enter into satisfactory arrangements with the Town related to the payment of cash in lieu of parkland in accordance Section 42 of the Planning Act and the Town By-law 2008-105 and contact the Towns Manager of Realty Services no later than 90 days prior to their intended date to draw the first building permit for the proposed development or redevelopment, to arrange coordination of the necessary appraisal.

**SCHEDULE “A”
Site Plan Agreement Clauses**

General:

1. *“For the purposes of this agreement:*
 - a. *Approved Site Plan – refers to the final versions of the approved or accepted versions of the plans and drawings forming part of the site plan under section 41 of the Planning Act and any additional plans, drawings and reports referred to or required as part of the conditions of such approval.*
 - b. *Required Site Works – refers to all facilities, works, and landscaping identified on the Approved Site Plan located within the limits of the Owner’s property.*
 - c. *Off-Site Works – refers to all facilities, works and landscaping identified within the Approved Site Plan, located beyond the limits of the Owner’s property.*
2. *“This agreement will be registered against title to the property, and upon registration the municipality is entitled to enforce the provisions of the agreement against the Owner and, subject to the provisions of the Registry Act and the Land Titles Act, any and all subsequent owners of the land.”*

3. *“The obligations of the Owner, and any future owners of the property are joint and several. The Town reserves the right to enforce the obligations against either the original or any future Owners.”*
4. *“Subject to any extensions that may be granted, the site plan approval shall lapse:
 - a. if the conditions of approval required for the granting of final approval have not been satisfied within two years of the date of approval of the site plan;
 - b. If a building permit has not been issued within 2 years of the date of final site plan approval; or
 - c. If a building permit issued for the development is revoked.”*
5. *“The Owner agrees to develop the property in accordance with the Approved Site Plan and shall provide all Required Site Works and Off-Site Works identified on the approved site plan drawings or required by the conditions of approval to the satisfaction of the Town at the Owners expense. This includes any and all items secured under Schedule “C” – The Financial Obligations.”*
6. *“All works associated with this Site Plan approval shall have been completed prior to the 30th of June in the second year following the issuance of the building permit failing which Town staff may proceed to draw on the securities to complete all outstanding site plan conditions, and if the securities are insufficient, exercise its option under section 446 of the Municipal Act, 2001 to add the costs to the tax roll and collect them in the same manner as property taxes.”*
7. *“All technical documents, such as the transportation impact study, stormwater management and functional servicing report, land use compatibility study, noise feasibility study, significant woodlands assessment or arborist’s report, must be signed and sealed by a professional engineer or certified arborist, respectively.”*
8. *“The Owner shall prepare and implement an erosion and sediment control monitoring program prior to, during the construction and post construction of the subject development to the satisfaction of CVCA and the Town of Oakville. The erosion and sediment control monitoring program is to be completed in accordance with the approved Stormwater Management Report completed for the subject development.”*
9. *“The Owner agrees to implement the recommendations outlined in all studies forming part of the Approved Site Plan, including transportation impact study, stormwater management and functional servicing report, land use compatibility study, noise feasibility study, significant woodlands assessment or arborist’s report. Further the Owner agrees to modify the site plan as required to reflect the final approved studies.”*
10. *“The Owner will maintain a minimum tree canopy cover or potential canopy cover of at least 20% over the site area. Any tree removals authorized by way of Town permits will require the replanting of trees so as to maintain this minimum tree canopy cover target to the satisfaction of the Town.”*
11. *“All owners and tenants / future purchasers are required to maintain all access ramps and driveways, parking and loading areas, and walkways, unobstructed to ensure safe operations within this private development, and as there is insufficient on site snow storage, all snow cleared from the access ramps and driveways, parking and loading areas, and walkways shall be removed from the site. In no circumstance shall snow cleared from the site be placed in a manner that might damage private or public landscaping, fences, or impinge on adjacent properties or open space. The contracting for private snow removal from the site shall remain the sole responsibility of the owners and tenants / future purchasers.”*

12. *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.*
13. *"The Owner agrees to provide an easement, registered in the name of "Oakville Hydro Electricity Distribution Inc. for a pad-mounted transformer."*
14. *"The Owner agrees that any required pole relocations on Winston Churchill Blvd to be completed by Oakville Hydro at the expense of the owner/applicant."*
15. *"The Owner agrees to grant all necessary easements and maintenance agreement required by CRTC-licensed telephone companies and broadcasting distribution companies intending to serve the Site Plan (collectively, the "Communications Service Providers") at the owners cost. Immediately following the registration of the Site Plan, the Owner will cause these documents to be registered on title."*[Rogers]
16. *"The Owner agrees to be responsible for the cost of the traffic sign required to prohibit any truck traffic from using the south driveway to the satisfaction of Transportation and Engineering."*
17. *"The Owner agrees to restrict the loading and unloading of the loading bays closest to Winston Churchill Blvd in Building "A" in accordance with the recommendations of the Noise Feasibility Study.*
18. *The Owner agrees not to occupy the building on the north easterly portion of the property (Building C) until the westerly and southerly buildings are substantially complete and the acoustical walls are constructed. Further Owner agrees not to occupy the building on the southerly portion of the property (Building A) until the westerly building is substantially complete and the acoustical walls are constructed.*

Prior to Construction:

19. *Prior to construction or site alteration, the Owner is required to obtain a CVC and pay any necessary fees.*
20. *Prior to construction , the Owner shall contact Development Engineering Section to inquire about and obtain any permits or other approvals that may be required such as the following:*
 - a. *Driveway Permit*
 - b. *Excavation Permit*
 - c. *Sidewalk/Street Occupancy Permit*
 - d. *Boulevard (Streetscape) Permit*
 - e. *Construction Staging and Parking Plan*
 - f. *Any Boulevard & Road Restoration Details to be provided on civil drawings.*
 - g. *Any Major road improvements (pavement widening and storm sewers) shall be provided on standard Town drawing sheets and stamped by the Engineer.*
21. *"The Owner shall prepare a construction schedule for all Off-Site Works and submit it to the town in conjunction with the required pre-construction meeting."*
22. *"The Owner and/or their engineering consultant, shall arrange and hold a pre-construction meeting with the appropriate Town staff and the contractor to review construction staging, traffic control, material delivery routing, trades parking management, etc., prior to the commencement of any works, beyond that of the works approved prior to the date of this agreement."*

23. *"The Owner understands and acknowledges the construction challenges associated with developing this site including the construction of servicing and agrees to undertake all reasonable efforts to minimize disruption to the roads in the vicinity, Aspen Forest park uses and abutting residents vicinity of this development."*
24. *"The Owner understands and acknowledges that any use of the public road allowance, or Aspen Forest Park (for access, staging, storage, temporary parking, etc) abutting or near to the development is strictly prohibited without the approval of the Town of Oakville by way of permits."*
25. *"The Owner shall appoint a community liaison officer to this project. Community liaison officers are used to establish and maintain cooperative and communicative relationships with abutting property owners. The officer shall be an identified person whom is responsible for providing advance information to affected parties/persons of work operations that may cause temporary disruption to normal area activities and to ensure proper approvals are sought and secured before such works operations proceed. In the absence of a community liaison officer, the site-supervisor shall perform these tasks."*
26. *"All erosion and siltation control measures must be installed by the Owner and inspected by the Town's Transportation and Engineering Department prior to any site works being undertaken."*
27. *"The Owner agrees that all drawings for Off-Site Works relating to this project shall be approved by the Town prior to construction to the satisfaction of the Town's Director of Parks and Open Space."*
28. *"The Owner agrees that the following Off-Site Works are to be completed and operational prior to on-site operation commencing. These improvements include:*
 - *Sanitary Servicing through Aspen Forest Park*
 - *Watermain extension along Winston Churchill Blvd."*

Following Construction:

29. *"The Owner agrees to restore Aspen Forest Park to Town standards. All restoration works must be to the satisfaction of the Parks and Open Space Department and completed within a timeframe to the satisfaction of Director of the Parks and Open Space or designate, acting reasonably."*
30. *"The Owner shall not remove or alter or permit the removal or alteration of Required Site Works in a manner that would not comply with the Approved Site Plan without the consent of the Town."*
31. *"The Owner shall maintain all Required Site Works ensuring the Required Site Works function and perform as designed and/or intended. Should any Required Site Works fail to function or perform for any reason, the Owner shall promptly cause them to be repaired and/or replaced."*
32. *"The Town has the right to enter the property to install, inspect and repair at the Owners expense, if necessary, any Required Site Works."*
33. *"The Owner acknowledges and agrees to provide within 30 days of receiving a written request by the Town to do so, confirmation by a Professional Engineer licensed by the Province of Ontario, that the stormwater management components/facilities on and within the property are in-place and functioning as approved for the property."*
34. *"Should the Owner fail to provide the requested performance certification within 30 days due to identified issues with the stormwater management components/facilities, the*

Owner agrees to cause their repair within a period of time deemed reasonable by the Director of Transportation and Engineering. Follow the completion of repair works, the Owner will have seven (7) days to provide the required Performance Certification.”

35. *“Should the Owner fail to provide the requested performance certification for any other reason than that set out above, the Town may cause the review of the stormwater management components/facilities and all costs for review, remediation, repairs, etc. shall be at the expense of the Owners. If the Owners fail to pay the costs within 30 days of being advised of the amount by the Town, the Town may draw upon the securities and, if the securities are insufficient, may exercise its option under section 446 of the Municipal Act, 2001 to add the costs to the tax roll and collect them in the same manner as property taxes.”*
36. *“The Owner shall provide the Town of Oakville with confirmation from the land use compatibility/noise consultant that the recommendations from the final study(ies) have been implemented.”*
37. *“The Owner is required to maintain all access ramps and driveways, parking and loading areas, and walkways, unobstructed to ensure safe operations within this private development. In no circumstance shall snow cleared from the site be placed in a manner that might damage private or public landscaping, fences, or impinge on adjacent properties or open space. The contracting for private snow clearance/removal from the site shall remain the sole responsibility of the Owners and any tenants or future purchasers.”*
38. *“The Owner shall provide a 2-year warranty/guarantee period as it relates to on-site and municipal trees to the satisfaction of the Transportation and Engineering department and the Parks and Open Space department.”*
39. *“The Owner agrees to submit an inventory of all public trees planted by species, size, x/y coordinates and tree attributes in a digital format acceptable to Transportation and Engineering and Parks and Open Space prior to Site Plan security reduction”*

Future Site Plan Agreement “Schedule I – Additional Items”

Barristers & Solicitors



June 9, 2022

Via Email

Mr. Gabe Charles
Director of Planning
Town of Oakville
1225 Trafalgar Road
Oakville, ON L6H 0H3

Denise Baker
Partner
t. 416-947-5090
dbaker@weirfoulds.com

File 22378.00001

Dear Gabe:

RE: ONE Properties and 772 Winston Churchill LP- Site Plan Application for 772 Winston Churchill Blvd., Town File No. 1601.028/01 and 11087258 Canada Inc. – Site Plan Application for 560 Winston Churchill Blvd. Town File No. 1601.028/01

WeirFoulds LLP are solicitors for ONE Properties and 772 Winston Churchill LP, (collectively “ONE Properties”) regarding the redevelopment of its property located at 772 Winston Churchill Boulevard, in the Town of Oakville.

We are writing together with BLG, the solicitors for 11087258 Canada Inc. with respect to their property at 560 Winston Churchill Blvd., in the Town of Oakville. 11087258 Canada Inc. is represented in this capacity by Mr. Pitman Patterson of BLG, who is cc'd on this correspondence.

772 Winston Churchill Blvd. and 560 Winston Churchill Blvd. (collectively the “Properties”) abut one another, and both have site plan applications (the “Applications”) submitted with the Town. Both ONE Properties and 11087258 Canada Inc. are committed to ensuring that the redevelopment of their Properties is done in accordance with the Town’s zoning by-law, the designation by the Province as a provincially significant employment zone and the conditions imposed by the Town and based upon the servicing of the Properties through an easement in favour of the Region of Halton from Acacia Court, as shown in the site plan drawing packages which form part of the Applications.

Suite 10, 1525 Cornwall Road, Oakville, Ontario, Canada. L6J 0B2	T: 905-829-8600 F: 905-829-2035 www.weirfoulds.com
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In addition, on the basis that the Town approves the Applications on or before June 27, 2022 ONE Properties and 11087258 Canada Inc. jointly commit to the following:

1. A total contribution of \$250,000 payable prior to first building permit issuance for purposes such as of the installation of a trail on the Town owned lands, out to Winston Churchill Blvd, the construction of a splash pad within Aspen Forest Park and tree plantings at various locations in the vicinity of the Properties as required by the Town;
2. Finish any buildings on the Properties in a neutral palette;
3. Include the following provision in each of the site plan agreements pertaining to the Properties which states: "the Owner will undertake to insert a provision in any lease with respect to a reduction in the usage of loading docks after 11:00pm";
4. Include the following provision in each of the site plan agreements pertaining to the Properties which states: the Owner will undertake not to occupy the buildings on the easterly portions of the Properties, which abut Winston Churchill Blvd, in advance of the commencement of the exterior construction of the buildings located on the westerly portion of the Properties closest to the residentially zoned lands".

It is proposed that each of these commitments be secured through relevant clauses within each of the site plan agreements for the Properties, which is required to be executed prior to final site plan approval being granted.

Further comments on the conditions of site plan approval which have been provided by the Town will be forthcoming.

We look forward to hearing from you as soon as possible.

Yours truly,

WeirFoulds LLP

A handwritten signature in cursive script that reads "Baker".

Per: Denise Baker
Partner

DB/mw

Cc: J. Pittman Patterson, Borden Ladner Gervais

**SCHEDULE “B”
Technical Reports**

Report/Study	Revision/Date*		Consultant
Arborist Report	2	Nov 17/21	MHBC
Stormwater Management and Functional Servicing Report	2	Nov 25/21	A.M Candaras
Noise Feasibility Study	-	Sept 9/21	HGC Engineering
Transportation Impact Study	5	Nov 11/21	Crozier
Significant Woodlands Assessment	1	Nov 19/21	MTE
Land Use Compatibility Report	-	Nov 12/21	SLR Consulting
Archaeological Assessment-Stage 1 & 2		July 12/2019	The Archaeologists Inc.

* Note: The revision/date of the above reports may be updated to reflect future revisions to address staff/peer review comments.