

Planning and Development Council Meeting
February 12, 2018

Comments Received Regarding Item No. 4

Statutory Public Meeting Report - Town-Initiated Proposed Official Plan
Amendments - North Oakville East Secondary Plan and North Oakville
West Secondary Plan - North Oakville Secondary Plans Review,
File No. 41.15.56

[REDACTED]

From: James Xu [REDACTED]
Sent: Thursday, February 01, 2018 4:46 PM
To: Town Clerk
Subject: Opposing Item 4, Section 7.6.5.3 of the Proposed OPA - North Oakville East Secondary Plan

Good afternoon,

My name is James and I am one of the residents in Rural Oakville.

First, I would like to thank you for the opportunity to express my opinion of the Proposed OPA - North Oakville East Secondary Plan.

I am generally happy with the proposal, except item 4, section 7.6.5.3, regarding allowing a bonus up to 4 storeys beyond the maximum permitted building height.

I am opposing it because I feel this actually blocks a lot of the beautiful views of people who live right behind those buildings and especially when the max height is 8 storeys already, adding an extra 4 storeys to that seems a bit too much, and based on the census data you provided, it does not seem necessary to reach the density target by allowing this clause.

Thank you.

Best regards,
James

[REDACTED]

From: Fenghai Sui [REDACTED]
Sent: Tuesday, January 30, 2018 8:56 PM
To: Town Clerk
Subject: Statutory Public Meeting

From: Wu/ Yu Ning and Sui/Fenghai
[REDACTED] Larry Cres
Oakville, ON L6M 0T1
[REDACTED]

To: the Planning and Development Council
Jan. 30, 2018

Dear Friends,

Thank you for invitation to attend and provide input to the meeting hosted by Planning and Development Council.

We hope to build a community center including public library and swimming pools in new area in west of sixth line.

Thanks

Fenghai Sui/Yuning Wu



Virus-free. www.avq.com

Planning and Development Council Meeting
February 12, 2018

Comments Received Regarding Item No. 10

Application for Demolition and Removal under Section 34 of the Ontario
Heritage Act - 1313 and 1333 Dorval Drive, Oakville

February 5, 2018

By Email to townclerk@oakville.ca

Chair Drew Bucknall and Members of the Heritage Oakville Advisory Committee
Town of Oakville
Oakville Town Hall
1225 Trafalgar Road
Oakville, Ontario
L6H 0H3

Attention: Vicki Tytaneck, Town Clerk

Dear Ms. Tytaneck:

**Re: Application for Demolition and Removal under Section 34 of the Ontario
Heritage Act – 1313 and 1333 Dorval Drive, Oakville
Heritage Oakville Advisory Committee Meeting on February 6, 2018 –
Agenda Item 4.b.**

Introduction

We are counsel to ClubLink Corporation ULC and ClubLink Holdings Limited (“ClubLink”), the owners of the lands municipally known as 1313 and 1333 Dorval Drive in the Town of Oakville, which is commonly referred to as the Glen Abbey Golf Club property (“Glen Abbey”).

We understand that at a special meeting on February 6, 2018, the Heritage Oakville Advisory Committee will consider a report from the Town’s Planning Services Department, dated January 31, 2018 (the “Staff Report”), which recommends that ClubLink’s application under section 34 of the *Ontario Heritage Act* (“OHA”) for consent to the demolition/removal of the existing golf course and several buildings on the Glen Abbey property be refused.

We do not agree with the staff recommendation. Instead, we urge the Committee to support ClubLink’s application and advise Town Council accordingly.

Comments Regarding the Staff Report

We note that the Staff Report omits a significant amount of relevant information that the Committee requires in order to make an informed recommendation to Council.

For example, whereas the Staff Report makes reference to the *Provincial Policy Statement, 2014* (the “PPS”) and the *Growth Plan for the Greater Golden Horseshoe, 2017* (the “Growth Plan”), it cites only a select few policies. In doing so, the Staff Report is contrary to the PPS and the Growth Plan, both of which explicitly state that these provincial policy documents are to be read in their entirety and all relevant policies are to be applied to each situation.

Given that the proposed demolition/removal of the golf course and various buildings is intended to accommodate the proposed redevelopment of the Glen Abbey property for a mix of residential, commercial and open space uses, it is also important to consider all other relevant provincial policies, many of which fully support the proposed redevelopment.

Moreover, as confirmed in the reports prepared by ClubLink’s heritage consultant, ERA Architects Inc., the proposed redevelopment incorporates a number of measures to ensure that the property’s cultural heritage value is conserved. By contrast, and consistent with previous comments from Town staff, the Staff Report suggests that the only way in which the cultural heritage value of the property can be conserved is to retain the entirety of the existing golf course *in situ* and to maintain it, in perpetuity, to a standard suitable for championship golf. We continue to maintain that the Town is improperly using the OHA in attempting to regulate land use, or, more specifically, to mandate a specific use for the Glen Abbey property.

The Staff Report also notes that ClubLink had advised the Town that it would not be serving a notice of objection to the then proposed designation of the Glen Abbey property under section 29 of the OHA when the Town issued the Notice of Intention to Designate the Glen Abbey property (the “Notice”), and ClubLink did not require the matter to be referred to the Conservation Review Board (the “CRB”) for a hearing. Although these statements are true, the Staff Report fails to explain the reasons that ClubLink provided to the Town for its decision to not proceed with a formal objection to the Notice. ClubLink’s reasons were clearly set out in our letter addressed to the Town Clerk dated September 25, 2017, a copy of which is attached.

As you will see, one of the key reasons why ClubLink did not file a formal objection to the Notice is that ClubLink had decided to proceed with an application under section 34 of the OHA, which, if approved, would require the Town to repeal the heritage designation by-law or the applicable portions thereof. Thus, it should be abundantly clear that ClubLink’s decision to not formally object to the Town’s Notice does not constitute ClubLink’s acceptance of the Town’s statement of cultural heritage value or

interest, or the Town's description of heritage attributes of the Glen Abbey property. Indeed, Town staff is well aware of ClubLink's position in this regard, and yet staff continues to make public statements referring only to ClubLink's decision to not object to the Notice or have the matter referred to the CRB, but fails to explain or even acknowledge ClubLink's rationale.

The Staff Report asserts that the filing of an objection to a Notice of Intention to Designate "is the process provided in the [OHA] to determine whether the property in question should be designated". However, the report fails to acknowledge that the OHA also establishes a process (see section 34.3) whereby a municipal heritage designation must be repealed, in whole or in part, as a result of the approval of an application for demolition/removal under section 34 of the OHA, and there is no requirement for an owner to have formally objected to the designation in order to engage this process.

With respect to the materials submitted to the Town by ClubLink for its application under section 34 of the OHA, the Staff Report notes that the application form was "unilaterally modified by ClubLink". ClubLink modified the application form as a result of the Town's failure to cooperate with ClubLink in preparing the application for submission, despite the Town's own submission requirements that contemplate meaningful engagement between the Town and the applicant.

For example, whereas Town staff initially scheduled a pre-consultation meeting with ClubLink for October 31, 2017, and had requested and received from ClubLink additional information and a detailed meeting agenda, the Town advised just shortly before the scheduled meeting that it was no longer prepared to meet with ClubLink regarding the section 34 application, contending that it was of the view that what ClubLink was proposing was "legally beyond the scope of a section 34 OHA application". We strongly disagree with the Town's assertion, and this matter will now be determined through applications by ClubLink and the Town to the Superior Court of Justice that will be heard on July 16 and 17, 2018.

Finally, we note that the Staff Report indicates that Town staff has considered the checklists forming part of the Town-initiated *Cultural Heritage Landscape Conservation Plan for the Glen Abbey Property, January 2018* (the "Conservation Plan") in reviewing ClubLink's application for demolition/removal under section 34 of the OHA. Notwithstanding that ClubLink does not support the Conservation Plan, and challenges the Town's authority to approve the Conservation Plan in conjunction with the Town's recently enacted Cultural Heritage Landscape Conservation Plan By-law 2018-019, we observe that the Conservation Plan states that its purpose is "to guide future alterations of the Glen Abbey property that are likely to affect the heritage attributes of the property". In that regard, the Conservation Plan specifically references applications for consent to alter a designated property under section 33 of the OHA, which is a separate application process from an application for demolition/removal under section 34. By

contrast, there is nothing in the Conservation Plan itself that indicates that it is to be used to assess an application for demolition/removal under section 34 of the OHA.

Conclusion

The comments above are not intended to be an exhaustive response to all matters identified in the Staff Report. Rather, our comments are intended to provide the Committee with additional information, which has not been provided in the Staff Report, that the Committee should have in considering ClubLink's application for demolition/removal under section 34 of the OHA.

We continue to maintain that it is inappropriate for the Town to dictate that the existing golf course on the Glen Abbey property be retained in perpetuity, and maintained at all times to a condition suitable for championship golf. At the same time, it remains our position that the existing golf course and several related buildings can be demolished/removed to accommodate the proposed redevelopment of the property, and that the proposed redevelopment can occur in a manner that will properly conserve the cultural heritage value of the property.

For these reasons, we urge the Committee to reject the recommendation in the Staff Report. Instead, we ask that the Committee advise Council of its support for ClubLink's application for demolition/removal under section 34 of the OHA.

Kindly ensure that we receive notice of the Committee's decision regarding this agenda item. In the meantime, please do not hesitate to contact us if you have any questions or if you otherwise wish to discuss the contents of this submission.

Yours truly,
DAVIES HOWE LLP



Mark R. Flowers
Professional Corporation

Encl.

copy: Rodney Northey / Jennifer King, Gowling WLG (Canada) LLP
Client

September 25, 2017

By E-Mail to townclerk@oakville.ca

Vicki Tytaneck, Town Clerk
Town of Oakville
Oakville Town Hall
1225 Trafalgar Road
Oakville, Ontario
L6H 0H3

COPY

Dear Ms. Tytaneck:

**Re: Notice of Intention to Designate the Glen Abbey Golf Course Property
under Section 29, Part IV of the *Ontario Heritage Act*
Glen Abbey Golf Club – 1333 Dorval Drive, Oakville**

We are counsel to ClubLink Corporation ULC and ClubLink Holdings Limited ("ClubLink"), the owners of the Glen Abbey Golf Club property at 1333 Dorval Drive in the Town of Oakville (the "Lands").

On behalf of ClubLink, we are writing in response to the Notice of Intention to Designate the Lands under Section 29, Part IV of the *Ontario Heritage Act* ("OHA"), which was issued on August 24, 2017, after being endorsed by Town Council at its meeting on August 21, 2017 (the "Notice").

We are writing to advise that ClubLink will not be serving a Notice of Objection in response to the proposed designation under subsection 29(5) of the OHA and, likewise, ClubLink is not requiring that this matter be referred to the Conservation Review Board ("CRB") for a hearing under subsection 29(7) of the OHA.

However, it is important to note that ClubLink's decision to not serve a formal Notice of Objection should in no way be interpreted that ClubLink accepts the proposed designation, or that ClubLink believes that either the proposed Statement of Cultural Heritage Value or Interest or the Description of Attributes is appropriate.

Rather, it should be abundantly clear that ClubLink strongly disagrees with the proposed designation, and particularly the Town's proposed description of the heritage attributes. This is evident based on, among other things, the written submission we made on behalf of Clublink to Town Council dated August 21, 2017, a copy of which is attached.

As noted in that submission, the Town's proposed heritage attributes are extremely broad and overreaching, essentially extending to every portion of the golf course property, including "each tee, hazard, planting, fairway and green", which even contradicts the opinions of the Town's heritage consultants.

Further, many of the proposed heritage attributes are too vague to be capable of an objective assessment, including, for example, the following proposed attribute: "the carefully-designed visual unfolding of each hole as part of the golfing experience, both aesthetic and functional".

In addition, the proposed heritage attributes are not even factually correct. For instance, the description of heritage attributes refers to the "the close and ongoing association of the course design with Jack Nicklaus/Nicklaus Design" [emphasis added]. In fact, there is no "ongoing" association of the course design with Jack Nicklaus or his firm, Nicklaus Design, nor has there been any such association for several years. In fact, Town staff presumably knows that there is no "ongoing" association, as Jack Nicklaus confirmed during an interview with staff earlier this year that it had been "about a decade or so ago" when he had been consulted regarding some minor changes at Glen Abbey and that he could not even recall his last visit to the golf course other than to confirm that he had not been back to Glen Abbey "in a long while".

Moreover, the proposed heritage attributes improperly purport to require the "ongoing" use of the Lands as a golf course, retaining the "ongoing ability of the property to be used for championship, tournament and recreational golf", together with the "ongoing ability to host championship and other major tournaments, including the Canadian Open", which is an inappropriate use of the *OHA*. Town staff has previously acknowledged that the Town cannot dictate that the Lands be used to operate a golf course, nor can the Town control whether the Canadian Open is held at Glen Abbey at any time in the future. Indeed, Golf Canada has repeatedly confirmed that it is currently searching for a new, permanent home for the Canadian Open, and that Glen Abbey Golf Club is not one of the candidate sites.

Notwithstanding its clear opposition to the proposed designation, including the Town's description of the heritage attributes, ClubLink's decision to not serve a formal Notice of Objection and have the matter referred to the CRB for a hearing stems, in part, from the limited authority of the CRB under section 29 of the *OHA*.

In particular, as noted in subsection 29(8) of the *OHA*, the purpose of a CRB hearing under section 29 is to "determine whether the property in question should be designated". In this instance, the Lands are already "designated" under the *OHA*, and have been since 1993 by virtue of By-law No. 1993-112, albeit that by-law confirms that the reasons for designation pertain only to the exterior portion of the original RayDor estate house and do not extend outward to include the golf course.

Further, under subsection 29(12) of the *OHA*, the CRB only has authority to “make a report to the council setting out ... its recommendations as to whether or not the property should be designated under this Part ...”, and by virtue of subsection 29(14) the municipal council can then proceed with the proposed designation regardless of the CRB’s recommendations.

In this case, the Town’s collective actions, including its repeated failures to provide ClubLink with an opportunity for meaningful engagement in the process, confirm a clear intention to proceed along the course that the Town has established and, accordingly, ClubLink has no confidence that Town Council would do anything other than proceed with the proposed designation, regardless of the CRB’s recommendations. In this particular circumstance, ClubLink sees little value in proceeding with what would inevitably be a lengthy and costly hearing at the CRB, only to find itself in essentially the same position as it is today; namely, with the Town intent on proceeding with an ill-conceived designation under the *OHA*, which appears to be designed primarily to attempt to frustrate ClubLink’s redevelopment proposal for the Lands.

In order to accommodate and advance its redevelopment proposal, ClubLink will be proceeding with an application to the Town under section 34 of the *OHA* to remove the golf course and demolish all buildings on the Lands other than those that are proposed to be retained as part of the redevelopment plan; namely, the RayDor Estate House, which is currently leased to Golf Canada for their offices and the Canadian Golf Hall of Fame and Museum, together with three other tenants, and is intended to continue its commercial use, as well as the Stables, which are currently used as maintenance facilities for the golf course and are proposed to form part of a “Village Market” that will serve the broader community as part of ClubLink’s redevelopment proposal for the Lands.

The proposed removal of the golf course from the Sixteen Mile Creek valley will also enable this portion of the Lands to be re-naturalized and conveyed to a public authority as a condition of the approval of the redevelopment proposal. This would provide an opportunity for all members of the community to enjoy these lands and allow the Town to establish an important publicly accessible connection within the valley both north and south of the Lands.

As a result, ClubLink will be contacting the Town’s Heritage Planning staff to initiate the application process under section 34 of the *OHA*, including a request for a pre-consultation meeting in accordance with the Town’s guide entitled: “Notice of Intention to Demolish – *Submission Requirements*”, a copy of which is attached.

Assuming that ClubLink’s application for demolition/removal is approved, either by Town Council consenting to the application, or the Ontario Municipal Board ordering the Town to give its consent on an appeal under section 34.1 of the *OHA*, Town Council will be required under section 34.3 of the *OHA* to pass a by-law to repeal the proposed

designation by-law for the Lands, or the applicable portions thereof. Thus, this is a further reason why ClubLink has elected to not proceed with a formal Notice of Objection under subsection 29(5) of the *OHA* and require that the matter be referred to the CRB for a hearing at this time.

We trust that this letter clarifies ClubLink's position in response to the Notice. However, please do not hesitate to contact us if you have any questions or if you require anything further.

Yours truly,
DAVIES HOWE LLP



Mark R. Flowers
Professional Corporation

Encls.

copy: Douglas Carr, Town Solicitor, Town of Oakville
Client
Glen Schnarr / Colin Chung / Mark Bradley, Glen Schnarr & Associates Inc.
Michael McClelland, ERA Architects Inc.