



**SUBJECT: Deregistration By-law for existing registered plans of subdivision within the Millcroft neighbourhood**

**TO: Community Planning, Regulation & Mobility Cttee.**

**FROM: Community Planning Department**

Report Number: PL-34-20

Wards Affected: 6

File Numbers: 510-01

Date to Committee: May 12, 2020

Date to Council: May 12, 2020

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### **Recommendation:**

Approve By-law 28-2020 (attached as Appendix A), being a by-law to deem Blocks 107 and 108, Plan 20M-414; Block 247, Plan 20M-535; and Block 109, Plan 20M-694 as not being registered blocks within a Plan of Subdivision, pursuant to Section 50(4) of the *Planning Act*, R.S.O. 1990, c.P. 13, as amended.

### **PURPOSE:**

#### **Vision to Focus Alignment:**

This report aligns with the following focus area of the *2018-2022 Burlington's Plan: From Vision to Focus*

- Increase economic prosperity and community responsive city growth
  - Increasing options for housing across the city
  - Maintaining and continually developing a safe city

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### **Background and Discussion:**

In February 2020, the owners of the Millcroft Golf Course approached the City with a development proposal, which contemplated the redevelopment of portions of the existing golf course with new pockets of residential development.

As shown on Appendix B, the reconfiguration of the existing golf course would enable the redevelopment of four (4) low-density residential pockets as follows:

- Parcel A – 33 single detached dwellings proposed on an internal condominium road;
- Parcel B – 42 single detached dwellings proposed on an internal condominium road;
- Parcel C – 16 single detached dwellings proposed on an internal condominium road;
- Parcel D – 7 single detached dwellings proposed on an internal condominium road.

The proponents proposed that these residential pockets would be developed on private roads with connections to existing public roads and servicing systems.

On March 4, 2020, the City held a Pre-Consultation meeting, in which City staff and external agencies provided the proponents with preliminary feedback and identified the application requirements and processing steps required to facilitate the proposed development. At this meeting, planning staff noted that a plan of subdivision application may be required depending upon the type of condominium being proposed. The applicants indicated that they would like to proceed with a common element condominium and as such, they were of the opinion that a plan of subdivision application was not required to facilitate the proposed development, as the development pockets were already identified as blocks within registered plans of subdivision. The applicants indicated that it was their desire to submit a part lot control exemption and plan of condominium applications to facilitate the proposed development, in lieu of plan of subdivision applications. Notwithstanding, City staff committed to investigate the need for plan of subdivision applications further. City staff have now completed that review and are of the opinion that new plan of subdivision applications should be required to facilitate the proposed development.

As indicated by the proponents, the aforementioned pockets of development are currently shown as blocks within three (3) separate registered plans of subdivision, as follows:

- Parcels A & B: Blocks 107 & 108 of Plan 20M-414; Registered in 1987
- Parcel C: Block 247 of Plan 20M-535; Registered in 1990
- Parcel D: Block 109 of Plan 20M-694; Registered in 1998

Given that the proposed development areas are within registered plans of subdivision, the proponents indicated that it would be their preference to further subdivide these blocks into individual freehold residential lots and common element roadway blocks by way of removing or exempting Part Lot Control from parts of the registered plans of subdivision.

Once a plan of subdivision has been registered, a landowner can sell any complete lot shown within the plan; however, a landowner cannot sell a piece of a lot in the registered plan of subdivision without further approvals under *The Planning Act*. This is referred to as Part Lot Control and has the effect of preventing the division of land in a registered plan, without further approvals. A municipality can pass a by-law removing part lot control from all of part of a registered plan of subdivision (exempting land from part lot control) to permit the division of land into smaller parcels or lots. Exemption from part lot control is appropriate when a number of land transactions are involved, but the resulting changes will not affect the nature or character of the subdivision, as approved by municipal council. For example, exemption from part lot control can be used to facilitate the development of industrial subdivisions, where large blocks are further subdivided to accommodate the needs of each individual purchaser. Exemption from part lot control is also commonly used for semi-detached or townhouse development, as individual semi-detached or townhouse lots are not normally indicated on a registered plan of subdivision. This approach is used because of the difficulty the builder would have in ensuring that the common centre wall between two dwelling units was constructed exactly on the property line. In this scenario, exemption from part lot control allows the lot lines to be established with accuracy during or after construction of the semi-detached or townhouse units. It is important to note that in both of these examples, the resulting lot creation from the part lot control exemption did not affect the nature or character of the subdivision, as originally approved.

Many municipalities will only process exemptions from part lot control, that will have the effect of creating additional lots within existing communities, if the proposed development has been subject to a recent planning application, which clearly indicated the proposed changes to the lot configuration and which involved public participation. The reason for this is that the part lot control exemption process does not provide the opportunity for a municipality to complete a comprehensive review of the proposed development; conduct meaningful public engagement; include conditions of approval; enter into agreements; or collect fees / securities to ensure appropriate development. The proper tool to complete that type of review under *The Planning Act*, is the Plan of Subdivision process.

The plan of subdivision process is considered to be the main method of providing new lots in the City. Any development which proposes the creation of a new public road and / or the creation of more than 3 lots must do so by way of a plan of subdivision application. Subdivision applications are processed under Section 51 of *The Planning Act*, and ensure that land is suitable for the proposed use; that the proposal conforms to the applicable policy framework; and that the development can be appropriately serviced and accessed. A registered plan of subdivision is a legal document that shows the exact surveyed boundaries and dimensions of lots which buildings are to be constructed upon; the location, width and names of streets; and any open space blocks.

A plan of subdivision must be surveyed by an Ontario land surveyor, approved by the municipality, and registered in the local land registry system. A registered plan of subdivision creates new parcels of land which can be legally used for the sale of lots. Municipalities have the ability to designate any plan of subdivision, or part thereof, that has been registered for eight (8) or more years, not to be in a registered plan of subdivision. Doing so would remove the ability for landowners to create new lots through the part lot control exemption process, as outlined earlier.

When the Millcroft area was being designed and the associated plans of subdivision were being approved, the blocks where residential development is currently being proposed were designed and intended to be open space blocks, not intended for residential use. Given that the proposed changes would significantly alter the nature and character of the subdivisions, as originally approved, staff is of the opinion that it is not appropriate to utilize the part lot control exemption process to further subdivide these open space blocks for single detached residential purposes. In addition, the part lot control exemption process does not provide the ability for the City to complete a comprehensive review of the proposed development; conduct meaningful public engagement; include conditions of approval; enter into agreements; or collect fees / securities to ensure appropriate development. As such, staff is of the opinion that the subject blocks should be removed from the existing registered plans of subdivision, which would ensure that the proper planning applications are submitted to allow the City to conduct a proper evaluation of the proposed development. Staff also note that there is no right of appeal for property owners, of Council's exercise of its authority to remove lots or blocks from a registered plan of subdivision, under Section 50(4) of *The Planning Act*.

### **Options Considered**

If the City does not pass the deeming by-law, the blocks will continue to be separately conveyable blocks within registered plans of subdivision. As outlined earlier, these blocks could be further subdivided by way of part lot control exemption, which is not considered an appropriate process in which to complete a comprehensive review of a complex residential development proposal.

Staff also considered amending the City's Site Plan Control By-law in an effort to review the proposed development comprehensively through a Site Plan application. Staff do not recommend this approach as there are timing implications which could render this solution ineffective, as well as issues relating to reviewing single detached dwellings through the site plan process. Planning staff recommend that the Plan of Subdivision process is the correct process for this type of comprehensive residential development proposal, not the site plan process.

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**Financial Matters:**

Not applicable.

**Total Financial Impact**

Not applicable.

**Source of Funding**

Not applicable.

**Other Resource Impacts**

Not applicable.

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**Climate Implications**

Not applicable.

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**Engagement Matters:**

Notice of the passing of the by-law will be given within 30 days of the passing in accordance with Section 50(29) and (30) of the Planning Act. No notice is required prior to the passing of a by-law under Section 50(4).

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**Conclusion:**

Community Planning staff recommends the enactment and passing and subsequent registration of a by-law under section 50(4) of the Planning Act to deem Blocks 107 and 108, Plan 20M-414; Block 247, Plan 20M-535; and Block 109, Plan 20M-694 as not being registered blocks within a Plan of Subdivision.

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Respectfully submitted,

Kyle Plas, MCIP, RPP

Coordinator of Development Review

905-335-7600 ext. 7824

**Appendices:**

- A. Draft By-law 28-2020
- B. Proposed Development Sketch

**Notifications:**

Glenn Wellings – Wellings Planning Consultants Inc.

[glenn@wellingsplanning.ca](mailto:glenn@wellingsplanning.ca)

Frank Bon – FBDev Consulting Inc.

[frank@fbdevconsulting.com](mailto:frank@fbdevconsulting.com)

Kevin Singh – Argo Development Corporation

[kevin@argoland.com](mailto:kevin@argoland.com)

**Report Approval:**

All reports are reviewed and/or approved by Department Director, the Chief Financial Officer and the Executive Director of Legal Services & Corporation Council. Final approval is by the City Manager.

THE CORPORATION OF THE CITY OF BURLINGTON

CITY OF BURLINGTON BY-LAW 28-2020

A By-law deeming Blocks 107 and 108, Plan 20M-414; Block 247, Plan 20M-535; and Block 109, Plan 20M-694 not to be lots or blocks in a registered plan of subdivision for the purpose of Section 50(4) of the Planning Act,

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WHEREAS subsection 50(4) of the Planning Act, R.S.O. 1990, c. P.13, as amended, provides that a council of a local municipality may by by-law designate any plan of subdivision, or part thereof, that has been registered for eight (8) years or more, not to be a registered plan of subdivision for the purposes of subdivision control under subsection 50 (3) of the Planning Act;

AND WHEREAS the lands described below are lots and blocks within a registered plan of subdivision registered for a period of eight (8) years or more;

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

1.THAT those lands described as Blocks 107 and 108, Plan 20M-414; Block 247, Plan 20M-535; and Block 109, Plan 20M-694 in the City of Burlington, Regional Municipality of Halton, are hereby deemed not to be Lots and Blocks within a registered plan of subdivision for the purpose of Section 50(3) of the *Planning Act*.

2.THAT this by-law shall take effect on the date of its registration in the Land Titles Office for Halton (No. 20).

3.THAT notice of the passing of this by-law shall be given within 30 days of the passing thereof in accordance with Section 50(29) of the Planning Act.

Enacted and passed this 12th day, of May, 2020.

Mayor Marianne Meed Ward \_\_\_\_\_

City Clerk Kevin Arjoon \_\_\_\_\_

