

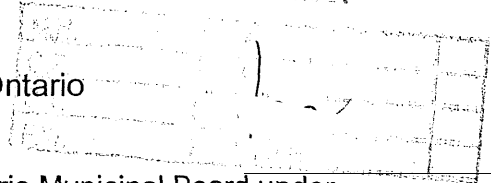
ISSUE DATE:  
**DECEMBER 4, 2001**

DECISION/ORDER NO:  
**1982**



Ontario  
**Ontario Municipal Board**  
 Commission des affaires municipales de l'Ontario

CITY OF BURLINGTON  
 PL000648



Garden Trail Developments Incorporated has appealed to the Ontario Municipal Board under subsection 53(14) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, from the failure of the City of Burlington to make a decision respecting a proposed plan of subdivision on lands composed of Part of Lots 9, 10, 11 and 12, Concession 1 E.F. in the City of Burlington  
 City File No. 24T-99005B  
 OMB File No. S000061

**BEFORE:**

J. L. O'BRIEN  
 Vice-Chair

) Friday, the 2<sup>nd</sup> day of  
 )  
 ) November, 2001

RECEIVED  
 01 DEC -7 4:58  
 CLERK'S DEPARTMENT  
 CITY OF BURLINGTON

**THE BOARD** has received a request to approve redline revisions to Phase II of the above noted plan of subdivision and revised conditions of approval for the proposed plan of subdivision. The Board, having reviewed the request and having received the consent of the City of Burlington and other commenting agencies, hereby approves said request.

**THE BOARD ORDERS**, upon the consent of the Parties, that the Decision/Order of the Board entered as No. 0496 and issued on April 5, 2001 is amended by replacing the draft plan with the revised draft plan prepared by Millington & Associates identified as Project N. 99H-272-PH2, dated June 24, 2001 and appended hereto as Attachment "1" and by replacing the draft plan conditions with the revised draft plan for Phase II as set out in Attachment "2"

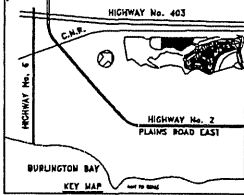
ACTION REQUIRED <input type="checkbox"/> Action Req'd <input type="checkbox"/> Info. Only <input type="checkbox"/> Reply to Clerk		CLERK'S DEPARTMENT CITY OF BURLINGTON	
Mayor's Office		City Manager's Office	
Finance		Public Works	
Parks & Parks Maint.		Human Resources	
Legal		Fire	
Engineering		Transit & Traffic	
I.T.S.		General Managers	
Sr. Management Class.		Mayor & Council Bnd	
Comments:			

*[Signature]*  
 ACTING SECRETARY



GARDEN TRAILS SUBDIVISION PHASE 2  
DRAFT PLAN OF SUBDIVISION OF  
PART OF BLOCK 152 AND BLOCK 154  
REGISTERED PLAN 20M-795  
CITY OF BURLINGTON

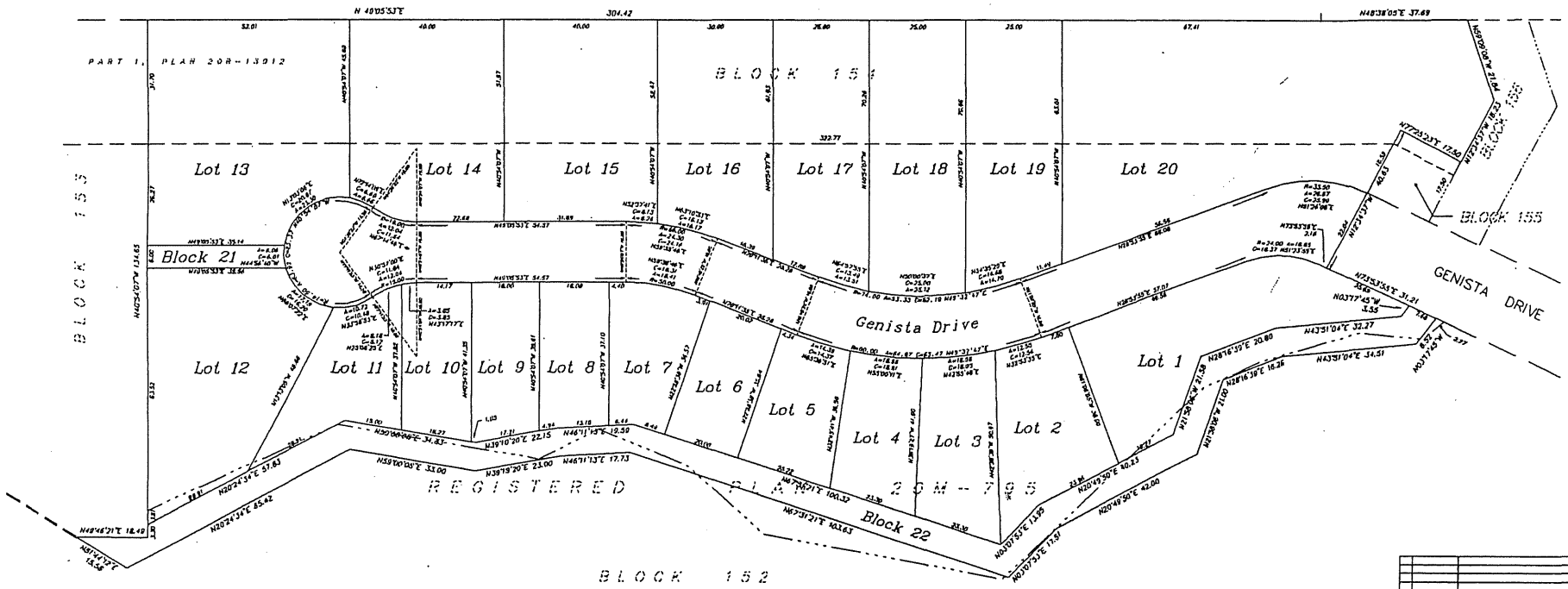
MACKAY, MACKAY & PETERS LIMITED  
ONTARIO LAND SURVEYORS  
2001



Distances shown on this plan are in metres and can be converted to feet by dividing by 0.3048

HIGHWAY No. 403

C. N. R.



DESIGN CRITERIA AND LAND USE SCHEDULE

USE	LOT/BLOCK	AREA (ha)	AREA (acres)
Single Residential	Lots 1 to 20	3.087	7.628
Buffer	Block 22	0.280	0.711
Walkway	Block 21	0.021	0.052
Street(s)	Genista Drive	0.485	1.199
<b>TOTAL</b>		<b>3.881</b>	<b>9.580</b>

REQUIREMENTS OF THE PLANNING ACT,  
1983 SECTION 50(2)

- (a) See Plan
- (b) See Plan
- (c) See Plan
- (d) See Design & Land Use Schedule
- (e) See Plan
- (f) See Plan
- (g) See Plan
- (h) Municipal Water
- (i) Clay Loom and shale
- (j) See Plan
- (k) Full Services
- (l) See Plan

SURVEYOR'S CERTIFICATE

I hereby certify that the boundaries of the total lands of the applicants to be subdivided and their relationship to the adjacent lands, are accurately and correctly shown as taken from plan 20M-795.

MACKAY, MACKAY & PETERS, O.L.S.

DATE \_\_\_\_\_ DASHA PAGE  
ONTARIO LAND SURVEYORS

OWNER'S CERTIFICATE

I hereby certify that the undersigned is the owner of the lands outlined in a heavy line shown on this plan and I hereby authorize TONY MILLINGTON & ASSOCIATES to submit this draft plan for approval.

GARDEN TRAIL DEVELOPMENTS INC.

DATE \_\_\_\_\_ DR. M. SHIH  
PRESIDENT

NO.	DATE	REVISION

SCALE - 1:500  
0 10 20 metres

**Millington & Associates**  
PLANNING & DEVELOPMENT CONSULTANTS

3380 South Service Road, Burlington, Ontario L7R 3J5  
Office: (905) 633-3802 Fax: (905) 333-6544  
E-MAIL: TONY@MILLINGTON-ASSOCIATES.COM

**MACKAY MACKAY & PETERS LIMITED**  
ONTARIO LAND SURVEYORS  
3300 SOUTH SERVICE ROAD  
BURLINGTON, ONTARIO L7R 3J5  
PHONE: (905) 333-1212  
FAX: (905) 333-8814  
E-MAIL: DASHA@MMP.LTD.COM

Property of Millington & Associates  
Scale: Metric & Total 1:500

Drawn by: G.L.B.  
Checked by: T.M.S.  
Reviewed by: T.M.S.  
Project No.: 01-01-01  
Project Name: GARDEN TRAILS SUBDIVISION PHASE 2  
Sheet No.: 1 of 1  
Date: 2001-01-01

**REVISED DRAFT PLAN CONDITIONS FOR PHASE II**

**Garden Trails Developments Limited  
510-02/05/99 (II)  
24T-99005/B (II)**

**O.M.B. File No.: S000061**

The conditions which shall be fulfilled prior to final approval of this plan of subdivision are as follows:

1. This approval applies to the draft plan certified by Mackay Mackay and Peters, O.L.S. and dated 2001, consisting of 20 detached dwellings lots, one open space block and one walkway/accessway block.
2. Prior to final approval of the plan, the owner shall enter into the City of Burlington's Standard Residential Subdivision Agreement and any other necessary agreement(s) in effect on the date of signing thereof, within three years of the date of Ontario Municipal Board approval; and acknowledge the implications of the standard conditions contained in the City's Standard Residential Subdivision Agreement
3. The owner shall complete the following to the satisfaction of the Director of Engineering of the City of Burlington:
  - a) dedicate the following to the City free of charge:
    - i) Block 21 (maintenance access to storm water management pond)
    - ii) Block 22 (open space/buffer block)
    - iii) a minimum 16-metre road allowance for Genista Drive
    - iv) any blocks for overland flow swales, walkways and/or utility purposes
    - v) any easements for other services and utilities

**NOTE: the final approval of any proposed road allowances less than 18.0 metres in width shall be subject to confirmation of road design and service locations**

permits, or make alternative phasing arrangements to the satisfaction of the City of Burlington's Director of Engineering

- m) prior to servicing of the plan, the owner agrees to inform the City which telecommunications and electrical utilities will be installing what services in the subdivision. Once identified, these telecommunications and electrical utilities shall confirm in writing with the City that their requirements have been satisfied
  - n) the owner acknowledges and agrees to prepare an overall utility distribution plan addressing the location (shared or otherwise), timing and phasing of all required utilities (on-grade, below-grade or above-grade), including gas, electrical, telecommunications, water, wastewater and storm water services, as well as driveway locations. Such overall utility distribution plan shall be to the satisfaction of all utility providers and shall be approved by the City prior to construction of any of the required utilities
  - o) agree to install temporary street name and stop signs on the street in the development as soon as base course asphalt has been placed on the road, and maintain the signs until such time as the permanent signs have been installed by the City
4. Complete the following to the satisfaction of the City of Burlington's Director of Engineering and Burlington Hydro Incorporated:
- a) agree to satisfy all the conditions and requirements, financial or otherwise, of Burlington Hydro Incorporated and provide the Director of Engineering with a clearance letter from Burlington Hydro Incorporated when its requirements have been met
5. The owner shall complete the following to the satisfaction of the Director of Engineering of the City of Burlington and Conservation Halton, in consultation with the Royal Botanical Gardens:
- a) undertake no regrading of the lands within, or within a distance of 7.5 metres of Open Space Block 22 or Blocks 153 and 156 of Registered Plan 20M-795 without the prior written approval of Conservation Halton, other than any restoration and enhancement measures required as determined by the approved Environmental Impact Study, and those works that have been issued a permit from Conservation Halton pursuant to Ontario Regulation 150/90
  - b) install temporary snow fencing or other equivalent measures prior to, and during, construction or regrading, along the limits of Open Space Block 22, the easterly limit of Lot 20, and the westerly limit of

- c) agree to provide all new home purchasers in the subdivision with an information brochure containing information on the ecological value and function of the natural areas bordering the subdivision, and appropriate stewardship behaviour such as domestic pet control, no debris/garbage dumping, no vegetation removal and no pedestrian access except at specified trail locations
- d) install 1.8-metre high black vinyl coated chain link fencing where the side or rear of lots abut the limits of Open Space Block 22 or Open Space Blocks 153 and 156 of Registered Plan 20M-795, all of which must be set back 0.3 metres on City or R.B.G. property. The fence must be installed prior to the issuance of building permits on adjacent lots
- e) on Block 21, install a gate in the fence along the easterly boundary of this block to preclude public access but to allow access from Genista Drive for City maintenance vehicles
- f) submit edge management and re-vegetation plans in conjunction with engineering lot grading plans, justifying the removal of any existing trees, and preserve and protect all existing vegetation where required by the City pursuant to the Tree By-law 19-1975. All trees to be removed or saved shall be shown on the engineering grading plans to the satisfaction of the City's Urban Forester
- g) agree to provide and maintain snow fencing or other protective barriers around the dripline of all trees identified for preservation, to be maintained throughout all phases of servicing and development, and ensure that trees designated for preservation are not removed or damaged
- h) agree that any trees identified for preservation which are removed or damaged as a result of construction activity shall be replaced with an equivalent value of tree planting
- i) undertake the following measures with respect to the existing safety/noise attenuation berm on Lots 13-20, adjacent to the railway line:
  - i) in order to ensure the long-term stability of the existing berm, re-grade and stabilize the side slopes of the existing berm to a gradient satisfactory to the City (minimum average 3:1 on the street side, with no slopes greater than 2.5:1 on the street side, and minimum 2.5:1 on the rail side)

including the construction of an access gate, are not permitted.”

- b) include the following warning clause in a registered portion of the subdivision agreement for Lots 13 to 20 inclusive, and in all offers of purchase and sale and reservation or lease agreement:

“Purchasers or tenants are advised that the existing berm located at the rear of these lots is designed for safety and noise attenuation from the railway, and may not be removed or altered in any way. Further, purchasers or tenants are advised that the maintenance of the berm is the responsibility of the homeowner.”

- c) include the following warning clauses in a registered portion of the subdivision agreement for all lots, and in all offers of purchase and sale and reservation or lease agreement:

- i) “Purchasers or tenants are advised that Unsworth Avenue is currently a two-lane road with a rural cross-section. Be advised that the City of Burlington will approve only very limited improvements in the future to the alignment and cross-section of Unsworth Avenue between the subject development and Plains Road, in order to maintain the existing character of this road as a rural cross-section. Traffic generated by this development shall be directed primarily to Sumach Drive through the use of intersection geometrics, signage and traffic calming measures in compliance with the approved traffic study.”
- ii) “Purchasers or tenants are advised that the valley lands and buffer areas abutting this property have been designed to maintain a natural setting. Be advised that the City or Royal Botanical Gardens will not carry out routine maintenance such as grass and weed cutting.”
- iii) “Purchasers or tenants are also advised that the valley lands abutting this subdivision may be used for general passive public recreation and leisure uses, including walkways/bikeways.”
- iv) “Purchasers or tenants are advised that, although the valley and buffer areas will have a 1.8-metre high fence around their perimeter, impacts on homeowners may result from deer and other wildlife from the adjacent valley areas

- a) in order to provide unobstructed access for emergency vehicles, construct Genista Drive with a minimum standard of 8.0 metres width of asphalt (8.5 metres width curb face to curb face) and post the street to prohibit parking on one side of the street
10. The owner shall complete the following to the satisfaction of the Director of Planning of the City of Burlington:
    - a) prior to final approval, submit a letter to the Region of Halton and City of Burlington withdrawing the previous subdivision File 24T-94008/B (510-02-4/94)
    - b) provide with the final plan a list of lot and block widths and areas prepared by an Ontario Land Surveyor, to ensure all lots conform to Zoning By-law 2020, as amended
  11. The owner shall complete the following to the satisfaction of the Director of Building of the City of Burlington:
    - a) ensure that the site soil conditions are suitable for footings of all buildings to be erected
  12. The owner shall complete the following to the satisfaction of the Director of Finance of the City of Burlington:
    - a) prior to registration of the plan, pay all outstanding taxes in arrears on the subject property, as well as all interest penalties associated with the tax arrears
  13. The owner shall complete the following to the satisfaction of the Director of Engineering and Director of Planning of the City of Burlington and the Director of Public Works and Planning of the Region of Halton:
    - a) make available to each prospective purchaser or tenant a copy of the Geo-Environmental Site Remediation Report, Peto MacCallum Limited, October 1999, and "Record of Site Condition" prior to entering into any Offers to Purchase, Agreements of Purchase and Sale or Lease and Reservation Agreements
  14. The owner shall complete the following to the satisfaction of the City of Burlington's Director of Engineering, the Region of Halton and Conservation Halton:
    - a) the developer shall agree that, should development be phased, a phasing plan shall be submitted prior to final approval of the first phase. The phasing plan will indicate the sequence of

- h) acknowledge in writing that registration of all or part of this plan of subdivision may not take place until he is notified by Halton Region's Development Co-ordinator that sufficient water storage and pumping facilities and associated infrastructure are in place
  - i) acknowledge to the satisfaction of Halton Region's Development Co-ordinator that there may not be sufficient waste water plant capacity to accommodate this development and that additional capacity may not become available within the term of this draft approval
  - j) acknowledge that granting of draft approval does not imply a guarantee by Halton Region to service this development within the term of the draft approval. The Regional Development Co-ordinator will advise the owner in writing at the time of first submission for engineering design approval of the availability of capacity of Regional services and the capacity which is available for the owner's development. The registration of all or part of this plan shall not take place unless Halton Region's Development Co-ordinator has confirmed in writing that capacity exists to accommodate this development. Halton Region's Development Co-ordinator will advise the owner in writing at the time of the first submission for engineering design approval of the availability of capacity of Regional services and the capacity which is available for this development
  - k) upon draft approval of this plan of subdivision, Regional services may be installed provided appropriate financial security, insurance and a letter of indemnity are posted to the satisfaction of the Region. If Regional services are installed prior to subdivision registration, the owner shall agree to provide the Region with "as constructed" drawings of these services, certified by a professional engineer, before registration takes place
16. The owner shall complete the following to the satisfaction of the Director of Engineering of the City of Burlington and the Ministry of Transportation:
- a) prior to registration, submit a copy of a storm water management plan to the Ministry of Transportation, indicating the intended treatment of the calculated runoff. The detailed engineering plan shall be at a 1:500 scale and must indicate the Highway 403 property line
17. The owner shall complete the following to the satisfaction of the Director of Engineering of the City of Burlington and the Canadian National Railway (CNR):



- ii) "The public is notified that the safety berm, fencing and vibration isolation measures implemented adjoining the CNR right-of-way are not to be tampered with or altered, and further, that the owner shall have sole responsibility for and maintain these measures to the satisfaction of CNR."
  - b) The owner shall enter into an amending agreement with CNR to address the revised site layout and lot numbering, and pay the CNR's reasonable costs in preparing and negotiating the agreement
- 19. The owner shall complete the following to the satisfaction of the Director of Engineering of the City of Burlington, the Region of Halton and the Canadian National Railway (CNR):
  - a) engage a consultant to provide an updated noise and vibration study, including any lot-specific mitigation measures
  - b) upon review and approval of the noise and vibration reports, include all provided recommendations in the Subdivision Agreement
- 20. The owner shall complete the following to the satisfaction of the Director of Engineering of the City of Burlington and Canada Post:
  - a) include on all offers of purchase and sale, a statement which advises the prospective purchaser:
    - i) that home/business mail delivery will be from a designated Centralized Mail Box
    - ii) that the developers/owners be responsible for officially notifying the purchasers of the exact Centralized Mail Box locations prior to the closing of any home sales
  - b) the owner further agrees to:
    - i) work with Canada Post to determine and provide temporary suitable Centralized Mail Box locations which may be utilized by Canada Post until the curbs and sidewalks are in place in the remainder of the subdivision
    - ii) determine the location of all centralized mail receiving facilities in co-operation with Canada Post Corporation and to indicate the location of the centralized mail facilities on

will be provided. The owner will make these signs to the specifications of the Halton Catholic District School Board and erect them prior to the issuance of building permits

23. Prior to signing the final plan, the Ontario Municipal Board shall be advised by the City Clerk's Department that Conditions 1 to 14 inclusive, and Conditions 16 to 20 inclusive, have been carried out to their satisfaction with a brief but complete statement detailing how each condition has been satisfied.
24. Prior to signing the final plan, the Ontario Municipal Board shall be advised by Conservation Halton that Conditions 5, 6 and 14 have been carried out to their satisfaction with a brief but complete statement detailing how each condition has been satisfied.
25. Prior to signing the final plan, the Ontario Municipal Board shall be advised by the Region of Halton that Conditions 13 to 15 inclusive have been carried out to their satisfaction with a brief but complete statement detailing how each condition has been satisfied.
26. Prior to signing the final plan, the Ontario Municipal Board shall be advised by the Ministry of Transportation that Condition 16 has been carried out to their satisfaction with a brief but complete statement detailing how the condition has been satisfied.
27. Prior to signing the final plan, the Ontario Municipal Board shall be advised by the Canadian National Railway (CNR) that Conditions 17 to 19 inclusive have been carried out to their satisfaction with a brief but complete statement detailing how each condition has been satisfied.
28. Prior to signing the final plan, the Ontario Municipal Board shall be advised by Canada Post Corporation that Condition 20 has been carried out to their satisfaction with a brief but complete statement detailing how the condition has been satisfied.
29. Prior to signing the final plan, the Ontario Municipal Board shall be advised by the Halton District School Board that Condition 21 has been carried out to their satisfaction with a brief but complete statement detailing how the condition has been satisfied.
30. Prior to signing the final plan, the Ontario Municipal Board shall be advised by the Halton Catholic District School Board that Condition 22 has been carried out to their satisfaction with a brief but complete statement detailing how the condition has been satisfied.