
SUBJECT: Recommendation report for Draft Plan of Vacant Land Condominium at 4030 and 4050 Upper Middle Road

TO: Committee of the Whole

FROM: Development and Growth Management
Community Planning

Report Number: DGM-13-26

Wards Affected: 4

Date to Committee: March 3, 2026

Date to Council: March 10, 2026

Recommendation

Approve the application submitted by Walkers Green Residences Ltd. to draft approve a vacant land condominium plan consisting of three (3) vacant land units at 4030 and 4050 Upper Middle Road, as shown in Appendix A of report DGM-13-26, subject to the conditions contained in Appendix B of the report.

PURPOSE:

Vision to Focus Alignment:

- ☒ Designing and delivering complete communities
 - ☐ Providing the best services and experiences
 - ☒ Protecting and improving the natural environment and taking action on climate change
 - ☐ Driving organizational performance
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Executive Summary:

MHBC Planning Consultants, on behalf of the landowner Walkers Green Residences Ltd. at 4030 and 4050 Upper Middle Road (the "Subject Lands"), has submitted a draft plan of vacant land condominium (VLC) application to facilitate the creation of three vacant land units located around the existing 4-storey residential condominium at 4040 Upper Middle Road. 4040 Upper

Middle Road contains driveways and other infrastructure that would become shared “common elements” of the units proposed in this application.

The proposed VLC will implement a conceptual master plan (referred to as Park City) for the site by establishing a land ownership and servicing framework that will support future high-density residential development through subsequent site plan and zoning approvals. The application does not propose any new buildings or physical development at this stage and functions primarily as a legal and planning framework to facilitate orderly phasing, shared access, servicing, and common elements across the broader development.

Planning staff have reviewed the draft plan of VLC application and are of the opinion that the application is consistent with and conforms to provincial planning documents, as well as the Regional Official Plan, Burlington Official Plan, and Zoning By-law. As such, staff are recommending approval of the application subject to conditions.

Recommendation Report

Background and Discussion:

RECOMMENDATION:		Approval	Ward:	4
Application Details	APPLICANT:	MHBC Planning Consultants		
	OWNER:	Walkers Green Residences Ltd.		
	FILE NUMBERS:	525-004/25(25T-25004/B)		
	TYPE OF APPLICATION:	Plan of VLC		
	PROPOSED USE:	Three (3) vacant land units		
Property Details	PROPERTY LOCATION:	Park City development on the southeast side of Upper Middle Road and Walkers Line intersection, in between the terminus of Tobyn Drive and Hydro One utility corridor to the north.		
	MUNICIPAL ADDRESSES:	4030 and 4050 Upper Middle Road		
	PROPERTY AREA:	3.088 hectares		
	EXISTING USE:	Vacant land		
Documents	OFFICIAL PLAN (1997) Existing:	Residential – High Density		
	OFFICIAL PLAN (2020):	High-Rise Neighbourhoods (stemming from OPA 3)		
	OFFICIAL PLAN Proposed:	No change proposed		
	ZONING Existing:	RH4-378 high density residential zone with a site exception #378		
	ZONING Proposed:	No change proposed		
	APPLICATION DEEMED COMPLETE:	October 14, 2025		

Processing Details	STATUTORY DEADLINE: COMMUNITY MEETING: PUBLIC COMMENTS:	February 11, 2026 (120 days) Not applicable Summarized under Engagement Matters
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The Subject Lands are located in the Park City development, to the southeast of the intersection of Upper Middle Road and Walkers Line, in between the terminus of Tobyn Drive to the south and the Hydro One utility corridor along the north side. Access to the Subject Lands is taken from the Tobyn Drive cul-de-sac with two access easements over the Hydro One utility corridor connecting the subject land to Upper Middle Road.

Surrounding and adjacent land uses are described below, and the applicable zoning of these properties is illustrated on Appendix C (Existing Zoning).

- North: Upper Middle Road, with a townhouse development and a commercial complex located further beyond.
- East: a natural heritage corridor associated with the Shoreacres Creek Valley.
- South: residential uses, including townhouses, stacked townhouses, and the Heritage Place retirement residence.
- West: the lands are adjacent to a commercial plaza containing a Bank of Montreal, Tin Cup Sports Grill, A&W, Rust Bistro Bar, and various other commercial uses.

The Subject Lands have been the subject of multiple planning applications and revisions over approximately 15 years. The VLC proposes to organize the Subject Lands into four development blocks including 4030 Upper Middle Road (Figure 1):

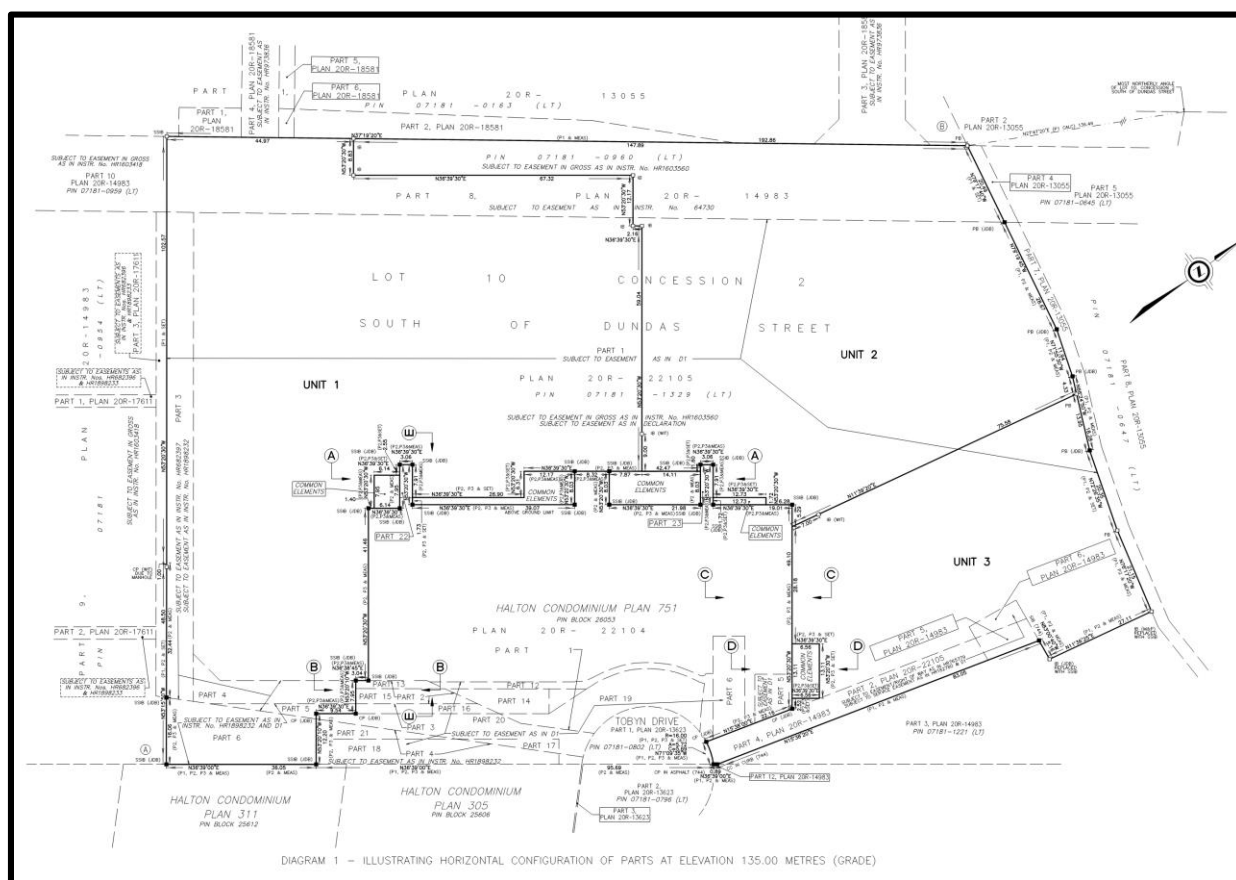


Figure 1

Block Development Summary Table					
Address	Block	Building Type	Height	Status	Units
4030 Upper Middle Road	Block 1	Residential	8 storeys	Proposed (MM-007/18)	≈240
4040 Upper Middle Road	Block 2	Residential	4 storeys	Constructed	Previously approved
TBD	Block 3	Seniors Residence	12 storeys	Proposed	188
TBD	Block 4	Seniors Residence	8 storeys	Proposed	132

Description of Application

The purpose of the VLC is to allow the developer to create legally conveyable condominium units consisting of land only, prior to any buildings or structures being constructed.

Under the *Condominium Act, 1998*, a VLC is defined as a condominium, in which the units are “not part of a building or structure and do not include any part of a building or structure” at the time of registration (s. 1(1), s. 155(1) and (2)). This form of condominium enables the establishment of legally defined ownership parcels before development occurs, while maintaining a condominium ownership structure.

The *Condominium Act* further requires that the condominium declaration and description identify unit boundaries, common elements, and all construction-related obligations and restrictions that will run with the land (s. 7 and s. 8). These documents establish the legal, servicing, and maintenance framework that will apply to all current and future owners within the condominium. Importantly, while a VLC allows for the early creation and conveyance of land units and the establishment of shared common elements, it does not authorize building construction. Any future development remains subject to separate municipal approvals and must comply with the condominium’s governing documents.

The application proposes three vacant land units, abutting common elements of Halton Condominium Plan 751 (4040 Upper Middle Road) to support the larger plan for the site, including the active Site Plan application MM-007/18 at 4030 Upper Middle Road and a forthcoming Zoning By-law Amendment. Proposed Units 1-3 are planned to accommodate future standalone buildings, with the abutting common elements at 4040 Upper Middle Road providing shared access and servicing for overall development. The proposed units do not contain any buildings that are attached to one another, nor are any units situated above another.

Supporting Documents

The applicant has submitted the following materials in support of the subject applications:

- [Vacant Land Condo Plan Submission Cover Letter - 2025-10-08](#), prepared by MHBC, October 8, 2025
- [Vacant Land Condo Plan - 2025-12-03](#), prepared by J.D. Barnes Limited, December 3, 2025
- [Vacant Land Condo Plan - Colour Mark-Up - 2025-12-03](#), prepared by J.D. Barnes Limited, December 3, 2025
- [Vacant Land Condo Description Letter - 2025-07-15](#), prepared by J.D. Barnes Limited, July 15, 2025
- [Vacant Land Condo Declaration v9 - 2025-08-20](#), prepared by Gowling WLG, August 20, 2025
- [Condo Application Form - 2025-06-16](#), prepared by MHBC, June 16, 2025

Supporting documents have been published on the City’s website for the subject application, [Walkers Green Residences Ltd. - City of Burlington](#).

Policy Framework

The proposed Plan of VLC application is subject to review against the Planning Act, Provincial Planning Statement (2024), Region of Halton Official Plan, City of Burlington Official Plan (1997

and 2020), and City of Burlington Zoning By-law 2020, as summarized below. Staff are of the opinion that the proposed application is consistent with and conforms to the applicable policy framework, as discussed below.

Planning Act: Draft Plan of VLC Criteria

Under the *Condominium Act*, 1998 Section 9(2), the provisions of sections 51, 51.1 and 51.2 of the *Planning Act* that apply to a plan of subdivision apply with necessary modifications to a condominium description (plan). The *Condominium Act* states that condominium applications are to be reviewed under the same provisions of the *Planning Act* that subdivision applications are reviewed under. The approval authority must consider the same matters (such as conformity with Official Plan, servicing, access, environmental impacts, etc.) that apply to a draft plan of subdivision under s. 51 of the *Planning Act*.

Section 51(24) of the *Planning Act* outlines criteria that approval authorities are to have regard to when considering a draft plan of VLC, including:

<i>Planning Act</i> Consideration	Analysis
Whether the proposed VLC is premature or in the public interest	The proposed VLC establishes new vacant units that can be redeveloped at a scale consistent with the zoning and Official Plan permissions for the lands. The VLC provides a mechanism to establish ownership parcels and common elements in advance of future development, without authorizing building construction. Halton Region and City Engineering Services staff have identified that municipal water and wastewater infrastructure exists in proximity to the subject lands. The adequacy and capacity of servicing, as well as the ability of community infrastructure such as schools and parks to support the ultimate development, will be evaluated and confirmed through the submission and review of detailed technical studies at the rezoning and subsequent site plan stages, in accordance with the draft plan conditions. The future development plan includes establishment of a private road network, including an extension into a cul-de-sac of Tobyn Drive and two access points to Upper Middle Road. The proposed VLC conforms to the RH4-378 High Density Residential Zone and represents an incremental and orderly progression of development within the surrounding neighbourhood. As such, the proposed VLC is not premature and is considered to be in the public interest.

Whether the plan conforms to the Official Plan and adjacent plans of VLC, if any	The proposed VLC conforms to the City's Official Plans (1997 and 2020) and the Regional Official Plan. The lands are designated for high density residential uses, and this VLC application represents an interim step intended to facilitate future land rights and transfers in advance of subsequent approvals and construction, in conformity with the City's Official Plans.
The suitability of the land for the purposes for which it is to be subdivided	Development Engineering will assess the application in accordance with City requirements and will require updates to the Functional Servicing and Stormwater Management Report to confirm that stormwater controls adequately accommodate the private roadway system. As a condition of draft approval, the owner will be required to update all related engineering reports and plans, including the Master Concept, Servicing, Grading, Phasing, and Stormwater Management Plans, address outstanding Site Plan Agreement obligations, provide necessary easements and securities, and implement all recommendations of the final approved reports.
The number, width, location and proposed grades and elevations of highways, and the adequacy of them	The existing access points for the subject lands are not changing. The draft plan of VLC identifies easements in place for shared access and utilities between the proposed units and the abutting condominium development at 4040 Upper Middle Road. Transportation Services staff have reviewed the proposal and have no concerns from a traffic perspective.
The dimensions and shapes of the proposed lots	The overall lot parameters and the proposed units as conveyable interests conform to the Zoning By-law and are appropriately shaped and dimensioned. Zoning By-law 2020 requires a minimum parcel area of 0.2 hectares and a minimum width of 45 metres. Extensive reciprocal access and utility easements traverse the lands, facilitating the functionality of the subject parcel, 4040 Upper Middle Road, and Walker's Plaza as a coordinated master planned development.
Restrictions on the land proposed to be subdivided or adjoining lands	N/A

Conservation of natural resources and flood control	The subject lands are not located within a floodplain and do not contain natural heritage features or areas as defined by the Provincial Planning Statement. Stormwater management and drainage will be assessed and addressed to the satisfaction of Development Engineering.
The adequacy of utilities and municipal services and school sites	Burlington Hydro, Enbridge, Hydro One, Halton Region, City departments, and other utilities have been circulated and have raised no objections. Any required modifications to existing services will be addressed through conditions of draft approval.
Land to be conveyed or dedicated for public purposes	There are no lands proposed to be conveyed to the City, as access is privately owned and will be managed by the future condominium corporation.
Energy efficiency and conservation	The proposed VLC is consistent with the high-density residential policies of the City's Official Plans within a well-serviced area and supports the efficient use of energy and infrastructure. The master planned development internalizes services and enables shared private servicing arrangements.
Interrelationship between the VLC and site plan control matters	The Subject Lands are anticipated to be developed for high density residential and seniors' residential uses. Existing and future site plan applications will address servicing, stormwater management, zoning compliance, parking, landscaping, accessibility, fire access, lighting, and refuse in accordance with Site Plan Guidelines. Engineering conditions require that phasing, servicing, stormwater management, and outstanding site plan matters related to 4040 Upper Middle Road be resolved in advance of VLC registration to demonstrate development feasibility.

Planning Analysis

See Schedule "D"

Technical Comments

The subject applications were circulated to internal staff and external agencies for review. The following comments and conditions have been received by staff and agencies with the required conditions to be fulfilled prior to final approval included as Appendix B.

City Transportation Services – No objections

Enbridge Gas (formerly Union Gas) – No objections

Bell Canada – No objections and standard conditions are to be included

Halton Police – No objections

Rogers – No objections and standard conditions are to be included

Burlington Hydro – No objections

Region of Halton – any revisions required can be addressed through draft conditions.

Urban Forestry and Landscaping staff – Staff have no objections to the draft plan of VLC and relative conditions have been included.

Finance Department – That the standard condition that all taxes are up-to-date be included.

Development Engineering – any revisions required can be addressed through draft conditions.

Financial Matters:

The property will be subject to City, Region, and School Board Development Charges and Park Dedication fees through future applications.

All application fees have been received in accordance with the Development Application Fee Schedule.

Climate Implications:

In February 2020, City Council approved the City of Burlington Climate Action Plan to support the City's path towards a low-carbon future, focusing on mitigating greenhouse gases and reducing energy consumption. The Plan identifies seven implementation programs, including programs to enhance energy performance for new and existing buildings; increase transit and active transportation mode shares; electrify City, personal and commercial vehicles and other currently gas-powered equipment; and support waste reduction and diversion.

The proposed VLC contributes to the intensification of the City's urban area and will lay the groundwork for future applications that will introduce additional residents to a location that is within reasonable proximity to parks, neighbourhood conveniences and transit services. As such, the proposed development supports reduced automobile trip lengths, transit usage, and consequently reduced greenhouse gas emissions.

Furthermore, while the schematic masterplan shows increased amount of impervious surface on the subject site, adequate stormwater managements controls will be implemented through

conditions of draft approval to ensure safe functionality planning of the site and surrounding land uses.

Engagement Matters:

Engagement Matters:

Bill 23, the *More Homes Built Faster Act, 2022*, eliminated the Planning Act's former requirement for municipalities to hold a public meeting for draft plan of subdivision and condominium applications. The Bill repealed subsections 51(20) to 51(21.1), which had previously mandated those meetings. Staff posted information about the application on its website, published notice of the date that a council decision would be made on the website, and notified public bodies of the application.

Bill 23 also limited third-party appeal rights for subdivision/condominium decisions to specified persons (who made written or oral submissions), the applicant, the municipality, and certain public bodies), thereby reducing opportunities for public participation at the appeal stage.

In addition, several inquiries were received from members of the public regarding the proposed Draft Plan of VLC at 4030 and 4050 Upper Middle Road. The inquiries can be summarized as follows:

Commenter / Location	Summary of Inquiry	Staff Response
Residents / Purchasers associated with 4040 Upper Middle Road (two email inquiries and one telephone inquiry received)	Concern that the VLC represents a repurposing of land or a deviation from the original Park City master plan. Fear that the VLC could remove or reduce previously marketed shared amenities, including a central courtyard, which purchasers relied upon when selecting and purchasing their units. Concerns regarding the conduct of the developer, including lack of communication with purchasers, delays in registration of previous buildings, and concerns about misrepresentation.	Staff clarified that the VLC is a legal and ownership framework only and does not authorize new buildings, changes to land use, or removal of approved amenities. It was confirmed that the VLC does not amend or override existing site plan approvals, zoning permissions, or condominium agreements governing 4040 Upper Middle Road. Staff explained that shared amenities remain governed by existing approvals and condominium documents, and

	Requests for clarification on whether the city is enabling the developer to avoid previously approved or promised development obligations.	that overlay drawings are illustrative only. It was noted that any future development on the vacant land units would require separate planning approvals, including site plan approval, at which time matters such as building form, access, servicing, and amenities would be reviewed. Staff advised that the City's current review is limited to conformity with the Official Plan, Zoning By-law, and applicable legislation.
Resident of Tobyn Drive (one inquiry received)	Questions regarding potential future impacts on traffic along Upper Middle Road. Concerns about possible impacts on infrastructure and municipal services. Requests for clarification on the long-term vision for the proposed vacant land units.	Staff advised that the VLC does not generate traffic, authorize construction, or alter access arrangements. A VLC does not regulate land use, and the development and use of the subject lands will be based on the in force and effect zoning. It was explained that any future development would be subject to separate planning applications and technical studies, including traffic and servicing reviews. Staff confirmed that future development would be required to conform with the Official Plan and Zoning By-law and would involve further public processes.
Adjacent property owner	Request for clarification regarding the location of the subject lands	Staff confirmed that the subject lands are located east of

– 4045 Upper Middle Road	relative to 4045 Upper Middle Road.	Walker’s Plaza and north of the existing condominium building at 4040 Upper Middle Road.
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Conclusion:

Staff’s analysis of the VLC application considers the applicable policy framework and the comments submitted by technical agencies and the public. Staff find that the application is consistent with the Provincial Planning Statement and conforms to Regional and City Official Plans, and Zoning By-law 2020.

It is therefore recommended that draft approval be given for a plan of Vacant Land Condominium to facilitate the creation of three vacant land units, subject to the conditions attached as Appendix B to Report DGM-13-26.

Respectfully submitted,

Melissa Gasic, MCIP, RPP
Planner
905-335-7600 Ext. 7463

Appendices:

- A. Concept Plan
- B. Draft Conditions
- C. Zoning Map
- D. Planning Analysis
- E. Public Comments

Notifications:

Walkers Green Residences Ltd. c/o Robert Kosnik
Jillian Sparrow, MHBC jsparrow@mhbcplan.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 Counsel.