

To: Development Services Committee

From: Warren Munro, HBA, RPP, Commissioner,  
Development Services Department

Report Number: DS-22-65

Date of Report: March 2, 2022

Date of Meeting: March 7, 2022

Subject: Results of Legal Opinion and Peer Review of Transportation  
Matters Related to the Site Plan Approval Application for  
1231 Ormond Drive

Ward: Ward 1

File: SPA-2018-32

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## **1.0 Purpose**

The purpose of this Report is to respond to Part 1 of the following January 24, 2022, City Council direction:

- “1. That Development Services staff be authorized to retain an independent third party legal expert for an impartial and unbiased legal opinion on the Right in Access issue for Chartwell’s Phase III project at 1231 Ormond Drive and professional transportation consultant to undertake a peer review of the traffic study submitted in support of the application for site plan approval for a 201 unit retirement home at 1231 Ormond Drive (File: SPA-2018-32) and to review any submissions made by the residents, the Region of Durham and Chartwell to assess whether a right-in-only access from Ritson Road North is warranted from a pedestrian and vehicular traffic safety perspective and report back to the Development Services Committee on the results of the peer review and that funding for the consultant be provided from an appropriate account to be identified by the Commissioner of Finance Services; and,
2. That Community Services staff be directed to investigate the need for potential traffic calming and safety measures, including the need for a Community Safety Zone, on Ormond Drive, generally between Conlin Meadows Park and Coldstream Drive, and report back to the Community Services Committee; and,

3. That the Region of Durham be requested to review the potential need for a community safety zone on Ritson Road North, south of Conlin Road East, given the existing and proposed land uses in the area.”

Attachment 1 is a map showing the location of the subject site and the existing zoning in the area.

Attachment 2 is a copy of the proposed site plan submitted by CSH (Wynfield II) Inc. (Chartwell) and advanced through the site plan approval process.

Attachment 3 is a copy of the Local Planning Appeal Tribunal (L.P.A.T.) decision on the Committee of Adjustment applications concerning 1231 Ormond Drive, and 431 and 451 Woodmount Drive.

Attachment 4 is correspondence Item DS-22-15 received from Ron Bremner and considered by the Development Services Committee on January 10, 2022 and by Council on January 24, 2022 concerning the Development Services Department’s interpretation of the L.P.A.T. decision concerning 1231 Ormond Drive and 431 and 451 Woodmount Drive.

Attachment 5 is a copy of additional comments received from Ron Bremner on January 25, 2022 and February 7, 2022.

Attachment 6 is a copy of the peer review final report dated February 22, 2022 received from CIMA+ concerning the peer review of the traffic study submitted in support of the application for site plan approval for a 201 unit retirement home at 1231 Ormond Drive (File: SPA-2018-32) and assessment of a right-in access from Ritson Road North and a review of additional information.

Attachment 7 is a confidential attachment representing the legal opinion received from Miller Thomson LLP on the right-in access issue for the proposed retirement home at 1231 Ormond Drive.

## **2.0 Recommendation**

That the Development Services Committee recommend to City Council that Report DS-22-65 dated March 2, 2022, concerning the results of a legal opinion and peer review of transportation matters related to the site plan approval application (File: SPA-2018-32) for 1231 Ormond Drive, be received for information.

## **3.0 Executive Summary**

This Department recommends that City Council receive this Report for information based on both the legal opinion received from Miller Thomson LLP on the right-in access issue and the conclusions of the peer review of the traffic study and the assessment of a right-in access from Ritson Road North completed by CIMA+ for the proposed development at 1231 Ormond Drive.

Based on CIMA+'s peer review and past comments from Region of Durham and City staff, a right-in-only driveway from Ritson Road North is not warranted as it would not have a significant impact on traffic and safety on Ormond Drive.

It is further noted that unless directed otherwise, City staff will continue to process the site plan application as submitted by CSH (Wynfield II) Inc. (Chartwell) without a right-in driveway access from Ritson Road North.

## **4.0 Input From Other Sources**

The following have been consulted in the preparation of this Report:

- City Solicitor
- Miller Thomson LLP
- CIMA+

## **5.0 Analysis**

### **5.1 Background**

On November 15, 2018, Chartwell submitted an application for site plan approval to the City to permit a proposed 201 unit retirement home at 1231 Ormond Drive. Access to the proposed development is intended to be from the existing driveway to Ormond Drive through Chartwell's properties at 431 and 451 Woodmount Drive. This application is still in process and no agreement has been executed.

In March 2019, Chartwell submitted an application to the Committee of Adjustment (C. of A.) for certain variances to permit the proposed 201 unit retirement home on 1231 Ormond Drive (File: A-2019-24). An application was also submitted for variances to 431 Woodmount Drive (File: A-2019-25) to permit an addition to the existing retirement home that would connect to the proposed building and to allow for the construction of the internal access to the proposed retirement home at 1231 Ormond Drive.

On April 10, 2019, the C. of A. approved minor variance applications A-2019-24 and A-2019-25. The C. of A. decisions were appealed to the L.P.A.T. by Mr. Ron Bremner of 1230 Ormond Drive.

The following recommendation was approved by the Development Services Committee (D.S.C.) on January 13, 2020 and by Council on January 27, 2020 related to the L.P.A.T. appeals of Committee of Adjustment Decisions concerning 1231 Ormond Drive, and 431 and 451 Woodmount Drive:

1. That the Local Planning Appeal Tribunal be advised that City Council takes no position on the appeals of the approval decisions of the Committee of Adjustment concerning 1231 Ormond Drive and 431 Woodmount Drive and the City does not seek party or participant status at the Local Planning Appeal Tribunal hearing; and,

2. That the Local Planning Appeal Tribunal be advised that City Council takes no position on the additional variances identified after the Committee of Adjustment meeting that includes 451 Woodmount Drive; and,
3. That, pursuant to Report DS-19-231 dated December 4, 2019 and Report DS-20-09 dated January 8, 2020, the Local Planning Appeal Tribunal be advised that the City of Oshawa requests that conditions be imposed to permit a maximum of 201 units in the proposed retirement home at 1231 Ormond Drive, of which a maximum of 169 units may include cooking facilities in the individual units, if the minor variances are approved by the Local Planning Appeal Tribunal; and,
4. That the City of Oshawa requests that conditions be imposed on the development of the Chartwell site at 1707 Ritson Road North/1231 Ormond Drive to require a right in turn from Ritson Road that will safely accommodate the traffic of residents, visitors and staff shift changes.

The January 13, 2020, D.S.C. recommendation was provided to the L.P.A.T. and to all parties to the hearing on January 16, 2020. The D.S.C. decision was sent to the L.P.A.T. in advance of Council addressing the matter since the L.P.A.T. hearing was scheduled for January 24, 2020, which was three days before the next Council meeting on January 27, 2020.

On February 19, 2020, the L.P.A.T. issued their decision on the subject appeal. The decision of the L.P.A.T. dismissed the appeal and authorized the variances. However, the L.P.A.T. did not apply the conditions requested by Parts 3 and 4 of the January 13, 2020 D.S.C. resolution and the January 27, 2020 Council direction.

A copy of the L.P.A.T. decision was provided to Council as item INFO-20-56.

## **5.2 Traffic Concerns**

It has been Mr. Bremner's position through the C. of A. and L.P.A.T. processes that the proposed 201 unit retirement home will create traffic and parking issues on Ormond Drive, particularly at the driveway access from the subject site to Ormond Drive.

A motion was introduced at the May 6, 2019 D.S.C. meeting and subsequently considered by Council on May 21, 2019 (Item DS-19-88) with a recommendation that Council support Regional staff in further investigating a process that will find a way for the Region to support an entrance/exit on Ritson Road North to the subject site. The recommendation was carried by Council.

At the May 8, 2019 Durham Regional Works Committee, Councillor Neal made a resolution that a right-in, right-out access off of Ritson Road North into the subject site be investigated by the Region of Durham and City of Oshawa. The resolution was directed to Regional Works staff for investigation.

City staff, Regional staff and the applicant investigated a right-in, right-out access to Ritson Road North in advance of the L.P.A.T. hearing. The Region of Durham advised that an access from Ritson Road North is not warranted for the safe operation of the site but



stated that they would permit a right-in-only access from Ritson Road North if requested by the City.

The L.P.A.T. did not impose a right-in access from Ritson Road North as a condition of approval as requested by City Council and included the following comments in their decision:

“[48] Further, the Tribunal respects the request of a right turn access to the site from Ritson Road as suggested by the Appellant. The Tribunal notes that the Region of Durham in Exhibit 2, Tab 15, explored the option and is of the opinion “Parking and speeding issues would not be significantly affected by the proposed access, these issues are best addressed by the City through the Site Plan Approval Process and by traffic regulation, enforcement and/or traffic calming on Ormond Drive”. Therefore, with the evidence provided, the Tribunal is of the opinion that the proposed variance meets the four tests under s. 45(1) of the *Planning Act*. The Tribunal encourages the City to explore other options available to address residents’ traffic concerns.”

It is the Development Services Department’s position that Council has not directed that a right-in access from Ritson Road North is required to be implemented through the site plan agreement for the proposed development. Council’s direction was related to the L.P.A.T. appeal, not direction for staff to implement a right-in driveway through the site plan approval process.

The site plan approval plans have been approved by all technical review departments and agencies, including the Region of Durham Works Department and the City’s Engineering Services Branch, and do not currently include a driveway access to Ritson Road North.

### **5.3 Legal Opinion and Traffic Study Peer Review**

On January 4, 2022, Mr. Bremner submitted Correspondence Item DS-22-15 (see Attachment 4) to the Development Services Committee expressing his position that the Development Services Department’s interpretation of the Council direction and the L.P.A.T. decision is incorrect and requested that the City Solicitor be directed to engage a third party legal opinion on the interpretation of the L.P.A.T. decision.

The Development Services Committee considered Correspondence Item DS-22-15 on January 10, 2022. City Council considered the item on January 24, 2022 and approved the following direction:

- “1. That Development Services staff be authorized to retain an independent third party legal expert for an impartial and unbiased legal opinion on the Right in Access issue for Chartwell’s Phase III project at 1231 Ormond Drive and professional transportation consultant to undertake a peer review of the traffic study submitted in support of the application for site plan approval for a 201 unit retirement home at 1231 Ormond Drive (File: SPA-2018-32) and to review any submissions made by the residents, the Region of Durham and Chartwell to assess whether a right-in-only access from Ritson Road North is warranted from a pedestrian and vehicular traffic safety perspective and

report back to the Development Services Committee on the results of the peer review and that funding for the consultant be provided from an appropriate account to be identified by the Commissioner of Finance Services; and,

2. That Community Services staff be directed to investigate the need for potential traffic calming and safety measures, including the need for a Community Safety Zone, on Ormond Drive, generally between Conlin Meadows Park and Coldstream Drive, and report back to the Community Services Committee; and,
3. That the Region of Durham be requested to review the potential need for a community safety zone on Ritson Road North, south of Conlin Road East, given the existing and proposed land uses in the area.”

On January 25, 2022 and February 7, 2022, Mr. Bremner provided additional submissions which were forwarded to both CIMA+ and Miller Thomson LLP.

Chartwell did not provide any further submissions.

### **5.3.1 CIMA+ Peer Review of Traffic Study**

On February 7, 2022, the Development Services Department retained CIMA+, a multi-disciplinary consulting company, including transportation engineers, to complete a peer review of the Traffic Impact Study (T.I.S.) prepared by T.M.I.G. and submitted by Chartwell in support of the site plan approval application and to review the need for a right-in-only driveway from Ritson Road North from a pedestrian and vehicular traffic safety perspective. In addition to the T.I.S, the following items were provided to CIMA+ for their information and review as part of the peer review:

- Chartwell’s proposed Site Plan;
- All City and Regional comments related to the traffic impact study and the right-in driveway proposal;
- All staff reports related to the L.P.A.T. appeal;
- All Council directives;
- L.P.A.T. decision;
- All comments received from Mr. Bremner by February 11, 2022 regarding the proposal and the proposed right-in driveway; and,
- All comments received from Chartwell by February 11, 2022 regarding the proposal and the proposed right-in driveway.

On February 22, 2022, CIMA+ provided their final report on the peer review of Chartwell’s traffic impact study and the need for a right-in-only driveway from Ritson Road North from a pedestrian and vehicular traffic safety perspective. CIMA+’s report presents the following conclusions:

- The methodology made in the Transportation Impact Study prepared by The Municipal Infrastructure Group Ltd. is valid.

- The findings, conclusions and recommendations presented in the report are reasonable given the anticipated level of traffic presented in the report.
- Measures proposed by Chartwell Retirement Residences, indicate a willingness on their part to implement transportation demand management measures that should result in a decrease in vehicle trips to and from the facility, beyond that indicated in the transportation impact study provided by Municipal Infrastructure Group Ltd.
- CIMA+ agrees with the comment made by the Region of Durham that the right-in access is not necessary for the proposed development given the anticipated traffic volumes and the ability of the road network and associated intersections to accommodate the future development.
- CIMA+ disagrees with the comment that the access off Ormond Drive would become an 'unsafe choke point', given the analysis presented by The Municipal Infrastructure Group Ltd.
- CIMA+ believes that shift changes have been adequately accounted for in the analysis presented by The Municipal Infrastructure Group Ltd.
- There is no evidence to suggest that the layout of the access to the Wynfield Long-Term Care Facility and anticipated traffic that would be generated by the proposed development would generate any conflicts between vehicles and pedestrians beyond that typically noted at a commercial access on a local roadway, moreover sightlines at the access and on the approaches to the access are adequate.
- CIMA+ does not believe that there is any safety concern with left turns into the access that would be remedied by constructing a right-in only access, given the incremental increase in traffic, the relative ease with which motorists would be able to make the left turn and the adequate sight lines along Ormond Drive.
- Additional traffic generated by the development on the northwest corner of Ormond Drive and Coldstream Drive has been accounted for and the spacing of the two accesses is acceptable.
- The Recommendation regarding no parking restrictions will be reviewed by Community Services.

A copy of the final peer review report is included as Attachment 6 to this Report.

### **5.3.2 Legal Opinion from Miller Thompson LLP**

On February 14, 2022, Legal Services retained Miller Thomson LLP to provide a legal opinion on the right-in access issue for the proposed retirement home at 1231 Ormond Drive. The following items were provided to Miller Thomson LLP for their information and review:

- Chartwell's proposed Site Plan;

- All City and Regional comments related to the traffic impact study and the right-in-only driveway proposal;
- All staff reports related the L.P.A.T. appeal;
- All Council directives;
- L.P.A.T. decision;
- All comments received from Mr. Bremner by February 11, 2022 regarding the proposal and the proposed right-in-only driveway;
- All comments received from Chartwell by February 11, 2022 regarding the proposal and the proposed right-in-only driveway; and,
- T.I.S. peer review final report provided by CIMA+.

On March 1, 2022, Miller Thomson LLP provided their legal opinion on the right-in access issue. Miller Thomson LLP's opinion aligns with City staff's position on the matter. A copy of the final report from Miller Thomson LLP is included as Confidential Attachment 7 to this Report.

#### **5.4 Potential Impacts if Ritson Road North Driveway is Required**

If Council directs the Development Services Department to implement a right-in driveway from Ritson Road North through the site plan approval process, Chartwell may appeal the site plan approval application to the Ontario Land Tribunal (O.L.T.) as Chartwell has previously stated that they do not agree with the proposed driveway access from Ritson Road North. If the site plan is appealed to the O.L.T. by Chartwell, the O.L.T. becomes the approval authority for the site plan approval application for 1231 Ormond Drive.

The Ontario Planning Act permits appeals of site plan approval applications under the following circumstances:

- Section 41(12): If a municipality fails to approve a site plan approval application within 30 days of submission of the application and drawings; and,
- Section 41(12.0.1): The owner does not agree with any requirement or condition made by the municipality or any term of a site plan agreement made by a municipality.

Chartwell may appeal the site plan in accordance with Section 41(12) since they are well beyond the 30 day threshold for exercising their site plan application appeal rights under the provisions of the Planning Act.

In addition, if Chartwell does not agree with any requirement for a right-in driveway from Ritson Road North, they may exercise their option to appeal the site plan in accordance with Section 41(12.0.1) of the Planning Act.

If the site plan approval application is appealed by Chartwell, the City will have to hire outside planning and transportation engineering experts to defend Council's position since Development Services Department staff have previously provided comments supporting the site plan as proposed by Chartwell.

In addition to the potential O.L.T. appeal, changes to the site design will necessitate additional variances from certain regulations of Zoning By-law 60-94 that were not

captured under the previous minor variance applications to the C. of A. (e.g. landscape open space).

## **6.0 Financial Implications**

There are no financial implications associated with the recommendation contained in this Report. However, the City has incurred costs of approximately \$13,100 plus H.S.T. to obtain the T.I.S. peer review and the legal opinion.

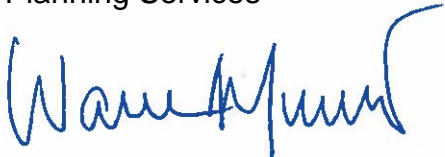
If Council directs staff to implement a right-in driveway from Ritson Road North and Chartwell appeals the site plan to the O.L.T., there will be certain costs associated with defending the City's position at the O.L.T. hearing. Given that City staff are on record indicating that the right-in driveway is not warranted from a traffic operations and safety perspective, the City will incur costs to hire an outside planner and transportation engineer to defend the City's position.

## **7.0 Relationship to the Oshawa Strategic Plan**

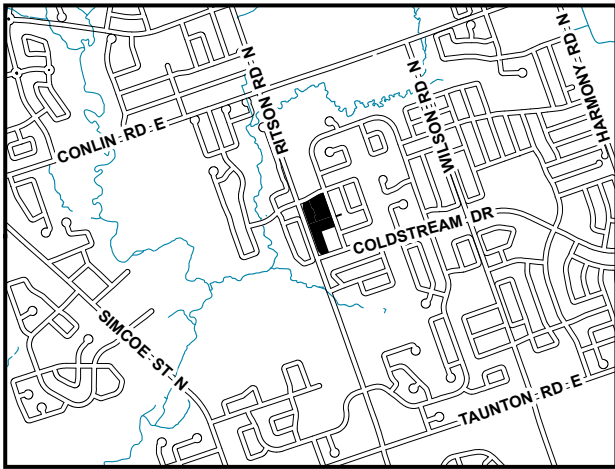
The Recommendation advances the Accountable Leadership goal of the Oshawa Strategic Plan.



Tom Goodeve, M.Sc.Pl., MCIP, RPP, Director,  
Planning Services



Warren Munro, HBA, RPP, Commissioner,  
Development Services Department



# Development Services Department

Item: DS-22-65





Attachment 1

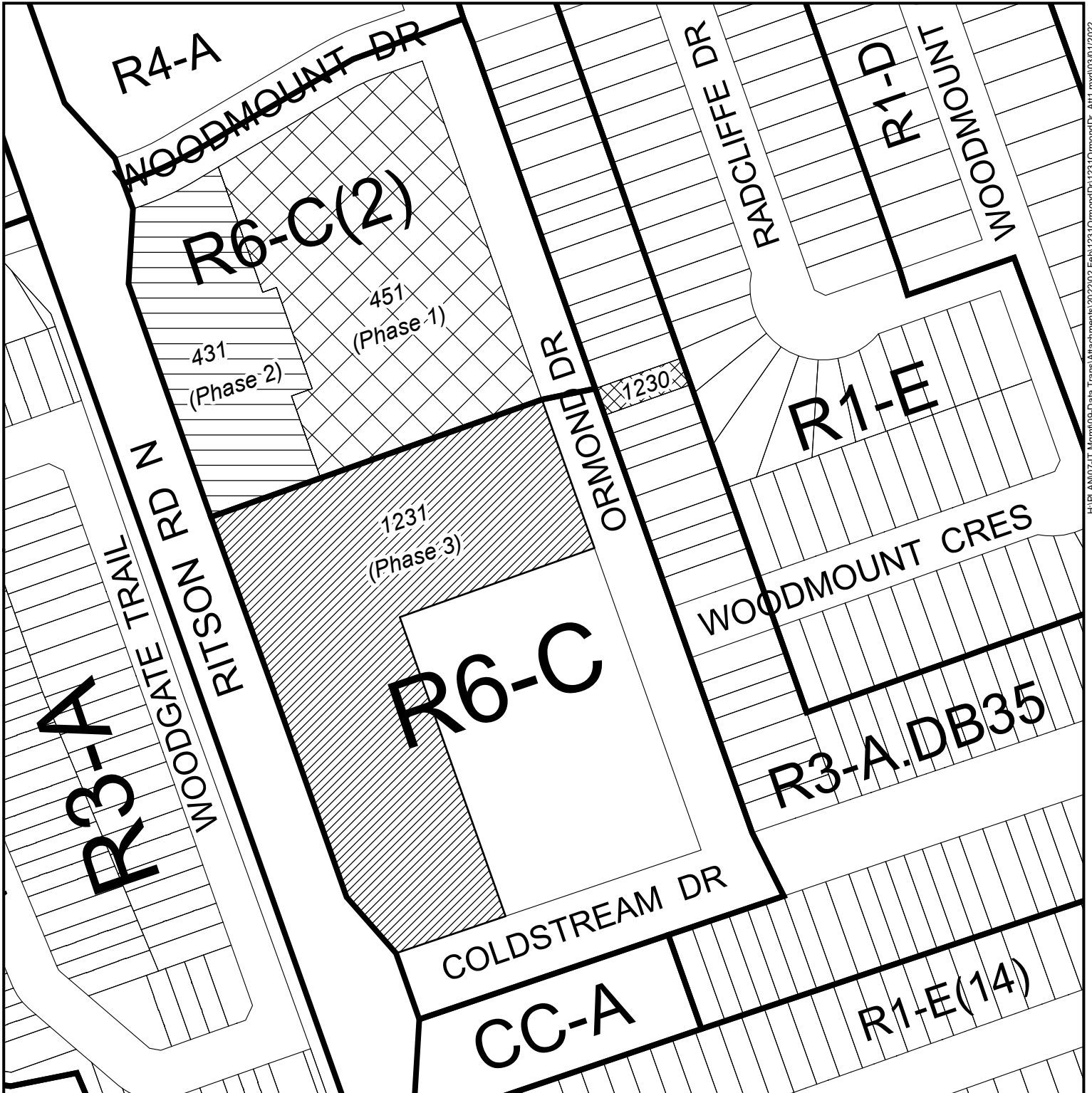
Subject: Results of Legal Opinion and Peer Review of  
Transportation Matters Related to the Site Plan  
Approval Application for 1231 Ormond Drive

Ward: Ward 1

File: SPA-2018-32

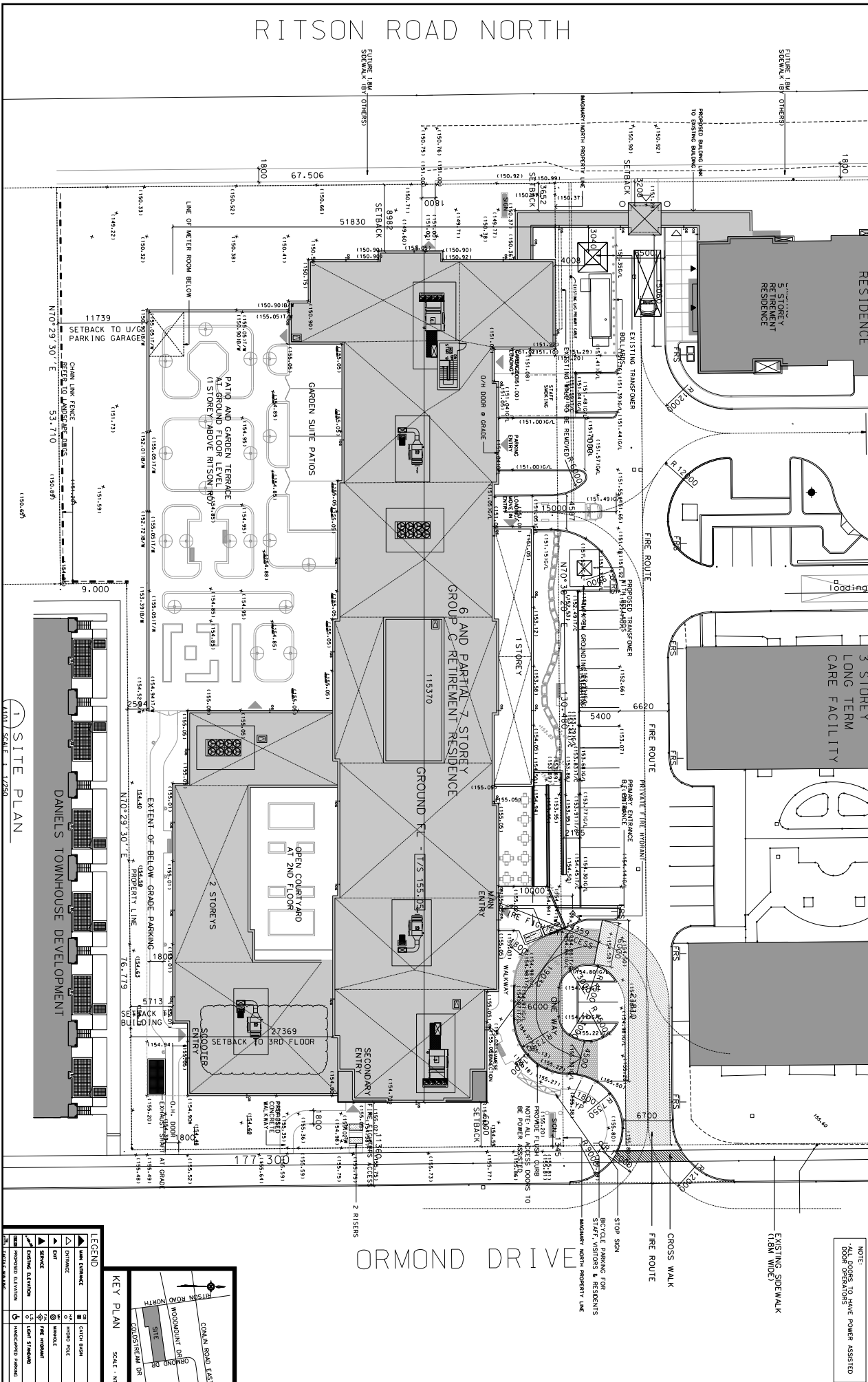


- Subject Property (1231 Ormond Dr) 
- Subject Property (431 Woodmount Dr) 
- Subject Property (451 Woodmount Dr) 
- Appellant's Property (1230 Ormond Dr) 



**Title:** Proposed Site Plan Submitted by the Applicant  
**Subject:** Results of Legal Opinion and Peer Review of Transportation Matters Related to the Site Plan Approval Application for 1231 Ormond Drive  
**Ward:** Ward 1  
**File:** SPA-2018-32

City of Oshawa  
Development Services Department



**Local Planning Appeal Tribunal**  
Tribunal d'appel de l'aménagement  
local



**ISSUE DATE:** February 19, 2020

**CASE NO(S):** PL190223

The Ontario Municipal Board (the "OMB") is continued under the name Local Planning Appeal Tribunal (the "Tribunal"), and any reference to the Ontario Municipal Board or Board in any publication of the Tribunal is deemed to be a reference to the Tribunal.

**PROCEEDING COMMENCED UNDER** subsection 45(12) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

|                               |   |
|-------------------------------|---|
| Appellant:                    | Ron Bremner                             |
| Applicant:                    | CSH (Wynfield II) Inc.                  |
| Subject:                      | Minor Variance                          |
| Variance from By-law No.:     | 60-94                                   |
| Property Address/Description: | 1231 Ormond Drive & 431 Woodmount Drive |
| Municipality:                 | City of Oshawa                          |
| Municipal File No.:           | A-2019-24                               |
| LPAT Case No.:                | PL190223                                |
| LPAT File No.:                | PL190223                                |
| LPAT Case Name:               | Bremner v. Oshawa (City)                |

**PROCEEDING COMMENCED UNDER** subsection 45(12) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

|                               |   |
|-------------------------------|---|
| Appellant:                    | Ron Bremner                             |
| Applicant:                    | CSH (Wynfield II) Inc.                  |
| Subject:                      | Minor Variance                          |
| Variance from By-law No.:     | 60-94                                   |
| Property Address/Description: | 1231 Ormond Drive & 431 Woodmount Drive |
| Municipality:                 | City of Oshawa                          |
| Municipal File No.:           | A-2019-25                               |
| LPAT Case No.:                | PL190223                                |
| LPAT File No.:                | PL190224                                |

**Heard:** January 22, 2020 at Oshawa, Ontario



**APPEARANCES:****Parties****Counsel\*/Representative**

Ron Bremner

Self-Represented

CSH (Wynfield II) Inc.

Stephen D'Agostino\*

**DECISION DELIVERED BY D. CHIPMAN AND ORDER OF THE TRIBUNAL**

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**INTRODUCTION**

[1] This is the decision for an appeal by Ron Bremner (the "Appellant") against the approval by the City of Oshawa (the "City") Committee of Adjustment (the "CofA") for variances from the City's Zoning By-law No. 60-94 ("ZBL 60-94"). CSH (Wynfield II) Inc. ("Chartwell"/ "Applicant") are the subject property owners.

[2] The subject property is located at 1231 Ormond Drive & 431 Woodmount Drive (Part Lot 8, Concession 4, 40R-29910, parts 1 and 3) in the City.

[3] The purpose of the application is to permit a retirement home with the reduced side yard and rear yard depths and to allow cooking facilities in living units.

[4] Following receipt of the minor variance appeals, the City identified the need for further variances related to this project that had been inadvertently missed by the Applicant. The Applicant accordingly applied for the necessary variances. The new variances relate to general provision of the ZBL and are initiated because the proposal encompasses more than one lot. The new variances are related to:

- a) Permission for the proposed development without a driveway access from the travelled portion of an improved street. It is proposed that there be one exit onto Ormond Drive for the entire project.

- b) Variances concerning the parking requirements for 431 and 451 Woodmount Drive are required as these sites will be deficient in on-site parking due to the relocation of some of the existing parking spaces on these properties to the parking structure in the proposed building. As a result of the location of the lot lines, the two aforementioned addresses are deficient.

[5] In assessing the circumstance of the Applicant having increased the number of sought minor variances from what was initially applied for, the Tribunal determined pursuant to s. 45(18.1.1) of the *Planning Act* (“Act”) that the revision is minor in the context of this application and notice of the additional variances was given through the revised Local Planning Appeal Tribunal, Notice of Hearing and the matter could proceed to be considered as presented.

[6] For minor variances, the Tribunal must be satisfied the requested variances meet the four-part test under the Act. The proposed minor variances must:

1. Maintain the general intent and purpose of the official plan;
2. Maintain the general intent and purpose of the zoning by-law (“ZBL”);
3. Be desirable for the appropriate development or use of the land; and
4. Be minor.

## CONTEXT

[7] Chartwell currently operates a 172 bed Long Term Care Facility (nursing home) and a 107 suite Retirement Home at 431 Woodmount Drive. Chartwell proposes to develop a 6-storey Retirement Home consisting of 169 suites with cooking facilities and 32 memory care units for a total of 201 new units on the adjacent vacant property

immediately to the south of 1231 Ormond Drive. The retirement home will have an enclosed internal walkway link to the existing retirement home at 431 Woodmount Drive, which will allow for a weather protected movement of staff and residents between retirement homes. The retirement home will include an underground garage with 223 spaces.

[8] Each site is covered by a different zoning category: R6-C for the proposed retirement home with permitted uses of Apartment Building, Long Term Care Facility, Nursing Home or Retirement Home.

[9] Zoning for 431 Woodmount Drive is R6-C (2), which has the permitted uses the same as R6 with the addition of a Day Care Centre.

[10] The zoning requirements must be addressed within the area covered by each separate zoning category (R6-C and R6-C(2)) because the proposed retirement home in R6-C Zone is physical and operationally integrated with the existing development in the R6-C(2) Zone, variances are required with respect to matters such as setbacks from lot lines.

[11] The majority of the variances (six (6)) arise from the proposed enclosed walkway link, which will be between the existing and proposed retirement home and shared driveway access of which there is one (1). The other variances are required to allow for parking located in both Zones to be used collectively by the three buildings (three variances, one for each property) and one (1) variance to permit cooking facilities in 169 of the 201 units proposed in the new retirement home. As a result, Chartwell made two minor variance applications related to the proposed development, one for each property, i.e., the existing and proposed development.

[12] City staff identified additional variances required by the proposed development. The variance for landscaped open space originally applied for and approved was later determined by City staff not to be required.

[13] The eleven (11) minor variances (including the additional variances that were not included in the CofA's applications) that the Applicant is seeking relief from, are as follows:

**1231 Ormond Drive**

Variance 1 – Front Lot Line – Coldstream Drive is the Front Lot Line (ZBL definition) to Designate Ormond Drive as the Front Lot Line;

Variance 2 – Minimum Interior Side Yard Depth (North Side) 10.5 m (ZBL requirement) to 0.0 m;

Variance 3 – Minimum Interior Side Yard Depth (South Side) 10.5 m (ZBL requirement) to 2.5 m;

Variance 4 - Minimum Rear Yard Depth 10.5 m (ZBL requirement) to 3.5 m;

Variance 5 - Definition of Retirement Home: to include "Living units may also include cooking facilities";

Variance 6 - Driveway Access: current (ZBL definition) Required from the Travelled Portion of an improved street;

Variance 7 - Parking Required in Article 39.1.1 – 431 Woodmount Drive, 451 Woodmount Drive and 1231 Ormond Drive required to accommodate parking on each individual lot (ZBL requirement) **to permit** 431 Woodmount Drive, 451 Woodmount Drive and 1231 Ormond Drive to be considered one lot for the purpose of applying parking regulations related to the number and location of all required and additional parking spaces.

**431 Woodmount Drive**

Variance 8 – Minimum Exterior Side Yard depth 7.5 m (ZBL requirement) to 3.0 m;

Variance 9 – Minimum Rear Yard Depth 7.5 m (ZBL requirement) to 0.0 m;

Variance 10 – Parking Required in Article 39.1.1 – 431 Woodmount Drive, 451 Woodmount Drive and 1231 Ormond Drive required to accommodate parking on each individual lot (ZB requirement) **to permit** 431 Woodmount Drive, 451 Woodmount Drive and 1231 Ormond Drive to be considered one lot for the purpose of applying parking regulations in relation to the number and location of all required and additional parking spaces.

**451 Woodmount Drive**

Variance 11 – Parking required in Article 39.1.1 – 431 Woodmount Drive, 451 Woodmount Drive and 1231 Ormond Drive required to accommodate parking on each individual lot (ZB requirement) to permit 431 Woodmount Drive, 451 Woodmount Drive and 1231 Ormond Drive to be considered one lot for the purpose of applying parking regulations related to the number and location of all required and additional parking spaces.

[14] At the hearing, Chartwell was represented by counsel and had retained a professional planner and a professional transportation consultant to provide evidence. The Appellant was self-represented and did not call any witnesses.

[15] The City attended the hearing in a monitoring capacity. City Council planned to take no substantive position at the hearing, which it had advised the Tribunal in advance.

[16] The Tribunal recognized that Gordon Whitney had provided the Tribunal with a written submission (as per s. 7.7 of the *Rules of Practice and Procedure*) and a request to be granted participant status. The Tribunal granted Mr. Whitney participant status. Mr. Whitney was present at the hearing. Others attending in an information and monitoring capacity included: Councillors Neal and McConkey, CofA Members Thompson and Smith, and Daniel Daniani as resident from the neighbourhood.

[17] Mr. D'Agostino, Counsel to the Applicant, suggested to the Tribunal that the context of the variances and the neighbourhoods might be best understood if the Applicant's land use planner gave an overview of the subject site. The Appellant, Mr. Bremner agreed that it would relieve the Tribunal of repetition and time.

[18] Counsel called to the witness stand Martin Rendl, a planning consultant ("Planner"), whose professional land use planning credentials include membership in the Canadian Institute of Canada and a Registered Professional Planner designation in Ontario, were presented to the Tribunal (Exhibit 2, Tab 26). Being satisfied with the Planner's credentials and there being no objections, the Board qualified the Planner to provide an overview of the subject site and agreed that later in the hearing he would be called to provide planning evidence and expert opinion regarding this matter. The Tribunal affirmed Mr. Rendl to provide expert testimony.

[19] In conclusion of the subject property description by Mr. Rendl, the Appellant provided an overview of the reasons for the appeal (Exhibit 1), which included comments pertaining to parking, community safety and the definition of Retirement Home as it pertains to full kitchens in units.

[20] The Appellant cited that he was not against development *per se* and he does not oppose the expansion of the number of units, he is concerned with the permitted use of cooking facilities in retirement home units and has concerns regarding the overall impact the variances would have on the subject site and surrounding neighbourhood with respect to traffic and public safety.

[21] The Appellant noted that the increase in vehicles due to the nature of the new building being more of an independent lifestyle, could potentially impact pedestrians who use the east side (sidewalk only side) of Ormond Drive to attend school and those that have mobility issues. The intersection “chokepoint” as it was explained by the Appellant, would be the only access and egress to the subject site. It was also mentioned that with parking on Ormond Drive, parking on the street driver’s view is impeded when leaving the site and turning onto Ormond Drive. It was explained that although Ormond Drive is not an arterial road, it is a collector road to Coldstream Drive on the south and Woodmount Drive to the north both of which experience heavy traffic during peak hours.

[22] Mr. Bremner held the view that with a new 201-unit building on the site, traffic would increase, and parking would be deficient. Mr. Bremner cited that the City is in the midst of a City-wide Parking Study that was embarked upon in 2018 to evaluate the appropriate parking rate by which new developments should be required to adhere to. The Appellant contends that through the numbers supplied by the Applicant’s Parking Brief and with the traffic studies supplied by The Municipal Infrastructure Group Inc. (“TMIG”) and peer reviewed by Dillion Consulting, that utilizing the low blended parking rate that the current City ZBL requires should not apply. Further, that the requested consideration to allow one lot for the purpose of applying parking regulations related to the number and location of all required and additional parking spaces, as per Variance (11), will result in a parking space deficit that will overflow on to the adjacent street creating parking and traffic issues.

[23] The Appellant believes that a right-hand access from Ritson Road would provide for better safety as it would relieve the number of vehicles travelling Ormond Drive to access the site and relieve the “chokepoint” of some vehicular traffic

[24] Mr. Bremner concluded his remarks citing it is his belief that the number of independent lifestyle units, the deficiency in on-site parking and the impacts on traffic and street parking are “too important to be minor”.

[25] Counsel called to the witness stand Mr. Rendl ("Planner"), to provide planning evidence and expert opinions. Having been affirmed earlier in the hearing, Mr. Rendl provided comments qualifying the proposal under the planning framework with comments relating to the Regional Municipality of Durham Official Plan ("Region of Durham OP"), City Official Plan ("City OP"), ZBL, Provincial Policy Statement 2014 ("PPS") and Growth Plan for the Greater Golden Horseshoe 2019 ("GP").

[26] The Planner explained that under the Region of Durham OP, the subject site is located within the "Living Areas" designation.

[27] In the hierarchy of roads comprised of freeways, arterial roads, collector roads and local roads. Ritson Road is considered an arterial road and Ormond Drive a collector road.

[28] In an email received by the Applicant, the Appellant and local councillor, (Exhibit 2, Tab 15) the Region of Durham cited that it has not identified the need for a private access from Ritson Road for the proposed development based on future traffic volumes or operations related to the retirement home.

[29] Under the City OP, the subject property is designated residential which permits predominantly residential dwellings subject to the inclusion of appropriate provision in the ZBL, other uses such as nursing homes, homes for the aged and day care centres are also included.

[30] The Planner noted that the Retirement Home definition is descriptive and does not explicitly prohibit the provision of cooking facilities.

[31] It was explained that current units have "kitchenettes" equipped with refrigerators, microwave ovens, food preparation space and sinks. The proposed retirement home will expand on this concept by adding stoves to each of the 169 units.



The building itself will also contain a central common dining room for its residents should they wish to dine in a more socialized environment.

[32] Mr. Rendl noted that this retirement community is not alone in providing for various styles of retirement living. The concept of having various levels of care within one campus allows seniors to age in one place and provides them with the various levels of personal assistance and medical needs that can be accommodated in one location.

[33] The Planner explained that the subject site is also governed by the Samac Secondary Plan which designates the site as High Density (density between 85 and 150 units per hectare). The proposed retirement home will be 120.7 units per hectare. Day cares centres are also a permitted use (Policy 4.8).

[34] It was stated that the Samac Land Use and Street Plan, Ritson Road is considered a Type "A" Arterial Street. Woodmount Drive, Ormond Drive and Coldstream Drive are designated as Collector Streets. The Plan cites that they are intended to accommodate 4,000 to 15,000 Annual Average Daily Traffic.

[35] In Mr. Rendl's professional opinion, the variances are consistent with the PPS, 2014:

1. Promotes efficient development and land use patterns (Policy 1.1.1(a));
2. Promotes cost effective development patterns and standards to minimize land consumption and servicing costs (Policy 1.1.1(e));
3. Is an efficient use of land (Policy 1.1.3.2 (a)1);
4. Efficiently uses the infrastructure and public service facilities, which are available (1.1.3.2(a)2);

5. Provides for an appropriate range and mix of housing types and densities including housing for older persons (Policy 1.4.3(a)).

[36] It was Mr. Rendl's professional opinion that the development conforms to the policies of the Growth Plan 2019:

1. Is located within a settlement area (Policy 2.2.1.2(d)) and within a delineated built-up area (Policy 2.2.2.1(a));
2. Provides for an urban form that will optimize infrastructure to support the achievement of complete communities through a more compact urban form (Policy 2.2.1.3(b));
3. Supports the achievement of a complete community by contributing to a diverse range and mix of housing options to accommodate people at all stages of life (Policy 2.2.1.4(c)).

[37] Mr. Rendl opined that the variances result in a development that is appropriate for the lot and compatible with the neighbourhood. He stated it was his opinion that Chartwell's development adds to the diversity of housing supply in City, specifically senior's housing.

[38] Overall, Mr. Rendl opined that from a Planner's point of view, the proposed development meets the four tests as set out in the Act.

[39] Mr. D'Agostino brought forth Michael Dowdall, a Project Manager, with TMIG. Counsel qualified Mr. Dowdall as having project experience in the identification and mitigation of traffic impacts for land development through Mr. Dowdall's Curriculum Vitae. The Tribunal recognized Mr. Dowdall as an expert in his field and affirmed him to provide expert opinion to the hearing.

[40] Mr. Dowdall spoke to the site related traffic and subsequent traffic-related impacts on the adjacent road network during the a.m. and p.m. peak hours.

[41] He opined that based on pre-consultation with municipal staff, that a five-year future horizon beyond the anticipated full build-out was examined and an annual growth rate of one percent was applied to the existing traffic counts for Coldstream Drive and Ritson Road to forecast traffic for the 2024 horizon year.

[42] Mr. Dowdall explained that the results of the total traffic analysis confirmed that the incremental impact of the estimated site traffic is minimal and does not contribute to any significant increase. Further, he stated the study concluded that the traffic generated by the proposed development can be accommodated by the adjacent street system.

[43] Mr. Dowdall's evidence is that the proposed 80 surface parking spaces and the 139 underground spaces (219 total spaces) will accommodate the estimated parking demand of the three buildings.

[44] He noted that the TMIG study was peer reviewed by Dillon Consulting with the result identifying the need for four additional visitor parking spaces.

## **FINDINGS**

[45] The Tribunal's role is to consider the evidence proffered at hearings and to make findings based on the best evidence before it, which it has done in the following reasons.

[46] Of the eleven sought minor variances, the Tribunal identifies six that are technical in nature relating to setbacks and front lot line designation (variances 1, 2, 3, 4, 8, 9); and, would not in any significant way create a building that would be out of

character with the other two buildings on the site. The Tribunal finds that these requested variances maintain the general intent and purpose of the respective ZBL and are minor.

[47] Variance 6 requests driveway access be allowed from a travelled portion of an improved street thereby granting access for one exit for vehicular traffic onto Ormond Drive to access the Chartwell site (Campus). Evidence presented by TMIG citing the traffic study analysis estimates that the proposed retirement extension residence is expected to generate a total of 40 two-way vehicle trips during the a.m. peak hours and 52 two-way trips during the p.m. peak hours. In the expert's opinion, Exhibit 2, Tab 25 "Ormond Drive is expected to have very good future operating characteristics with reserve capacity."

[48] Further, the Tribunal respects the request of a right turn access to the site from Ritson Road as suggested by the Appellant. The Tribunal notes that the Region of Durham in Exhibit 2, Tab 15, explored the option and is of the opinion "Parking and speeding issues would not be significantly affected by the proposed access, these issues are best addressed by the City through the Site Plan Approval Process and by traffic regulation, enforcement and/or traffic calming on Ormond Drive". Therefore, with the evidence provided, the Tribunal is of the opinion that the proposed variance meets the four tests under s. 45(1) of the *Planning Act*. The Tribunal encourages the City to explore other options available to address residents' traffic concerns.

[49] Variances 7, 10 and 11 would grant that all three addresses would be considered one lot for the purpose of applying parking regulation related to the number and location of all required and additional parking spaces. The Tribunal recognizes that as it stands, each of these sites alone is deficient in on-site parking. Evidence provided by the parking study conducted by TMIG and peer reviewed by Dillon Consulting suggest that cumulatively there would be sufficient parking for the proposal to satisfy the needs of the City's ZBL s. 39.2.1 should all three addresses be considered one lot. The Tribunal agrees with the professional evidence.

[50] With regards to Variance 5 - Definition of Retirement Home: "Cooking units are not permitted in living units" to "Living units may also include cooking facilities".

Retirement Homes accommodate a range of seniors with varying needs ranging from independent living to assisted living. The proposed 169 units are specifically geared to a more independent lifestyle. The proposed building will contain three (3) central common dining rooms, (one (1) for the exclusive use of the memory units) for its residents while allowing independent preparation of meals.

[51] If the City intended to prohibit the allowance of full kitchens in the definition of a "Retirement Home" and as such the proposed building, it would have provided a special provision referencing the non-permitted use in the specific R6 and R6-C zones relating to the subject property. It did not, and in the absence of that terminology, the nature of the inclusion in the definition pertaining to this subject property zoning is allowed. As a further note, the City has in ZBL 60-94 references to several R6 and R6-C zoned sites, defined as living units within a retirement home, permitted the inclusion of cooking facilities.

[52] When implementing their statutory authority to pass by-laws, municipalities have an obligation to be clear and forthright in the structure and wording of the language employed. An onus rests with the municipality to craft its by-laws in a manner which would allow a reasonably informed citizen to understand the by-law's purpose and effect.

[53] Further, the Tribunal finds that including cooking facilities in the 169 units of the proposed building promotes the overall concept for seniors to move from independent life to assisted living within the same campus, which is supported by both the Provincial Policy Statement 2014 (Policy 1.4.3(a)) and the Growth Plan 2019 (Policy 2.2.1.4(c)).

[54] The concern of parking deficiencies with more active residents was examined in Dillon Consulting's peer review comparative site analysis with proxy sites. Dillon Consulting concluded that "there could be a slightly higher demand for resident parking

at the Oshawa site”. Results showed a “small deficiency in 4 parking spaces”. The Tribunal believes the impact of cooking facilities as it relates to increased parking and traffic impact is minor.

[55] The Tribunal finds that the eleven (11) variances are minor. The magnitude of the changes that will result from the variances compared to the standards in the ZBL is small and will result in the subject property continuing to have similar characteristics to other properties of the same nature. In terms of the impacts that the proposed variances are expected to have on adjacent traffic and the community as a whole, the Tribunal finds that based on the evidence presented they will be minimal.

[56] The Tribunal finds that the proposed variances are desirable for the appropriate use of the subject property and will add value to the local community by providing independent lifestyle retirement living while improving the use of the subject property with a structure that addresses parking concerns.

[57] Based upon the evidence, the Tribunal finds that the proposed variances meet the four tests under s. 45(1) of the *Planning Act*.

## **ORDER**

[58] The Board orders that the appeal is dismissed and the variances to Zoning By-law No. 60-94 are authorized.

*"D. Chipman"*

D. CHIPMAN  
MEMBER

If there is an attachment referred to in this document,  
please visit [www.elto.gov.on.ca](http://www.elto.gov.on.ca) to view the attachment in PDF format.

**Local Planning Appeal Tribunal**

A constituent tribunal of Tribunals Ontario - Environment and Land Division  
Website: [www.elto.gov.on.ca](http://www.elto.gov.on.ca) Telephone: 416-212-6349 Toll Free: 1-866-448-2248

To: Development Services Committee  
From: Ron Bremner  
Date: January 4, 2022  
Date of Meeting: January 10, 2022  
Subject: Notice of Motion

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**SITUATION:**

Areas residents have disputed the Development Services Department's interpretation of an LPAT Appeal decision (PL190223).

**OVERVIEW OF KNOWN FACTS:**

1. The Mayor directed the following Notice of Motion to the Development Services Committee: Whereas if a site plan agreement delegated to staff fails to comply with a Council approved request, as appears may be occurring with the 1231 Ormond Dr. site plan; Now therefore Council direct the City Solicitor to investigate how Council can ensure its compliance by staff.
2. Votes by the DS Committee (DS-19-88) and Council paved the way for the Region to agree to allow right-in access from Ritson Road N to Chartwell's Phase 3.
3. In January 2020, Council sought to influence the scope of the LPAT Appeal by voting unanimously to support right-in access and a 169-unit cap on units with cooking spaces.
4. Despite Council's resolutions, the LPAT Appeal decision was silent on both issues.
5. The DSD interpreted the LPAT's silence as approving the cooking space cap and denying right-in access.
6. The Appellant, Mr. Bremner, has challenged the DSD's interpretations on legal grounds, arguing that the LPAT's approval was neither a sufficient condition, nor a necessary condition. Therefore both the cap and right-in access were settled in January 2020.

**PROPOSAL:**

Direct the City Solicitor to engage a mutually agreeable, impartial third party with legal expertise to opine with respect to whether the LPAT's inaction was relevant.

**REASONS:**

1. Members of the DS Committee and Council lack the requisite legal experience to judge this legal matter on its merits.
2. This proposal is the easiest, fastest, and the most defensible way to resolve the LPAT relevance question.



# CHARTWELL TRAFFIC STUDY

25-Jan-2022

“If I had an hour to solve a problem I'd spend 55 minutes thinking about the problem and five minutes thinking about solutions.” - Einstein

## 1 INTRODUCTION:

At the LPAT Hearing, two separate concerns were identified: (1) the concentration of traffic volume on the section of Ormond Drive between Woodmount Drive and Coldstream; (2) the volume and traffic flow at the single ingress/egress point between the Chartwell campus interior driveway and Ormond Drive.

Both issues seems to follow a Pareto Distribution, i.e. 20% of the occurrences will cause 80% of the traffic congestion and the risk to public safety. That presents a significant challenge — how to design a study that will predict the traffic congestion and risk, in key places and at key moments.

Complicating issue 2 is the Daniels Group townhouse development on Ormond Drive, just south of the Phase 3 development.

## 2 SITUATION:

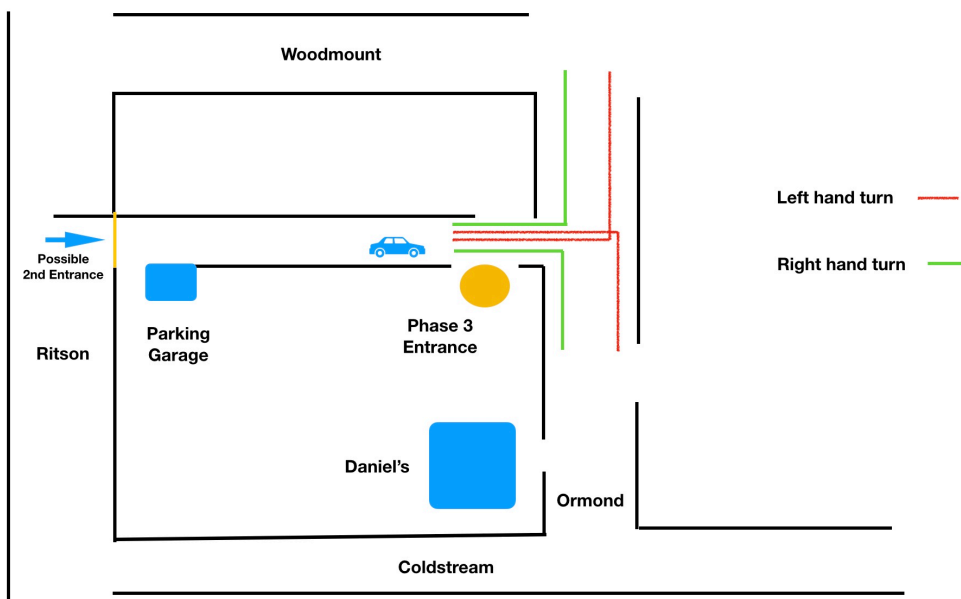


Figure 1.0

Figure 1.0 illustrates a significant part of challenge, i.e. traffic movement at the site plan “chokepoint,” the intersection of the internal driveway and Ormond Drive.

- 2.1 Left-hand turns are dangerous. According Vikash V. Gayah, Transportation Engineering Professor at Penn State, who has studied traffic flow on urban streets and transportation safety for nearly a decade, approximately 40% of all traffic accidents occur at intersections, including 50% of accidents involving serious injury and 20% of those involving fatalities.

According to the National Highway Traffic Safety Association (NHTSA), left turns occur in approximately 22.2 percent of collisions. A study by CNN found left turns are three times as likely to kill pedestrians than right turns.

- 2.2 Composition of those who use Phase 3 garage and surface parking.

|                      | Phase 1 & 2 | Phase 3 | Total |
|----------------------|-------------|---------|-------|
| <b>Daycare Staff</b> | 3           |         | 3     |
| <b>Staff</b>         | 85          | 34      | 119   |
| <b>Residents</b>     | 7           | 46      | 53    |
| <b>Visitors</b>      | 22          | 16      | 38    |
| <b>Total</b>         | 117         | 96      | 213   |

Figure 2

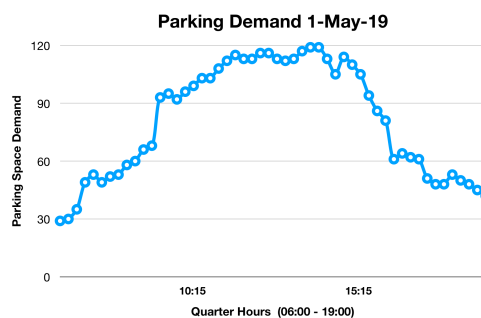
The parking demand is 213 parking spaces (conservative estimate). Fifty-six (56) permanent spaces are currently accommodated by 3 lots. It is estimated that the two lots on Woodlawn Drive, have approximately 44 spaces. (Figure 3)



Figure 3

Therefore, 169 parking spaces will be accessed by the proposed driveway. Ninety-six (96) garage spaces will meet Phase 3 needs. Seventy-three (73) spaces will satisfy the needs of Phase 1 & 2. Since 73% of Phase 1 & 2 are staff and 27% are residents and visitors. Therefore, those from Phase 1 & 2 who will park adjacent to the driveway is estimated to be 53 staff and 20 residents and visitors. So, the total composition of all those who will use the driveway is estimated to be 87 staff and 82 residents and visitors.

- 2.3 Timing of Phase 1 & 2 usage. In May 2019, Chartwell did a study that showed when the peak demand occurs for the two sites. This may not be representative of Phase 3. But timing is a factor in modelling the public risk.



- 2.4 Other considerations. In addition to the passenger vehicles that travel along the interior driveway, the road must also accommodate service vehicles (some of which back down the lane), fire trucks, ambulances, delivery vehicles and scooters used by Chartwell residents.

The driveway is narrow (estimated at 22 feet wide). It is lined with surface parking spaces and a “horseshoe” driveway close to the chokepoint. (Figure 4)

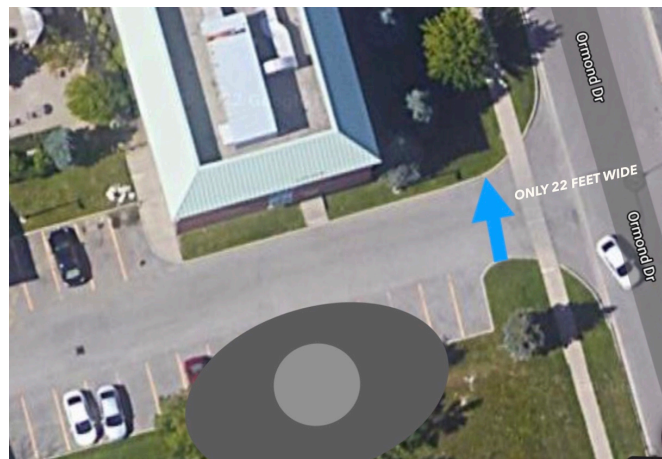


Figure 4

The ingress/egress point intersects with the sole sidewalk on the west side of Ormond Drive. Children use that sidewalk to go to the public school to the north. Chartwell's residents use that sidewalk (some with mobility and cognitive issues).

The driveway is nearly the length of a city block between the chokepoint and the Phase 3 parking garage. (Figure 5)



Figure 5

In addition to the above, Ormond Drive has regular traffic that will be forced to navigate vehicles entering and exiting both the Chartwell Campus and the Daniels development.

## **CONCLUSION:**

The required study will be challenging and complicated by

- the type of traffic movements;
- varying driving habits of staff workers versus residents and visitors;
- the peak activity versus shoulder periods, and
- the incidence of other vehicles

All these factors and possibly more will impact the modelling and prediction of risk

In contrast, a second entrance from Ritson Road N. could eliminate all left-hand turns into the Chartwell site and speed up entry because the second entrance would be almost a city block closer to the parking garage.

# ANALYSIS OF PUBLIC RISK

Prepared by: R. Bremner

07-Feb-22

## 1. INTRODUCTION

A traffic study has been commissioned by the City to determine the traffic congestion and public safety risk associated with a single ingress/egress point at the junction of Chartwell's Phase 3 site and Ormond Drive ("chokepoint"), and beyond. This single entrance affects the traffic on Ormond Drive, those entering and exiting Chartwell's campus, and pedestrians who use the sidewalk on the west side of Ormond Drive. This analysis attempts to estimate the volume, frequency, timing and nature of the vehicular activity at the chokepoint location.

## 2. VEHICLE MOVEMENT

The number of parking spaces provides a measure of vehicles at rest but only provides clues as to how often the vehicles will exit and enter the Chartwell campus.

Figure 1 estimates the parking demand when Phase 3 is built.

**PARKING SPACE DEMAND**

|                      | Phase 1 & 2 | Phase 3 | Total |
|----------------------|-------------|---------|-------|
| <b>Daycare Staff</b> | 3           |         | 3     |
| <b>Staff</b>         | 85          | 34      | 119   |
| <b>Residents</b>     | 7           | 46      | 53    |
| <b>Visitors</b>      | 22          | 16      | 38    |
| <b>Total</b>         | 117         | 96      | 213   |

**Figure 1 - Source: Chartwell**

- 2.1 The composition of driveway users. The parking demand is 213 parking spaces (conservative estimate). Fifty-six (56) permanent spaces are currently accommodated by 3 lots. It is estimated that the two lots adjacent to Woodlawn Drive have approximately 44 spaces. Therefore, 169 (213 less 44) parking spaces will be accessed by the proposed driveway. Ninety-six (96) parking garage spaces will meet Phase 3 needs. Seventy-three (73) spaces will satisfy the parking needs of Phase 1 & 2. Since 73% of Phase 1 & 2 are staff members and 27% are residents and visitors, those from Phase 1 & 2 who will park adjacent to the driveway is estimated to be 53 staff and 20 residents and visitors. So, the

composition of those associated with Phase 1 and 2 who will use the driveway is estimated to be 87 staff and 82 residents and visitors.

- 2.2 The behaviour of driveway users categories. Figure 2 shows the composition of drivers who will use Chartwell's interior driveway.

#### DRIVEWAY USER COMPOSITION

|                  | Phase 1 & 2 | Phase 3 | Total |
|------------------|-------------|---------|-------|
| <b>Staff</b>     | 53          | 34      | 87    |
| <b>Residents</b> | 7           | 46      | 53    |
| <b>Visitors</b>  | 13          | 16      | 29    |
| <b>Total</b>     | 73          | 96      | 169   |

**Figure 2 - Source: Chartwell-based Estimate**

Each user category will behave differently. Permanent staff will likely move through the intersection twice, i.e. going to and from work each day.

When Phase 3 is built, the campus will have 480 residents. Of those, 53 residents are expected to own a vehicle. The vehicle owners will be considerably more active than the remaining 427 residents and will behave much like apartment dwellers.

A study by the U.S. Department of Transportation stated that households took an average of five (5) one-way trips per day. In 2017, twenty-four (24) percent of those trips were work related. The remaining 76% of trips were for such purposes as shopping, social and recreation activities, other family matters. So, we can reasonably assume that Chartwell's resident vehicle owners will pass through the intersection an average of 3.8 times per day (76% of 5 trips), i.e. taking roughly 13 two-way trips per week. Source: <https://www.energy.gov/eere/vehicles/articles/fotw-1041-august-6-2018-households-take-fewer-vehicle-trips-2017>

Visitor parking is meant to cope with the number of transient visitors at any moment in time, which is not the same as total number of visitors. With respect to the Chartwell campus, this user category includes a significant percentage of PSWs. So, the number of visitor parking spaces underestimates the total number of different vehicles entering and exiting the campus. No proxy exists for this type of vehicle movement, so an conservative minimum estimate of 2.0 chokepoint crossings per day has been used in the calculation below.

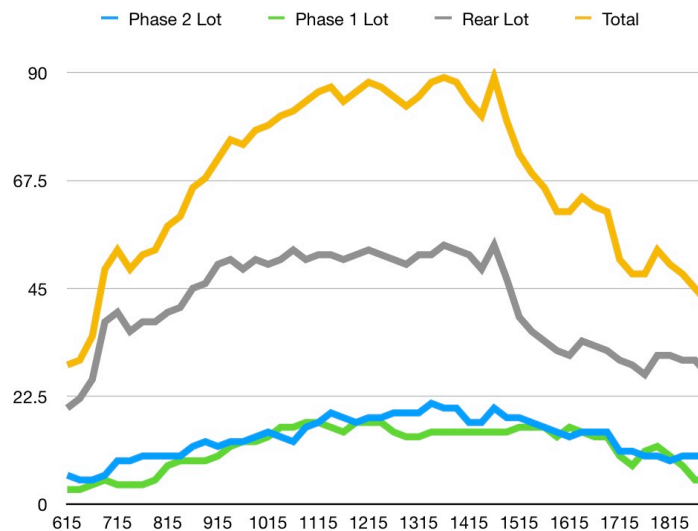
Using average trips per day, it is possible to estimate the number of times the intersection will be crossed per day (excluding trucks, etc.). Figure 3 shows the number of entrances and exits to average at least 433 times per day, i.e. 2.6 times per vehicle, per day.

### DAILY INTERSECTION CROSSINGS

|                  | Intersection Users | Average Trips Per Day | Intersection Crossings |
|------------------|--------------------|-----------------------|------------------------|
| <b>Staff</b>     | 87                 | 2.0                   | 174                    |
| <b>Residents</b> | 53                 | 3.8                   | 201                    |
| <b>Visitors</b>  | 29                 | 2.0                   | 58                     |
| <b>Total</b>     | 169                |                       | 433                    |

**Figure 3 - Source: Estimate**

- 2.3 Timing of intersection usage. On May 1, 2019, Chartwell commissioned a 12-hour study that showed the parking demand for the Phase 1 and Phase 2 sites. The shape of this curve is roughly a parabola that opens downward and is shifted up by >60 units and to the right by >30 units, i.e.  $Y-60 = -a(x-30)^2$ . The slopes of the tangents to the curve at points during the two-hour periods (07:00 - 09:00 and 15:15 - 17:15) demonstrate a heavy concentration of activity more akin to a Pareto distribution. A similar, or even greater pattern can be expected when Phase 3 comes on stream. This timing is particularly problematic because grade school children (Figure 8) use the sidewalk adjacent to the chokepoint during those time periods.



**Figure 4 - Source TMIG**



## PARKING DEMAND

- 2.4 The issue with left-hand turns. According to Vikash V. Gayah, Transportation Engineering Professor at Penn State, approximately 40% of all traffic accidents occur at intersections, including 50% of accidents involving serious injury and 20% of those involving fatalities. Source: <https://theconversation.com/sick-of-dangerous-city-traffic-remove-left-turns-161397>

Note: Report DS-22-07; section 5.2.1 Road Intersection Safety stated, "... as greater than 50% of all collisions in urban areas occur at intersections, it is critical to ensure that designs are undertaken to applicable engineering standards."

The National Highway Traffic Safety Association (NHTSA) has reported that left turns result in approximately 22.2% of collisions. A study by CNN found left turns are three times as likely to kill pedestrians than right turns.

Area residents have observed that left turns at the chokepoint intersection of the Chartwell site and Ormond Drive exceed 50% of all turns. All activities at the intersection require turns. Earlier, it was calculated that personal vehicles entering and leaving the Chartwell site will cross the sidewalk on the west side of Ormond Drive at least an average 433 times per day. Other vehicles, plows (Figure 4) fire trucks, ambulances, garbage trucks, delivery trucks, scooters (Figure 7) driven by Chartwell residents also use that intersection. Some delivery trucks are so large, like the Sysco trucks (Figure 5), that they must back down the interior driveway to align with the loading dock (Figure 6.) See Exhibit I and II for more issues.



Figure 4



Figure 5

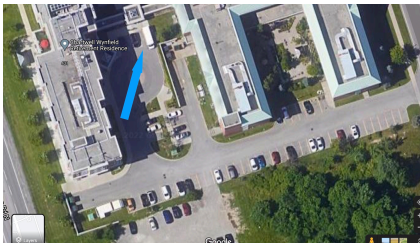


Figure 6



Figure 7

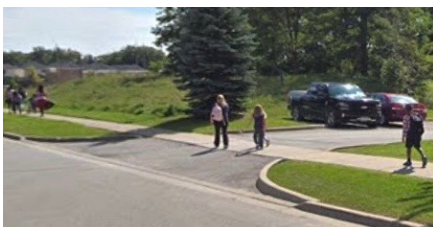


Figure 8



Figure 9



### 3. BROADER TRAFFIC CONCERNS

This document has largely focused on the issues at the Chartwell chokepoint. However, the chokepoint is adjacent to Ormond Drive, between Woodmount Drive and Coldstream Drive. Through the summer of 2019, the Region observed the traffic on Ormond Drive and made the following comment:

“The existing and projected traffic volumes on Ormond Drive are consistent with its classification as a collector road.”

According to the Development Services Department, “The Oshawa Official Plan states that Collector Roads are intended to handle moderate volumes of short distance traffic in the range of 4,000 to 15,000 Annual Average Daily Traffic (A.A.D.T.). In addition the Oshawa Official Plan specifies that direct access from Collector Roads to adjacent properties will be permitted subject to acceptable crossing and stopping sight distances.”

Area residents do not anticipate that Phase 3 will result in the A.A.D.T exceeding the Collector Road range. However, area residents submit that the chokepoint crossing will no longer be acceptable. That explains the focus of this document.

If a traffic analysis were to fail to address the chokepoint and traffic issues on the interior driveway, it would be inadequate.

The Region’s 2019 analysis was a snapshot of the past but not a projection of the future traffic activity in the lower section of Ormond Drive.

In addition to the Chartwell site, the Daniels’ Group is planning a four-story development with 68 stacked townhouses and an ingress/egress point onto the same section of Ormond Drive about 155 yards from the Chartwell chokepoint and roughly 27 yards from Coldstream Drive. Unlike the non-working residents of Phase 2 and Phase 3, the Daniels’ Group residents will have jobs. Using the U.S. Department of Transportation average of five (5) one-way trips per day (section 2.2), it is estimated that the impact at the Daniels’ crossing at Ormond Drive could average as much as 340 trips per day — drivers in the morning attempting to make right-hand turns onto Ormond Drive, barely 27 yards from Coldstream; and making left-hand or right-hand turns at Coldstream onto Ormond and then making another left-hand turn in the Daniels’ complex.

In the morning, those exiting the Daniels’ complex will encounter those destined for Chartwell. At night, the reverse will occur. Meanwhile regular traffic on Ormond Drive will be taking place.

Some will say the Daniels’ Group issue is not Chartwell’s problem, and technically they would be right. But the collective issue of the two crossings onto Ormond Drive is something the City needs to consider, especially since young children on their way to Kedron School cross Coldstream at the junction of Coldstream and Ormond Drive in order to access the sidewalk on the west side of Ormond.

## 5. DISCUSSION

A second entrance to the Chartwell site would reduce the traffic snarl at the two crossings on Ormond Drive and reduce the risk to public safety. Imposing the condition of a right-in access would eliminate incoming left-hand turns — a significant cause of traffic accidents. The right-in condition would also reduce the entry time to the Chartwell campus because the parking garage will be almost a city block closer to Ritson Road. A second entrance would also encourage Chartwell staff and visitors to use the parking garage rather than parking on the west side of Ormond Drive, which happens consistently (see Figure 9 above).

In addition, those entering the site would avoid confronting those using surface parking who are attempting to either park or exit the interior driveway and those who walk along the interior road to access the staff entrance.

It bears emphasis that the chokepoint is adjacent to a one-way drop-off area, which will require a left hand turn and add to the congestion. Also, the driveway has a lot of foot traffic. Yet, it appears that the current plan has not adequately addressed that. The campus is pinched. There is too little space to accommodate the proposed site plan.

## 4. CONCLUSION

The single entrance to Chartwell site would result in heavy traffic and potential risk to pedestrians. It is estimated that vehicles operated by 169 users of the parking garage and surface parking spaces will pass through the chokepoint an average of at least 433 times per day. This is a conservative estimate, which likely underestimates transient visitor crossings and does not include service and emergency vehicles that access Chartwell's campus through the chokepoint.

Activity at the single entrance will occur throughout the day; however, it will be particularly heavy during two 2-hour periods and exacerbated by shift changes. Of particular concern is that the periods of greatest activity occur when children are making their way to and from Kedron Public School and when regular traffic is heaviest on Ormond Drive.

It bears emphasizing that the interior driveway is relatively narrow, about 22 feet in width at the chokepoint and slightly narrower at other points. The lane was built in 2003 to permit access to staff and visitor parking, garbage trucks, Sysco trucks, maintenance and building services vehicles. It is also used as a walking access to the staff entrance at the back of the building, and for staff, and others to reach surface parking. Soon access to the Phase 3 parking garage will be added to the list of pedestrian destinations. In addition to the previously mentioned vehicles, the lane is required to handle ambulances, fire trucks, and the electric scooters of Chartwell's residents.

### Ill-conceived

The single entrance design is so inadequate and lacking in foresight that Phase 3 planners must not have contemplated that the Region would grant access from Ritson Road.

However, Chartwell has known since 6-Dec-19 that the Region is willing and City Council authorized it. Yet, Chartwell has steadfastly refused to include a second entrance that would be safer for everyone, including its residents and more efficient for staff and visitors and the general public.

# Exhibit I

## Traffic at the Chartwell Chokepoint



2-Feb-22 11:29  
Cars on Ormond Dr.



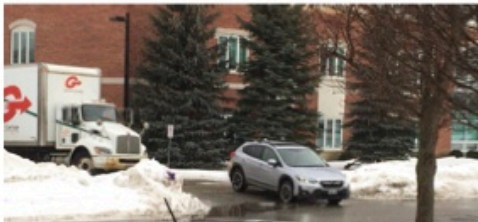
2-Feb-22 11:30  
Cars on Ormond Dr.



2-Feb-22 13:17  
Truck starts to back down driveway.



2-Feb-22 13:17  
Second truck arrives.



2-Feb-22 13:18  
Cars arrives at chokepoint and passes truck.



2-Feb-22 13:18  
Cars turns left on Ormond Dr. in front of second truck.



2-Feb-22 13:18  
Second truck enters chokepoint as first truck backs down driveway.

# **Exhibit II**

## **Activity at Chokepoint**

C.



**Chartwell resident in electric scooter crossing chokepoint into driveway.**

D.



**Chartwell resident walking dog down driveway.**

E.



**Car turning left into Chartwell campus while truck backs down driveway.**

F.



**Chartwell resident using a walker on driveway.**

# A Safe Second Entrance to the Chartwell Phase 3 Site is Warranted

Here is what you need to know:

- City Council authorized right-in access.
- The LPAT decision did not deny Council's resolution.
- Right-in access was beyond the jurisdiction of the Tribunal
- Supplementary arguments are irrelevant.

## 1. INTRODUCTION

Area residents regard City Council and staff as allies in a collective effort to protect public safety. In January 2020, Council concluded that a second entrance to the Chartwell Phase 3 site was needed. A subsequent report by the Local Planning Appeal Tribunal ("LPAT") led some staff at the City to believe the LPAT had overturned Council's decision. The purpose of this document is to provide the City with strong reasons to believe its second-entrance decision was not overturned.

Site plan by-laws can be subject to change. Under what circumstances, by whom and by how much; those are the questions.

A flexible regulatory process is positive. At each successive stage, judgements are made about whether proposed by-law variances are appropriate and minor.

When a variance is appealed, does the "higher" court confine it's ruling to the issue at hand, or does it take a more holistic view? To a degree, the issue of whether a second entrance to Chartwell's Phase 3 site has been approved turns on the answer to that question. This issue is addressed in section 3.1.

This document will argue that:

- (a) City Council authorized a second entrance to the Chartwell site;
- (b) The Tribunal did not override Council's request for a second entrance: and,
- (c) Counter-arguments are either illogical or unfounded.

This document is largely about process; however, it bears emphasis that the second entrance issue is largely about public safety risks.

Anytime hundreds of cars are crisscrossing a public sidewalk that is a safety risk.

### **Yardstick Principle**

The yardstick principle requires that those judging this matter pretend that the developer, Chartwell, wants a second entrance to its Phase 3 site; and then use that thought experiment to decide whether a second entrance is warranted.



A right-in driveway access from Ritson Road would eliminate left-hand turns into the Chartwell campus and encourage one-way traffic flow through the Phase 3 chokepoint. Vehicles entering the campus would not encounter pedestrians. A second entrance would be nearly a city block closer to the Phase 3 parking garage, so, for entrants, the time and risk associated with navigating a congested interior road would be eliminated.

## 2. BACKGROUND

This LPAT Appeal began because area residents believed that the City's Development Services Department ("DSD") and its Committee of Adjustment ("COA") had approved a variance that was major, not minor. The by-law forbid retirement homes to have units with cooking spaces. However, the City had approved a building (Phase 3) that capped cooking spaces at 169 of 201 units ("cap"). Area residents believed this decision would exacerbate a significant parking and traffic problem — a major variance.

Initially, the LPAT hearing was to appeal this one variance. But months later, the DSD discovered that the site plan had 10 other variances, so the DSD and Chartwell agreed to bypass the COA process and ask the Tribunal to consider all eleven (11) variances.

In the months leading up to the hearing, area residents became increasingly concerned about the Phase 3 ingress/egress point that intersected with a sidewalk used by children and adults, some with cognitive and mobility issues. The safety issue stemmed from the number and type of vehicles crisscrossing the sidewalk—at least 169 passenger vehicles crossing the intersection on average at least 433 times per day, plus service trucks, ambulances, garbage trucks, scooters, and fire trucks.

Area residents proposed a second entrance to Phase 3 from Ritson Road in order to divert incoming vehicles from the single chokepoint and encourage one-way traffic on the site's interior driveway. The City supported the idea and asked the Region to support it too, which it did. The developer, however, steadfastly refused to consider this enhancement. Despite that, City Council recognized the public safety concern. On January 27, 2020, Council approved a second entrance and asked staff to advise the Tribunal of its position.

Since the City took "no position" at the hearing, the LPAT appellant argued for the second entrance — a peripheral matter and not one of the eleven (11) variances.

When the Tribunal issued its report, area residents and Ward 1 Councillors believed that the Board Member had supported the second entrance and that the Development Services Department ("DSD") had reached the same conclusion. Recently, area residents and Ward 1 Councillors learned that the current site plan does not include a second entrance.

### Chokepoint Analysis

In response to the City's request for input area residents have submitted a document that claims, on average, at least 433 passenger vehicles will cross the site plan chokepoint each day.

The sidewalk on Ormond Drive is used by grade school children and adults — some with physical and cognitive disabilities. The Phase 3 driveway is also used by campus staff to access their vehicles.

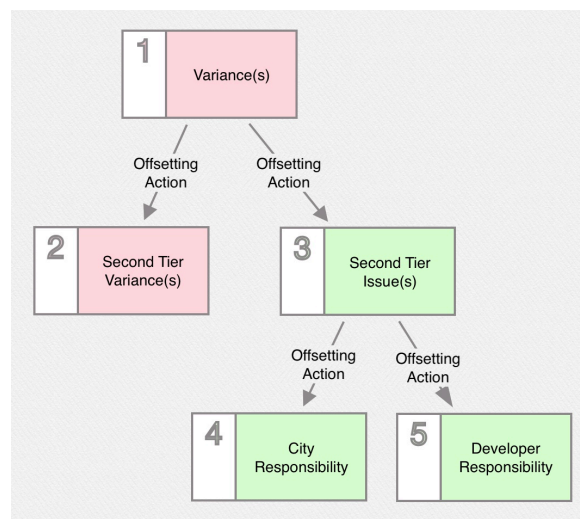
### 3. THE JURISDICTION OF THE LPAT

On January 27, 2020, City Council authorized the imposition of right-in access from Ritson Road N. to the Chartwell Phase 3 site. Subsequently (2.19. 2020), the LPAT rendered its decision. The debate about right-in access revolves around two questions: did the LPAT override the Council's resolution; did the LPAT's jurisdiction extend beyond the eleven variances being appealed.

The DSD and area residents have dissimilar perceptions of the scope of the Tribunal's discretionary powers. The City (and the developer) seem to regard the Tribunal as a "higher court" that can render unsettled, all previous site plan decisions; and can rule on both by-law variances and collateral issues.

Area residents have a narrower view of the Tribunal's discretion and authority, i.e. that the Tribunal is an appeal court that respects settled site plan decisions and only focuses on the variances being appealed. Furthermore, area residents believe that the Tribunal's actions prove it had no intention of micro-managing the site plan approval process.

#### 3.1 The scope of the LPAT's jurisdiction is limited to judging variances.



Site plans can trigger variances (1). If a variance is potentially major, the developer attempts to offset the variance with some action. That offsetting action can trigger second-tier variances (2) and second tier issues that are not variances (3), i.e. issues that don't contravene a by-law. If the second-tier issues are major, they must be addressed. Some offsetting actions are beyond the scope of the developer and become the City's responsibility (4). Others become the responsibility of the developer (5).

If category 1 and 2 variances (red) are appealed to the LPAT, they fall within the jurisdiction of the Tribunal. However, category 3 issues (green) that are not variances are addressed by the City through the site planning process.



- 3.2 How the LPAT's jurisdiction applies the Chartwell Phase 3 Appeal. The Phase 3 site plan included units with cooking spaces (category 1) — the type of units that attract active residents with cars. The combination of the insufficient parking capacity in Phase 1 and Phase 2 plus the parking demands of Phase 3 had the potential to make the original, category 1 variance major. Chartwell offset the potential major variance ruling by proposing a Phase 3 parking garage connected to an interior driveway with one ingress/ egress point. That solution triggered ten (10) additional second-tier variances (category 2). Therefore, eleven (11) variances had to be evaluated and ruled on by the Tribunal. But the parking garage solution also triggered at least two major second-tier issues: a public safety issue at the single ingress/ egress choke point (category 3) and a traffic issue on Ormond Drive (category 3). Both category 3 issues fell outside the purview of the Tribunal but needed to be addressed by the City, through the site planning process. The chokepoint safety issue is the responsibility of the developer (category 5). The traffic issue is the responsibility of the City (category 4).
- 3.3 The scope of the Appeal. Had Chartwell applied to the Tribunal to broaden the scope of the Appeal to include the whole site plan, then category 3 issues might have fallen within the purview of the Tribunal. But that was not the scope of the Appeal. The Tribunal only had the authority to consider whether category 1 and 2 variances met its tests (see 5.1).

#### **4 CITY COUNCIL AUTHORIZED RIGHT-IN ACCESS**

- 4.1 Voting history by Council and Region. Council recognized that right-in access was a category 3 issue and voted on two occasions to support a second entrance to the Chartwell Phase 3 site. The first Council vote was necessary because Council required the Region's support to obtain access from Ritson Road to the site. The second vote was required to override a decision by the Committee of Adjustment that did not include right-in access from Ritson Road.
- (a) At the May 21, 2019 City Council meeting, Council approved DS-19-88, which supported regional staff investigating a process by which the Region could support an entrance/exit from Ritson Road N. to the Chartwell site. Exhibit 1
  - (b) On December 6, 2019 the Region stated that it would be willing to permit a right-in access from Ritson Road to the Chartwell site. Exhibit 3
  - (c) On January 27, 2020, City Council voted in favour of a four-part resolution that stated the City would take "no position" at the LPAT. Also, Council declared support for a maximum of 169 units with cooking spaces and right-in access from Ritson Road N. to the Chartwell site. (Exhibit 2)
- 4.2 The LPAT hearing preceded the Council meeting. Since the Board Member's ruling is heavily influenced by the LPAT hearing, *per se*, it is useful to consider what the Board Member knew and didn't know on January 22, 2020, the date of the hearing.

On January 22, 2020, the Board Member could not have known about City Council's four-part resolution because Council did not meet until January 27, 2020 — 5 days after the hearing. But the fact that Council voted 10 to 1 in favour of a second entrance and a cap

on cooking units underscores how much Council wanted these measures adopted in the Phase 3 site plan.

Since the City did not participate at the hearing, the Board Member's opinion regarding a right-in access was based on the appellant's argument backed up by Council's May 21, 2019 second-entrance request to the Region and by the Region's December 6, 2019 support for right-in access.

The Board Member's stance vis-à-vis a second entrance is addressed more fully in section 7.

## **5. THE TRIBUNAL'S FRAME OF REFERENCE**

5.1 Tribunal's four-part test. For minor variances, the Tribunal must be satisfied that the requested variances (category 1 and 2) meet the four-part test under the Act. The proposed minor variances must:

1. Maintain the general intent and purpose of the official plan;
2. Maintain the general intent and purpose of the zoning by-law ("ZBL");
3. Be desirable for the appropriate development or use of the land; and
4. Be minor.

The Tribunal can exercise broad discretion when assessing whether a variance is "minor."

5.2 The variances approved by the LPAT. The Tribunal considered and approved eleven (11) variances that are paraphrased below: Exhibit 4

- (a) Units with cooking spaces were permitted; however, the LPAT did not limit the number of cooking space units. (Variance 5)
- (b) A parking garage with the capacity to serve three locations was permitted. (Variance 7, 10, 11)
- (c) Zero distance between Phase 3 and Phase 2 was permitted to accommodate a catwalk between the two buildings. (Variance 2 & 9)
- (d) Driveway access using an existing road for the purpose of connecting the parking garage to the street was permitted. (Variance 6)
- (e) A reduction of open space was permitted on the north side of Phase 3. (Variances 4, 8)
- (f) A reduction in open space on the south side of Phase 3. (Variance 3)
- (g) A reduction in Phase 3's distance from Ormond Drive was permitted. (Variance 1)

## **6. THE LPAT DECISION WAS NOT A NECESSARY CONDITION**

- 6.1 Argument 1 — Development Services position. The DSD's rationale for not including right-in access was stated in the following email from Robert Bedic.

*"The LPAT did not impose a condition requiring a right-in driveway access to Ritson Rd N as requested by City Council and encouraged the City to explore others options available to address residents' traffic concerns. Council was made aware of the LPAT decision in 2020 –INFO-20-56. In addition, Ritson Rd N is under the jurisdiction of the Region of Durham and as noted above in the excerpt from the LPAT decision, the Region is of the opinion that parking and speeding issues would not be significantly affected by a right-in access from Ritson Rd N. Therefore, in consideration that based on the evidence provided at the hearing, the LPAT did not make the right-in driveway a condition of approval of the minor variance appeal as requested by Council and a Ritson Rd N right-in driveway is not included on the site plan.*

*It is noted the LPAT also did not apply the requested conditions in Part 3 of the Council resolution."*

The following hypothesis summarizes how City Council and the Development Services Department viewed the LPAT's role vis-à-vis right-in access.

If the LPAT imposes a condition to require a second entrance to the Phase 3 site then a second entrance will be included.

The Development Services Department concluded that a reversal of the original hypothesis was equally valid:

If the LPAT does not impose a condition to require a second entrance to the Phase 3 site then a second entrance will not be included.

By the DSD's logic, imposing the condition of right-in access was a threshold that the Tribunal needed to reach. Therefore, anything short of that threshold meant that a second entrance was not approved.

- 6.2 Rebuttal of Argument 1 — the LPAT decision did not deny Council's resolution. The DSD's argument is based on reversing the original hypothesis. Therefore the rules of logic regarding a sufficient condition and necessary condition apply.

Causal reasoning requires that the "if" statement must be a necessary condition in order for the hypothesis to be reversible. When that condition is not met, the error of reversing the hypothesis is called "denying the antecedent."

Right-in access is a second-tier issue (category 3). Section 3.2 argues that category 3 issues are to be dealt with through the site planning process. Section 4.1 and 4.2 prove that Council voted to support right-in access prior to the LPAT decision. The

#### **Causal Reasoning**

- (a) Sufficient Condition: a condition that automatically leads to the production of an effect.
- (b) Necessary Condition: a condition that must be present to obtain an effect.

Region also expressed its willingness to allow right-in access.

Council's prior approval of right-in access was a sufficient condition. Therefore, the "if" statement was not a necessary condition.

The DS Department's reversed hypothesis is fallacious because there are other possible causes of the second entrance not being included in the site plan. For example, Council's denial or the Region's denial would have been sufficient conditions, i.e. they could have automatically denied a second entrance. But neither did. In fact, both parties showed their support for the right-in access prior to the Tribunal's decision on February 19, 2020.

## **7. THE TRIBUNAL DECISION WAS NOT A SUFFICIENT CONDITION**

7.1 Right-in access was beyond the jurisdiction of the Tribunal. To qualify as a variance, a proposal must contravene a City by-law. No City by-law forbids right-in access. Therefore, it was not a variance. Right-in access was an offsetting action to address the site plan chokepoint safety issue (category 3). As such, right-in access was beyond the jurisdiction of the Tribunal.

7.2 The LPAT's jurisdiction is limited to variances. Section 6.2 argues that the Tribunal's approval of right-in access was not a necessary condition because Council's approval of a second entrance was a sufficient condition; and Council exercised that authority on January 27, 2020.

The Tribunal's authority was limited to the eleven variances (category 1 & 2). For those variances, the Tribunal's decision was a sufficient condition. However, right-in access was not a variance, so an LPAT decision vis-à-vis right-in access was not a sufficient condition, i.e. could not automatically lead to right-in access.

In contrast, Council's approval of a second entrance was a sufficient and necessary condition.

## **8. THE TRIBUNAL'S ATTITUDE TOWARDS RIGHT-IN ACCESS**

The Tribunal made reference to right-in access in paragraph 48 of its report.

"[48] Further, the Tribunal respects the request of a right turn access to the site from Ritson Road as suggested by the Appellant. The Tribunal notes that the Region of Durham in Exhibit 2, Tab 15, explored the option and is of the opinion "Parking and speeding issues would not be significantly affected by the proposed access, these issues are best addressed by the City through the Site Plan Approval Process and by traffic regulation, enforcement and/or traffic calming on Ormond Drive". Therefore, with the evidence provided, the Tribunal is of the opinion that the proposed variance meets the four tests under s. 45(1) of the Planning Act. The Tribunal encourages the City to explore other options available to address residents' traffic concerns."

Area residents do not rely on paragraph 48 because the Tribunal lacked the authority to rule on right-in access.

The safest statement that can be made about paragraph 48 is that it is confusing and so open to interpretation that it can not be relied upon. However, the DSD and Chartwell do rely on paragraph 48.

- 8.1 The DSD argues that the absence of yes means no. In sentence one, the Tribunal said, “Further, the Tribunal respects the request of a right turn access to the site from Ritson Road as suggested by the Appellant.”

According to the DSD, “The LPAT did not impose a condition requiring a right-in driveway access to Ritson Rd N ... [so] the right-in driveway is not included on the site plan.” In other words because the LPAT’s statement fell short of the threshold to *impose* right-in access, a second entrance was not required.

- 8.2 Section 6.2 proved that the DSD’s position is fallacious. City Council had already authorized right-in access, so the Tribunal’s approval was not a necessary condition.

- 8.3 The City argued that no means no. More recently, the City has speculated that the LPAT actually negated right-in access, albeit indirectly. The argument goes like this: The Tribunal did this by approving second tier variances (category 2) that permitted a catwalk between Phase 2 and Phase 3 and reduced open space. However, that “relief” had limits; and the knock-on effects of right-in access would tip the approved variances from minor to major.

- 8.4 The City has no evidence to support the claim. The Board Member did not develop a causal relationship between the right-in access issue (category 3) and the effect on category 2 variances.

Furthermore, it is area residents’ understanding that a second entrance would require the proposed catwalk to be moved to a higher floor, which would not affect variances 2 & 9, in which the depths have already been reduced to zero. A second entrance would require a paved surface through open space. Neither of these amendments would tip the relevant variances past some arbitrary threshold, i.e. from minor to major.

- 8.5 Chartwell contends the Tribunal rejected right-in access. In a recent letter to the Development Services Committee, dated January 6, 2022, Chartwell wrote the following:

“... At the LPAT hearing, Mr. Bremner noted he appealed to LPAT on the basis that with the permitted use of cooking facilities in retirement homes would have impacts on the subject site and the surrounding neighbourhood with respect to traffic and public safety. He further argued that a right-hand access from Ritson Road would provide relief to the number of vehicles travelling on Ormond Road ...

... The Board Member heard the request of a right turn access to the site from Ritson Road. The Tribunal noted that the Region of Durham’s Transportation comments dated December 6, 2019 / DS-19-240 stated that “parking and speeding issues would not be significantly affected by the access, these issues are best addressed by the City through traffic regulation, enforcement and/or traffic calming on Ormond Dr. Therefore with the evidence provided, the Tribunal is of the [o]pinion that the proposed variances meets the

four tests under s. 45 (1) of the Planning Act. The Tribunal encourages the City to explore other options available to address residents traffic concerns...”

... In summary, Chartwell has participated in five (5) site plan submissions, met with the resident, Mr. Bremner, on several occasions to try to resolve his issues, prepared parking, and traffic reports, had them peer reviewed at Chartwell’s expense and presented planning and transportation evidence at the LPAT. We respectfully defend our site plan and based on the evidence presented at the LPAT, the Board Member agrees that a Ritson Road access point is not required.”

- 8.6 Chartwell’s characterization of paragraph 48 is specious and spurious. The Board Member went further than to hear the request for a right turn access. The appellant’s request was respected by the Tribunal.

Chartwell’s carefully crafted link between sentences one and two implies that the Board Member heard the appellant’s request for right-in access as the solution to parking and speeding issues and rejected the appellant’s argument based on the Region’s opinion.

Contrary to Chartwell’s position, the request for right-in access by the appellant and the City was primarily focused on public safety and traffic problems at the single ingress/ egress chokepoint and connected internal driveway. The appellant advised the Board Member of both concerns at the LPAT hearing and described in detail the conditions and reasons for area residents’ concerns — apprehensions that were borne out by the City’s request for right-in access. Also, the Board Member was aware that the Region was willing to allow access from Ritson Road.

The Region was solely focused on parking and speeding issues. Area residents agree that right-in access would not significantly affect those issues and that they are best addressed by the measures outlined by the Region. Recently, City Council has voted to undertake a Traffic Study.

To solidify it’s claim, Chartwell quotes the Tribunal as follows:

*“Therefore with the evidence provided, the Tribunal is of the [o]pinion that the proposed variances meets the four tests under s. 45 (1) of the Planning Act.”*

That is a typo or misquote. The Tribunal did not write variances (plural); It wrote variance (singular). The Board Member was not giving an “all-clear” sign, as though the Tribunal’s purview was all aspects of the site plan. Chartwell had not applied to the LPAT to appeal the whole site plan. The Tribunal’s jurisdiction was bounded by the eleven variances under consideration.

The Board member was referring to some mysterious *proposed variance*, but it is impossible to know the variance the Tribunal was referencing. If *proposed variance* referred to one of the eleven variances over which the Tribunal had jurisdiction, the Board

Member did not state the variance, so the Board Member's statement is ambiguous and can not be relied upon by Chartwell.

Chartwell's final quote was as follows:

*"The Tribunal encourages the City to explore other options available to address residents' traffic concerns."*

Chartwell's letter implies that all the concerns expressed by the appellant can be addressed by the evaluating potential traffic issues on Ormond Drive and addressing them, as required. The traffic issues on Ormond Drive represent some, but not all, of area residents' concerns.

Characterizing the Board Member's position as exclusively about issues on Ormond Drive is convenient for Chartwell because they are category 4 issues, which become the responsibility of the City, not the developer (category 5).

Chartwell closes by saying, *"We respectfully defend our site plan and based on the evidence presented at the LPAT, the Board Member agrees that a Ritson Road access point is not required."*

Chartwell can not rely on paragraph 48. Right-in access is beyond the Tribunal's jurisdiction. Chartwell's statement that the Board Member agrees that a Ritson Road access point is not required is unfounded. There is no evidence to support that claim.

- 8.7 A different take on paragraph 48. Area residents do not rely on paragraph 48 and have proved that the DSD and Chartwell cannot successfully rely on it, either. Nevertheless, both have gone to great lengths with paragraph 48 to prop up their positions. The DSD's argument defies the rules of causal reasoning and Chartwell mischaracterizes paragraph 48 by misrepresenting and misquoting the Board Member.

But, sometimes the simplest explanation is the best (Occam's Razor). Paragraph 48 is confusing because the sentences are disjointed. For example, sentence four, which addresses traffic issues, is clearly a continuation of sentence 2. With that in mind, without altering any individual sentence, here is a more connected version of paragraph 48.

*[48] Further, the Tribunal respects the request of a right turn access to the site from Ritson Road as suggested by the Appellant. Therefore, with the evidence provided, the Tribunal is of the opinion that the proposed variance meets the four tests under s. 45(1) of the Planning Act. The Tribunal notes that the Region of Durham in Exhibit 2, Tab 15, explored the option and is of the opinion "Parking and speeding issues would not be significantly affected by the proposed access, these issues are best addressed by the City through the Site Plan Approval Process and by traffic regulation, enforcement and/or traffic calming on Ormond Drive". The Tribunal encourages the City to explore other options available to address residents' traffic concerns.*

This is the most plausible explanation of paragraph 48. Viewed through this lens, the paragraph is no longer confusing. It addresses each thread, right-in access and traffic regulation, separately — which is the way these issues were presented by the appellant and received by the Board Member.

This sentence construction does not resolve the mystery surrounding the Board Member's reference to *proposed variance*. Technically speaking, right-in access does not contravene any City by-law, so it does not match the stipulated definition of a variance. But, if the Board Member was thinking of right-in access in more general terms, i.e. as a proposed *difference*, the Board member's statement would simply have been an expression of a general view that ("meeting the 4 tests") right-in access does not upset the site plan balance that the Board Member was trying to strike.

This explanation supports area residents' broader contention that the Tribunal deferred to Council, i.e. it respected and acknowledged the fact that Council had already authorized right-in access; and saw no justification to rule on it.

## **9. CONCLUSION**

City Council authorized right-in access on January 27, 2020. The scope of the subsequent LPAT appeal did not include all aspects of the site plan, but was bounded by the eleven (11) variances that were appealed. Because right-in access had been approved by City Council, a Board Member ruling on right-in access was not required, i.e. a necessary condition. So, it was fallacious for the DSD to conclude that the Tribunal had rejected a second entrance. Decisions by the Tribunal were sufficient conditions for the eleven appealed variances but not for right-in access because it is not a variance, *per se*. However, Council's authorization of right-in access was a sufficient condition. Council exercised its authority prior to the LPAT hearing in order to mitigate the risk to public safety and traffic issues at the site plan chokepoint and beyond. For all these reasons, the Council's authorization of right-in access is a settled matter.



## **EXHIBIT 1**

### **DEVELOPMENT SERVICES COMMITTEE**

The motion was made at Development Services meeting May 8 and passed at the Council Meeting on May 21 as DS-19-88.

“DS-19-88 Parking and Congestion on Ormond Drive

Recommendation That Council support regional staff to further investigate a process that will find a way for the Region to support an entrance/exit to a parking lot for the Chartwell Seniors Residence planned for 1321 Ormond Drive to accommodate staff parking and alleviate the parking and congestion on Ormond Drive.”

## **EXHIBIT 2**

### **JANUARY 27, 2020 COUNCIL RESOLUTION**

1. That the Local Planning Appeal Tribunal be advised that City Council takes no position on the appeals of the approval decisions of the Committee of Adjustment concerning 1231 Ormond Drive and 431 Woodmount Drive and the City does not seek party or participant status at the Local

Planning Appeal Tribunal hearing; and,

2. That the Local Planning Appeal Tribunal be advised that City Council takes no position on the additional variances identified after the Committee of Adjustment meeting that includes 451 Woodmount Drive; and,

3. That, pursuant to Report DS-19-231 dated December 4, 2019 and Report DS-20-09 dated January 8, 2020, the Local Planning Appeal Tribunal be advised that the City of Oshawa requests that conditions be imposed to permit a maximum of 201 units in the proposed retirement home at 1231 Ormond Drive, of which a maximum of 169 units may include cooking facilities in the individual units, if the minor variances are approved by the Local Planning Appeal Tribunal; and,

4. That the City of Oshawa requests that conditions be imposed on the development of the Chartwell site at 1707 Ritson Road North/1231 Ormond Drive to require a right in turn from Ritson Road that will safely accommodate the traffic of residents, visitors and staff shift changes.

### **EXHIBIT 3**

#### **REGION POSITION**

On December 6, 2019, you wrote to Councillor McConkey:

Councillor McConkey,

As requested at our meeting of December 5, 2019, this email provides a summary of the Region's assessment of the potential to provide a Ritson Road access for the Chartwell complex on Ormond Drive. This information was previously provided to City staff in October 2019, and it remains valid.

Regional staff have reviewed the studies submitted by Chartwell in support of their Phase 3 development, as well as traffic data supplied by the City and additional information provided by Mr. Bremner. Regional staff also visited the site several times throughout June, July, August and September to observe any traffic volume, parking, speeding and operations issues on Ormond Drive associated with the operation of the existing Chartwell Wynfield site.

Our findings can be summarized as follows:

- The existing and projected traffic volumes on Ormond Drive are consistent with its classification as a collector road.
- We did not observe any significant delays/queuing, even during shift change times. Chartwell's Traffic Impact Study indicates continued good traffic operations post-development.
- The speed data and our observations indicate some issues with speeding, but our observations indicate that this is generally related to through traffic on Ormond rather than Chartwell site traffic.
- There is some limited on-street parking activity associated with the existing Chartwell site that appears to be generated primarily by short-term visitors, including external (non-Chartwell) service staff. The parking is generally along the south side of Ormond Drive adjacent to the existing buildings.

As discussed at our meeting, although not ideal from a Regional road access management point of view, it is appreciated that the proposed access from Ritson Road would help to mitigate residents' concerns regarding traffic volumes/operations at Chartwell's Ormond driveway. Parking and speeding issues would not be significantly affected by the proposed access; these issues are best addressed by the City through the Site Plan Approval process and by traffic regulation, enforcement and/or traffic calming on Ormond Drive. Although the existing and projected traffic volumes are consistent with Ormond Drive's classification as a collector road, and our findings do not indicate significant problems with the existing Chartwell site operation, we recognize that the proposed Ritson access would reduce the traffic from the expanded Chartwell site on Ormond Drive, which would help to address the residents' concerns with the proposed development.

Under the Region's Entranceway Policy, the Ritson access would not normally be allowed because suitable access is available from a lower order road (Ormond Drive). However, there is adequate space to accommodate an access as per the spacing guideline for a Type B Arterial in the Regional Official Plan (Schedule E, Table E7). As discussed at our meeting, in an effort to help the City address the residents' concerns regarding traffic volumes and operations, the Region is willing to permit a right-in access from Ritson Road to the Chartwell site because it would:

- Accommodate the major inbound traffic direction without unduly restricting outbound traffic, since most site traffic is from/to the south;
- Help to distribute site traffic better during times of peak demand and reduce the traffic using Chartwell's Ormond driveway;
- Avoid the conflicts and potential collisions on Ritson Road that would result from allowing left turns in and out of the access and outbound right turns; and
- Avoid the need for a raised median on Ritson Road (required with a right-in/right-out access), which would require significant widening and reconstruction of Ritson Road and would create a fixed obstacle collision hazard within the roadway.

We note that the developer is not currently proposing access from Ritson Road, and their current Site Plan submission does not show such an access. If the City and developer are interested in getting Regional approval for a right-in access, we will require submission of:

1. A traffic brief that provides revised site and total traffic volume projections and demonstrates that the right-in access would have significant usage;
2. A revised site plan showing how the proposed access would be incorporated into the on-site circulation; and
3. A functional design plan showing a northbound right turn auxiliary lane and entranceway design that will effectively prevent inbound left turns and all outbound movements.

All of the above have to be completed to the satisfaction of the Region before we can approve the access. All works required for the access would be 100% developer cost.

Note that since the Region has stated that the proposed development can operate acceptably without the Ritson Road access, we cannot require the developer to provide this access as a condition of Site Plan Approval. We will permit it if the City requires the developer to provide it.

Please contact me if you have any questions on the above.

Regards,

**Doug Robertson, P.Eng., PTOE**

Project Manager - Transportation Infrastructure

Regional Municipality of Durham, Works Department

605 Rossland Road East, Level 5

PO Box 623, Whitby, ON L1N 6A3

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## **EXHIBIT 4**

### **THE VARIANCES APPROVED BY THE LPAT**

#### **1231 Ormond Drive**

Variance 1 – Front Lot Line – Coldstream Drive is the Front Lot Line (ZBL definition) to Designate Ormond Drive as the Front Lot Line;

Variance 2 – Minimum Interior Side Yard Depth (North Side) 10.5 m (ZBL requirement) to 0.0 m;

Variance 3 – Minimum Interior Side Yard Depth (South Side) 10.5 m (ZBL requirement) to 2.5 m;

Variance 4 - Minimum Rear Yard Depth 10.5 m (ZBL requirement) to 3.5 m;

Variance 5 - Definition of Retirement Home: to include “Living units may also include cooking facilities”;

Variance 6 - Driveway Access: current (ZBL definition) Required from the Travelled Portion of an improved street;

Variance 7 - Parking Required in Article 39.1.1 – 431 Woodmount Drive, 451 Woodmount Drive and 1231 Ormond Drive required to accommodate parking on each individual lot (ZBL requirement) to permit 431 Woodmount Drive, 451 Woodmount Drive and 1231 Ormond Drive to be considered one lot for the purpose of applying parking regulations related to the number and location of all required and additional parking spaces.

#### **431 Woodmount Drive**

Variance 8 – Minimum Exterior Side Yard depth 7.5 m (ZBL requirement) to 3.0 m;

Variance 9 – Minimum Rear Yard Depth 7.5 m (ZBL requirement) to 0.0 m;

Variance 10 – Parking Required in Article 39.1.1 – 431 Woodmount Drive, 451 Woodmount Drive and 1231 Ormond Drive required to accommodate parking on each individual lot (ZB requirement) to permit 431 Woodmount Drive, 451 Woodmount Drive and 1231 Ormond Drive to be considered one lot for the purpose of applying parking regulations in relation to the number and location of all required and additional parking spaces.

#### **451 Woodmount Drive**

Variance 11 – Parking required in Article 39.1.1 – 431 Woodmount Drive, 451 Woodmount Drive and 1231 Ormond Drive required to accommodate parking on each individual lot (ZB requirement) to permit 431 Woodmount Drive, 451 Woodmount Drive and 1231 Ormond Drive to be considered one lot for the purpose of applying parking regulations related to the number and location of all required and additional parking spaces.

## **EXHIBIT 5**

### **CHARTWELL LETTER**

**DS-22-18**



**January 6, 2022**

Mary Medeiros (service@oshawa.ca)  
City Clerk, City Clerk Services  
City of Oshawa  
5<sup>th</sup> Floor, Rundle Tower, City Hall  
50 Centre Street South  
Oshawa, Ontario  
L1H 3Z7

**Re: Chartwell Wynfield  
1231 Ormond Dr, Oshawa, Ontario  
Site Plan File: SPA-2018-32  
Minor Variance Files: A-2019-24 and A-2019-25  
LPAT File: PL190223  
January 10, 2022 Development Services Committee Agenda Item DS-22-05  
January 10, 2022 Development Services Committee Agenda Item DS-22-15**

Upon review of the January 10, 2022 Development Services Committee Agenda, we note two items, which we wish to comment on, these being DS-22-05 and DS-22-15. Below, please find the relevant background and comments related to DS-22-05, DS-22-15, site plan application file SPA-2018-32, minor variance application files A-2019-24 and A-2019-25 and LPAT file PL190223.

Chartwell submitted a complete site plan application to the City on November 15, 2018. Through this process the application was circulated to numerous City departments, including the Region of Durham and other commenting agencies. As part of this process, we continued to refine and revise the proposal resulting in city supported Minor Variance applications.

A total of 5 submissions of the site plan application were made, with the last submission being filed with the City on February 23, 2021, with our understanding being that this submission was the final one, and the plans will be used to prepare the site plan agreement. Through these various rounds of site plan comments and resubmissions, Chartwell maintained the original intent of our development with no entrance from Ritson Road. No formal comments were made by the City of Oshawa or the Region of Durham requesting that an additional vehicular access point be created along Ritson Road.

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Throughout our site plan and minor variance process, Chartwell met with Mr. Bremner on two (2) occasions to discuss his concerns. This led to a series of traffic and parking reviews that were carried out to ensure that the proposed development met all City and Region of Durham requirements and to satisfy the concerns of Mr. Bremner. These included:

TMIG Traffic Impact Study, dated November 5, 2018 – This report was prepared as part of the initial site plan application to the City's Planning Department. This report discusses site related traffic and the subsequent traffic-related impacts on the adjacent road network during the weekday a.m. and p.m. peak hours and then are analyzed based on projected future background traffic and road network conditions. The findings of this report notes that the site plan is appropriate, the total traffic analysis confirms that the incremental impact of the estimated site traffic is minimal and that the traffic generated by the proposed development can be accommodated by the adjacent street system.

TMIG Parking Brief, dated May 31, 2019 – This report was prepared at the request of the city and was provided as part of the resubmission of the site plan application. This report notes that the site plan is appropriate with regards to parking space count.

TMIG Parking Brief Update, dated August 7, 2019 – This report is in response to the comments we received from our second submission.

TMIG Parking Forecast, dated October 7, 2019 – This Forecast was prepared to address Mr. Bremner's assertion that an under supply of parking was being proposed. The report demonstrates that parking being proposed at 0.6 parking spaces per unit is adequate.

TMIG Parking Brief Response, dated November 5, 2019 – This response was prepared to address and answer comments from Mr. Bremner.

On November 18, 2019, Dillion Consulting was commissioned by the City and paid by Chartwell to Peer Review of TMIG Parking Brief. This third-party brief recommended adding four (4) additional parking spaces to the proposal. Consequently, the site plan was updated and a subsequent resubmission of the site plan to the City included four (4) additional parking spaces.

Chartwell's minor variance application was submitted and was approved by the Committee of Adjustment on April 10, 2019. A neighbour, Mr. Bremner, appealed the decision, which

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resulted in an LPAT hearing, which took place on January 20, 2020, with a written decision dated February 19, 2020.

At the LPAT hearing, Mr. Bremner noted he appealed to LPAT on the basis that with the permitted use of cooking facilities in retirement homes would have impacts on the subject site and the surrounding neighbourhood with respect to traffic and public safety. He further argued that a right-hand access from Ritson Road would provide relief to the number of vehicles travelling on Ormond Road.

The Tribunal's role is to consider the evidence submitted at the hearings and to make findings based on the best evidence presented.

At the Hearing, the Board Member heard expert witness statements from our Planning and Transportation Consultants and the Member accepted the Evidence brought forward by both. In particular, in our Traffic Consultant evidence, the results of the total traffic analysis confirmed that the incremental impact of the estimated site traffic is *minimal* and our development does not contribute to any significant increase. The site concluded that traffic generated by the proposed development can be accommodated by the adjacent street system.

The Board Member heard the request of a right turn access to the site from Ritson Road. The Tribunal noted that the Region of Durham's Transportation comments dated December 6, 2019 / DS-19-240 stated that "parking and speeding issues would not be significantly affected by the access, these issues are best addressed by the City through traffic regulation, enforcement and/or traffic calming on Ormond Dr. Therefore with the evidence provided, the Tribunal is of the opinion that the proposed variances meets the four tests under s. 45 (1) of the Planning Act. The Tribunal encourages the City to explore other options available to address residents traffic concerns.

Mr. Bremner failed to provide factual evidence to warrant the construction of the right in/out on Ritson Road. Chartwell is of the opinion that the Board Member adequately addressed that rationale for not requiring an entrance from Ritson Road.

The City attended the LPAT hearing in a monitoring capacity. The LPAT member noted in their decision, under clause 15, that "City Council planned to take no substantive position at the hearing, which it had advised the Tribunal in advance." The site plan used to set out required variances, that was entered as evidence at the LPAT hearing, did not include a vehicular access point along Ritson Road.

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In summary, Chartwell has participated in five (5) site plan submissions, met with the resident, Mr. Bremner, on several occasions to try to resolve his issues, prepared parking, and traffic reports, had them peer reviewed at Chartwell's expense and presented planning and transportation evidence at the LPAT. We respectfully defend our site plan and based on the evidence presented at the LPAT, the Board Member agrees that a Ritson Road access point is not required.

We would also like to add that the last site plan submission to the City was on February 23, 2021 and we were informed that this submission would be used for the creation of a site plan agreement. During that time, City of Oshawa nor Region of Durham requests have come forward since this time suggesting that a Ritson Road vehicular access form part of the proposed development.

With this in mind, we look forward to the City of Oshawa expeditiously moving forward with site plan approval of the proposed project.

Sincerely,

Kathy Kakish  
Development Manager

cc. Racheal Rossetti, Council-Committee Coordinator, City of Oshawa ([rrossetti@oshawa.ca](mailto:rrossetti@oshawa.ca))

Warren Munro, Commissioner, Development Services, City of Oshawa  
([wmunro@oshawa.ca](mailto:wmunro@oshawa.ca))

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## MEMORANDUM

**TO** : Robert Bedic (City of Oshawa)

**FROM** : Jeffrey Suggett, M. Sc.

**CC** : Jaime Garcia, P.Eng., Ph.D.

**DATE** : February 22, 2022

**SUBJECT** : Peer Review of Transportation Impact Study for Proposed Development at 1231 Ormond Drive – City of Oshawa

### 1. Introduction

The City of Oshawa has retained CIMA+ to provide an independent peer review relating to a proposed development (a 201-unit retirement home to be operated by Chartwell Retirement Residences) to be located at 1231 Ormond Drive as per **Figure 1** below. As understood, an area resident (Mr. Ronald Bremner) has expressed concern over the proposed plan to providing single access only to the proposed development from Ormond Drive and has requested that a right-in only access be provided to the proposed development from Ritson Road North. Based on the information provided by the City, it is our understanding that the Region of Durham have no objections to the additional access, but consider it has unjustified.



**Figure 1 – Proposed Development<sup>1</sup>**

<sup>1</sup> Wynfield Long-Term Care Facility, Transportation Impact Study, November 2018 (Draft) – Figure 2-1

## 2. Scope of Peer Review

To that end, Oshawa City Council has directed an external consultant to conduct a safety assessment relating to the right-in only access as to whether it is needed from a pedestrian and vehicular safety perspective as per direction provided on January 24, 2022 (City Council Meeting Minutes - DS-22-15)<sup>2</sup>.

City staff directed CIMA+ to review all correspondence provided by the owner of 1230 Ormond Drive (Mr. Ronald Bremner), the City of Oshawa, the Region of Durham and the applicant (Chartwell Retirement Residences) as it relates to the above matter.

City Council also identified additional tasks which included a review of the need for traffic calming and safety measures on Ormond Drive and a Community Safety Zone on Ritson Road North, however these tasks are not considered to be part of the scope of this assignment.

In addition, also understood not to be part of the scope of this assignment was a review of the adequacy of parking proposed for the development, as the City had already retained another consultant (Dillon) to review this as part of a previous assignment. That consultant recommended an additional four parking spaces be added to the development based on their analysis.

## 3. Review of Background Materials

The following section outlines our review of the materials provided by the City of Oshawa, organized into four groups:

- Materials provided by the applicant, Chartwell Retirement Residences and their traffic consultant, Municipal Infrastructure Group Ltd
- Materials provided by the Region of Durham
- Materials provided by the City of Oshawa
- Materials provided by Mr. Ronald Bremner

### 3.1 Chartwell Retirement Residences

A Transportation Impact Study was commissioned by Chartwell Retirement Residences for the proposed Wynfield Long-Term Care Facility<sup>3</sup>. In terms of the peer review, CIMA+ reviewed the methodology to determine whether it followed industry practice, reviewed the findings in terms of their reasonableness in the context of the existing and anticipated future traffic, and the conclusions/recommendations as to their validity in context of the stated findings in the report. CIMA+ did not however conduct their own analysis (i.e. Synchro analysis).

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<sup>2</sup> City Council Meeting Direction, DS-22-15, Ron Bremner Submitting comments regarding Item DS-22-05 being the City Council referral concerning Compliance with Site Plan Agreements (Ward 1)

<sup>3</sup> Municipal Infrastructure Group Ltd, Wynfield Long-Term Care Facility Transportation Impact Study, November 2018

As described in the study, the development will consist of a seven-story building, south of an existing facility, with 32 memory living units and 169 units described as mixed independent and care-dependent suites, totaling 201 units. Access to the proposed development would be solely from Ormond Drive, from an existing access.

Traffic data was collected for the surrounding intersections in 2015, 2017 and 2018 and a growth rate of 1.0% was applied to establish baseline traffic conditions representing 2018. Future (background) traffic conditions were assessed for the year 2024 assuming a 1.0% growth rate again. Both the Region and the City endorsed the growth rate.

Another residential development is proposed at the northeast corner of Ritson Road and Coldstream Drive. The development is expected to generate 38 weekday AM peak hour two-way trips and 44 weekday PM peak hour two-way trips, based on rates noted in the *Trip Generation Manual* published by the Institute of Transportation Engineers (ITE), 9<sup>th</sup> Edition for Multifamily Housing (Mid-Rise) Residential Condominium/Townhouses.

The Wynfield Long-Term Care Facility is anticipated to generate an additional 40 weekday AM peak hour two-way trips and 52 weekday PM peak hour two-way trips, based on rates noted in the *Trip Generation Manual* published by the Institute of Transportation Engineers (ITE), 9<sup>th</sup> Edition for Senior Adult Housing and Assisted Living. Site trip distribution was derived from the 2011 Transportation Tomorrow Survey (TTS) for the City of Oshawa.

The background traffic, assuming the 1% growth, background development traffic, together with the development traffic, were used to estimate future traffic movements on the roads surrounding the development, as presented in **Figure 2** on the following page for the AM and PM peak hour.

Capacity analysis was conducted to determine the ability of the road network to accommodate the future estimated traffic in 2024. Based on the analysis, it was determined that both the signalized and unsignalized intersections, including the access to the Wynfield Long-Term Care Facility, would operate well below capacity with minimal delay to motorists. An analysis of queuing indicated that the existing lanes (on approaches to intersections in the study area) would have adequate storage capacity for turning movements.

As the result of an appeal by Mr. Ronald Bremner, a report was prepared by the Development Services Department relating to the development that included minutes of the meeting held on December 9<sup>th</sup>, 2019<sup>4</sup>. The following was noted:

- A resolution was made that a right-in, right-out access off to Ritson Road North be investigated by the Region of Durham and City of Oshawa;
- In addition to a number of incentives to reduce parking demand, to limit traffic impacts on the neighbourhood, the applicant, Chartwell Retirement Residences indicated that they would:
  - Commit a bus to the Wynfield campus to provide residents with a means to commute to popular destinations on a regular basis, thereby reducing residents' need for cars
  - Provide commuter options brochures within the facility

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<sup>4</sup> Report to Development Services Committee (DS-19-231), December 9<sup>th</sup>, 2019

- Provide pedestrian and bicycle facility network maps/exhibits
- Provide transit incentives
- Review the option of implementing an in-house car-share service for residents

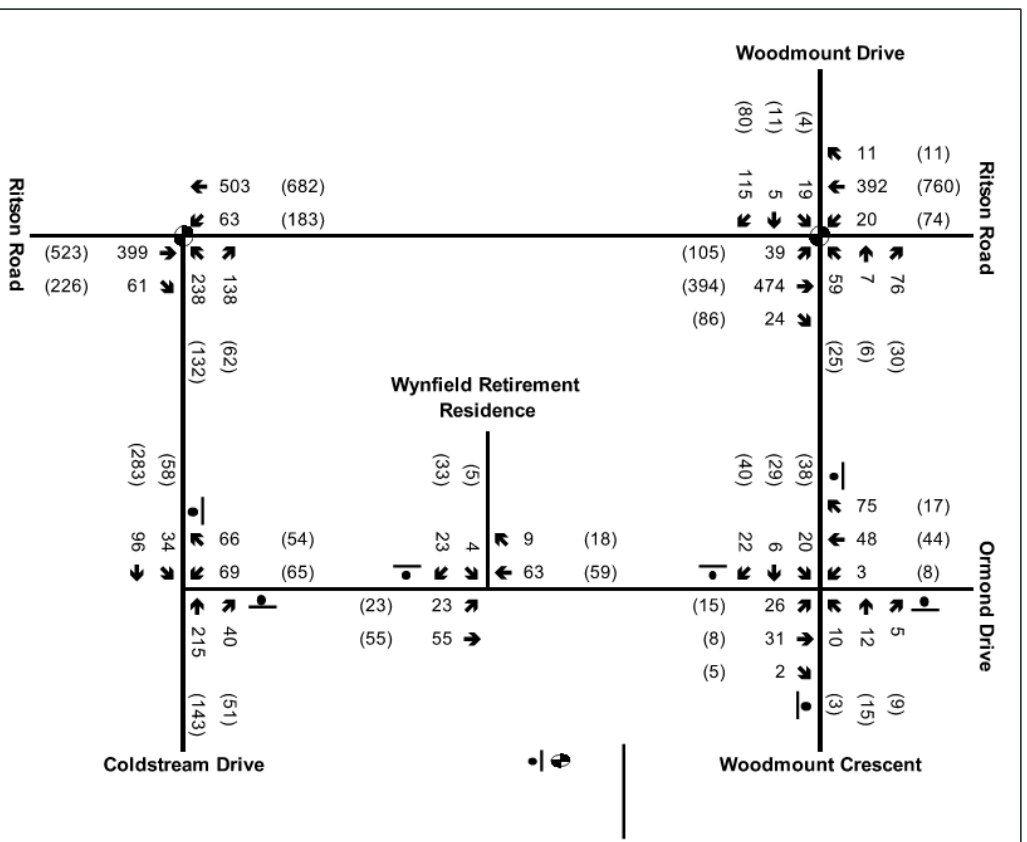


Figure 2 –Future Traffic Conditions (AM and PM peak hour)<sup>5</sup>

<sup>5</sup> Wynfield Long-Term Care Facility, Transportation Impact Study, November 2018 (Draft) – Figure 6-1

### 3.1.1 Our response

Our review of the above Transportation Impact Study indicates that it has been undertaken in accordance with accepted engineering practice for the conduct of these types of studies. We agree with the methodology and the anticipated level of traffic (post-development) as presented in the study. . With the anticipated level of traffic, the impacts to traffic as a result of the proposed development should result in minimal impacts to traffic within the neighbourhood and the proposed access on Ormond Drive would be able to accommodate the increased vehicular movements without undue delay.

The measures proposed by Chartwell Retirement Residences, indicate a willingness on their part to implement transportation demand management measures that should result in a decrease in vehicle trips to and from the facility, beyond that indicated in the Transportation Impact Study prepared by Municipal Infrastructure Group Ltd.

## 3.2 Region of Durham

In minutes of the meeting held on January 13<sup>th</sup>, 2020, relating to the matter of the right-in right-out access of Ritson Road North into the subject site (Attachment 3)<sup>6</sup>, the Region of Durham provided the following comments (summarized below):

- An access is not necessary for the proposed development given the anticipated traffic volumes
- Observed traffic on Ormond Drive is consistent with that of a collector road and no significant delays and/or queueing were observed, even during the shift change at the existing Chartwell Retirement Homes development
- There are observed issues with speed, although these are due to through traffic movements on Ormond Drive, not the Chartwell Retirement Homes development
- The Region would not oppose a right-in access to the property, however the right-in access is not necessary for the development
- The proposed right-in access would reduce traffic from the proposed development
- Parking and speed issues would not be significantly affected by the proposed right-in access, these issues are best addressed by the City through the Site Plan Approval Process and by traffic regulation, enforcement and/or traffic calming on Ormond Drive

### 3.2.1 Our response

We agree with the comment that the right-in access is not necessary for the proposed development given the anticipated traffic volumes and the ability of the road network and associated intersections to accommodate the future development. The amount of diverted traffic

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<sup>6</sup> Development Service Committee, Direction of City Staff Involvement Respecting Appeals to the Local Planning Appeal Tribunal of Committee of Adjustment Decision concerning 1231 Ormond Drive and 431 and 451 Woodmount Drive - DS-20-09

would be minimal. According to the 2018 Transportation Impact Study referenced earlier, the right-in only access would divert a total of 4 vehicle trips in the AM peak hour and 8 vehicle trips in the PM peak hour (refer to Figure 5-1)<sup>7</sup>.

The Region notes issues with speeding on Ormond Drive but notes that the speeding is not generated by traffic travelling to/from the Chartwell Retirement Homes development. We understand that the City will be investigating the need for traffic calming measures on Ormond Drive and recommend that the City collect speed data on this section of roadway and based on the findings, implement measures to reduce operating speeds, in consultation with Chartwell Retirement Homes and the local residents.

### 3.3 City of Oshawa

Relating to the unsafe 'choke point' comment, City staff indicated that Ormond Drive is designated as a Collector Road in the City's Official Plan, intended to handle traffic in the range of 4000 – 15000 vehicles per day. Direct access from Collector Roads to adjacent properties is permitted subject to acceptable crossing and stopping sight distances. Furthermore, City staff indicated if a right-in only access was implemented on Ritson Road North, it would have minimal impacts to traffic on Ormond Drive<sup>8</sup>.

#### 3.3.1 Our response

With regard to the designation of Ormond Drive as a Collector Road, even with projected future volumes with the addition of the development traffic, volumes on Ormond Drive would appear to be far below that of a Collector Road (with future peak hour volumes in the range of 70 – 170) in the AM and PM peak, suggesting that the roadway is and will behave more like a Local Roadway with lower traffic volumes.

### 3.4 Residents of Ormond Drive

Residents of Ormond Drive, specifically Mr. Ronald Bremner, have raised concerns over traffic and speed both currently and as a result of the development. In a report submitted to the Development Service Committee, a letter outlines his concerns relating to traffic and speed (Attachment 6)<sup>9</sup>. The letter documents:

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<sup>7</sup> Wynfield Long-Term Care Facility, Transportation Impact Study, November 2018 (Draft) – Figure 5-1

<sup>8</sup> See also *Development Service Committee, Direction of City Staff Involvement Respecting Appeals to the Local Planning Appeal Tribunal of Committee of Adjustment Decision concerning 1231 Ormond Drive and 431 and 451 Woodmount Drive - DS-20-09*

<sup>9</sup> *Development Service Committee, Direction of City Staff Involvement Respecting Appeals to the Local Planning Appeal Tribunal of Committee of Adjustment Decision concerning 1231 Ormond Drive and 431 and 451 Woodmount Drive - DS-19-231 (Attachment 6)*

- His concern over an anticipated significant increase in traffic in the neighbourhood; and
- His concern over conflicts between school aged children and other vulnerable road users walking across the current access to Wynfield Retirement Residence (due to the increase in traffic)

Attachment 7, also included in the report, is a petition signed by residences opposing the development. It further outlines that shift changes associated with the Wynfield Retirement Residence would have a significant impact on traffic and cites speeding as an issue on Ormond Drive<sup>10</sup>.

In the 2020 report to the Development Services committee, Attachment 2 includes a second letter prepared by Mr. Ronald Bremner<sup>11</sup>. The following is noted as it relates to speed and traffic.

- He claims that the access off Ormond Drive would become an 'unsafe choke point' and would not be able to accommodate the additional traffic generated by the new development
- He indicates a need for a right-in access off Ritson Road North and requests that the size of the development be reduced to limit traffic impacts to the neighbourhood, thereby making the neighbourhood safer

Mr. Ronald Bremner submitted further material to the City of Oshawa that was included in this review<sup>12</sup>. The following is noted:

- He presents parking demand data (noted as 213 parking spaces in total) and uses this information to make inferences about the amount of traffic that will be travelling into and out of the Wynfield Retirement Residence, by characterizing them into three groups (staff, residents and visitors)
- Based on this information, he estimates that there would be a total of 433 trips per day into and out of the access on Ormond Drive, referencing information from the U.S Department of Transportation and the Office of Energy Efficiency and Renewable Energy
- He makes inferences regarding movement into and out of the facility based an analysis of parking demand for the existing development (Phase 1 and 2), noting the greater activity as occurring during the AM peak (0700 – 0900) and PM peak (1515 – 1715), periods when school aged children would be crossing the access

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<sup>10</sup> Development Service Committee, Direction of City Staff Involvement Respecting Appeals to the Local Planning Appeal Tribunal of Committee of Adjustment Decision concerning 1231 Ormond Drive and 431 and 451 Woodmount Drive - DS-19-231 (Attachment 7)

<sup>11</sup> Development Service Committee, Direction of City Staff Involvement Respecting Appeals to the Local Planning Appeal Tribunal of Committee of Adjustment Decision concerning 1231 Ormond Drive and 431 and 451 Woodmount Drive - DS-20-09 (Attachment 2)

<sup>12</sup> Traffic Study dated February 7, 2022



- Citing research, he indicates that left turns at intersections are dangerous and typically result in a high severity outcome
- He references the additional traffic that will be generated by the development on the northwest corner of Ormond Drive and Coldstream Drive and the potential for conflict between that development access and the Wynfield Long-Term Care Facility (indicated as being 27 yards by Mr. Bremner or 25 metres apart)

### 3.4.1 Our response

Regarding the assertion that there will be a significant increase in traffic in the neighbourhood, as noted earlier, the Wynfield Long-Term Care Facility is anticipated to generate an additional 40 weekday AM peak hour two-way trips and 52 weekday PM peak hour two-way trips in the Transportation Impact Study completed by The Municipal Infrastructure Group Ltd, based on rates noted in the *Trip Generation Manual* published by the Institute of Transportation Engineers (ITE), 9<sup>th</sup> Edition for Senior Adult Housing and Assisted Living. While this represents additional traffic, in the context of the existing volumes on Ormond Drive and the capacity analysis, it has been confirmed that the road network and associated intersections would be able to accommodate the traffic without resulting in any congestion and/or delay. Based on our review of the report and the anticipated level of traffic as presented, we have no reason to disagree with those findings.

Relating to the assertion that the access off Ormond Drive would become an 'unsafe choke point', analysis in the Transportation Impact Study by The Municipal Infrastructure Group Ltd indicates that the access would operate with minimal delay, with the outbound movement operating with an average delay of 9 seconds per vehicle, the northbound left movement operating with an average delay of 2 seconds per vehicles and the southbound right movement operating with no delay<sup>13</sup>. Given the anticipated level of traffic generated by the development, we have no reason to disagree with these findings.

Relating to the assertion that there would be traffic congestion during shift changes, the values presented in the *Trip Generation Manual* published by the Institute of Transportation Engineers (ITE), 9<sup>th</sup> Edition for Senior Adult Housing and Assisted Living would account for shift changes. Moreover, the Municipal Infrastructure Group Ltd report based their traffic analysis on the period of time when there was the greatest amount of traffic travelling on Ormond Drive and in/out of the existing access to the Wynfield Long-Term Care Facility, representing the 'worst case' scenario.

Regarding the concern relating to conflicts with pedestrians at the single access on Ormond Drive, there was a total of 23 pedestrians crossing the access in the AM peak hour and a total of 19 pedestrians crossing the access in the PM peak hour, in the 2018 turning movement count data

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<sup>13</sup> Municipal Infrastructure Group Ltd, Wynfield Long-Term Care Facility Transportation Impact Study, November 2018 – Table 7-5.



provided in the report by the Municipal Infrastructure Group Ltd<sup>14</sup>. An examination of the access in Google Streetview imagery noted that sightlines at the access (for a driver exiting the facility in both directions of travel) and on northbound and southbound Ormond Drive approaching the facility were adequate given the straight and flat alignment on Ormond Drive and the absence of any sight obstructions adjacent to the access. There is no evidence to suggest that the layout of the access and anticipated traffic that would be generated by the proposed development would generate any conflicts between vehicles and pedestrians beyond that typically noted at a commercial access on a local roadway. However, the City should consider implementing a no parking prohibition on Ormond Drive immediately adjacent to the proposed access to ensure that vehicles parked on Ormond Drive do not obstruct the view of vehicles pulling out of the access or pedestrians walking on the sidewalk across the access.

Mr. Ronald Bremner makes an estimate of 433 trips per day into and out of the access on Ormond Drive based on research as described above. As noted earlier, we believe that the methodology and findings prepared by the Municipal Infrastructure Group Ltd in their transportation impact study are valid. Their estimate of traffic generated by the development is based on trip rates provided in the Institute of Transportation Engineers *Trip Generation Manual*, 9<sup>th</sup> Edition, considered an industry standard for estimating development traffic. Moreover, the traffic analysis was undertaken for the AM and PM peak hour, as noted earlier, it represents the 'worst case' scenario, when traffic demand would be at its greatest. The analysis indicates that the intersections and the access to the facility would be able to accommodate the anticipated level of traffic.

We would agree with Mr. Ronald Bremner that left turns at intersections can be dangerous and tend to result in a high severity outcome. However, specifically at this location, we would note that:

- The discussion in the article provided by him related more to intersections experiencing higher volumes and speeds (i.e. signalized intersections on busy arterial roads) that would have a greater likelihood of high severity collisions than an access on a local roadway<sup>15</sup>
- The number of additional left turns into the development that would be diverted as a result of the right-in access on Ritson Road North would be 4 and 8 trips in the AM and PM peak hour respectively, making the benefit of opening the right-in access negligible
- Left turning vehicles turning into the development, as evidenced by the minimal average vehicle delay cited in the Transportation Impact study by The Municipal Infrastructure Group Ltd, would have no difficulty finding a safe gap to make this movement and as noted earlier would have adequate sight lines along Ormond Drive

Finally, Mr. Ronald Bremner makes reference to the additional traffic that will be generated by the development on the northeast corner of Ormond Drive and Coldstream Drive. This development

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<sup>14</sup> Municipal Infrastructure Group Ltd, *Wynfield Long-Term Care Facility Transportation Impact Study*, November 2018 – Appendix D

<sup>15</sup> <https://theconversation.com/sick-of-dangerous-city-traffic-remove-left-turns-161397>

has been accounted for in the Transportation Impact Study completed by The Municipal Infrastructure Group Ltd. The spacing of the accesses noted by Mr. Ronald Bremner is acceptable under engineering standards<sup>16</sup>.

## 4. Conclusions

On the basis of the above review of the materials provided by the City of Oshawa, we offer the following:

- The methodology made in the Transportation Impact Study prepared by The Municipal Infrastructure Group Ltd. is valid
- The findings, conclusions and recommendations presented in the report are reasonable given the anticipated level of traffic presented in the report
- Measures proposed by Chartwell Retirement Residences, indicate a willingness on their part to implement transportation demand management measures that should result in a decrease in vehicle trips to and from the facility, beyond that indicated in the transportation impact study provided by Municipal Infrastructure Group Ltd
- We agree with the comment made by the Region of Durham that the right-in access is not necessary for the proposed development given the anticipated traffic volumes and the ability of the road network and associated intersections to accommodate the future development
- We disagree with the comment that the access off Ormond Drive would become an 'unsafe choke point', given the analysis presented by The Municipal Infrastructure Group Ltd.
- We believe that shift changes have been adequately accounted for in the analysis presented by The Municipal Infrastructure Group Ltd.
- There is no evidence to suggest that the layout of the access to the Wynfield Long-Term Care Facility and anticipated traffic that would be generated by the proposed development would generate any conflicts between vehicles and pedestrians beyond that typically noted at a commercial access on a local roadway, moreover sightlines at the access and on the approaches to the access are adequate.
- We do not believe that there is any safety concern with left turns into the access that would be remedied by constructing a right-in only access, given the incremental increase in traffic, the relative ease with which motorists would be able to make the left turn and the adequate sight lines along Ormond Drive

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<sup>16</sup> Transportation Association of Canada, *Geometric Guidelines for Canadian Roads, 2017 - Figure 8.9.2 Driveway Spacing Guidelines – Locals and Collectors*

- Additional traffic generated by the development on the northwest corner of Ormond Drive and Coldstream Drive has been accounted for and the spacing of the two accesses is acceptable

We understand that the City of Oshawa will be investigating vehicular operating speeds on Ormond Drive and implementing (if warranted and subject to resident approval) traffic calming measures. We support this going forward.

In addition to this, we recommend that the City of Oshawa implement a no parking restriction close to the access to the Wynfield Long-Term Care Facility to ensure that sightlines at the access provide motorists with an unobstructed view when making turns into and out of the access.

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