ONTARIO LAND TRIBUNAL

PROCEEDING COMMENCED UNDER subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant and Appellant:	ClubLink Corporation ULC
Subject:	Application to amend Zoning By-law No. 2008-250 - Refusal or neglect of the City of Ottawa to make a decision
Existing Zoning:	O1A (Open space, subzone A)
Proposed Zoning:	R1T (Residential First Density Zone), R3V (Residential Third Density Zone), and R5A (Residential Fifth Density Zone) as well as O1 (Parks and open spaces).
Purpose:	To permit the redevelopment of the lands for residential and open space uses, including 1502 residential units which will be mixed between detached, townhouse and mid-rise apartments.
Property Address/Description:	7000 Campeau Drive
Municipality:	City of Ottawa
Municipality File No.:	D02-02-19-0123
LPAT Case No.:	PL200195
LPAT File No.:	PL200195
LPAT Case Name:	ClubLink Corporation ULC v. Ottawa (City)

PROCEEDING COMMENCED UNDER subsection 51(34) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant and Appellant:	ClubLink Corporation ULC
Subject:	Proposed Plan of Subdivision - Failure of the City of Ottawa to make a decision
Purpose:	To permit the redevelopment of the lands for residential and open space uses, including 1502 residential units which will be mixed between detached, townhouse and mid-rise apartments.
Property Address/Description:	7000 Campeau Drive
Municipality:	City of Ottawa
Municipality File No.:	D07-16-19-0026
LPAT Case No.:	PL200195
LPAT File No.:	PL200196

WITNESS STATEMENT OF GABRIELLE SCHAEFFER

A. Witness Qualifications

1. I am a Senior Engineer for the City of Ottawa's Planning, Infrastructure and Economic Development Department (the "Department"). I have four years of professional engineering experience with the City of Ottawa (the "City") and 10 years experience in the civil engineering land development private sector industry specifically in consulting as a civil engineering designer, intermediate engineer and subsequently head of civil engineering department. My private sector engineering experience was attained at three different engineering firms located in the Greater Toronto Area, and Ottawa through to Hawesbury area. Since moving to the City of Ottawa, I have held the following positions:

    - Project Manager – Development Review West (October 2017 – December 2018)
    - Senior Engineer – Development Review West (December 2018 – Present)

2. I am a Licensed Professional Engineer (P.Eng.) and a full member of the Professional Engineers of Ontario (PEO).

3. I have previously been qualified by the Ontario Municipal Board (OMB) to provide opinion evidence in the field of civil engineering. I have provided professional evidence at the OMB on one occasion.

4. I completed my undergraduate degree in Civil Engineering at Queen's University in 2007, with a concentration in Environmental Engineering.

5. A copy of my Curriculum Vitae is provided.

6. My signed Acknowledgement of Expert's Duty declaration is also provided.

B. Statement of Facts

7. I became involved in the review of Clublink's second technical submission under its proposal for a Plan of Subdivision (City file number D07-16-19-0026) and Zoning By-law Amendment (City file number D02-02-19-0123). The first submission reviewing engineer went on maternity leave, therefore I was assigned to conduct the review of the proposal from July 2020 on. The second submission was received by City staff on July 15, 2020.

8. I provided consolidated engineering comments from myself and other City engineering staff to the File Lead in October 2020. The Applicant received the technical comments in a letter dated October 9, 2020.

9. A third submission relating to both the Plan of Subdivision and Zoning By-law amendment applications was received by City staff on June 17, 2021. Consolidated engineering comments were provided to the File Lead on October 15, 2021. The Applicant was provided third round technical comments in a letter dated October 18, 2021.

C. Subject Site, Location and Proposed Development

10. The subject site is approximately 70.89-hectares (175.89-acres) and is made up of four irregularly shaped parcels separated by the local road network. The municipal address for the property is 7000 Campeau Drive. The subject site is located within the low-rise residential neighbourhood of Kanata Lakes north of Highway 417, west of Beaverbrook Road and east of Terry Fox Drive. Currently, the site is occupied by the Kanata Golf & Country Club, which consists of an 18-hole golf course, a two-storey clubhouse, large surface parking lot on the southwest portion of the site as well as two stormwater ponds. The site includes expansive golf greens, fairways and tee boxes. There is low-lying landscaping throughout the site and trees are generally located towards the perimeter of the site. The adjacent area includes low-rise residential neighbourhoods to the north, east and west, and to the south is the major east-west arterial road Campeau Drive. The Kanata Town Centre is south of Campeau Drive which is comprised of a mix of medium density uses.

    The two stormwater ponds located at 7000 Campeau Drive receives drainage from approximately 70 hectares of the surrounding existing residential subdivisions and some commercial properties fronting Campeau Drive, as well as drainage from 7000 Campeau itself which is an additional 70 hectares, totaling approximately 150 hectares of tributary drainage area. The underlying site soils are composed predominantly of silty clay, with several areas having high bedrock. The groundwater is also high in several areas of the site. In addition to the on-site two stormwater ponds, the off-site Beaver Pond, located north-west of the Walden Drive and Kimmins Court intersection, treats and controls flows from 7000 Campeau and the larger Kanata Lakes area before releasing drainage into the Kizell Creek and subsequently Kizell Drain.

11. The Zoning By-Law Amendment and Plan of Subdivision applications were submitted to permit the development of a subdivision consisting of a variety of dwelling types and land uses including residential uses, four parks and four above ground stormwater management facilities and one below ground stormwater management facility. A total of 1,480 residential units are proposed with an estimated population of 4,251 persons.

12. In order to service the proposed residential subdivision, Clublink, via their engineering consultants, proposes to utilize the existing Kanata Lakes Trunk sanitary sewer, expand the watermain network within the City's 3W pressure zone, and construct four stormwater management dry ponds, one underground stormwater storage facility, implement an Etobicoke Exfiltration System throughout all proposed roadway networks, and rely on private rear yard swales infiltration and evapotranspiration. Clublink, via their engineering consultants, has provided their assessment of impact to the Beaver Pond and Kizell Creek due to the proposed design from a hydrologic and geomorphic perspective. A geotechnical analysis is provided including subsurface soil and bedrock profiling, groundwater measuring, infiltration rate assessment, grading raise restrictions and overall geotechnical recommendations for the proposed development.

D. Basis of Evidence

13. My evidence will address engineering considerations pertinent to the approval of the Plan of Subdivision and Zoning By-law Amendment applications.

14. I will rely on the submissions made to the City by the Applicant and others during the course of the approval process.

E. Issues to be Addressed

Issues to be addressed by this witness statement from those contained in the Issues List are as follows:

Issue Item #1: Should the proposed subdivision be given draft approval and/or the zoning approved pending a final determination in City of Ottawa v. ClubLink Corporation ULC (Court File No. 19-81809)?

Issue Item #2: Is the proposed plan of subdivision consistent with the Provincial Policy Statement, particularly policies 1.6.6.7, 2.2.1(i), and 2.2.2.

Issue Item #3: Does the proposed plan of subdivision have regard for matters of provincial interest pursuant to the *Planning Act*, Section 2, particularly clauses (h), (o), and (r)?

Issue Item #4: Does the proposed plan of subdivision conform to the Official Plan of the City of Ottawa, particularly policies 2.3.3 and 2.3.3.1, and is it compatible with adjacent plans of subdivision (s.51(24)(c))?

Issue Item #5: Is the subdivision premature (s.51(24)(b))?

Issue Item #7: Are the lots compatible with the surrounding community / adjacent plans of subdivision (s.51(24)(c))?

Issue Item #10: Are the grading and drainage, servicing and tree preservation plans consistent with one another? Will they provide effective protection for the trees in the landscape buffer, and will they maintain positive drainage routes?

Issue Item #12: Does the plan of subdivision have a legal outlet for stormwater from the proposed development (s.51.(24)(h) and (i))?

Issue Item #13: Is any modification to the draft plan of subdivision necessary if permission to modify existing easements is refused?

Issue Item #16: Are draft conditions of approval necessary to address repair or replacement of existing stormwater infrastructure?

Issue Item #17: Does the technique for low impact development means of dealing with stormwater need to be determined prior to draft approval?
Issue Item #19: What is the appropriate number and location of stormwater ponds and other stormwater systems and should they be for both quality and quantity control?

Issue Item #20: Is the use of sump pumps justified for this development and have all supporting documents been provided?

Issue Item #21: Is a monitored surcharging/preloading program anticipated and timelines accounted for in order to achieve grade raise exceedances?

Issue Item #23: Is the proposed zoning consistent with the Provincial Policy Statement, particularly policies 1.6.6.7, 2.2.1(i), and 2.2.2.

Issue Item #24: Does the proposed zoning have regard for matters of provincial interest pursuant to the *Planning Act*, Section 2, particularly clauses (h), (o), and (r)?

Issue Item #25: Does the proposed zoning conform to the Official Plan of the City of Ottawa, particularly policies 2.3.3 and 2.3.3.1?

F. Opinions on Issues, and Reasons for Opinions

Issue #1

15. This matter is before the Court of Appeal and will be addressed by legal counsel.

Issue #2 and #23

16. Section 1.6.6.7(a) of the Provincial Policy Statement requires proposed plans of subdivisions to plan for stormwater management to be integrated with planning for sewage and water services and ensure that systems are optimized, feasible and financially viable over the long term. The proposed stormwater management plan is not optimized nor feasible as the Etobicoke Exfiltration System (EES) is blanketly applied to all proposed right-of-ways without consideration for low-impact development best management practices including suitability of site soils, bedrock and groundwater levels for the proposed system. The proposed EES may not be financially viable over the long term with increased and unique maintenance requirements over other low-impact development (LID) techniques or conventional storm sewer system maintenance.

17. Section 1.6.6.7(b) of the Provincial Policy Statement requires proposed plans of subdivisions to plan for stormwater management to minimize, or, where possible, prevent increases in contaminant loads. The proposed EES is intended to provide water quality control for the proposed development, however no filtration assessment has been completed nor an overall hydrogeology assessment. It is premature at this time to rezone or draft approve without appropriate contaminant loading assessment if an exfiltration system continues to be proposed.

18. Section 1.6.6.7(c) of the Provincial Policy Statement requires proposed plans of subdivisions to plan for stormwater management to minimize erosion and changes in water balance, and prepare for the impacts of a changing climate through the effective management of stormwater, including the use of green infrastructure. While the proposed EES attempts to minimize erosion in the receiving watercourse and changes in water balance, it is not an effective nor appropriate technique to use within clay soils, areas of high bedrock and areas of high groundwater, all of which are present at this site. Further analysis of the infiltration rate of the clay soils, and optimized location selection is needed where bedrock and groundwater are low before an infiltration system can be considered for this site. Both pre and post development water balance assessments need to be completed as per best management practices in order to determine if the proposed green infrastructure results in minimized water balance changes. This is especially important for this application since this site is currently completely pervious, and water is retained on-site and used for irrigation of the golf course. Finally, impact to erosion can only be assessed when a final and agreed upon stormwater management system is provided.

19. Section 1.6.6.7(d) of the Provincial Policy Statement requires proposed plans of subdivisions to plan for stormwater management to mitigate risks to human health, safety, property and the environment.
    a. The proposed stormwater management plan relies on water quality to be provided through infiltration from the EES without a hydrogeological assessment including impact assessment to the underlying soils, bedrock and groundwater.
    b. The proposed grading and drainage plan does not provide appropriate emergency overland flow routes for many rear yards abutting existing residential properties putting the proposed and existing lots at risk.
    c. Emergency overland flow routes from proposed Pond 3 to the existing Weslock Park is also proposed, which does not have an appropriate outlet and therefore cannot receive additional drainage.
    d. The proposed grade raise exceeds the grade raise restrictions in several areas of the site. There is insufficient detail in the plan to surcharge the site, which contains sensitive soils. Therefore, it is premature to rezone, and draft approve this development without more assurance that site settlement will not be an issue post-development.
20. Section 1.6.6.7(f) of the Provincial Policy Statement requires proposed plans of subdivisions to plan for stormwater management to promote stormwater management best practices, including stormwater attenuation and re-use, water conservation and efficiency, and low impact development. LID selection is dependent on site conditions to be effective. A blanket EES is not effective in clay soils with high bedrock and high groundwater.

21. Section 2.2.1(i) of the Provincial Policy Statement requires planning authorities to protect, improve or restore the quality and quantity of water by ensuring stormwater management practices minimize stormwater volumes and contaminant loads, and maintain or increase the extent of vegetative and pervious surfaces. In order for the City to comply with section 2.2.1(i) of the Provincial Policy Statement the proponent must demonstrate their proposed development will comply with this section of the policy. The proponent has not proven the proposed development runoff volumes can be adequately minimized in the downstream watercourse as an appropriate stormwater management design has not been presented to properly assess the impacts downstream. Additionally, a

hydrogeological study has not been completed to appropriately assess the contaminant loads from the proposed EES on the underlying soils, bedrock and groundwater.

22. Section 2.2.2 of the Provincial Policy Statement requires development and site alterations be restricted in or near sensitive surface water features and sensitive ground water features such that these features and their related hydrologic functions will be protected, improved or restored. Mitigative measures and/or alternative development approaches may be required in order to protect, improve or restore sensitive surface water features, sensitive ground water features, and their hydrologic functions. The proponent has not adequately shown the proposed development will not have an impact downstream within Kizell Creek since each stormwater management design presented so far has not properly nor fully accounted for all possible drainage to the Creek. The stormwater modelling has had errors or exclusions that affect the hydrologic modelling through the Beaver Pond and Kizell Creek. Additionally, the newly proposed site unsuitable LIDs (i.e. EES) have not been assessed for groundwater impact.

Issue #3 and #24

23. Section 2(h), (o) and (r) of the Planning Act requires proposed plans of subdivisions to have regard for matters of provincial interest particularly with regard to the orderly development of safe and healthy communities, the protection of public health and safety, and the promotion of built form that is well-designed.
    a. Without a stormwater management system that follows best management engineering practices and best low-impact development practices, the proposed subdivision cannot be adequately serviced and therefore cannot be re-zoned and draft approved. In my professional opinion, it is premature to determine if the proposed plan of subdivision is well designed, safe and healthy for the existing and proposed communities in this area. Once a well-designed stormwater management plan is provided and agreed upon within the context of the Planning Act, the downstream receiving watercourse, Kizell Creek, is to be assessed to ensure the orderly development of safe and healthy communities and the protection of public health and safety from an erosion standpoint.
    b. The proposed development contains several areas that propose inappropriate emergency overland flow routes where drainage may become trapped in rear yards, or existing parks. Without a grading plan following best management engineering practices, the proposed subdivision cannot adequately be serviced and therefore cannot be re-zoned or draft approved, in my professional opinion.
    c. The Kanata Lakes Trunk sanitary sewer intended for connection does not have adequate capacity for the proposed development, therefore, it is premature to determine if the proposed plan of subdivision and rezoning is well designed, safe and healthy for the existing and proposed communities in this area. The Signature Ridge Pump Station (SRPS) currently sends flows through the Kanata Lakes Trunk sanitary sewer. A redirection of the SRPS flows is anticipated to be done by the City sometime before 2046 when the Penfield Trunk sanitary sewer is upgraded. This project will be more clearly identified in the upcoming Infrastructure Master Plan. Currently there is no scheduled date for this redirection of SRPS flow. The applicant is to work with the City to make the additional sanitary capacity

improvements in order to service the proposed development prior to re-zoning and draft plan approval.

Issue #4 and #25

24. Section 2.3.3. of the City of Ottawa Official Plan states that land-use change creates the needs for drainage services to ensure safe, well-drained sites. The provision of storm sewers to efficiently convey frequent runoff is combined with overflow (or surface) routes that convey larger, less frequent flows that exceed storm sewer capacity. This "major/minor" system approach to drainage provides protection from flooding in new developments. The proposed development has several areas where drainage is trapped within rear yards relying solely on the proposed storm sewer system to convey drainage away from the rear yards. However, as per the official plan, safe overflow (or surface) routes are required to convey larger, less frequent events as well as act as emergency overland flow routes if the storm sewer system is blocked. The proposed design is not in keeping with best engineering practices and the intent of section 2.3.3 of the official plan.

25. Section 2.3.3.1 of the City of Ottawa Official Plan states that development is to be in accordance with the system capacity for drainage and will implement stormwater management and where relevant will conform to stormwater site management plans necessary to protect, improve or restore the quality and quantity of water in the receiving watercourse. Additionally, the proposed development is not in keeping with the stormwater management plan for the area draining to the Beaver Pond and Kizell Creek by releasing more runoff volume to the Beaver Pond and subsequently Kizell Creek. The current proposal overestimates the amount of stormwater that can be infiltrated via the proposed EES within LID unsuitable soils, bedrock and groundwater, and therefore runoff volumes are not being accounted for accurately.

26. The grading constraints of the proposed development do not make this subdivision compatible with adjacent existing plans of subdivision. The proposed right-of-ways are elevated to accommodate servicing infrastructure however, since this is an infill subdivision matching existing grades around the site perimeter with existing neighbouring residences is required. The proposed elevated road grades and the existing site topography does not allow for major and emergency overland flow routes from many of the rear yards. Major and emergency overland flow routes are required to meet the requirements of the official plan.

Issue #5, #7, and #12

27. In my professional opinion, the proposed subdivision is premature due to lack of appropriate stormwater management design, which currently proposes a blanket EES without suitable underlying soils, high bedrock and high groundwater in several areas of the site. The proposed development is not compatible with the surrounding community / adjacent plans of subdivision due to the grading and drainage of the site and lack of appropriate emergency overland flow routes. This makes the proposed development

unsafe for the future and existing neighbouring residents. Due to the lack of appropriate stormwater management plan at this time, impacts to the downstream Beaver Pond and Kizell Creek remain unclear.

Issue #10

28. The proposed grading and drainage plan does not provide an effective emergency overland flow route from proposed rear yards adjacent to some landscape buffers. However, removal of the landscape buffer may not adequately provide an effective emergency overland flow route. The grade raise proposed along the roadways due to infrastructure servicing needs, is creating the difference in grades from front to rear lots. In some areas where servicing is proposed, the proponent has indicated trees will be retained, which is not possible due to the installation of the servicing infrastructure. Therefore, the plans are inconsistent at this time.

Issue #13

29. Yes, modification to the draft plan of subdivision is necessary if permission to modify existing easements is refused.

Issue #16

30. Since a site appropriate stormwater management plan has not been provided and agreed upon, it is unknown at this time if draft conditions of approval are necessary to address repair or replace existing stormwater infrastructure. A stormwater management plan needs to be finalized and agreed upon before an appropriate assessment of the impacts to existing infrastructure can be made.

Issue #17

31. Yes, the technique for low impact development means of dealing with stormwater needs to be determined prior to draft approval. The proponent proposed an LID technique that is not site appropriate, however other LIDs may be possible, but may require additional public land or a different configuration of blocks and lots. Therefore, any LIDs for this site need to be determined prior to draft plan approval.

Issue #19

32. In the second submission the proponent proposed seven oil grit separators (OGSs) with four aboveground ponds that did not follow best engineering practices as well as an underground storage facility. In the third submission OGSs were no longer proposed, but four dry ponds with an EES was proposed along with an underground stormwater storage facility. The dry ponds still do not follow best management practices and the EES does not follow best LID practices. The appropriate stormwater management design is still

outstanding and may or may not include stormwater management ponds. The full stormwater management system needs to be considered when assessing what parts of the system should be for quality and/or quantity control.

Issue #20

33. Insufficient information has been provided to determine if the use of sump pumps is justified for this development as sump pump locations have not been identified nor has a supporting hydrogeological report been provided as is required by City guidelines.

Issue #21

34. A monitored surcharging/preloading program, in order to achieve grade raise exceedances, is anticipated however timelines and effectiveness of the program have not been provided. The length of time required for the program to work and extended post development settlement is a concern due to the sensitive underlying soils in some areas of the site, where high bedrock is not present. An ineffective surcharging/preloading program can result in settlement of parts of the proposed development outside tolerable limits.

Nov 12, 2021

Gabrielle Schaeffer, P.Eng. Date