



# The Corporation of the Town of Milton

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Report To: Council

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From: Jill Hogan, Commissioner, Development Services

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Date: May 30, 2022

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Report No: DS-043-22

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Subject: Authorization for Submission of a Minor Variance Application on lands municipally known as 329 Kingsleigh Court, Milton

Recommendation: **THAT Report DS-043-22 entitled “Authorization for Submission of a Minor Variance Application on lands municipally known as 329 Kingsleigh Court.”, dated May 30, 2022 be received;**

**AND THAT in accordance with the provisions of subsections 45(1.4) of the *Planning Act*; R.S.O. 1990, c.P. 13, as amended, the Owner shall through this Resolution, be permitted to apply to the Committee of Adjustment for a variance from the provisions of Zoning By-law 077-2021, before the second anniversary of the day on which the by-law was approved by Council.**

## EXECUTIVE SUMMARY

- On October 19, 2020, as recommended through the Mature Neighbourhoods Character Area Study, Milton Council enacted a Town-initiated Official Plan Amendment 60 and Zoning By-law 081-2020.
- The amendments introduced new policies and standards that apply to low-density residential development in the Downtown Character Area to ensure that new development is sympathetic to the existing neighbourhood.
- The focus of this report is on the *Planning Act* change that prohibits applying for a minor variance for two years following the passing of a zoning by-law amendment, unless permitted by Council resolution.
- The intent of the prohibition is to prevent changes to newly approved policies and zoning provisions, but the effect may hinder legitimate applications that do not negatively affect the general intent and purpose of the new provisions.
- This report recommends that the owner of 329 Kingsleigh Court be permitted to apply to the Committee of Adjustment, as the proposal is considered minor in nature and maintains the intent of the Mature neighbourhood Character Area amendments.

## REPORT

### Background

On December 3, 2015, the Province of Ontario enacted Bill 73 “Smart Growth for Our Communities Act, 2015” which amended the *Planning Act* and *Development Charges Act, 1997*. Several changes to the *Planning Act* came into force on July 1, 2016. One of the changes to the *Planning Act* is the introduction of a two year moratorium (or “freeze”) on three types of amendments, subject to Council’s discretion to provide relief from the prohibition:

1. Amendments of a new Official Plan
2. Amendments of a new comprehensive Zoning By-law; and
3. Minor variance of a by-law that has already been amended for the land, building or structure.

The focus of this report is on the *Planning Act* change that prohibits applying for a minor variance of a by-law for two years following the passing of a zoning by-law amendment, unless permitted by Council resolution, as detailed below.

#### Section 45 (1.3)

*Subject to subsection (1.4), no person shall apply for a minor variance from the provision of the by-law in respect of the land, building or structure before the second anniversary of the day on which the by-law was amended. 2015, c.26,s.*

The only exception to this rule is where Council has declared by resolution, pursuant to Section 45(1.4) of the *Planning Act* that an application can proceed. Section 45(1.4) of the *Planning Act* allows Council to exempt by resolution a specific application, class of applications, or application generally from the two year moratorium.

#### Section 45(1.4)

*Subsection (1.3) does not apply in respect of an application if the council has declared by resolution that such an application is permitted, which resolution may be made in respect of a specific application, class of application or in respect of such applications generally. 2015, c.26, s. 29(2)*

### Discussion

The Owner of 329 Kingsleigh Court has indicated their desire to submit a Minor Variance Application to seek relief from the following provisions in the site-specific Residential Low Density (RLD\*299) zone to facilitate the proposed new dwelling:

1. To allow a maximum lot coverage of 39.8%, whereas 30% is permitted.
2. To allow an interior side yard setback of 1.55 m on one side and 1.27 m on the alternate, whereas 1.8 m is required.



## Discussion

Since the enactment of Bill 73, the Development Services Department has implemented an approach that assumes no Minor Variance Applications are permitted before the second anniversary of the day on which the by-law was amended, unless Council has declared by resolution that such an application is permitted.

In light of the Mature Neighbourhood's Study, staff works with applicants on their design to minimize any requests for a Minor Variance. In this instance, staff recommends that Council authorize the Owner to apply to the Committee of Adjustment for variances from the provisions of Zoning By-law 077-2021 for the following reasons:

- The proposed dwelling's two-storey built form is appropriately placed and contributes to transition in massing to the adjacent structures, which compensates for the proposed increase in lot coverage.
- The proposed maximum height and overall roof layout is respectful of neighbourhood character and does not negatively impact the surrounding area.
- The proposed reduction of the interior side yard setbacks will not create a negative impact on adjacent properties and maintains the intent of the Mature Neighbourhood Study.

Any Minor Variance Application submitted for the subject lands would go through the standard review process, which involves an evaluation by staff of the appropriateness of the Minor Variance Application, through the lens of the four tests set out by Section 45(1) of the *Planning Act*, and a decision of the Committee of Adjustment.

## Financial Impact

There are no financial implications associated with this report.

Respectfully submitted,

Jill Hogan  
Commissioner, Development Services

For questions, please contact: Rachel Suffern, MPA, M.Sc. Phone: Ext. 2263  
Planner - Development Review

## Attachments

Figure 1 Location Map  
Figure 2 Site Plan



# The Corporation of the Town of Milton

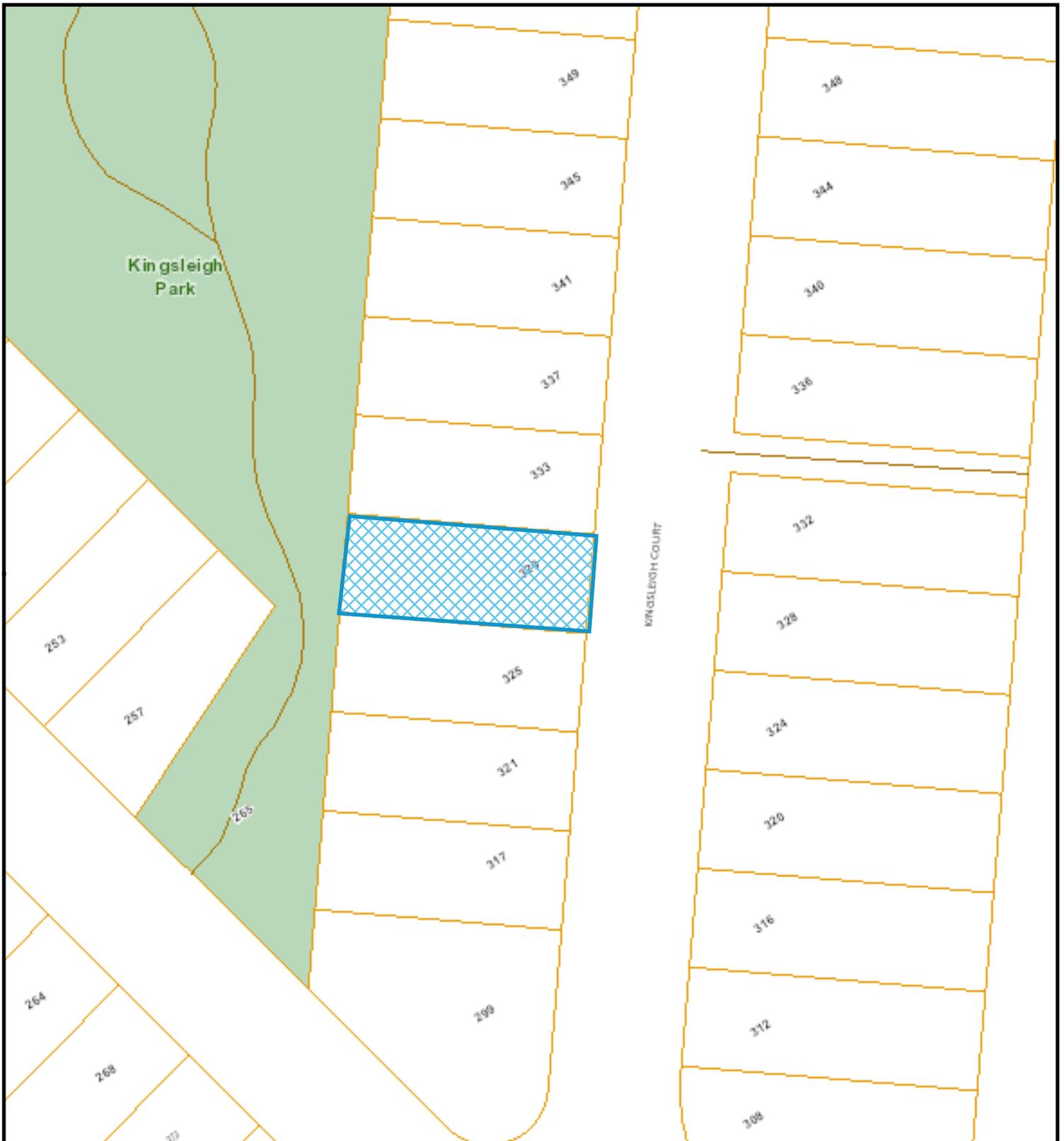
Report #:  
Name:  
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Approved by CAO  
Andrew M. Siltala  
Chief Administrative Officer

## Recognition of Traditional Lands

The Town of Milton resides on the Treaty Lands and Territory of the Mississaugas of the Credit First Nation. We also recognize the traditional territory of the Huron-Wendat and Haudenosaunee people. The Town of Milton shares this land and the responsibility for the water, food and resources. We stand as allies with the First Nations as stewards of these lands.

# FIGURE 1 LOCATION MAP



Council Meeting Date:  
May 30, 2020

Scale: 1:1,128.5

File:DS-043-22

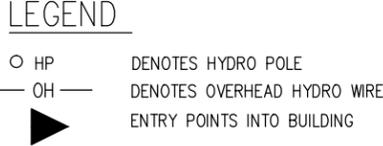
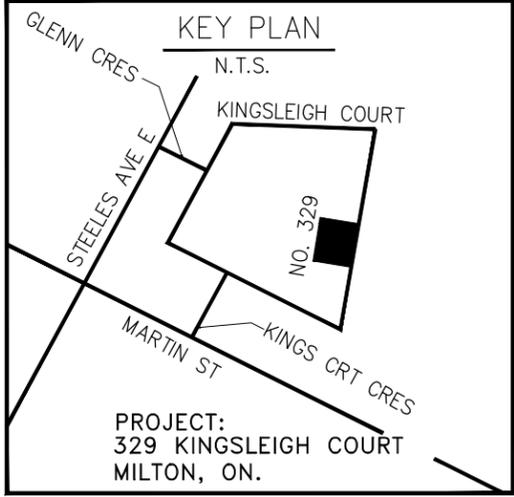
Development Services



Subject Property  
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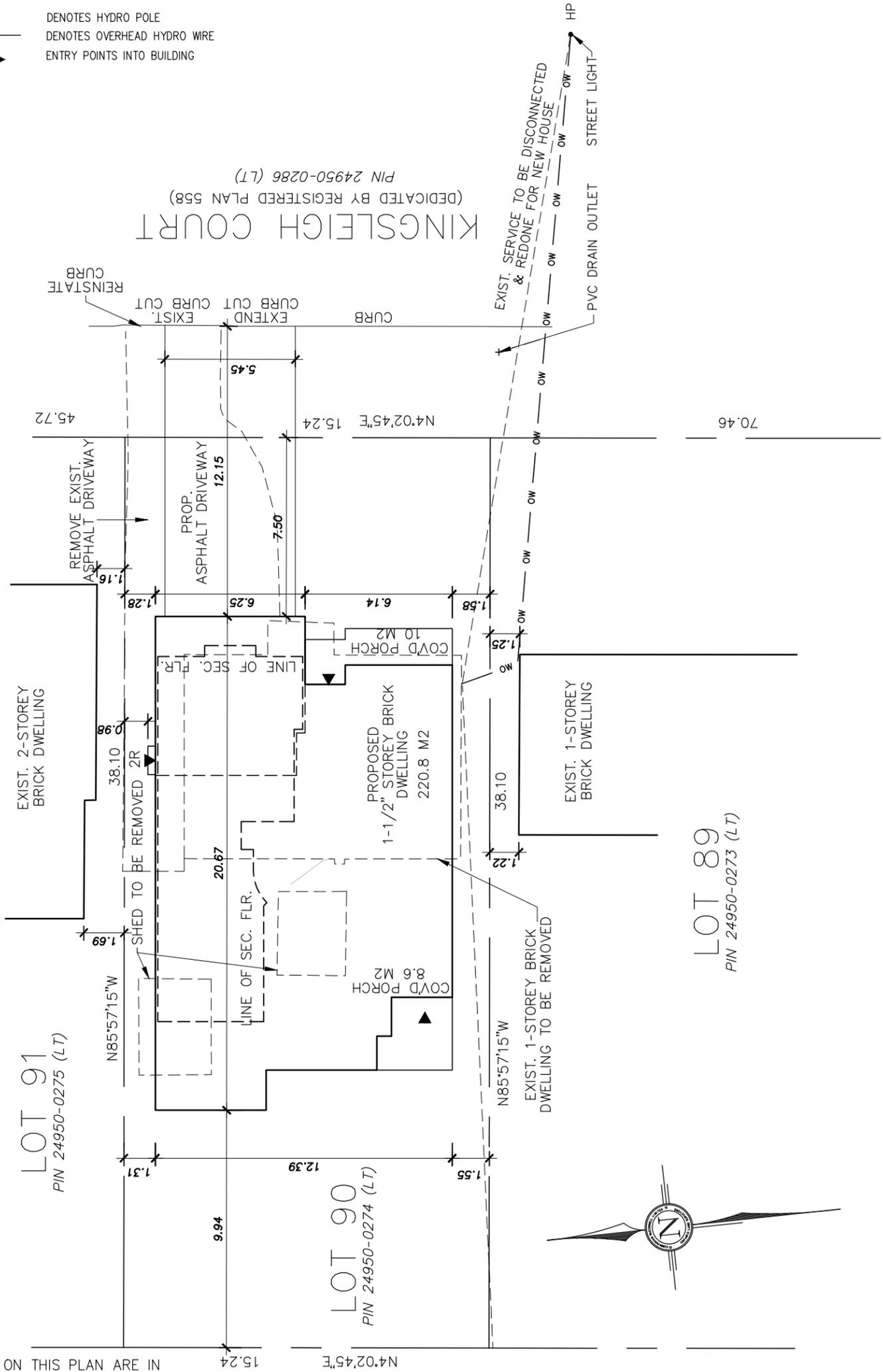
# LOT 90 REGISTERED PLAN No. 558 TOWN OF MILTON REGIONAL MUNICIPALITY OF HALTON

## SITE PLAN FOR MINOR VARIANCE



329 KINGSLEIGH COURT

ITEM	ZONING BY-LAW REQUIREMENTS	PROPOSED
A	ZONING CATEGORY RLD2*299	RLD2*299
B	LOT AREA N/A	580 M <sup>2</sup>
C	LOT COVERAGE 30%	39.8%
D	PERCENTAGE OF LANDSCAPE 30%	51.78%
E	MAXIMUM BUILDING HEIGHT FROM GRADE 9 METERS ESTABLISHED GRADE TO UPPERMOST POINT OF ROOF	8.89 M
F	SIDE YARD SETBACKS HOUSE INTERIOR EXTERIOR	1.28M & 1.55M N/A
G	FRONT SETBACK 7.5 M	7.5 M
H	REAR SETBACK 7.5 M	9.94 M



**METRIC** DISTANCES AND/OR COORDINATES SHOWN ON THIS PLAN ARE IN METRES AND CAN BE CONVERTED TO FEET BY DIVIDING BY 0.3048.

<p><b>Jansen Consulting</b> DESIGN • CONSULTING • MANAGEMENT</p> <p>70 Main Street N., P.O. Box 38 Campbellville, ON, L0P 1B0 Ph. 905-854-9696 Fax 905-854-9559 EMAIL: jeffjansendesign@gmail.com</p>	<p>I JEFF JANSEN DECLARE THAT I HAVE REVIEWED AND TAKE DESIGN RESPONSIBILITY FOR THE DESIGN WORK ON BEHALF OF JANSEN CONSULTING UNDER DIVISION C, SUBSECTION 3.2.5 AND 3.2.4 OF THE BUILDING CODE. I AM QUALIFIED AND THE FIRM IS REGISTERED SET OUT BY THE O.B.C. QUALIFIED DESIGNER BCIN - 50272 FIRM BCIN - 110042</p> <p>DATE: APRIL 1, 2022 SIGNATURE: </p>	<p><b>SITE PLAN</b></p>	<p><b>OWNERS INFORMATION</b> PAT &amp; MAGDALENA 329 KINGSLEIGH COURT MILTON, ON</p>														
	<table border="1"> <thead> <tr> <th>REVISIONS NO.</th> <th>DATE</th> <th>DESCRIPTION</th> </tr> </thead> <tbody> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> </tbody> </table>	REVISIONS NO.	DATE	DESCRIPTION										<table border="1"> <tr> <td>PROJECT 2022-003</td> <td>LOCATION MILTON</td> <td>DRAWING SITE</td> <td>MODEL TYPE M-003</td> </tr> </table>	PROJECT 2022-003	LOCATION MILTON	DRAWING SITE
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