

September 27, 2022

Hon. Steve Clark
Minister of Municipal Affairs and Housing
777 Bay Street - 17th Floor
Toronto, Ontario
M7A 2J3

Dear Minister Clark;

**Re: Halton Region Official Plan Amendment 49
Environmental Registry Posting Number 019-5684
Ministry Reference 21-OP-215006
Conversion Request - 3515-3545 Rebecca Street, Oakville
Modification of Plan, or Referral to Tribunal**

We act for Burloak Marketplace, owners of the lands at 3535-3545 Rebecca Street in Oakville, in Halton Region, with respect to this matter.

We are writing to request that the Minister modify Halton Regional Official Plan Amendment 49 to remove the Employment overlay mapping from the lands, consistent with the Minister's earlier decision to remove the lands from the then-proposed, Provincially Significant Employment Zone mapping.

This submission includes the attached planning report from MHBC planning, supporting the conversion of the lands at 3535-3545 Rebecca Street.

Lands at 3515-3545 Rebecca Street in Oakville Should be Converted From Employment to Mixed-Use By Modification to the Regional Official Plan, or the Matter Should be Referred to the Tribunal

The subject lands are at the north-east corner of Burloak and Rebecca Street in Oakville. They are at the extreme south-west corner of the employment area designated lands.

The lands in question are already zoned for what is effectively a shopping centre, generally not a use anticipated or permitted by an employment area designation. Thus, in reality, the lands are already de facto converted from employment to allow a retail shopping centre. Formal conversion is necessary to allow mixed use, including a seniors' building. Thus, the requested conversion is almost technical in nature. The lands to the west and south are established residential neighbourhoods. A church is located to the north of the site.

The owners propose to establish a seniors or retirement building on the lot, in the context of the approved shopping centre uses.

The overall lands are 3.1 hectares in size, but the portion for which the conversion is required to allow the seniors building to proceed is actually much smaller. Based on its size, location, and surrounding uses, it will never be developed for warehousing or manufacturing (the uses for which employment designation protects land). As such, its continued designation as employment makes no sense from a planning perspective. The only result is that, without a conversion now, the lands will remain frozen and vacant for a decade or more awaiting the next municipal comprehensive review.

The proposed use would actually result in an increase in jobs over what would be produced if the lands were developed under the existing employment designation.

Under the Minister's traditional approval powers, the Minister should modify the mapping of the land at 3515-3545 Rebecca Street so that it is no longer designated as employment.

In the alternative, the Minister should refer the question of the appropriate designation of the 3515-3545 Rebecca Street lands to the Tribunal for a hearing - while modifying or approving the balance of the official plan. Such a partial referral would allow development to proceed elsewhere in the Region, while allowing the most appropriate designation of the subject lands to be properly studied by the Tribunal.



3515-3545 Rebecca Street site is outlined in red.

Minister has the Jurisdiction to Modify, or to Refer the Subject Lands to the Tribunal for a Hearing

Under section 17 of the planning act, the Minister of Municipal Affairs is the approval authority for the Halton Region Official Plan resulting from its Municipal Comprehensive Review process. Under section 17 (34) (a) of the act, the Minister, in acting as the approval authority, may “approve, modify and approve as modified or refuse to approve a plan”. This would allow the Minister to modify the designation on the lands in question to remove the employment designation, without delaying the coming into force of all other aspects of the Regional Official Plan.

In the alternative, under the Minister's new referral powers established by Bill 109, the Minister could refer the proposed employment designation for the lands at 3515-3545 Rebecca Street to the Ontario Land Tribunal for a hearing, while still modifying or approving the balance of the Official Plan. Under section 17(55), the Minister may, "before making a decision under subsection (34), refer all or part of the plan to the Tribunal for a recommendation". Taking the provisions of the planning act together, the Minister can refer the designation of 3515-3545 Rebecca Street (conversion) to the Tribunal, and then modify or approve the balance of the official plan. Thus, a referral on the conversion can take place, without delaying the balance of the Official Plan from being modified and approved and coming into force.

Growth Plan Permits Conversions Only Through a Municipal Comprehensive Review

Under policy 2.2.5.9 of the Growth Plan for the Greater Golden Horseshoe, employment conversions "may be permitted only through a municipal comprehensive review". (There are certain limited exceptions to this, but all depend upon the Region taking the initiative due to the Planning Act provisions on conversion, which appears unlikely to occur here).

Thus, if the conversion is not approved now, it will likely be a decade or more before it will be considered again.

Conversion of 3515-3545 Rebecca Street Would Reflect Realities of Existing Approvals on Site, and Surrounding Planning Context

The owners of 3515-3545 Rebecca Street currently enjoy zoning permissions for a range of retail and service uses typical of a retail centre at the north-east corner of Burloak and Rebecca, at the west boundary of Oakville. It is currently in the site plan approval process. They are seeking approval for conversion to facilitate a Seniors building at the east edge of their proposed retail centre . The overall site is already de facto converted (a community shopping centre is not an employment use). As such, in many ways, the conversion is actually technical in nature.

The owners' plans for a seniors building on the site would deliver more jobs than the current permissions.

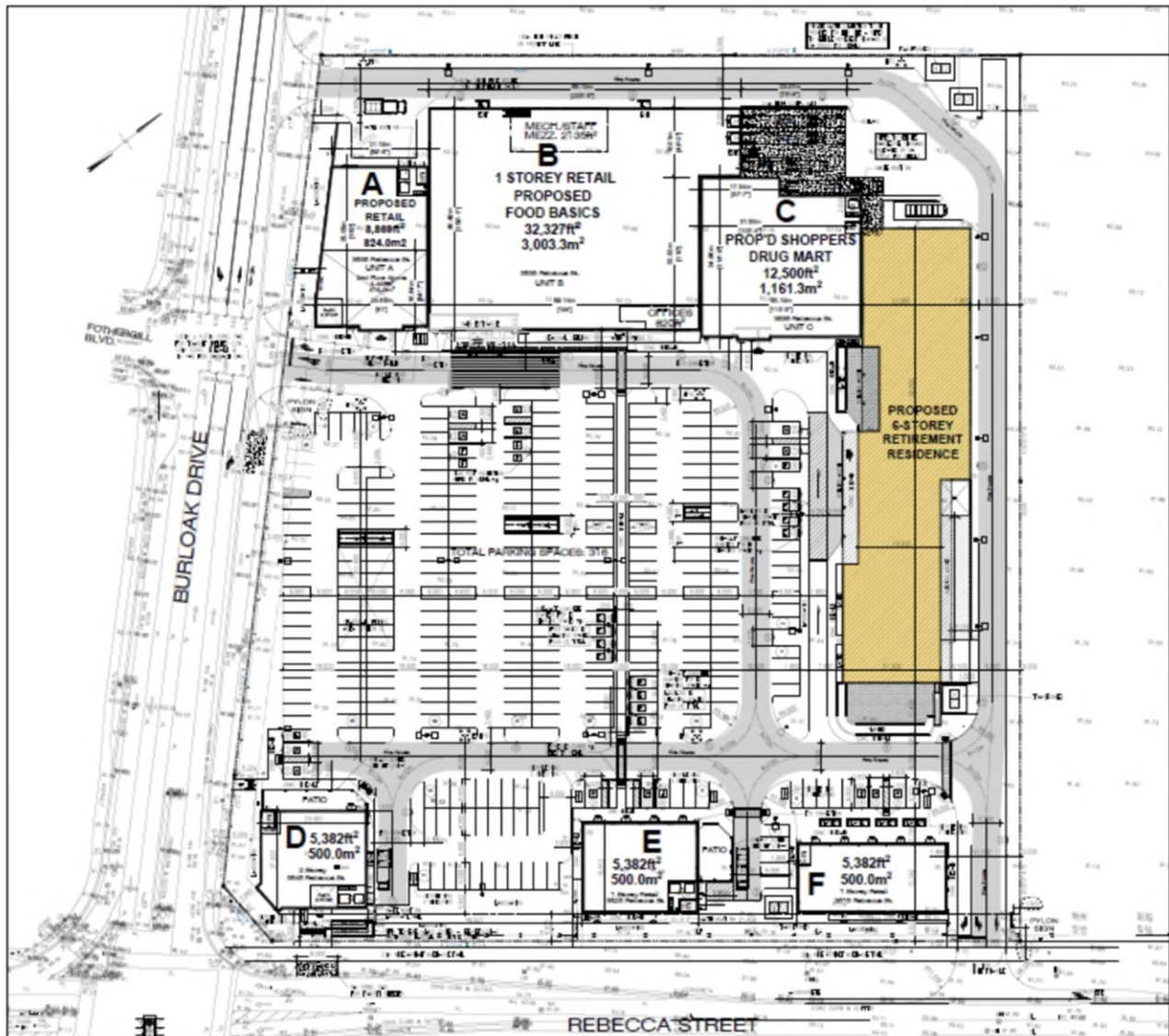


Figure 3: Site Plan

All uses on the plan above are already permitted, and are the subject of site plan application to the Town of Oakville, with the exception of the mustard-coloured building (proposed future retirement residence) at the east end of the site. Conversion approval is required to allow this proceed.

The Site is De Facto Already Converted

The purpose of the conversion requirements in the Planning Act and the Growth Plan is to protect land for space extensive manufacturing and warehousing uses from the compatibility limitations that would arise from the introduction of sensitive uses like residential. Only “associated retail” (i.e. serving the principal manufacturing and warehousing uses) is contemplated in an employment area by the Growth Plan.

When Oakville permitted the development of this site effectively as a retail plaza, the site was de facto converted, despite the employment designation.

There is No Reasonable Prospect that this Site Will Ever Develop for Manufacturing or Warehousing - The Purpose of the Employment Area Protection

There is absolutely no reasonable prospect for this site ever being developed for manufacturing or warehousing. The parcel intended for the seniors building is too small. The surrounding approved retail and existing community context makes it an inappropriate location for the heavy truck traffic, and the associated effects that would result from such an employment use.

If this site in a retail plaza was being approached as a blank canvas today, there is no planner that would recommend an initial designation to provide for manufacturing or warehousing. For the same reason, it is not appropriate to maintain the employment designation on this small part of the site.

The Province Made a Decision to Remove these Lands from the Provincially Significant Employment Zone Designation

When the province initially published the proposed mapping for the Provincially Significant Employment Zones, the subject site was included. But, upon reflection, the province amended the mapping, removing the triangle bounded by Burloak Drive, Rebecca Street and Great Lakes Boulevard. This decision was made on the sensible basis that the majority of lands in the triangle were already approved or developed for uses that would not reflect the type of warehousing and manufacturing that the Provincially Significant Employment Zone designation is intended to protect. It did not make planning sense to keep the triangle lands, including the site, in the Provincially Significant Employment Zone.

The Existing Approvals, and the Community Context, Make Conversion the Right Planning Choice for 3515-3545 Rebecca Street

With approvals on site permitting a retail centre, it is clear that the subject lands will not ever be developed for space extensive warehousing or manufacturing. In addition, the surrounding lands would make such employment uses less than ideal. The lands to the north are a large and popular church. Those to the west and south represent stable residential neighbourhoods.

The proposed introduction of a seniors building use on site would be far more appropriate for the community context than warehousing or manufacturing.

3525-3545 Rebecca Street Satisfies the Growth Plan Criteria for Conversion

Policy 2.2.5.9 of the Growth Plan for the Greater Golden Horseshoe sets out the tests for approval of a conversion:

- A) need
- B) lands not required for purpose designated
- C) sufficient lands maintained in municipality for forecast employment growth
- D) proposed uses will not affect the overall viability of employment area
- E) Infrastructure and public services are available

The 3515-3545 Rebecca Street site satisfies the required criteria for approval of conversion.

NEED - There is a clearly demonstrated need for additional housing. Ontario is undergoing a serious housing supply crisis - which is reflected in escalating housing prices. In particular, with an aging population, (including in the surrounding neighbourhoods) Oakville and Burlington have a strong market need for seniors' housing. Halton Region and Oakville face particular challenges in delivering an adequate supply of approved sites for residential intensification. Strategy Corp recently did a study on future trends for Halton Region, and recommended the placement of seniors' housing buildings in retail centres as an appropriate form of intensification, an efficient use of infrastructure, and one that would make for more complete communities. This site is ideally located to contribute to satisfying the need for seniors' housing.

LAND NOT REQUIRED FOR EMPLOYMENT - The subject lands have been approved for retail shopping centre uses. The current site plan application contemplates a supermarket, and a number of other smaller retail and service uses. Clearly, the site is not going to become a warehouse of manufacturing facility. In approving the permitted retail uses on site, Oakville concluded that the site would not develop for "employment uses" and was more appropriately part of the surrounding residential community, rather than the employment area to the east. As such, the lands are no longer contemplated or required for employment uses. As the lands are not currently developed for employment uses, the conversion of the site will not result in the displacement of a single business or the loss of a single job. In fact, approval of the conversion would significantly increase the potential number of jobs that could be created on site.

SUFFICIENT OTHER LANDS MAINTAINED FOR EMPLOYMENT - While the subject lands are not appealing to prospective employers, there are abundant other lands in Oakville and Halton that can satisfy that purpose. The Halton Planning Staff recommendations in the municipal comprehensive review identified additional lands that could be designated for employment to the horizon. In fact, Halton Staff went well beyond the planning horizon in their February 2021 Growth Concepts Discussion Paper, and identified a very significant amount of land as “Future Strategic Employment Areas”, that could accommodate employment land beyond the horizon of the plan. Thus, there is more than enough land available to meet employment needs to the Growth Plan 2051 horizon and beyond. In their decision to not add any new employment lands through the current municipal comprehensive review, Halton Council indicated their view that there are sufficient employment lands designated to maintain an adequate supply.

NO IMPACT ON VIABILITY OF OTHER EMPLOYMENT AREA - Since the subject site has not been developed for employment uses, its conversion in no way will destabilize any other employment uses in the vicinity. In addition, there are no nearby industries with which compatibility issues would arise under the Ministry of Environment’s Land Use Compatibility Guidelines. Finally, as the site is at the extreme south west corner of the larger employment area, surrounded on three sides by residential and community uses, and is not included in the Provincially Significant Employment Zone, there will be no impact of the viability of the employment area to the east.

SUFFICIENT INFRASTRUCTURE AND PUBLIC SERVICES - The 3525-3545 Rebecca Street site is well-served by infrastructure. It has available water and sewer servicing. Nautical Park, Fothergill Woods Park, Sheldon Park and a number of other parks serve the area. While the seniors building is not anticipated to generated young children, the Mohawk Gardens Public School is in the neighbourhood. There will be availability of retail and service uses including a supermarket right outside the door of the seniors building, and elsewhere close by. Overall, the site is well-served by infrastructure, and by public services required by residents.

In conclusion, it is clear that the proposed conversion satisfies the tests under policy 2.2.5.9 of the Growth Plan for the Greater Golden Horseshoe to allow conversion from employment land to other uses including residential.

Housing, Especially Retirement Housing for Seniors, is an Important Provincial Priority

As reflected in the Provincial Housing Supply Action Plan, the delivery of additional housing supply is an important policy objective of the province, in order to meet the significant and growing demand for such housing.

In the Halton Official Plan municipal comprehensive review work, very ambitious projections were made that seniors leaving their grade-related homes would make those homes available to younger families. Despite this assumption, there has been no concurrent commitment by the Region to deliver an increased supply of housing in the form of retirement residences, such as that proposed for this site.

Strategycorp, a firm retained by Halton Region to provide strategic insights into future trends, as part of Halton's municipal comprehensive review work, recommended that the inclusion of Retirement Residences in retail centres was an ideal approach the Region should embrace to meet housing needs for seniors in a complete community context. Despite such advice, exactly matching the situation of this Rebecca Street site, the Region did not act to approve this conversion.

With an aging population, communities like Oakville and Burlington have a real and growing need for housing to accommodate those seniors looking to downsize. While Halton Region, in their Land Needs Assessment calculations, assumes that many seniors will make such a move, the Region has not acted to allow such housing for seniors to be constructed, as is the case with this proposed conversion. The province can step in and correct this failure by modifying the proposed Halton Official Plan mapping, approving the conversion, and allowing this seniors housing to be constructed.

The Minister Should Recognize the Existing Planning and Community Context, and the Fact that this Site is Already De Facto Converted and Approve the Conversion of 3515-3545 Rebecca Street

The site is already approved and developing for retail uses not contemplated by the employment designation. As such, the site is already de facto converted, and approval of conversion by the province would be almost technical in nature. There will be no impact on the ability to ensure a sufficient supply of employment land in the Region.

The conversion will allow much-needed seniors housing to be delivered on this site. This housing would be delivered in an ideal community context, where there is a demonstrated market need for such housing

The conversion, if approved, will actually result in an increase in the number of jobs on-site both over the existing situation, and over what development for currently approved uses would deliver.

The Minister should use his approval powers under the planning act to modify the Halton Region Official Plan, approving the conversion of the site, and ensure that the lands at 3515-3545 Rebecca Street are mapped as Community Area, rather than as Employment Area. In the alternative, the Minister should use his authority under the planning act to refer the question of the appropriate land use designation for 3515-3545 Rebecca Street in Oakville, in the Halton Region Official Plan, to the Ontario Land Tribunal for a hearing.

Sincerely,

AIRD & BERLIS LLP



Hon. Peter Van Loan
Partner

HV