

March 21, 2024

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

By e-mail to: minister.mah@ontario.ca

Dear Minister Calandra:

**Re: Bill 162
ERO Number 019-8273
Waterloo Region Official Plan Amendment 6
ERO Number 019-5952
Ministry Reference Number 30-OP-222206**

Provincial Modifications to Waterloo Region Official Plan Should be Retained to Include Conversions of 388 Phillip Street, 413 Albert Street, Waterloo, to Ensure Conformity with Growth Plan Requirements and Provincial Policy, or the Matter Should Be Referred to the Tribunal for Determination

We are writing on behalf of Prica Global Enterprises Inc. with respect to their request to have the lands at 388 Phillip Street, and 413 Albert Street, in the City of Waterloo, converted from employment to permit mixed use development including residential uses. We are asking that the Government propose amendments to Bill 162 to retain the modification made by the previous Minister of Municipal Affairs to Waterloo Regional Official Plan Amendment 6, properly exercising his authority in accordance with the requirements of section 3 of the Planning Act, to remove the Regional Employment Area designation from the subject lands, and to permit their development for a mix of uses including residential. This letter, together with the accompanying planning report from Ron Palmer professional planner, constitute our submission in response to the above-caption Environmental Registry posting.

The subject lands are located within the Research and Technology Station Major Transit Station Area in Waterloo. Under the conversion previously approved by the Province, it was anticipated that more than 3,000 housing units would be delivered in a location where it will meet urgent needs, and support economic growth.

In addition to being in a Major Transit Station Area, the site is also located immediately across the street from the University of Waterloo. Sites further to the east are already developed for apartment housing largely aimed at the significant student population. Media reports about the shortage of housing for students in Waterloo have been appearing increasingly in recent times, as the student housing shortage has grown. The subject site is intended to deliver housing, which is anticipated to accommodate many students. The owners, Prica Global, have an impressive demonstrated track record of constructing and operating many buildings providing housing for the student population. Allowing the development of the subject site for such mixed use purposes, including housing that will meet student needs, is entirely consistent with the Government's stated commitments to increase the supply of such housing.

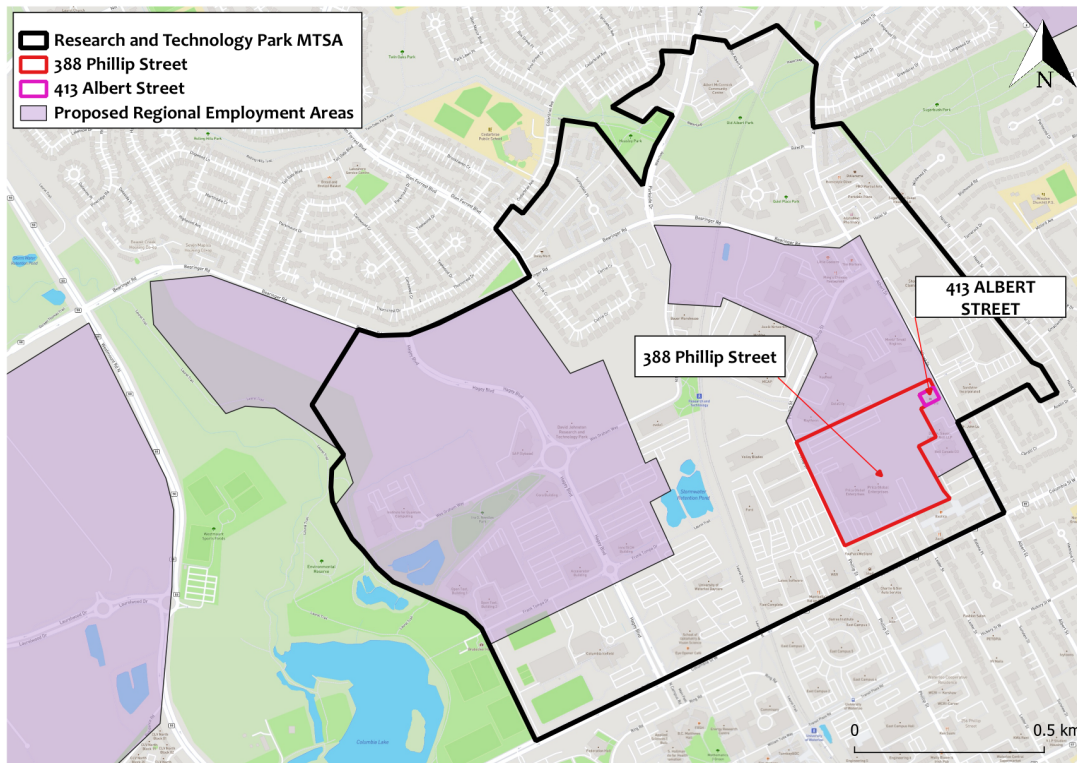
In the alternative, the Province should introduce legislation amending Bill 162 to restore the Minister's powers under section 17 (55) to refer parts of Waterloo Region Official Plan Amendment 6 to the Ontario Land Tribunal for a hearing.

This would allow the previously approved conversion modification to be considered and tested against Provincial Policy and the Growth Plan requirements, based upon expert planning evidence, tested in a public hearing.

The Lands in Question Represent a Priority Area for Intensification under Provincial Policy, and Will Deliver Priority Housing to Meet Student market Needs in the University of Waterloo Neighbourhood

This Major Transit Station Area has two distinct neighbourhoods. The lands west of the tracks are the David Johnson Research and Technology Business Park. The lands east of the tracks, where the parcel in question is located, are intended to evolve into an urban mixed use neighbourhood, with active round-the-clock uses including residential, retail and services like restaurants - all with a strong relationship to the University of Waterloo which is immediately adjacent.

The lands in question are 9.85 hectares in size (24.34 acres). Based on its location in a Major Transit Station Area, and the surrounding land use permissions, it will never be developed for warehousing or manufacturing (the uses for which employment designation protects land).



As such, the effect of Bill 162 to continue the designation as employment makes no sense from a planning perspective. The only result is that the lands will remain frozen and vacant for a decade or more awaiting the next municipal comprehensive review. In addition, that will effectively slow, or block, the evolution and transformation of the surrounding lands into the envisioned mixed use neighbourhood.

In Preparing Response to Minister Regarding Possible Retention of Modifications, Waterloo Council Never Turned Its Mind to Conversions - and ONLY Considered Issue of Settlement Area Expansions

In a letter dated November 2, 2023, the Minister of Municipal Affairs sought feedback from local municipalities regarding which of the previous Provincial modifications to Waterloo ROPA 6 they wished to see retained. City of Waterloo Council dealt with the matter on a walk-on motion at their Council meeting of November 6. Council adopted the resolution that, (following a preamble which discussed concerns with amendments to the urban growth area), “Waterloo City Council reaffirms its commitment to smart growth, intensification, and to maintaining the Countryside Line” and requesting that ROPA 6 be brought into effect as adopted.

There was no discussion in the motion of the modification permitting conversion for the Prica site that would allow for the intensification the resolution endorsed.

There was no word raised in the brief Council debate on the motion regarding the conversion modification affecting the Prica lands. All discussion related exclusively to the matter of the Urban Growth area and Countryside Line delineation.

There was no planning staff report before Council to consider when they adopted the resolution.

Simply put, while Council asserted a commitment to intensification in their resolution, there is no evidence that any member of Council was aware that one of the modifications upon which they were providing feedback to the Minister was for such a modification to permit transit-oriented intensification at 388 Phillip and 413 Albert.

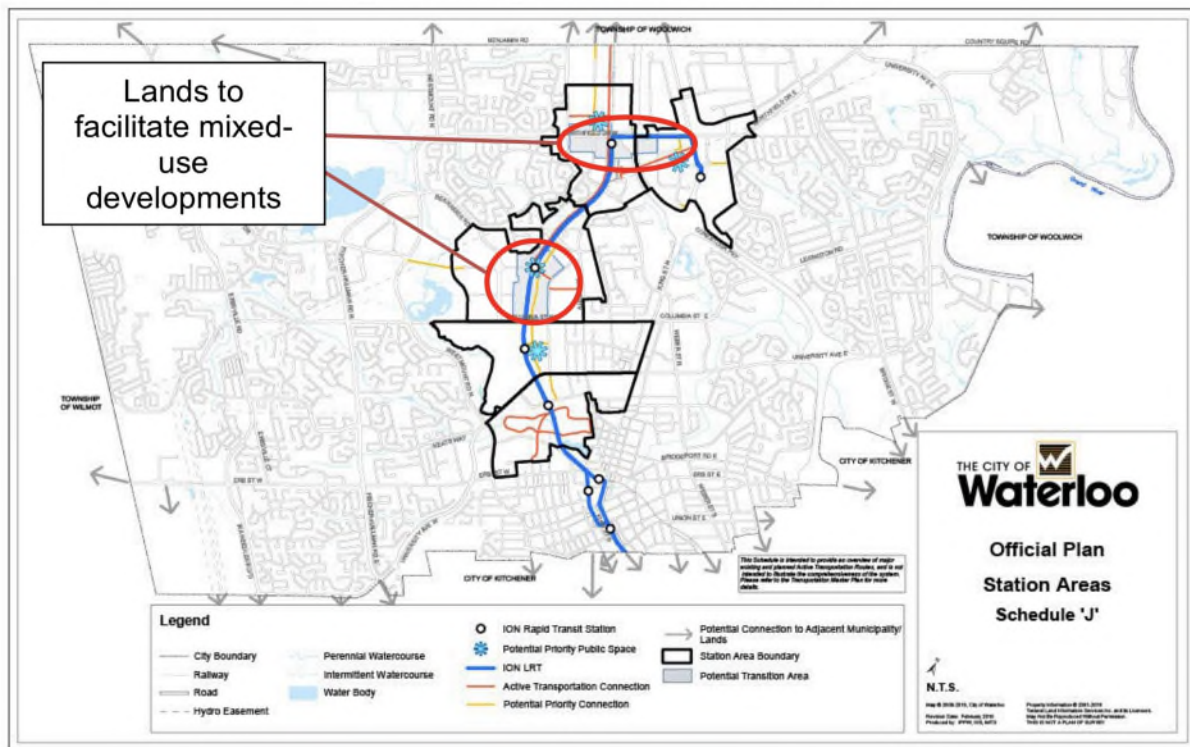
Waterloo Housing Pledge Specifically Identifies Intensification in the Research & Technology Station MTSA As Key to Achieving Its Housing Pledge and “Accommodate a Significant Amount of New Housing”

In announcing the rollback of Official Plan Modifications previously made by the Government, the current Minister indicated that some modifications should be retained based upon the municipal housing pledges made earlier in 2023 by local municipalities.

The City of Waterloo did adopt a housing pledge on March 20, 2023. That housing pledge specifically identified the Research & Technology Major Transit Station Area as an area that could “accommodate a significant amount of new housing”. The Prica lands are located within that Research & Technology Major Transit Station Area.

The City of Waterloo Housing Pledge included the map below showing the two Major Transit Station Areas with the lands that would “facilitate mixed-use developments” foundational to fulfilling their housing commitment.

Figure 2: Major Transit Station Areas



The pledge indicated that “New residential growth in the City of Waterloo will be primarily accommodated through infill and intensification within designated nodes, corridors, and major transit station areas”. The subject lands are located in the Research and Technology Major Transit Station Area.

In the announcement regarding the City of Waterloo Housing Pledge, the City pointed to the simultaneous adoption of their Affordable Housing Strategy. Among the “housing gaps” upon which that strategy was focused was the gap in “Rental units that are affordable to post-secondary students, in proximity to the three post-secondary institutions”. Prica is an established leader in providing rental housing to students in Waterloo, including in this immediate neighbourhood adjacent to the University of Waterloo. The subject site is anticipated to provide significant housing that will provide rental opportunities to the student population. The City’s housing strategy highlights the need to “make more efficient use of the City’s land supply” and to “provide more opportunities for people to live near transit and amenities”.

Based upon the above, and the current Minister’s stated intent that Municipal Housing Pledges should serve as a basis for determining which Provincial modifications to be retained, the modification permitting the conversion of 388 Phillip and 413 Albert should be retained through an appropriate amendment to Bill 162.

Continued Designation of Lands as Employment is Contrary to Recent Planning Act Changes to “Area of Employment” Definition in Planning Act

The Provincial Government recently changed the definition of “area of employment” in the Planning Act to provide greater clarity, consistent with the historical intention of the definition to provide protection for lands for manufacturing or warehousing. Under the new clarified definition (which it is anticipated will soon be proclaimed), it is no longer appropriate to designate the subject lands as employment.

The site is not appropriately located for manufacturing or warehousing - nor are the existing buildings used as such. There is no prospect that the lands will be used for manufacturing or warehousing in the future.

It is broadly agreed that the future of the site, located within a Major Transit Station Area, is for mixed uses. Future jobs would be in offices or commercial uses - not manufacturing or warehousing. As such, the effect of Bill 150 in rolling back the opportunity for a mixed use development will effectively sterilize the lands for years to come, delaying the delivery of urgently needed housing and economic activity.

Bill 162 as currently drafted, in failing to restore the previous modification to convert the lands, is contrary to the requirements of the new “area of employment” definition in the Planning Act, as such requirements cannot be met on the site, nor would it be desirable or good planning to do so in this location.

Major Transit Station Area Proposed Employment Area Lands East of the LRT Tracks are Unlikely to Develop for Warehousing or Manufacturing

The Research and Technology Major Transit Station Area is focused around the LRT Station of the same name. The station gets its name from the David Johnson Research and Technology Park on the west side of the tracks. The Research and Technology Park is an Innovation District established by the University of Waterloo, to bring together businesses that depend heavily on research and technology, with the academic support, to achieve innovation. Its campus-like setting is similar to that of a business park.

In contrast, the lands on the east side of the tracks (including the subject site) relate to the neighbouring residential communities, and mix of uses from apartments to restaurants supporting University Student life. While the former uses in this area were space extensive technology companies, that is no longer the case. Such technology-based companies are now concentrated on the west side of the tracks. The future for the east side is to evolve and transform into more of an urban, fine grain mix of uses that makes it an attractive destination for knowledge workers to live, work, shop, and take leisure in close proximity.

The Region’s planners have acknowledged this - as reflected in the fact that a large portion of the lands east of the tracks now are proposed to have land use designations to allow this transformation to continue. However, a significant portion of the lands in the middle remain proposed to be designated as regional employment area. Ironically, this will ensure that they will likely remain vacant or underutilized for a decade or more. In the meantime, this “frozen” chunk of land in the middle of the neighbourhood will stand as an impediment to the growth of the fine grain mix of urban uses on the neighbouring lands.

Owners of 388 Phillip St. and 413 Albert St. are Ideally-Suited to Understand this Area, and to Achieve the Vision of a Dynamic Mix of Urban Uses

Prica are uniquely suited to make the vision for this area a reality. Firstly, they are a real estate development, design-build and rental residential company with specific experience in this neighbourhood, and established linkages to the University community.

In addition, they are a services company active in information technology, procurement services, marketing and more.

As such, they understand the existing reality on the ground in this area, and its potential future possibilities for both jobs and homes.

Lands Satisfy the Growth Plan Tests for Conversion Approval

Section 2.2.5.9 of the Growth Plan sets out the tests that a particular piece of land must clear in order to be approved for conversion from employment area to other uses (including mixed use, or residential). The lands at 388 Phillip Street and 413 Albert Street clear all of these tests:

- A) NEED - There is a strong need in Waterloo for both the residential uses that will result, as well as the type of mixed use employment that is anticipated to emerge in this area if the conversion is approved.
- B) LANDS ARE NOT REQUIRED FOR EMPLOYMENT PURPOSES DESIGNATED - The type of business park employment use intended for by this designation has already largely migrated to the more hospitable west side of the tracks.
- C) THE MUNICIPALITY WILL MAINTAIN SUFFICIENT EMPLOYMENT LANDS TO ACCOMMODATE FORECAST GROWTH - Ample employment area lands are, or are being, designated elsewhere in the Region in this official plan including in locations with better proximity to highways and goods movement infrastructure.
- D) WOULD NOT AFFECT OVERALL VIABILITY OF REMAINING EMPLOYMENT LANDS - There is no question of a “domino” effect here. The lands to the west, south and east of the subject lands have already been freed for other uses. There are no issues of land use compatibility under provincial guidelines relating to nearby industry if conversion proceeds.

- E) THERE ARE EXISTING OR PLANNED INFRASTRUCTURE AND PUBLIC SERVICE FACILITIES TO ACCOMMODATE THE PROPOSED USES - The area is already an urban context, including the University. The conversion will make good use of existing infrastructure, while strengthening the social fabric.

In addition, although it is not a test for a conversion during a municipal comprehensive review, the mix of uses following conversion is anticipated to produce more jobs than found in the current and historic uses on the site under the employment designation.

Conversion of 388 Phillip Street and 413 Albert Street will Deliver Exactly the Type of Housing the Region Says Is Key To Economic Competitiveness

In the Region's April 2022 Land Needs Assessment Report, a link is made between the need for housing to meet the needs of young demographics, and the future economic competitiveness of the Region. The conversion proposed for this site, located in the heart of the University of Waterloo area, and across the tracks from the David Johnson Research and Technology Park, current and future home of high tech companies, is perhaps the best location in all of the Region to serve this need.

“Housing choice for younger generations is critical to the sustained economic competitiveness of the Region. To ensure that economic growth is not constrained by future labour shortages, continued effort will be required by the Region and each of the Area Municipalities to attract and accommodate new working-age residents within a diverse range of urban housing options by structure type and tenure.”

A critical component of this primarily young, creative sector workforce, are recent university graduates. This aspect of the workforce is seeking high quality of life, urban, higher density living, fine-grained mixed use environments as their home. The subject site, and the owner's vision for its future development, is directly responsive to fulfilling this aspect of the market demand for housing.

The report also observes:

“As discussed in the Employment Strategy Technical Brief, the Region of Waterloo is recognized on an international scale as a hub for innovation. This has helped the Region in its efforts to connect local companies to a large and growing local talent pool of skilled workers. These workers are particularly attracted by the urban appeal and amenities of the Region’s urban centres and mixed-use areas over traditional suburban locations. This is especially the case for younger population segments. This underscores the option of ‘place making’ as an increasingly important planning approach to creating diverse and vibrant communities, which in turn can help attract local population and job growth as long as other necessary infrastructure requirements, community services and amenities are provided.”

The above paragraph virtually describes the subject site, and its potential, based upon its unique location and nexus with the creative and technology-focused locations of the Region. Yet, despite this, Regional planners did not include the site as a conversion to allow this vision to be fulfilled, in the most appropriate location in the Region. Conversion of the site will allow this area to transform and fulfill this vision.

Site is Ideally Located to Address Severe University of Waterloo Student Housing Shortage

It is expected that new housing delivered as a result of this conversion will attract, in addition to young professionals, a student population from the neighbouring University of Waterloo. While student housing has been in short supply in Waterloo, in the year 2022 this shortage reached crisis levels.

A Facebook group titled “Student Housing Crisis in Waterloo” has been established.

A scan of local media stories reveals the severity of the situation:

“University Enrolment is Outpacing Housing Supply”, Kitchener-Waterloo Record, September 15, 2022

“Ontario’s Housing Crisis Reaches Waterloo”, University of Waterloo Imprint Newspaper, October 19, 2022

“Housing Crisis Hitting Local Post-Secondary Students Hard”, Cambridge Today, August 9, 2022

In a September 11, 2023 report to the City of Waterloo, a current supply deficit of 4,730 beds for students was identified. A survey of 4,248 Waterloo students undertaken in the preparation of that report indicated that 61.5% of students “had to settle for accommodation that did not meet my needs”, including having to locate at a considerable distance from campus, and many who reported that they “slept on a friend’s couch”. Almost two thirds (63%) reported that they found it difficult to secure housing.

Prica is well-acquainted with the student housing market, having built and operated a number of the most recently constructed apartment buildings in this area that are aimed at housing students. As such, they both understand, and operate in the student housing market - and this conversion will add a critical new source of supply for housing for students in Waterloo.

The Government Should Amend Bill 162 to Retain the Modification to the Waterloo Region Official Plan and Approve the Conversion of 388 Phillip Street and 413 Albert Street, or Refer the Question of their Land Use Designation (Conversion) to the Tribunal

The requested conversion of the lands satisfies the criteria required for a conversion under section 2.2.5.9 of the Growth Plan. In addition, the conversion would help advance Waterloo Region’s vision whereby the overwhelming majority of future population growth is to be accommodated within the existing settlement area.

Approval of the conversion is actually necessary to unlock the potential of the Research and Technology Major Transit Station Area to achieve its intended transition, including into the dynamic mixed use area intended.

The Minister plays an important role in the planning process. Under the law, he has particular statutory obligations that he MUST exercise under the law when he makes decisions. He cannot wash his hands of that section 3 statutory obligation to apply his judgment to the application of Provincial policy in the Growth Plan and the Provincial Policy Statement. He cannot merely act as a non-judgmental cipher for Municipal requests - where those requests run contrary to the previous Minister’s properly made decisions under the Planning Act, properly following the section 3 requirements, and based upon good planning evidence.

The Government should amend Bill 162 to retain the previously made modification to the Region of Waterloo Official Plan to ensure the lands at 388 Phillip Street and 413 Albert Street are NOT designated as employment, approving the conversion of the land as good planning. In the alternative, the Government should amend Bill 162 to restore the Minister's authority to refer matters to the Ontario Land Tribunal pursuant to the Planning Act section 17 (55) to Plans that were affected by Bill 150. The Minister should thereafter refer the question of the appropriate designation of the land at 388 Phillip Street and 413 Albert Street to the Ontario Land Tribunal, for a hearing.

Yours sincerely,

AIRD & BERLIS LLP



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