

## Town of Oakville Memorandum

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**To:** Mayor and Members of Council

**From:** Jennifer Huctwith  
Legal Department

**Date:** June 27, 2022

**Subject:** **Recommendation Report, SmartCentres (on behalf of SmartREIT (Oakville II) Inc./SmartREIT (Oakville) Inc.), Official Plan Amendment and Zoning By-law Amendment, Z.1413.34 and OPA 1413.34**

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Please be advised that the applicant in the above noted file has filed an appeal Council's lack of decision for both this application and the related site plan application (SP.1413.053/01). The attached appeal letter was received on June 24, 2022.

The application was deemed complete on April 30, 2021. The 120 day statutory timeframe for processing this application after which an appeal could be filed expired on October 30, 2021.

It is recommended that Council hear from registered delegates but otherwise take no action. A report from the Legal Department will be provided to Council at a later date providing options in relation to the appeal including advice as to whether there is evidence available to support any concerns raised by members of the public or members of Council.

The following revised recommendation is proposed:

That the report from the Planning Services Department, dated June 14, 2022 titled "Recommendation Report, SmartCentres (on behalf of SmartREIT (Oakville II) Inc./SmartREIT (Oakville) Inc.), Official Plan Amendment and Zoning By-law Amendment, Z.1413.34 and OPA 1413.34 – By-laws 2022-063 and 2022-064" and comments from the public on the application be received.

Jennifer L. Huctwith  
Assistant Town Solicitor

**Appendix A** – Letter from WeirFoulds LLP, dated June 24, 2022.

June 24, 2022

Denise Baker  
Partner  
t. 416-947-5090  
dbaker@weirfoulds.com

**VIA EMAIL AND COURIER**

File 21376.00001

Vicki Tytaneck, Town Clerk  
Town of Oakville  
1225 Trafalgar Road  
Oakville ON L6H 0H3

**Dear Ms. Tytaneck:**

**Re: File Nos. Z. 1413.34, OPA1413.34**

**Notice of Appeal for Non-decision Pursuant to ss. 17(40) and 34(11) of the  
*Planning Act*, R.S.O. 1990, c. P. 13, as amended (Appeal of non-decision)**

We are counsel for SmartCentres, SmartREIT (Oakville II) Inc. and SmartREIT (Oakville) Inc. (collectively "**SmartCentres**"). SmartREIT (Oakville II) Inc. and SmartREIT (Oakville) Inc. are the owners of the properties known municipally as 256, 260 and 294 Hays Boulevard and 271 Oak Park Boulevard, in the Town of Oakville (collectively, the "**Subject Site**").

In April of 2021, SmartCentres submitted applications to the Town for Official Plan and Zoning By-law Amendments to enable the development of a mixed-use building consisting of two residential towers on the Subject Site (the "**Applications**"). The Town deemed the Applications complete on April 30, 2021.

The statutory timeframe for processing this application has since expired. As such, SmartCentres hereby appeals the Town's non-decision on the Applications pursuant to subsections 17(40) and 34(11) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended (the "**Planning Act**").

**BACKGROUND**

**The Subject Site**

The Subject Site is 0.9-hectares in size and constitutes a southeastern portion of the SmartCentres shopping centre located on the northwest corner of the intersection of Trafalgar Road and Oak Park Drive. The Subject Site is located within Oakville's Uptown Core Area and has an area of approximately 9,095 square metres and a frontage of approximately 125 metres

on Trafalgar Road and 70 metres on Oak Park Boulevard. The broader SmartCentres shopping centre site on which the Subject Site is located is approximately 19 hectares in size.

The Subject Site is currently tenanted by a Walmart, a Real Canadian Superstore, and various smaller, stand-alone retail buildings. The Subject Site is also the site of a significant number of interspersed surface parking spaces. However, the Subject Site is currently vacant.

### **The Proposed Development**

The Applications would enable the development of a mixed-use building consisting of two residential towers at 26 and 31 storeys with 8 integrated 2-storey townhouse units at the base of the building fronting onto Trafalgar Road (“**Proposed Development**”). The tower elements of the Proposed Development would sit atop a 5-storey shared podium.

The Proposed Development would consist of a total of 587 residential units, including the 8 grade-related townhouse units at the building’s base fronting Trafalgar Road, as well as a total of 531 vehicle parking spaces and 590 bicycle parking spaces. The FSI for the Proposed Development is 4.7.

Access to the Proposed Development would be provided through two existing driveways from Taunton Road to the west and Hays Boulevard to the north of the Subject Site.

The Proposed Development constitutes the first phase of a conceptual master plan for the larger SmartCentres Site.

### **The Official Plan Designation and Zoning of the Subject Site**

The south portion of the Subject Site is designated Main Street 2 and the northeast portion along Trafalgar Road is designated Urban Core. The Applications seek an Official Plan Amendment to increase the permitted heights on the Subject Site.

The Subject Site is zoned MU2-178 (Mixed Use Main Street 2) and MU4-178 (Mixed Use Urban Core), which permit maximum heights of 6 and 12 storeys, respectively. The Applications accordingly seek an amendment to the Town of Oakville Zoning By-law No. 2014-014 to increase the permitted height and to revise other development standards applicable to the site.

The current zoning of the Subject site already permits apartment and townhouse dwellings, business offices, community centers, day cares, medical offices, restaurants, and retail stores, amongst other uses.

## **The Staff Report**

On June 14, 2022, Town staff released a report recommending approval of the Applications (“**Staff Report**”). The authors of the Staff Report opined that the Applications represent good planning as they are consistent with the Provincial Policy Statement, 2020, conform with all applicable Provincial plans, the Region of Halton Official Plan, and the Livable Oakville Plan, and have regard for matters of Provincial interest. Staff also opined that the Applications conform to the Town’s Urban Structure as the Proposed Development would aid in achieving complete communities.

## **The Town’s Uptown Core Review**

The Subject Site is located within the Town’s Uptown Core Growth Area as identified in the Livable Oakville Official Plan. This area is planned to accommodate intensification and high-density growth.

The Town is currently reviewing the Uptown Core policies in the Livable Oakville Official Plan to account for revised growth targets and to ensure continued alignment with the Provincial Policy Statement, the Growth Plan, and the Halton Region’s Integrated Growth Management Strategy. Work on this study was paused during the Covid-19 pandemic but is anticipated to continue in the fall of 2022. According to the Staff Report dated June 14, 2022, the Uptown Core will continue to function as a strategic growth area for mixed use development and intensification as directed by the approved urban structure.

## **REASONS FOR APPEAL**

For the reasons that follow, the Proposed Development has regard for matters of Provincial interest, is consistent with the Provincial Policy Statement, conforms with all applicable Provincial plans, the Region of Halton Official Plan, and the Livable Oakville Plan, and represents good planning.

### **Regard for Matters of Provincial Interest**

The Proposed Development has regard for the matters of provincial interest delineated in section 2 of the Planning Act in that it contributes to the following:

- the adequate and efficient use of transportation;
- the orderly development of safe and healthy communities;

- the adequate provision of a full range of housing, including affordable housing; and,
- the appropriate location for growth and development;

In addition, the Proposed Development constitutes sustainable development that is designed to support public transit and be oriented to pedestrians.

Specifically, the Proposed Development would increase the range and mix of housing types within the area and has the potential to accommodate densities that support the vision for the Uptown Core Growth area, which is an area for significant intensification along one of the Town's higher order transit corridors. In addition, the Proposed Development represents a development that is compatible with the surrounding mix of land uses.

#### **The Provincial Policy Statement, 2020 ("PPS")**

The Proposed Development supports the PPS policies that encourage intensification within the built boundary in proximity to higher-order transit, specifically, policies 1.1.3.2, 1.1.3.3, 1.1.3.4 and 1.4.3.

The Subject Site is ideally situated to support these policies. The Proposed Development promotes intensification with an appropriate range and mix of housing types and densities and facilitates the development of compact built form that takes advantage of existing and planned infrastructure, public transit, and public service facilities. The Proposed Development represents an efficient use of land and resources as well as an appropriate use of the transit supportive infrastructure and public service facilities that are planned or available.

#### **Growth Plan for the Greater Golden Horseshoe (2019) ("Growth Plan")**

The Proposed Development similarly conforms with the policies of the Growth Plan that promote compact built forms, the efficient use of existing infrastructure, and the intensification of built-up areas in proximity to higher-order transit.

The Subject Site is within a Strategic Growth Area, which, under the Growth Plan, is a focus of intensification and higher density mixed uses in a compact built form. The Subject Site is also part of a planned "major transit station area" on a planned higher order transit corridor due to the planned Bus Rapid Transit along Trafalgar Road. Under the Growth Plan, major transit station areas are to be planned and designed to be transit-supportive by way of a diverse mix of uses to support existing and planned service levels. The Proposed Development conforms to the Growth

Plan's intensification policies for Strategic Growth Areas and Major Transit Station Areas as it directs significant intensification along a priority transit corridor.

### **The Region of Halton Official Plan ("ROP")**

The Proposed Development supports the ROP policies that promote intensification within the built boundary and along planned higher-order transit corridors. The ROP similarly promotes intensification on sites within the built-up urban area that are well served by municipal infrastructure and public transit.

The Subject Site is designated "Urban Area" in the ROP. The Urban Area is planned to accommodate the distribution of population and employment for the Region and the Region's four local municipalities. The policies of the Urban Area designation (Policy 72 of Part III) support a form of growth that is compact and supportive of transit and reduces dependence on private vehicles. The Urban Area policies also support the development of vibrant and healthy mixed-use communities which afford maximum choices for housing, work, and leisure. The Urban Area is intended to facilitate and promote intensification and increased densities by attracting a significant portion of population growth and achieving higher densities than the surrounding areas.

The Subject Site is also within the identified "Built-Up Area" of the ROP. The regional phasing policies of the ROP require the Town of Oakville to intensify within the built boundary.

Halton's planning vision for a healthy community is found in Policy 31(3), which states that a healthy community is physically designed to minimize the stress of daily living and meet the life-long needs of its residents where a full range of housing, social, health and recreational opportunities are present and where mobility is provided primarily through an affordable, convenient, safe, and efficient public transportation system. The Subject Site fronts onto Trafalgar Road, which is a Higher Order Transit Corridor (as identified on Map 3 of the ROP) forming part of a regionally identified *Intensification Area*. Policy 81(1) states that higher-density and mixed-use development are to be directed to Intensification Areas/Higher Order Transit Corridors.

### **The Livable Oakville Plan**

But for the requested amendment, the Proposed Development conforms with the Livable Oakville Plan. The Subject Site is located within the Uptown Core growth area. The site is split by the Urban Core designation on the north area of the parcel and the Main Street 2 designation on the southern portion of the site. The Proposed Development is in conformity with both of these designations to the extent that they permit a broad range of commercial and residential uses with at-grade retail, office, or service uses.

The Livable Oakville Official Plan identifies the Uptown Core Growth Area as suitable for intensification, a concentration of mixed uses, and higher density development. Policy 4.1 of the Livable Oakville Plan provides that the majority of intensification in the Town is to occur within Growth Areas such as the Uptown Growth Area. The Official Plan directs the Uptown Core Growth Area to be a pedestrian-oriented, walkable, transit-supportive, and mixed-use urban centre that provides for medium and high-density housing, offices, and a mixture of retail and service commercial uses.

The Subject Site is currently vacant and represents a significant underutilization of a property that is located within the Uptown Core growth area and along a planned higher order transit corridor. The Proposed Development will make an important contribution to the planned intensification for the Uptown Core area.

From a built-form and urban design perspective, the Proposed Development represents an appropriate design response that will provide a suitable and desirable built-form presence along Trafalgar Road and Oak Park Boulevard. The Proposed Development will also provide appropriate separation distances to the existing and emerging built forms in the immediate surroundings and will minimize any adverse impacts on surrounding area.

In addition, the proposed height conforms with the built form and urban design policies of both the Livable Oakville Plan and the guidelines in the Livable by Design Manual, as it fits well within the existing and emerging built-form context and helps to achieve the Town's vision for development in the Uptown Core growth area and along the Trafalgar Road Corridor.

### **Filing Requirements**

In satisfaction of the Tribunal's filing requirements, enclosed please find the following:

- A duly completed and signed OLT Appeal Form (A1);
- Two (2) firm cheques, each in the amount of \$1,100.00, payable to the Minister of Finance.

Please acknowledge the receipt and sufficiency of this letter and confirm that the record with respect to the Applications has been forwarded to the Tribunal.

Yours truly,

**WeirFoulds LLP**

A handwritten signature in black ink, appearing to read "DBaker", written in a cursive style.

Denise Baker  
Partner

DB/:cd

Encls. 3

Cc Client

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