

Appendix B – OLT Decision

Ontario Land Tribunal

Tribunal ontarien de l'aménagement
du territoire



ISSUE DATE: August 18, 2022
EFFECTIVE DATE: July 26, 2022

CASE NO(S): OLT-22-002119

PROCEEDING COMMENCED UNDER subsection 22(7) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant and Appellant: 2266 Lakeshore LP
Subject: Request to amend the Official Plan – Failure of the Town of Oakville to adopt the requested amendment

Existing Designation: Main Street 2
Proposed Designation: Main Street 2 (with modified bonusing provisions)

Purpose: TO permit a 15-storey mixed-use rental building with commercial at grade

Property Address/Description: 2262-2266 Lakeshore Road W. & 83 East Street
Municipality: Town of Oakville
Approval Authority File No.: OPA.1728.66
OLT Case No.: OLT-22-002119
OLT Lead Case No.: OLT-22-002119
OLT Case Name: 2266 Lakeshore LP v. Oakville (Town)

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

Applicant and Appellant: 2266 Lakeshore LP
Subject: Application to amend the Zoning By-law No. 2014-14 – Neglect or Refusal of application by Town of Oakville

Existing Zoning: “H1- Main Street 1” (MU1) Zone
Proposed Zoning: “H1 – Main Street 1” (MU1) Zone
Purpose: To permit a 15-storey mixed-use rental building with commercial at grade

Property Address/Description: 2262-2266 Lakeshore Road W. & 83 East Street

Municipality:	Town of Oakville
Municipal File No.:	Z.1728.66
OLT Case No.:	OLT-22-002120
OLT Lead Case No.:	OLT-22-002119
OLT Case Name:	2266 Lakeshore LP v. Oakville (Town)

Heard: July 28, 2022 via Video Hearing

APPEARANCES:

Parties

Counsel

2266 Lakeshore LP

I. Andres

Town of Oakville

J. Huctwith
A. Ali (Student-at-law)

Region of Halton

B. Maione

MEMORANDUM OF ORAL DECISION DELIVERED BY STEVEN COOKE ON JULY 28, 2022 AND ORDER OF THE TRIBUNAL

[1] The matter before the Tribunal was scheduled to be a Case Management Conference (“CMC”) but, at the request of the statutory Parties, prior to the hearing event was converted into a settlement hearing.

[2] Pursuant to s. 34(11) and s. 22(7) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended (the “Act”), 2266 Lakeshore LP (the “Applicant”) appealed the failure of the Town of Oakville (the “Town”) to adopt a request to amend the Town’s Livable Oakville Plan (the “LOP”) and the request to amend Zoning By-law No. 2014-14 (the “ZBL” for the properties known municipally as 2262 – 2266 Lakeshore Road West, and 83 East Street (collectively referred to as the “Subject Site”).

[3] The Affidavit of Service for the CMC was sworn by Veronica Walker and marked as Exhibit 1. After reviewing the Affidavit and hearing no concerns, the Tribunal was satisfied that proper Notice of the CMC was issued.

PARTY STATUS

[4] Brittany Maione appeared before the Tribunal as counsel for the Region of Halton (the “Region”). The Region requested to be granted Party Status as the Subject Site is located within the Region Official Plan (the “ROP”). After canvassing the statutory Parties and hearing their support for the request that the Tribunal granted Party status to the Region.

[5] No other individuals appeared to request Party or Participant Status to these proceedings.

PLANNING EVIDENCE

[6] After a review of the curriculum vitae and signed acknowledgement of expert duties, Eldon Theodore was qualified to give expert opinion evidence in the field of land use planning. The Affidavit of Mr. Theodore was marked as Exhibit 2.

[7] No other witnesses had been called to provide testimony to the Tribunal.

Subject Site and Area Context

[8] The settlement proposes to develop a 10-storey mixed-use building with 90 one-bedroom, 148 two-bedroom and 6 three-bedroom dwellings. The proposed development includes 536 squares metres (“sq m”) of indoor amenity spaces and 1,196 sq m of outdoor amenity spaces. A total of 268 parking spaces will be provided for residential, retail, and visitor uses.

[9] The Subject Site consists of three lots located on the southeast corner of Lakeshore Road West and East Street. The Subject Site currently contains two single-storey commercial facilities and one two-storey residential building that is currently being used as a group home.

[10] Mr. Theodore informed the Tribunal that the Subject Site is designated as part of the Bronte Village and zoned H1-Main Street (“MU1”) in the LOP. The area has a mix of commercial and residential uses with heights ranging for 3 to 22-storeys. To the immediate east of the Subject Site is a 17-storey apartment.

[11] The Subject Site has public transit bus routes along Lakeshore Road West with connections to the Appleby GO train station.

Matters of Provincial Interest

[12] It is the opinion of Mr. Theodore that the proposed settlement is consistent with the Provincial Policy Statement (“PPS”) by promoting efficient development and land use patterns, providing for an appropriate range and mix of residential housing, is considered transit-supportive, uses existing infrastructure, and promotes intensification of under-utilized lands while avoiding or mitigating risks to public health and safety.

[13] Mr. Theodore opined that the proposed settlement conforms with the Growth Plan for the Greater Golden Horseshoe (“Growth Plan”) by optimizing existing infrastructure and surface transit, contributing to growth as envisioned within the delineated built-up Bronte Village Growth Area and meeting the objectives of a complete community.

Livable Oakville Plan (“LOP”)

[14] It is the opinion of Mr. Theodore that the proposed settlement meets the goals, objectives, and key principles of the LOP.

[15] As the Subject Site is located in the “Gateway” area of the designated Bronte Village, Mr. Theodore states that the proposed development allows for an appropriate height for a mixed-use building. It is his opinion that this height achieves an appropriate transition between the high-rise tower neighbourhood and mid-rise commercial neighbourhood of Bronte Village.

[16] Mr. Theodore informed the Tribunal that the proposed settlement allows for a development of the Subject Site that has a built form massing with appropriate setbacks, step backs, and building separation. The podium creates a contextually sensitive street wall that revitalizes a pedestrian friendly streetscape, with year-round animation and activity as desired for the Gateway to Bronte Village.

[17] The Tribunal was informed that the Applicant and the Town have addressed the parkland needs through a cash-in-lieu agreement.

ANALYSIS AND FINDINGS

[18] In determining this matter, the Tribunal accepts and adopts the uncontested land use planning evidence and expert opinions provided by Mr. Theodore. The Tribunal is persuaded by the evidence that the proposed settlement promotes efficient development of land, accommodates a range of appropriate mixed uses, intensifies uses within the settlement area, and contributes to the range of housing options, and in particular, permits a mix of uses that promotes year-round animation, activity and diversity of dwelling options along the main street as desired in the LOP.

[19] The Tribunal finds that the settlement is consistent with the policy direction established by the PPS and conforms to the relevant directives established by the Growth Plan, and as maintained by the LOP. The Tribunal is further satisfied that the proposal has due regard for matters of provincial interest, is consistent with the principles of good land use planning and is in the greater public interest. Moreover, the proposal furthers the goals and objectives of the provincial planning regime to increase housing opportunities and develop underutilized areas in an organized fashion.

ORDER

[20] **THE TRIBUNAL ORDERS** that the Region of Halton be granted Party Status.

[21] That the appeal is allowed in part and the Town of Oakville, Liveable Oakville Plan and Zoning By-law No. 2014-014 are hereby amended in accordance with Attachment 1 and 2, respectively.

[22] Pursuant to Rule 24.3 of the Tribunal's *Rules of Practice and Procedure*, this Order shall be, and was, effective as of the date of the hearing of this Appeal, and the delivery of the Oral Decision and Order of the Tribunal, on **Tuesday, July 26, 2022**.

"Steven Cooke"

STEVEN COOKE
VICE-CHAIR

Ontario Land Tribunal

Website: olt.gov.on.ca Telephone: 416-212-6349 Toll Free: 1-866-448-2248

The Conservation Review Board, the Environmental Review Tribunal, the Local Planning Appeal Tribunal and the Mining and Lands Tribunal are amalgamated and continued as the Ontario Land Tribunal ("Tribunal"). Any reference to the preceding tribunals or the former Ontario Municipal Board is deemed to be a reference to the Tribunal.

ATTACHMENT 1**THE CORPORATION OF THE TOWN OF OAKVILLE****BY-LAW NUMBER 2022-080**

Official Plan Amendment 50

A by-law to adopt an amendment to the Livable Oakville Official Plan, Official Plan Amendment Number 50 (2266 Lakeshore LP, 2262-2266 Lakeshore Road West/83 East Street, File No.: OPA.1728.66)

WHEREAS subsection 21(1) of the *Planning Act*, R.S.O. 1990, c.P.13, as amended, states that the provisions of the *Act* with respect to an official plan apply, with necessary modifications, to amendments thereto and section 17 applies to any such amendment; and,

WHEREAS subsection 22(1) of the *Planning Act* provides that a person or public body may request a council to amend its official plan; and,

WHEREAS 2266 Lakeshore LP, as beneficial owner of the lands known as 2262-2266 Lakeshore Road West/83 East Street has requested that Council amend the Livable Oakville Official Plan to modify the Plan to permit a ten (10) storey mixed use building.

WHEREAS 2266 Lakeshore LP filed an appeal to the Ontario Land Tribunal under section 22(7) of the *Planning Act* as a result of council's failure to adopt the requested amendment within 120 days after the day the request was received (the "appeal"), which appeal was assigned Case Numbers OLT-22-002119

WHEREAS on July 28, 2022, the Ontario Land Tribunal heard evidence with respect to a settlement of the appeal including the amendment to the official plan set out in this by-law.

PURSUANT to section 22(11) and 17(50) of the *Planning Act*, R.S.O. 1990, c. P.13:



By-law Number: 2022-080

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1. The Livable Oakville Official Plan, as amended, is further amended in accordance with Official Plan Amendment Number 50, attached to this by-law.

ORDERED by the Ontario Land Tribunal by Order dated _____, 2022 in Case Numbers OLT-22-002119 and OLT-22-002120.

MAYOR

CLERK



By-law Number: 2022-080

Official Plan Amendment Number 50 to the Town of Oakville's Livable Oakville Plan

Constitutional Statement

The details of the amendment, as contained in Part 2 of this text, constitute Official Plan Amendment Number 50 to the Livable Oakville Plan.

Part 1 – Preamble

A. Subject Land

The subject land, located at the southeast corner of Lakeshore Road West and East Street, is legally described as Lots 67 and Part of Lots 68 and 69, registered Plan M-8 and municipally known as 2262 – 2266 Lakeshore Road West and 83 East Street.

B. Purpose and Effect

The purpose and effect of this Official Plan Amendment (OPA) is to permit the development of a 10 storey mixed-use building with an expanded mezzanine built into the first storey.

C. Background and Basis

- The subject land is approximately 0.38 hectares located on the southeast corner of Lakeshore Road West and East Street. The site is designated Main Street 2, where the maximum height is six storeys.
- The site is eligible for an additional four storeys in height with the execution of a Section 37 agreement for a total maximum building height of 10 storeys.
- The Owner has requested relief to include an expanded mezzanine level as part of the ground floor within the 10 storey mixed use building that would qualify as a storey under the *Ontario Building Code*, O Reg. 332/12,
- On October 4, 2021, Planning and Development Council hosted the statutory public meeting regarding applications for official plan and zoning by-law amendments to consider a 15 storey mixed use building on the subject land.



By-law Number: 2022-080

- The applications were appealed to the Ontario Land Tribunal on January 11, 2022.
- On May 2, 2022, Town Council held a public meeting to obtain public input on settlement options and instructed staff to pursue a settlement based upon a 10 storey building with added permissions for an expanded mezzanine as a second level built into the first storey.
- Based on staff's review and analysis of the materials submitted in support of the proposed 10 storey development, and the issues raised by Council and the public, it is appropriate to amend the Livable Oakville Plan. The amendment will have the effect of permitting an additional storey in the form of a second level built into the first storey of the proposed 10 storey building, including four storeys subject to bonusing.

Part 2 – The Amendment

The Livable Oakville Plan is amended as follows:

A. Text Changes

Part E Section 24.7, Bronte Village Exceptions – Schedule P1, is amended by adding the following new policy:

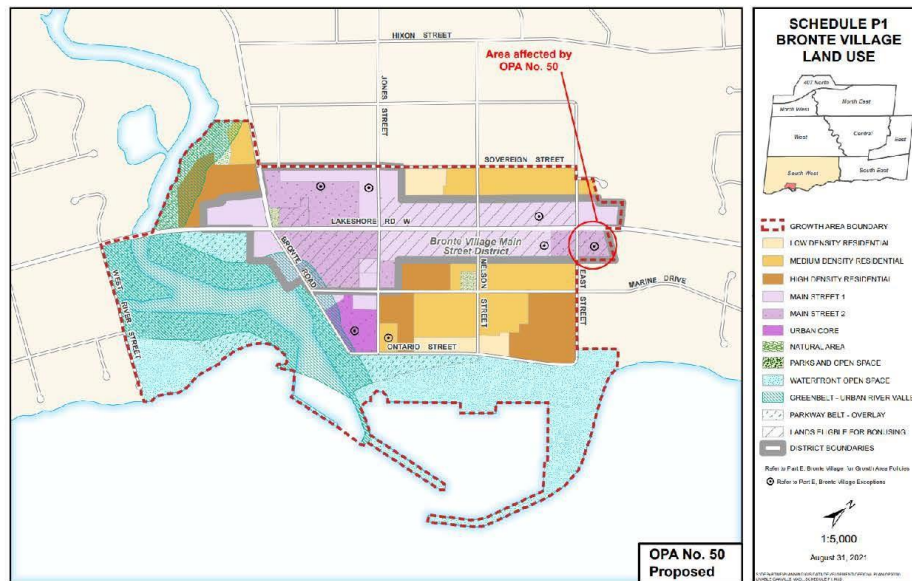
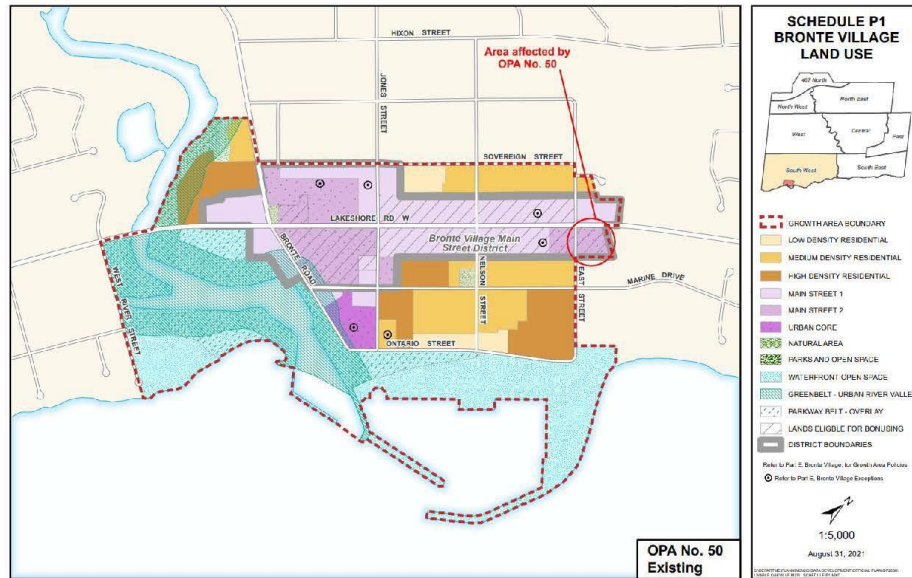
“24.7.6 On the lands designated Main Street 2 at the southeast corner of Lakeshore Road West and East Street, one additional storey in the form of an interior level built into and occupying less than 50% of the floor area of what would otherwise be the first storey may be permitted without bonusing.”

B. Map Change

This Official Plan amendment includes the modifications to the schedules to the Livable Oakville Plan as shown below.



By-law Number: 2022-080



ATTACHMENT 2



THE CORPORATION OF THE TOWN OF OAKVILLE

BY-LAW NUMBER 2022-081

A by-law to amend the Town of Oakville
Zoning By-law 2014-014 to permit the use of lands
described as 2262-2266 Lakeshore Road West and 83
East Street
(2266 Lakeshore LP, File No.: Z.1728.66)

ORDERED BY THE ONTARIO LAND TRIBUNAL:

1. Map 19(2a) of By-law 2014-014 is amended by rezoning the lands as depicted on Schedule 'B' to this By-law.
2. Part 15, Special Provisions, of By-law 2014-014 is amended by adding a new Section 15.417 as follows:

417	2262-2266 Lakeshore Road West and 83 East Street	Parent Zone: MU2
Map 19(2a)	2266 Lakeshore LP	(2022-081)
15.417.1 Zone Provisions		
The following regulations apply to all lands identified as subject to this Special Provision:		
a)	The <i>lot line</i> abutting Lakeshore Road West shall be deemed the <i>front lot line</i> .	
b)	Minimum <i>lot area</i>	3750 m ²
c)	Maximum number of <i>dwelling units</i>	244
d)	Maximum <i>storeys</i> (upon compliance with subsection 15.417.5)	10
e)	Maximum <i>height</i> (upon compliance with subsection 15.417.5)	35.5 m



f)	Minimum <i>floor area</i> for non-residential uses	575 m ²
g)	In addition the <i>storeys</i> authorized by subsection 15.417.1 d), a <i>storey</i> in the form of a second level built within the limits of what would otherwise be the <i>first storey</i> is permitted subject to: <ul style="list-style-type: none"> i) The <i>floor area</i> within the second level being less than 50% of the floor area of the ground floor level; ii) Maximum <i>height</i> of combined two levels is 6.3 m; and iii) If two levels are provided, the ground floor level is exempt from the minimum <i>height</i> applicable to a <i>first storey</i> of 4.5 m as referenced in Table 8.3.1 of By-law 2014-014. 	
h)	Notwithstanding Table 4.3, the maximum total projection for <i>balconies</i> beyond the <i>main wall</i> is 2.0 m.	
i)	Notwithstanding Table 8.2 Footnote 3a), all <i>dwellings</i> are prohibited in the first 8.0 metres of depth of the <i>building</i> , measured in from the <i>main wall</i> oriented toward the <i>front lot line</i> , on the <i>first storey</i> .	
j)	Notwithstanding Figure 15.417.2, the minimum <i>building</i> setback from the daylight triangle for the first, second and third <i>storeys</i> shall be 2.0 metres. For the purposes of this section, the additional <i>storey</i> permitted under Sec. 15.417.1 g) shall be considered part of the <i>first storey</i> .	
k)	Maximum encroachment into <i>minimum yard</i> for awnings, canopies, cornices, coves, belt courses, eaves, gutters, pilasters, sills, or weather-shielding structure	1 m
15.417.2 Parking Regulations		
The following parking regulations apply:		
a)	Minimum number of <i>parking spaces</i> for <i>dwelling units</i>	0.93/dwelling unit
b)	Minimum number of <i>parking spaces</i> for residential visitors and non-residential uses.	0.17/dwelling unit
c)	Notwithstanding Section 5.2.3 (a), 33% of the underground <i>parking spaces</i> shall have minimum length of 5.5 m.	
d)	A minimum of 20% of the <i>parking spaces</i> in a <i>building</i> shall include the provision for the installation of electric motor vehicle supply equipment.	
e)	Ventilation shafts, stairs and stairways associated with an underground <i>parking structure</i> , hydro vaults and above ground water and gas meters including any appurtenances thereto are not permitted between a <i>building wall</i> and <i>front lot line</i> or <i>flankage lot line</i> .	

- f) Ventilation shaft within 3 metres of a *lot line* abutting a *public road* shall be incorporated into a *building wall* and located a minimum 2.5 m above finished floor level of the *first storey*.

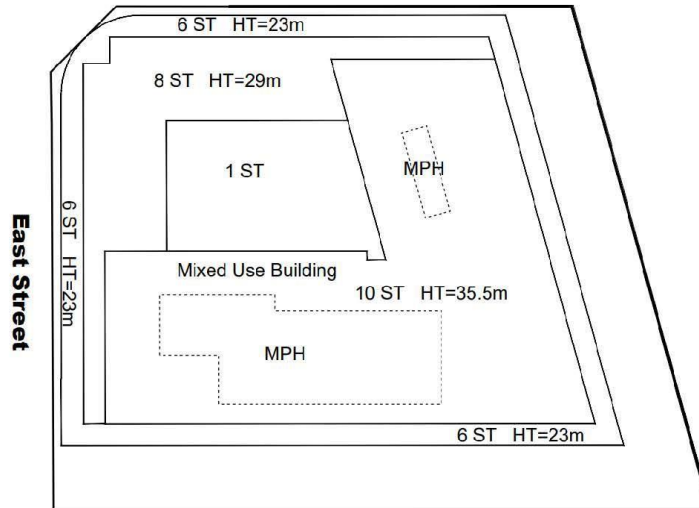
15.417.3 Special Site Figures

The following *storey*, *height* and *yard* regulations in Special Figures 15.417.1 and 15.417.2 shall apply to the *building* above grade.

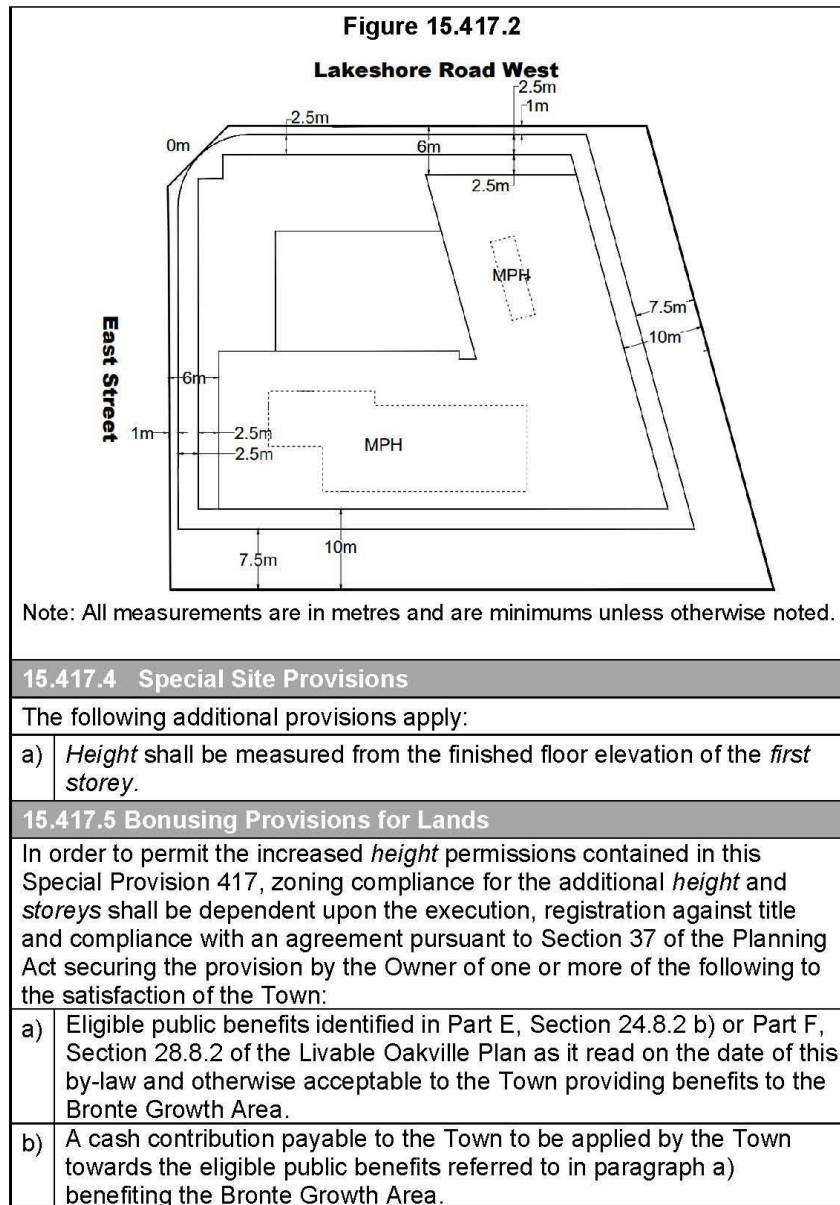
For the purposes of this section, the additional *storey* permitted under Sec. 15.417.1 g) shall be considered part of the *first storey*.

Figure 15.417.1

Lakeshore Road West



Note: All measurements are in metres and are maximums unless otherwise noted.





3. Part 16, Holding Provisions, of By-law 2014-014 is amended by adding a new Section 16.3.51 as follows:

H51	2262-2266 Lakeshore Road West and 83 East Street 2266 Lakeshore LP	Parent Zone: MU2 (2022-081)
Map 19(2a)		
16.3.51.1 Only Permitted Uses Prior to Removal of the “H”		
For such time as the “H” symbol is in place, these lands shall only be <i>used</i> for the following:		
a)	Legal <i>uses, buildings and structures</i> existing on the <i>lot</i> .	
16.3.51.2 Zone Provisions Prior to Removal of the “H”		
The “H” symbol shall, upon application by the landowner, be removed from all or part of the lands subject to the “H” symbol by the Town passing a By-law under Section 36 of the <u>Planning Act</u> . The following condition(s) shall first be completed to the satisfaction of the Town of Oakville and/or the Region of Halton:		
16.3.51.3 Conditions for Removal of the “H”		
The “H” symbol shall, upon application by the landowner, be removed by <i>Town Council</i> passing a By-law under Section 36 of the <u>Planning Act</u> . The following condition(s) shall first be completed to the satisfaction of the <i>Town of Oakville</i> :		
a)	The owner submits all supporting documentation such as a Phase 1 and Phase 2 ESA, (as per O. Reg 153/04); any remediation reports and a Record of Site Condition or a MOECP approved Risk Assessment, to demonstrate the lands are suitable for the intended use, to the satisfaction of Halton Region. The author of the environmental reports and Record of Site Condition submitted to the Region must extend third party reliance to Halton Region.	
b)	Notwithstanding subsection (a) above, this Holding provision does not prevent the issuance of a <i>building</i> permit necessary to authorize: i. the removal of soil, rock or fill for the purpose of making an excavation; or the erection of a retaining structure or other structure to support the sides of the excavation, that are erected to assist in the conduct of an investigation in relation to property, or for any other activity necessary to accommodate site remediation for the purpose of filing a record of site condition.	



By-Law Number: 2022-081

ORDERED by the Ontario Land Tribunal dated _____, 2022 for Case Numbers
OLT-22-002119 and OLT-22-002120.

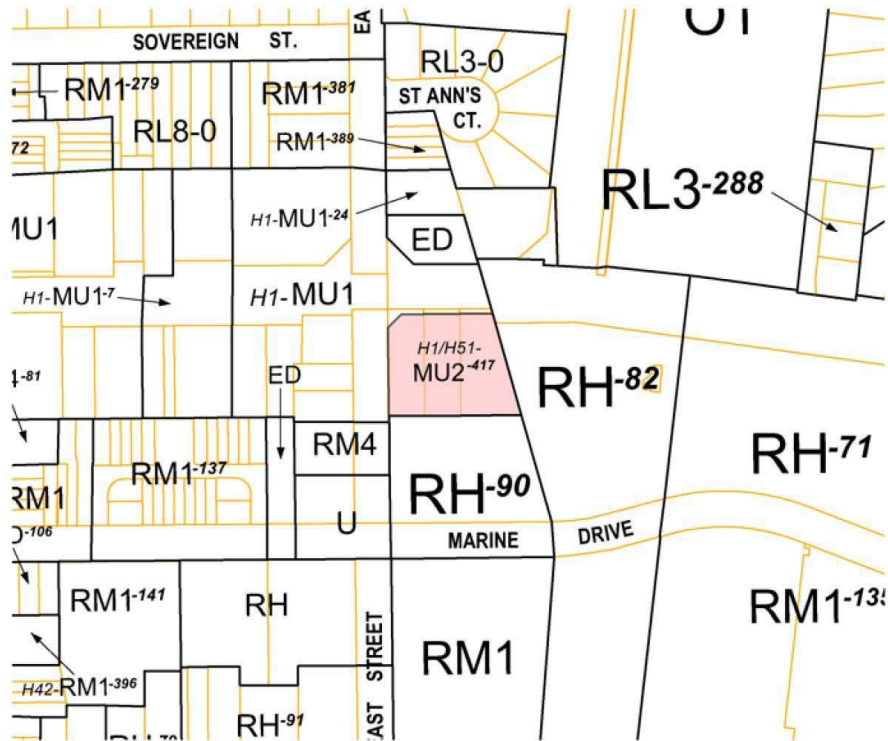
MAYOR

CLERK



By-Law Number: 2022-081

SCHEDULE "A"
To By-law 2022-081



AMENDMENT TO BY-LAW 2014-014

Re-zoned From: Main Street 1 (H1-MU1) to
Main Street 2 (H1/H51-MU2 sp:417)

EXCERPT FROM MAP
19 (2a)



SCALE 1 : 2500

