

REPORT

PLANNING AND DEVELOPMENT COUNCIL MEETING

MEETING DATE: SEPTEMBER 10, 2018

FROM: Planning Services Department

DATE: August 20, 2018

SUBJECT: **Public Meeting and Recommendation Report - Temporary Use Zoning By-law Amendment for 2331 Ninth Line - File No. Z.1405.16 - By-law 2018-119**

LOCATION: 2331 Ninth Line

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RECOMMENDATION:

1. That the comments from the public with respect to the temporary use zoning by-law amendment application by Premier Operating Corporation Limited, File No. Z.1405.16, be received.
2. That the temporary use Zoning By-law Amendment application submitted by Premier Operating Corporation Limited (File No. Z.1405.16), be approved on the basis that the application is consistent with the Provincial Policy Statement, conforms or does not conflict with all applicable Provincial plans, conforms with the Region of Halton Official Plan and Livable Oakville Official Plan, has regard for matters of Provincial Interest, and represents good planning for the reasons outlined in the report from the Planning services department dated August 20, 2018.
3. That By-law 2018-119, an amendment to Zoning By-law 2014-014, be passed; and
4. That notice of Council's decision reflects that Council has fully considered all written and oral submissions related to this matter and that these comments have been appropriately addressed.

KEY FACTS:

The following are key points for consideration with respect to this report:

- An application was submitted and deemed complete on May 8, 2018 to permit a temporary motor vehicle storage compound on the 5 Drive-in lands. The storage of vehicles would occur in the off-season for the 5 Drive-in.

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- The application was received after royal assent of Bill 139. Under Bill 139, Council is required to make a decision on the application by October 5, 2018, which is 150 days from the date of complete application.
- Zoning By-law 2014-014 permits the parking of heavy vehicles such as trucks or other commercial vehicles, but does not permit other motor vehicle uses such as a dealership or body shop.
- This report is a combined statutory public meeting and recommendation report given the minimal level of public interest anticipated by the application.
- The proposed Zoning By-law Amendment conforms to the Growth Plan (2017), is consistent with the Provincial Policy Statement (2014), and conforms to the Halton Region Official Plan.
- Approval of the Zoning By-law Amendment application is recommended for a maximum period of three years.

BACKGROUND:

The purpose of this report is to provide a full staff review of the application and a recommendation on the proposed temporary use Zoning By-law Amendment application in conjunction with a public statutory meeting.

The application was submitted and deemed complete on May 8, 2018, after royal assent of Bill 139. Under Bill 139, Council is required to make a decision on the application by October 5, 2018, which is 150 days from the date of complete application.

A Public Information Meeting was not held for this application.

Proposal

The applicant is proposing to use the subject lands for the parking and storage of motor vehicles within the existing parking areas. The majority of the motor vehicle storage would occur between December 1 and March 10, during the off season for the drive in use, but also continue during the later fall and early spring season, using only a portion of the site at that time. See Figures 1 and 2 below. There would be no motor vehicle storage during the regular drive-in season between May 16 and September 15.

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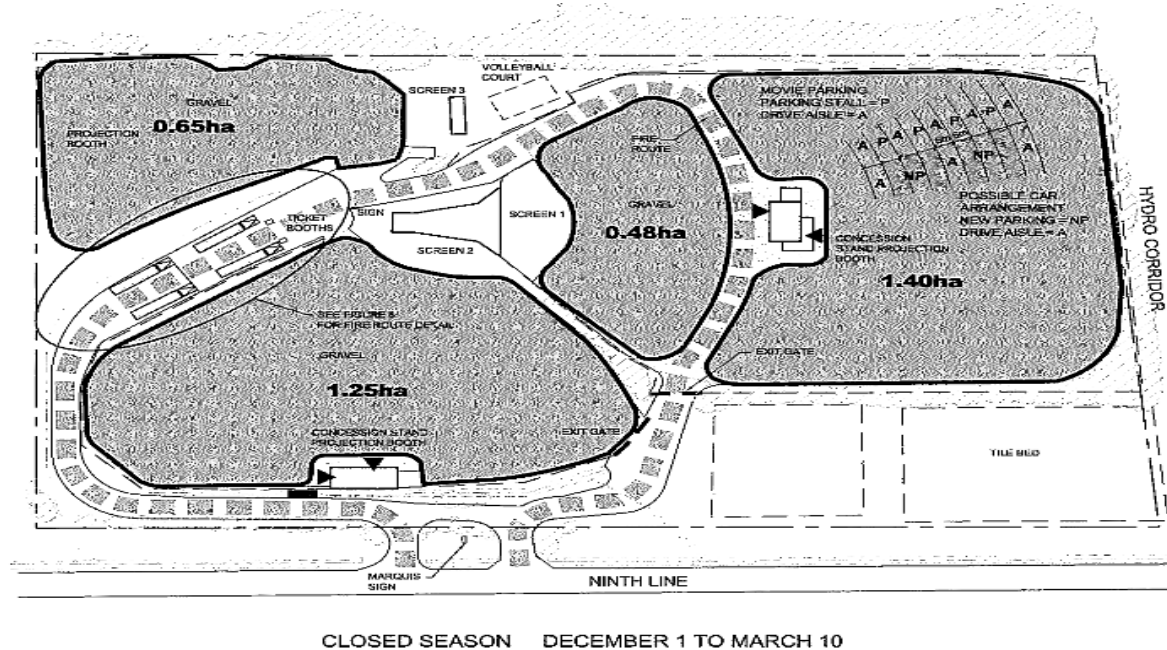


Figure 1: Off Season Parking Areas (December to March)

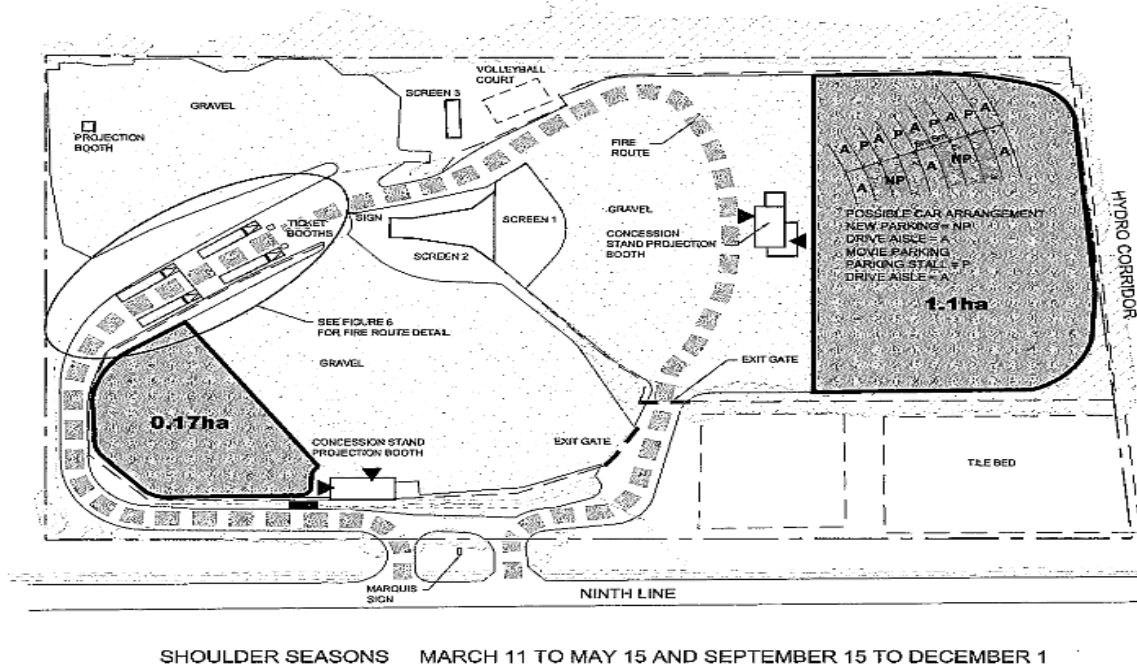


Figure 2: Shoulder Season Parking Areas (September to December and March to May)

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The 5 Drive-in movie theatre has been in operation on the subject lands since 1958, starting out as a single screen, and expanding to three screens by 2000. The site contains parking for a total of 1000 vehicles for the drive in use, split between the three screens (505 for screen 1, 300 for screen 2, and 195 for screen 3). The parking of motor vehicles in the off season has been permitted since 2015 when the applicant received approval through a minor variance application. The Livable Oakville Official Plan, and the Zoning By-law 2014-014 have been updated since 2015 to establish new policies for motor vehicle related uses. A Zoning By-law Amendment is required to permit the motor vehicle use.

The applicant is proposing the secondary operation to make more efficient use of the property when it is not being used for the 5 Drive-in theatre. The capacity of vehicles for the temporary motor vehicle storage compound is similar to that of the 5 Drive-in use, and the motor vehicle storage compound is a similar use to that of a heavy vehicle parking area which is already permitted as of right.

Location

The lands area located on the east side of Ninth Line, between Dundas Street East and Upper Middle Road with a municipal address of 2331 Ninth Line.

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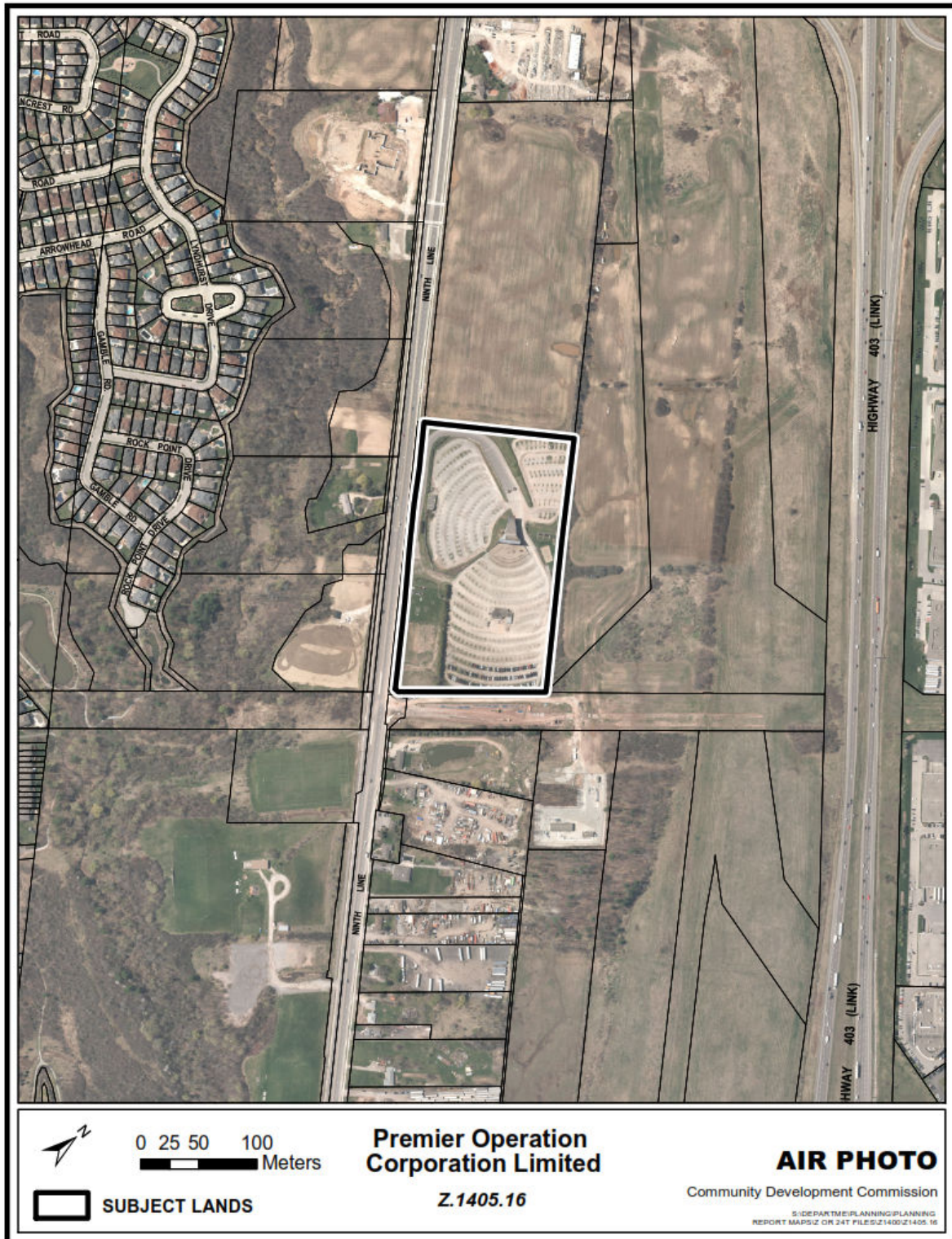


Figure 3: Aerial Photo

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Surrounding Land Uses

The surrounding land uses are zoned for employment uses similar to the subject site, but many surrounding properties are not yet used for employment purposes as full municipal services are not yet available on Ninth Line. The site also abuts a draft approved plan of subdivision to the south known as “Winston Park West” for new employment uses.

South: Parkway Belt West Corridor/Future road to Winston Park West subdivision

West: Ninth Line and Single Detached Dwelling

North: Vacant/Agriculture

East: Vacant/Agriculture

COMMENT/OPTIONS:

The proposed temporary use zoning by-law amendment has been reviewed relative to all applicable Provincial policy documents, the Region of Halton Official Plan, and the Livable Oakville Official Plan. A review of the policy framework is provided below.

POLICY FRAMEWORK:

The applications are subject to the following policy framework: the Provincial Policy Statement (2014), the Growth Plan for the Greater Golden Horseshoe (2017), the Halton Region Official Plan, the Livable Oakville Official Plan and Zoning By-law 2014-014.

Provincial Policy Statement

The Provincial Policy Statement is intended to promote a policy led system, which recognizes that there are complex relationships among environmental, economic and social factors in land use planning. The PPS encourages the wise management of land to achieve efficient development and land use patterns by directing growth to settlement areas and by promoting a compact development form.

On February 24, 2014, the Ministry of Municipal Affairs and Housing issued a new PPS under Section 3 of the *Planning Act*. The new PPS replaces the 2005 statement and is effective April 30, 2014. All planning decisions must be consistent with the PPS.

Regional planning staff and Town planning staff are satisfied that the proposal is consistent with the policies of the Provincial Policy Statement (2014) as the

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temporary parking of vehicles does not present any negative impacts on the existing private servicing conditions, or the road network.

Growth Plan for the Greater Golden Horseshoe

The Growth Plan for the Greater Golden Horseshoe, 2017 was released on May 18, 2017 and came into effect on July 1, 2017, replacing the Growth Plan for the Greater Golden Horseshoe, 2006. The Growth Plan is a long-term plan that works together with the Greenbelt Plan, the Oak Ridges Moraine Conservation Plan and the Niagara Escarpment Plan to manage growth, build complete communities, curb sprawl and protect cultural heritage resources and the natural environment. The Plan directs growth to built-up areas through intensification where development proposals can efficiently use existing transportation and servicing infrastructure.

All decisions made on or after July 1, 2017 in respect of the exercise of any authority that affects a planning matter are required to conform to the Growth Plan (2017).

Regional planning staff are satisfied that the proposal is in conformity with the Growth Plan (2017). Town planning staff have also undertaken an analysis of the application in relation to the Growth Plan (2017) and considers the proposal to be in conformity with this Plan as it supports complete communities within a delineated built boundary.

Region of Halton Official Plan

The Ontario Municipal Board has issued a series of decisions regarding the partial approval of Regional Official Plan Amendment (ROPA) 38 to Halton Region's Official Plan. The policies of ROPA 38 to Halton Region's Official Plan are in force with the exception of site-specific and policy-specific matters unrelated to this application.

The lands are designated as 'Urban Area' in the 2009 Regional Official Plan. The Urban Area is "planned to accommodate the distribution of population and employment for the Region and the four Local Municipalities". One of the objectives of the Urban Area (Policy 72(1)) is to "accommodate growth in accordance with the Region's desire to improve and maintain regional unity, retain local community identity, create healthy communities, promote economic prosperity, maintain a high quality, sustainable natural environment, and preserve certain landscapes permanently". The range of permitted uses and the creation of new lots in the Urban Area will be in accordance with Local Official Plans and Zoning By-laws. All development, however, shall be subject to the policies of the Regional Plan.

Regional Planning staff are satisfied that the proposal is consistent with the policies of the Regional Official Plan (2009).

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Livable Oakville Official Plan

The Livable Oakville Official Plan was prepared to conform to the Provincial Growth Plan for the Greater Golden Horseshoe, 2006 and to be consistent with the Provincial Policy Statement, 2005. The Official Plan was adopted by Council on June 22, 2009 and approved by the Region of Halton on November 30, 2009, with modifications. The Ontario Municipal Board approved the majority of the Plan with modifications on May 10, 2011. The Plan is currently undergoing a five year review to bring it into conformity with the 2017 Growth Plan, and to be consistent with the 2014 Provincial Policy Statement.

Section 28.5 states that the Town may authorize a temporary use of land, buildings or structures in a Zoning By-law for a purpose otherwise prohibited by the Zoning By-law. Policy 28.5.2 provides the following criteria when considering a temporary use zoning by-law amendment:

- “a) is in general conformity with the intent and policies of this Plan;*
- b) is compatible with adjacent land uses;*
- c) is temporary in nature, appropriate for a limited time span and can be terminated when the authorizing by-law expires;*
- d) has sufficient services such as water, sewage disposal and roads; and,*
- e) does not adversely impact traffic or transportation facilities in the area and provides for adequate on-site parking facilities.”*

The subject lands are considered Employment Areas within the Town’s Urban Structure and are designated Business Employment on Schedule J – East Land Use plan. In accordance with Section 14.4 of the Plan, Business Employment uses are intended to provide a wide range of business and industrial uses, predominantly in enclosed buildings with minimal impacts on abutting properties. Light and service industrial operations may also be permitted. The existing 5 Drive-in is a use recognized by the Zoning By-law and therefore conforms with the Official Plan.

Further, Policy 14.4.2 states:

“Accessory uses may be permitted in conjunction with permitted light industrial uses. Accessory retail uses shall be on the same lot and clearly subordinate, and directly related to the functioning permitted use.”

Lastly, Policy 14.4.4 states:

“Limited outdoor storage and display areas shall be adequately screened and may be permitted through the implementing zoning.”

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Motor vehicle uses are generally contemplated by the Official Plan in all Business Employment designated areas, as some motor vehicle uses are already permitted by the Zoning By-law within the Business Employment zone such as the parking of heavy vehicles. These uses are permitted in the Zoning By-law in a manner which is in keeping with the intent of the Official Plan.

Zoning By-law 2014-014

The subject lands are zoned E2 – Business Employment Special Provision 68. The special provision permits additional uses to the E2 Zone such as a drive-in theatre, concession booths and beach volleyball courts, subject to specific regulations.

Although the E2 Zone does not permit a motor vehicle storage compound, it does permit parking areas for heavy vehicles which includes trucks and commercial vehicles exceeding a gross weight of 4,500 kg as licensed by the Ministry of Transportation (MTO).

A Zoning By-law Amendment (temporary use by-law) is required to permit a motor vehicle storage compound. A “Motor Vehicle Storage Compound” is defined as *an area of land with or without buildings or structures used for the temporary outside storage of motor vehicles*.

PLANNING ANALYSIS:

Planning matters considered

Conformity with Livable Oakville Official Plan

The temporary motor vehicle storage compound is only being requested as an interim use for a period of three years on the subject lands. It is not intended to represent the ultimate development of the lands in accordance with the Business Employment Designation, nor does it preclude the ultimate development of the site.

The 5 Drive-in has been a long standing use on the property and recognized through the Zoning By-law as a permitted use and therefore conforms with the Official Plan under the range of permitted uses for Business Employment. The proposed temporary use to park motor vehicles is similar to the use which permits the parking of larger trucks and commercial vehicles. Therefore, it is staff's opinion that the Official Plan does contemplate some motor vehicles uses outside of the areas defined under Policy 14.4.1 d) noted above, where it is minor and subordinate to other principle uses. As there is no proposed parking of motor vehicles during the operation of the 5 Drive-in, it is staff's opinion that the parking of these vehicles in the off season is subordinate to the principal drive-in use. Further, there is adequate screening, made up of a combination of fencing and landscaping, which exists for

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the drive-in use. The parking of vehicles in the off season would not present any new negative impacts to the surrounding land uses.

It is staff's opinion that the proposed temporary use by-law to permit the parking of motor vehicles on a seasonal basis is in general conformity with the Official Plan, is compatible with adjacent land uses and does not adversely impact traffic. The subject lands already contain adequate water and sewage disposal in the form of a septic tank and cistern. The parking is temporary in nature for a period of three years, and does not require any additional water or sewage disposal services.

Technical Review

The proposed temporary parking of motor vehicles will occur in existing parking areas. No further planning approvals would be required to facilitate the proposed temporary use Zoning By-law Amendment.

Traffic

A Traffic Impact Study was not required for the proposed temporary use. However, the applicant has submitted an operational plan which indicates the loading and off-loading of vehicles in relation to traffic movements on and off site from Ninth Line. This has been reviewed by Town staff and staff conclude that there are no negative impacts resulting from the proposed temporary use on traffic flows of Ninth Line.

Lighting

A Lighting Plan was not required for this proposal. The existing drive in lighting will be utilized to support the parking of motor vehicles, in addition to low light surveillance technology. There are no new negative impacts resulting from the proposed temporary use.

Fire Route

The Fire department provided comment on the proposed parking use in 2015 when the original permissions were granted, and had no objections. The property has a delineated, unobstructed fire route on site. The Fire department continues to have no objections to the proposed temporary use.

Proposed Zoning By-law Amendment

The effect of the proposed Zoning By-law Amendment would be to add a temporary motor vehicle storage compound as a permitted use for the site for a maximum of three years from the date of passing of the by-law. There are no additional by-law requirements for the proposed amendment.

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Matters raised at the Public Meeting

Notice of complete application was sent to adjacent property owners within 120 metres of the site and a notice sign with respect to this application has been posted on the site. Staff have not received any correspondence from the public regarding this application as of the date of this staff report. No Public Information Meeting was held for this application.

This report is a combined statutory public meeting and recommendation report as staff do not anticipate significant public interest in this application. Should any public input be received at the public meeting, the recommendations of this report could be amended to address how such submissions have affected Council's planning decision.

CONCLUSION:

The Planning department undertook a circulation of the application to ensure that all technical and planning matters have been satisfactorily addressed.

Staff is satisfied that the application is consistent with the Provincial Policy Statement and conforms to the Growth Plan for the Greater Golden Horseshoe (2017) and the Halton Region Official Plan. Further, the application is consistent with the principles and overall policy direction of the North Oakville East Secondary Plan.

Staff recommends approval of the zoning by-law amendment (By-law 2018-119), based on the following:

- The proposed development provides an appropriate temporary, interim land use that will not preclude or constrain the ultimate development of the subject lands in accordance with the Livable Oakville Official Plan.
- The proposed development conforms to the Growth Plan (2017), is consistent with the Provincial Policy Statement (2014), and conforms to the Halton Region Official Plan.
- Comments from the public have been appropriately addressed.

Staff recommend approval of the temporary zoning by-law amendment as it represents good planning and is in the public interest.

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CONSIDERATIONS:

(A) PUBLIC

Notice for the meeting regarding this development application was provided through a mailing to all properties within 120 metres of the subject lands and to other residents who expressed interest in the application.

(B) FINANCIAL

No financial implications are resulting from this application. Any remaining financial matters relating to the proposed development will be addressed through a future site plan application.

(C) IMPACT ON OTHER DEPARTMENTS & USERS

No concerns of issues were raised as a result of the circulation to the Town departments and agencies.

(D) CORPORATE AND/OR DEPARTMENT STRATEGIC GOALS

This report addresses the corporate strategic goal to:

- be the most livable town in Canada

(E) COMMUNITY SUSTAINABILITY

The proposal is consistent with the guiding principles of the Livable Oakville Official Plan to enhance economic environments.

APPENDICES:

Appendix A – Location Map

Prepared by:

Kate Cockburn, MCIP, RPP

Planner

Current Planning – East District

Recommended by:

Heinz Hecht, MCIP, RPP

Manager

Current Planning – East District

Submitted by:

Mark H. Simeoni, MCIP, RPP

Director

Planning Services