



OAKVILLE

## REPORT

PLANNING AND DEVELOPMENT COUNCIL MEETING

MEETING DATE: JULY 6, 2020

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**FROM:** Planning Services Department

**DATE:** June 24, 2020

**SUBJECT:** Recommendation Report, Zoning By-law Amendment, Oakville Developments (2010) Inc., 550 Kerr Street, File No. Z.1616.55

**LOCATION:** 550 Kerr Street

**WARD:** 2

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### RECOMMENDATION:

1. That the proposed Zoning By-law Amendment application, as submitted by Oakville Developments (2010) Inc. (File No. Z.1616.55), be refused for the reasons outlined in the report from the Planning Services department dated June 24<sup>th</sup>, 2020.
2. That, in accordance with Section 34(17) of the *Planning Act*, no further notice is determined to be necessary.
3. That the notice of Council's decision reflects that Council has fully considered all of the written and oral submissions relating to these matters and that those comments have been appropriately addressed.

### KEY FACTS:

A Zoning By-law Amendment application was submitted by Oakville Developments (2010) Inc. that proposes to redevelop the subject lands, which are currently occupied by part of the Upper Kerr Village Plaza. The proposed development consists of 3 sixteen storey towers, inclusive of a six storey podium, with 472 dwelling units and 2,415 m<sup>2</sup> of commercial uses at grade. A total of 624 parking spaces are proposed in six underground parking levels. No changes to the proposed development have been made by the applicant since the statutory public meeting held on November 4<sup>th</sup>, 2019.

As part of the Town's Official Plan Review, the land use designations and policies that apply to Kerr Village were studied and approved by Council through Official

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Plan Amendment 19 'OPA 19' which is now in effect. OPA 19 amended the land use designation of the subject lands from 'Urban Centre' to 'Urban Core' which now permits building heights ranging from eight to twelve storeys. The applicant is seeking to enter into a bonusing agreement with the town, pursuant to Section 37 of the *Planning Act*, to permit an additional 4 storeys of height (from 12 to 16 storeys).

Within Kerr Village, the subject lands are located within the Upper Kerr Village District. The District is planned to be a transit-supportive and mixed use area where higher density forms of development are permitted to achieve the critical mass required for enhanced transit. Development within the District is required to be coordinated and based on a comprehensive development plan which demonstrates the potential full build out of the District. This includes, infrastructure improvements planned and approved for the area including the Kerr Street grade separation project, and amongst other matters: a complete local road network; adequate building setbacks and tower separation; location and treatment of planned gateways at Kerr and Speers and Kerr and the railway; location of planned urban square & park; safe setbacks to rail line, utilities and pipelines; location of commercial space, including a food store; and, transit-supportive considerations such as adequate transit passenger amenities, minimal surface parking, bicycle infrastructure and walkable blocks.

It is expected that development of Upper Kerr Village will be gradual over the long-term and be coordinated with the provision of infrastructure.

For the reasons expressed herein, the Zoning By-law Amendment, as proposed, does not fully demonstrate consistency with the PPS, conformity to the Growth Plan, Halton Plan or the *Livable Oakville Plan*, would not be good planning, and approval would not be in the public interest. More specifically, staff has serious concerns with the comprehensive development plan provided by the applicant, holding removal request, lack of phasing, inadequate information with respect easements and site-specific site and building design, as detailed in this report.

The statutory timeframe for processing this application had expired prior to the regulations under the *Planning Act* which created a temporary suspension of such timeframes due to COVID -19. This appeal period is therefore unaffected by these regulations which are to be revoked on June 22, 2020.

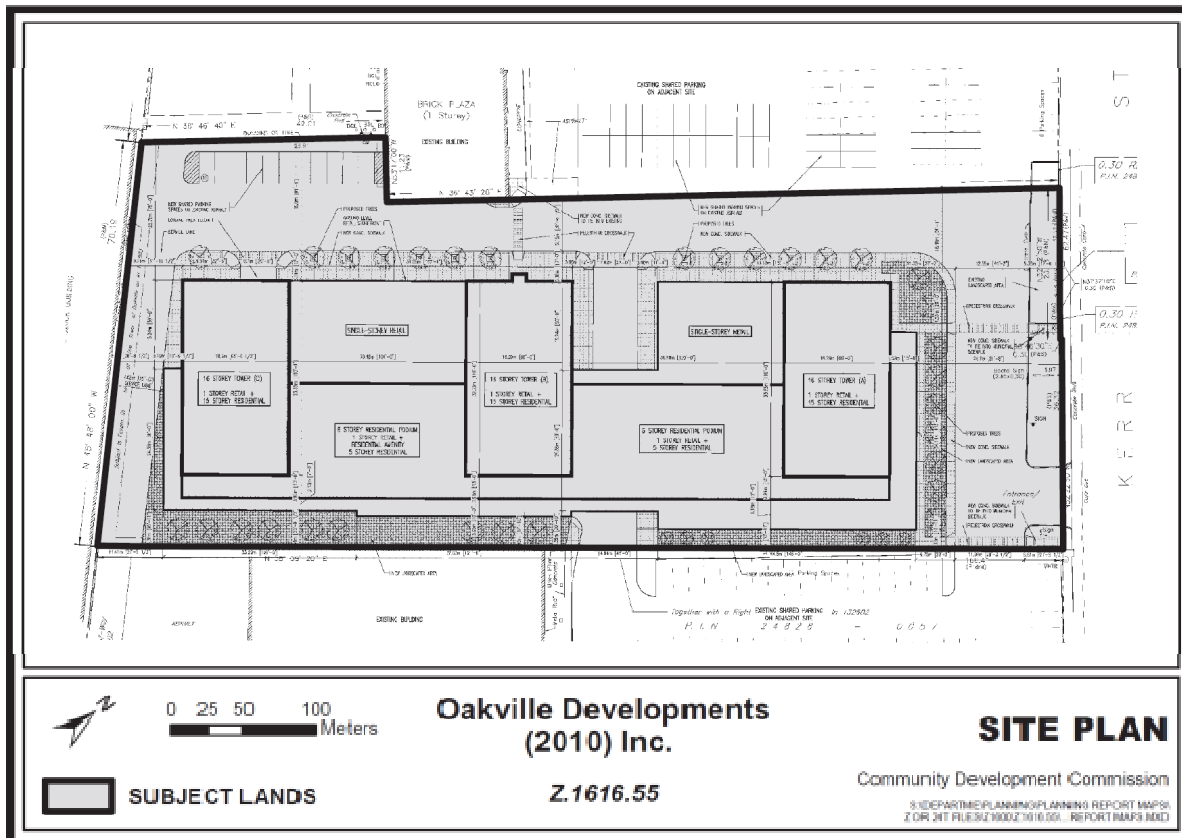
## **BACKGROUND**

### **Proposal**

The subject Zoning By-law Amendment application proposes to redevelop the subject lands with 3 sixteen storey towers, inclusive of a six storey podium, with 472

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dwelling units and 2,415 m2 of commercial uses at grade. A total of 624 parking spaces are proposed in six underground parking levels, as shown in Figure 1 below.



Submitted studies and supporting documentation are accessible on the town's website (<https://www.oakville.ca/business/da-34100.html>).

### Location & Site Description

The subject lands are located on the west side of Kerr Street, north of Speers Road in Upper Kerr Village and are 1.03 ha in size. A commercial building with a surface parking lot occupies the subject lands which is part of a larger commercial shopping plaza.

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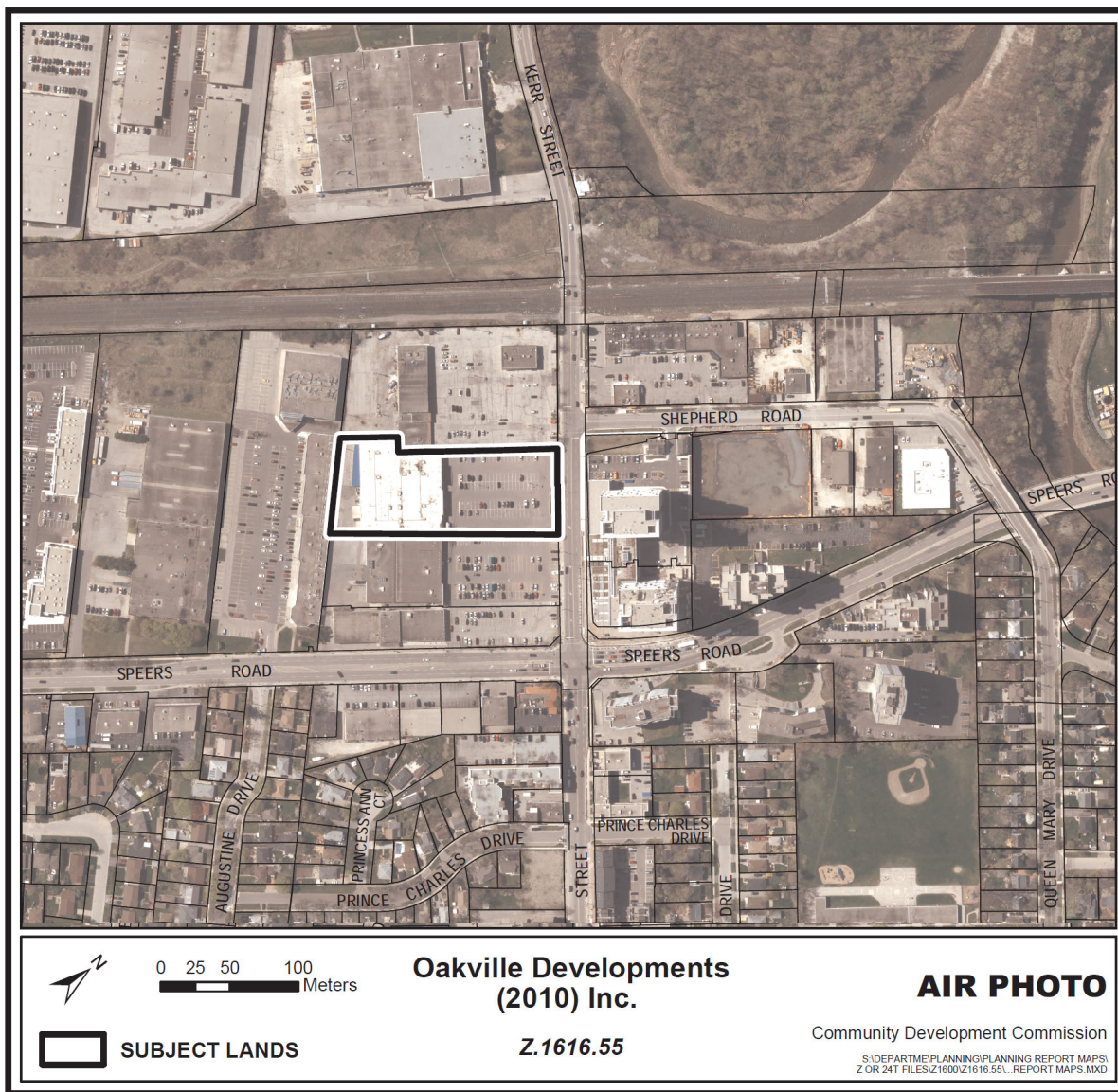


Figure 2: Air Photo

The size of the subject lands is expected to be reduced through an expropriation process currently underway for a road widening and realignment of Kerr Street between Speers Road and Wycroft Road. This will allow for a new underpass to be built at the Lakeshore West GO rail line north of the site which will support the Province’s plans for more frequent service levels.

Preliminary work on this project is expected to start this year with construction of the underpass starting as early as the spring of 2021. The work is expected to take up to three years to complete. The current road alignment will remain in place during

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construction while the new road is built to the west (across the frontage of the subject lands).

### Surrounding Land Uses

The surrounding land uses are as follows:

- North: commercial plaza then railway tracks;
- East: Kerr Street then two mixed use towers which are 19 and 21 storeys in height;
- South: commercial plaza then Speers Road; and,
- West: commercial plaza then employment lands.

### Landowner Coordination

Section 23.7.1 of the *Livable Oakville Plan* requires that a comprehensive development plan be developed for the lands at the northwest corner of Kerr Street and Speers Road. The subject lands are situated toward the middle of the required comprehensive development plan area.

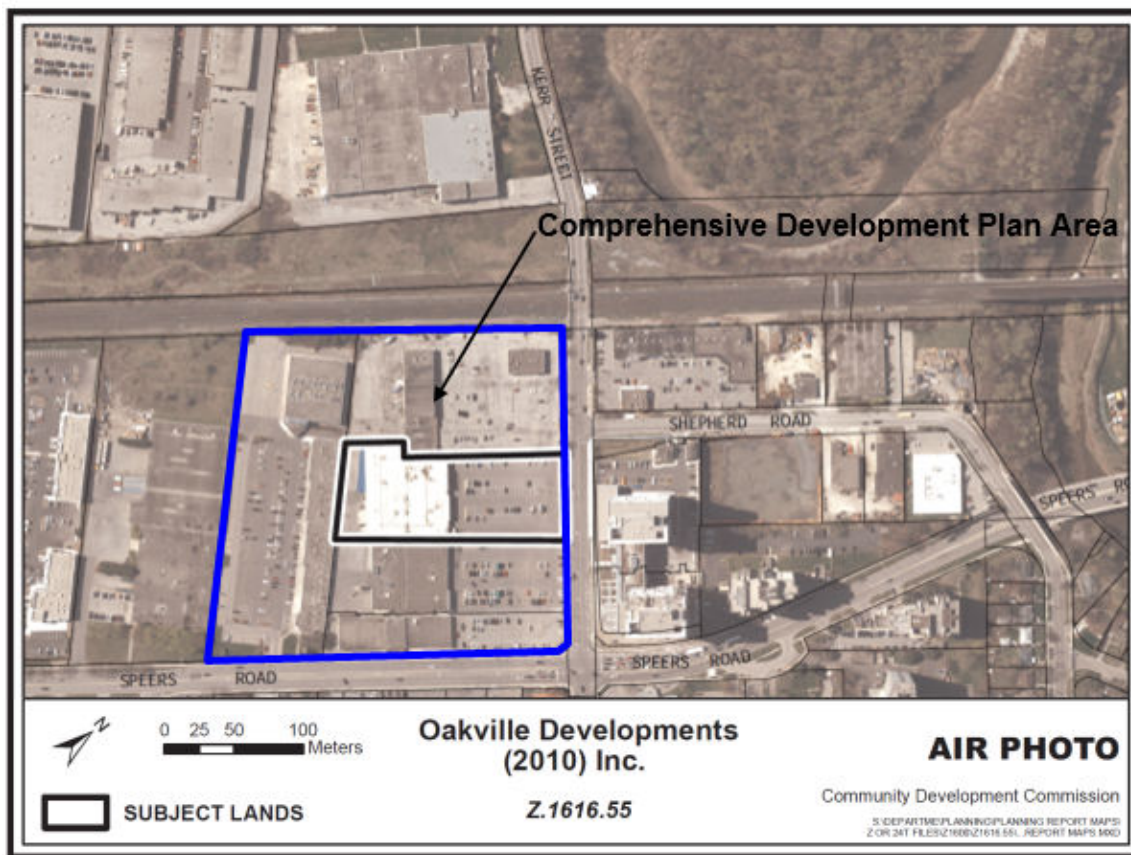
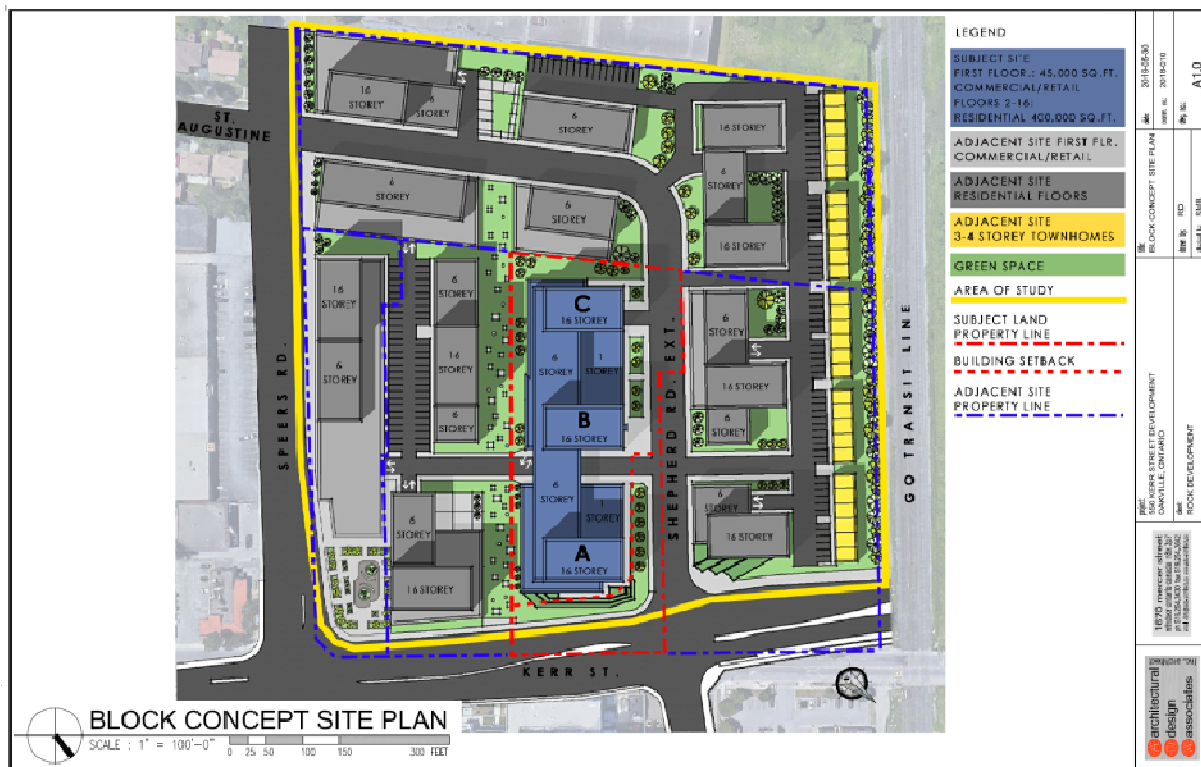


Figure 3: Comprehensive Development Plan Area

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This requirement is supported by Provincial policy directives to use a coordinated, integrated and comprehensive approach when dealing with planning matters.

When the applicant approached staff with plans to develop their lands in 2018, staff facilitated and hosted a landowner coordination meeting with the applicant together with area landowners on June 26<sup>th</sup>, 2018. At that time, there was not consensus amongst the landowners in terms of future development of this area. The applicant proceeded to pursue development of their lands, and submitted the subject Zoning By-law Amendment application in September 2019. As part of the subject Zoning By-law Amendment application, the applicant submitted the following block concept site plan (hereinafter 'concept block plan').



the appropriate approach to block planning. The block plan submitted with the letter was attached in Appendix C of the public meeting staff report.

Given the interest of all landowners to develop a comprehensive development plan for this area again, the public meeting report provided that 'staff intends to hold a landowner coordinating meeting in due course to advance the comprehensive development plan for the larger area, using the *Livable Oakville* policy framework, as approved by Council'.

Staff proceeded to provide detailed direction and excerpts of the *Livable Oakville Plan* to all the landowners with the intent to use them to guide discussions on

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development of a comprehensive development plan for the area. Staff scheduled a second landowner coordination meeting on December 11<sup>th</sup>, 2019, which all landowners attended. Staff also presented concept plans showing principles of how the policies of the *Livable Oakville Plan* could be applied within the context of the comprehensive development plan.

Similar to the first landowner coordination meeting, there was not consensus amongst the landowners in terms of future development of the lands. Subsequent to the landowner coordination meeting, the remaining three owners of the Upper Kerr Village Plaza continued to develop their block plan, and also gained participation of the landowner of the plaza to the west. Staff scheduled a third landowner coordination meeting on February 18<sup>th</sup>, 2020 to discuss the following block plan options prepared on behalf of all landowners, except the owner of the subject lands:

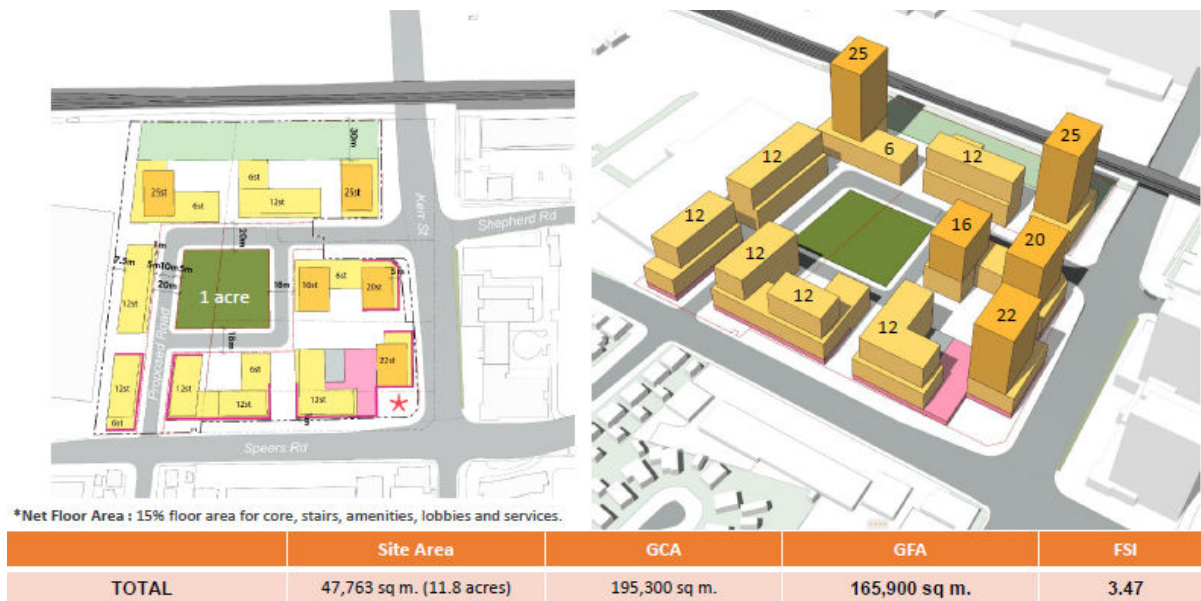


Figure 5 - Option 1 with a Centralized Park prepared by Urban Strategies on behalf of the surrounding landowners

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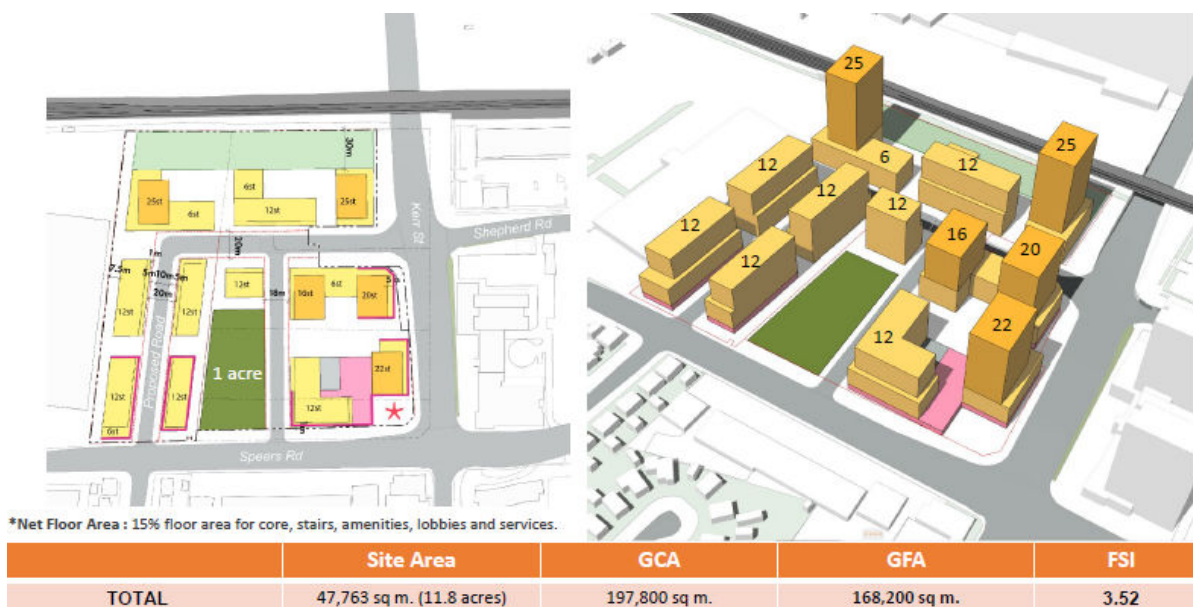


Figure 6 – Option with an Elongated Park prepared by Urban Strategies on behalf of the surrounding landowners

While the applicant has participated in all of the landowner coordination meetings, and requested clarification, no changes have been proposed to their concept block plan since submission of their Zoning By-law Amendment application in September, 2019.

### PLANNING POLICY & ANALYSIS

The property is subject to the following policy and regulatory framework:

- Provincial Policy Statement (2020)
- Growth Plan for the Greater Golden Horseshoe (2019)
- Halton Region Official Plan
- *Livable Oakville Plan*
- Zoning By-law 2014-014

### Provincial Policy Statement

The Provincial Policy Statement (2020) (‘PPS’) 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.



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The subject lands are located within a settlement area, which is to be the focus of growth and development. The land use patterns within the settlement are based on densities and a mix of land uses that, among other matters, efficiently use land and resources, appropriately use the infrastructure and public service facilities that are planned or available and are transit supportive.

Section 1.1 of the PPS provides policies on managing and directing land use to achieve efficient and resilient development and land use patterns which includes:

*1.1.1 Healthy, liveable and safe communities are sustained by:*

- a) promoting efficient development and land use patterns which sustain the financial well-being of the Province and municipalities over the long term;*
- b) accommodating an appropriate affordable and market-based range and mix of residential types (including single-detached, additional residential units, multi-unit housing, affordable housing and housing for older persons), employment (including industrial and commercial), institutional (including places of worship, cemeteries and long-term care homes), recreation, park and open space, and other uses to meet long-term needs;*
- c) avoiding development and land use patterns which may cause environmental or public health and safety concerns;*
- d) avoiding development and land use patterns that would prevent the efficient expansion of settlement areas in those areas which are adjacent or close to settlement areas;*
- e) promoting the integration of land use planning, growth management, transit-supportive development, intensification and infrastructure<sup>1</sup> planning to achieve cost-effective development patterns, optimization of transit investments, and standards to minimize land consumption and servicing costs;*
- f) improving accessibility for persons with disabilities and older persons by addressing land use barriers which restrict their full participation in society;*
- g) ensuring that necessary infrastructure and public service facilities are or will be available to meet current and projected needs;*
- h) promoting development and land use patterns that conserve biodiversity; and*
- i) preparing for the regional and local impacts of a changing climate.*

<sup>1</sup> **Infrastructure:** means physical structures (facilities and corridors) that form the foundation for development. Infrastructure includes: sewage and water systems, septage treatment systems, stormwater management systems, waste management systems, electricity generation facilities, electricity transmission and distribution systems, communications/telecommunications, transit and transportation corridors and facilities, oil and gas pipelines and associated facilities. (PPS, 2020)

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*1.1.2 Sufficient land shall be made available to accommodate an appropriate range and mix of land uses to meet projected needs for a time horizon of up to 25 years, informed by provincial guidelines. However, where an alternate time period has been established for specific areas of the Province as a result of a provincial planning exercise or a provincial plan, that time frame may be used for municipalities within the area. Within settlement areas, sufficient land shall be made available through intensification and redevelopment and, if necessary, designated growth areas<sup>2</sup>. Nothing in policy 1.1.2 limits the planning for infrastructure, public service facilities and employment areas beyond a 25-year time horizon.*

Section 1.1.3 of the PPS provides policies for settlement areas.<sup>3</sup> Policy 1.1.3.1 provides that settlement areas shall be the focus of growth and development. Other applicable policies within this section include:

*1.1.3.2 Land use patterns within settlement areas shall be based on densities and a mix of land uses which:*

- a) efficiently use land and resources;*
- b) are appropriate for, and efficiently use, the infrastructure and public service facilities which are planned or available, and avoid the need for their unjustified and/or uneconomical expansion;*
- c) minimize negative impacts to air quality and climate change, and promote energy efficiency;*
- d) prepare for the impacts of a changing climate;*
- e) support active transportation;*
- f) are transit-supportive, where transit is planned, exists or may be developed; and*
- g) are freight-supportive.*

*1.1.3.3 Planning authorities shall identify appropriate locations and promote opportunities for transit-supportive development, accommodating a significant supply and range of housing options through intensification and redevelopment where this can be accommodated taking into account existing building stock or*

<sup>2</sup> **Designated growth areas:** means lands within settlement areas designated in an official plan for growth over the long-term planning horizon provided in policy 1.1.2, but which have not yet been fully developed. Designated growth areas include lands which are designated and available for residential growth in accordance with policy 1.4.1(a), as well as lands required for employment and other uses. (PPS, 2020)

<sup>3</sup> **Settlement areas:** means urban areas and rural settlement areas within municipalities (such as cities, towns, villages and hamlets) that are: a) built-up areas where development is concentrated and which have a mix of land uses; and b) lands which have been designated in an official plan for development over the longterm planning horizon provided for in policy 1.1.2. In cases where land in designated growth areas is not available, the settlement area may be no larger than the area where development is concentrated. (PPS, 2020)

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*areas, including brownfield sites, and the availability of suitable existing or planned infrastructure and public service facilities required to accommodate projected needs.*

*1.1.3.4 Appropriate development standards should be promoted which facilitate intensification, redevelopment and compact form, while avoiding or mitigating risks to public health and safety.*

*1.1.3.5 Planning authorities shall establish and implement minimum targets for intensification and redevelopment within built-up areas, based on local conditions. However, where provincial targets are established through provincial plans, the provincial target shall represent the minimum target for affected areas.*

*1.1.3.6 New development taking place in designated growth areas should occur adjacent to the existing built-up area and should have a compact form, mix of uses and densities that allow for the efficient use of land, infrastructure and public service facilities.*

*1.1.3.7 Planning authorities should establish and implement phasing policies to ensure:*

- a) that specified targets for intensification and redevelopment are achieved prior to, or concurrent with, new development within designated growth areas; and*
- b) the orderly progression of development within designated growth areas and the timely provision of the infrastructure and public service facilities required to meet current and projected needs.*

Section 1.2 of the PPS provides policies regarding coordination, which includes the following policies:

*1.2.1 A coordinated, integrated and comprehensive approach should be used when dealing with planning matters within municipalities, across lower, single and/or upper-tier municipal boundaries, and with other orders of government, agencies and boards including:*

- a) managing and/or promoting growth and development that is integrated with infrastructure planning;*
- b) economic development strategies;*
- c) managing natural heritage, water, agricultural, mineral, and cultural heritage and archaeological resources;*
- d) infrastructure, multimodal transportation systems, public service facilities and waste management systems;*
- e) ecosystem, shoreline, watershed, and Great Lakes related issues;*
- f) natural and human-made hazards;*

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- g) population, housing and employment projections, based on regional market areas; and*
- h) addressing housing needs in accordance with provincial policy statements such as the Policy Statement: Service Manager Housing and Homelessness Plans.*

*1.2.4 Where planning is conducted by an upper-tier municipality, the upper-tier municipality in consultation with lower-tier municipalities shall:*

- a) identify and allocate population, housing and employment projections for lower-tier municipalities. Allocations and projections by upper-tier municipalities shall be based on and reflect provincial plans where these exist and informed by provincial guidelines;*
- b) identify areas where growth or development will be directed, including the identification of nodes and the corridors linking these nodes;*
- c) identify targets for intensification and redevelopment within all or any of the lower-tier municipalities, including minimum targets that should be met before expansion of the boundaries of settlement areas is permitted in accordance with policy 1.1.3.8;*
- d) where major transit corridors exist or are to be developed, identify density targets for areas adjacent or in proximity to these corridors and stations, including minimum targets that should be met before expansion of the boundaries of settlement areas is permitted in accordance with policy 1.1.3.8; and*
- e) provide policy direction for the lower-tier municipalities on matters that cross municipal boundaries.*

Section 1.4 of the PPS provides policies on housing, which includes policy 1.4.3 which provides that:

*Planning authorities shall provide for an appropriate range and mix of housing options and densities to meet projected market-based and affordable housing needs of current and future residents of the regional market area by:*

- a) establishing and implementing minimum targets for the provision of housing which is affordable to low and moderate income households and which aligns with applicable housing and homelessness plans. However, where planning is conducted by an upper-tier municipality, the upper-tier municipality in consultation with the lower-tier municipalities may identify a higher target(s) which shall represent the minimum target(s) for these lower-tier municipalities;*
- b) permitting and facilitating:*
  - 1. all housing options required to meet the social, health, economic and well-being requirements of current and future residents,*

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- including special needs requirements and needs arising from demographic changes and employment opportunities; and*
2. *all types of residential intensification, including additional residential units, and redevelopment in accordance with policy 1.1.3.3;*
  - c) *directing the development of new housing towards locations where appropriate levels of infrastructure and public service facilities are or will be available to support current and projected needs;*
  - d) *promoting densities for new housing which efficiently use land, resources, infrastructure and public service facilities, and support the use of active transportation and transit in areas where it exists or is to be developed;*
  - e) *requiring transit-supportive development and prioritizing intensification, including potential air rights development, in proximity to transit, including corridors and stations; and*
  - f) *establishing development standards for residential intensification, redevelopment and new residential development which minimize the cost of housing and facilitate compact form, while maintaining appropriate levels of public health and safety.*

Section 1.5 of the PPS provides policies on public spaces, recreation, parks, trails and open space. Policy 1.5.1 specifically states that healthy, active communities should be promoted by:

- a) *planning public streets, spaces and facilities to be safe, meet the needs of pedestrians, foster social interaction and facilitate active transportation and community connectivity;*
- b) *planning and providing for a full range and equitable distribution of publicly accessible built and natural settings for recreation, including facilities, parklands, public spaces, open space areas, trails and linkages, and, where practical, water-based resources;*
- c) *providing opportunities for public access to shorelines; and*
- d) *recognizing provincial parks, conservation reserves, and other protected areas, and minimizing negative impacts on these areas.*

Section 1.6 of the PPS provides policies on infrastructure and public service facilities which includes the following applicable policies:

*1.6.1 Infrastructure and public service facilities shall be provided in an efficient manner that prepares for the impacts of a changing climate while accommodating projected needs.*

*Planning for infrastructure and public service facilities shall be coordinated and integrated with land use planning and growth management so that they are:*

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- a) *financially viable over their life cycle, which may be demonstrated through asset management planning; and*
- b) *available to meet current and projected needs.*

*1.6.2 Planning authorities should promote green infrastructure to complement infrastructure.*

*1.6.3 Before consideration is given to developing new infrastructure and public service facilities:*

- a) *the use of existing infrastructure and public service facilities should be optimized; and*
- b) *opportunities for adaptive re-use should be considered, wherever feasible.*

*1.6.4 Infrastructure and public service facilities should be strategically located to support the effective and efficient delivery of emergency management services, and to ensure the protection of public health and safety in accordance with the policies in Section 3.0: Protecting Public Health and Safety.*

*1.6.6.7 Planning for stormwater management shall:*

- a) *be integrated with planning for sewage and water services and ensure that systems are optimized, feasible and financially viable over the long term;*
- b) *minimize, or, where possible, prevent increases in contaminant loads;*
- c) *minimize erosion and changes in water balance, and prepare for the impacts of a changing climate through the effective management of stormwater, including the use of green infrastructure;*
- d) *mitigate risks to human health, safety, property and the environment;*
- e) *maximize the extent and function of vegetative and pervious surfaces; and,*
- f) *promote stormwater management best practices, including stormwater attenuation and re-use, water conservation and efficiency, and low impact development.*

Section 1.6.7 of the PPS provides policies on transportation systems which includes the following applicable policies:

*1.6.7.1 Transportation systems should be provided which are safe, energy efficient, facilitate the movement of people and goods, and are appropriate to address projected needs.*

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*1.6.7.2 Efficient use should be made of existing and planned infrastructure, including through the use of transportation demand management strategies, where feasible.*

*1.6.7.3 As part of a multimodal transportation system, connectivity within and among transportation systems and modes should be maintained and, where possible, improved including connections which cross jurisdictional boundaries.*

*1.6.7.4 A land use pattern, density and mix of uses should be promoted that minimize the length and number of vehicle trips and support current and future use of transit and active transportation.*

Section 1.6.8 of the PPS provides policies on transportation and infrastructure corridors. Policy 1.6.8.1 specifically requires planning authorities to plan for and protect corridors and rights-of-way for infrastructure, including transportation, transit and electricity generation facilities and transmission systems to meet current and projected needs.

Section 1.7 of the PPS provides policies on long-term economic prosperity. Policy 1.7.1 provides that long-term economic prosperity should be supported by:

- a) promoting opportunities for economic development and community investment-readiness;*
- b) encouraging residential uses to respond to dynamic market-based needs and provide necessary housing supply and range of housing options for a diverse workforce;*
- c) optimizing the long-term availability and use of land, resources, infrastructure and public service facilities;*
- d) maintaining and, where possible, enhancing the vitality and viability of downtowns and mainstreets;*
- e) encouraging a sense of place, by promoting well-designed built form and cultural planning, and by conserving features that help define character, including built heritage resources and cultural heritage landscapes;*
- f) promoting the redevelopment of brownfield sites;*
- g) providing for an efficient, cost-effective, reliable multimodal transportation system that is integrated with adjacent systems and those of other jurisdictions, and is appropriate to address projected needs to support the movement of goods and people;*
- h) providing opportunities for sustainable tourism development;*
- i) sustaining and enhancing the viability of the agricultural system through protecting agricultural resources, minimizing land use conflicts, providing opportunities to support local food, and maintaining and improving the agrifood network;*

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- j) promoting energy conservation and providing opportunities for increased energy supply;*
- k) minimizing negative impacts from a changing climate and considering the ecological benefits provided by nature; and*
- l) encouraging efficient and coordinated communications and telecommunications infrastructure.*

Lastly, Section 1.8 of the PPS provides policies on energy conservation, air quality and climate change. Policy 1.8.1 requires planning authorities to support energy conservation and efficiency, improved air quality, reduced greenhouse gas emissions, and preparing for the impacts of a changing climate through land use and development patterns which:

- a) promote compact form and a structure of nodes and corridors;*
- b) promote the use of active transportation and transit in and between residential, employment (including commercial and industrial) and institutional uses and other areas;*
- c) focus major employment, commercial and other travel-intensive land uses on sites which are well served by transit where this exists or is to be developed, or designing these to facilitate the establishment of transit in the future;*
- d) focus freight-intensive land uses to areas well served by major highways, airports, rail facilities and marine facilities;*
- e) encourage transit-supportive development and intensification to improve the mix of employment and housing uses to shorten commute journeys and decrease transportation congestion;*
- f) promote design and orientation which maximizes energy efficiency and conservation, and considers the mitigating effects of vegetation and green infrastructure; and*
- g) maximize vegetation within settlement areas, where feasible.*

In accordance with section 3 of the *Planning Act*, all planning decisions 'shall be consistent with' the PPS.

### **Growth Plan for the Greater Golden Horseshoe**

The Growth Plan for the Greater Golden Horseshoe (2019) 'Growth Plan' is a long-term plan that intends to manage growth, build complete communities, curb sprawl and protect cultural heritage resources and the natural environment.

The Growth Plan provides policies for where and how to grow, directing population and employment growth to urban areas and rural settlement areas with delineated built boundaries on full municipal services. The policies of the Growth Plan are to be



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applied to support complete communities that feature a diverse mix of land uses with convenient access to local stores, services, and public service facilities, provide a diverse range and mix of housing options, expand convenient access to transportation options.

Guiding principles of the Growth Plan include (policy 1.2.1):

- *Support the achievement of complete communities that are designed to support healthy and active living and meet people's needs for daily living throughout an entire lifetime.*
- *Prioritize intensification and higher densities to make efficient use of land and infrastructure and support transit viability.*
- *Provide flexibility to capitalize on new economic and employment opportunities as they emerge, while providing certainty for traditional industries, including resource-based sectors.*
- *Support a range and mix of housing options, including second units and affordable housing, to serve all sizes, incomes, and ages of households.*
- *Improve the integration of land use planning with planning and investment in infrastructure and public service facilities, including integrated service delivery through community hubs, by all levels of government.*
- *Integrate climate change considerations into planning and managing growth such as planning for more resilient communities and infrastructure – that are adaptive to the impacts of a changing climate – and moving towards environmentally sustainable communities by incorporating approaches to reduce greenhouse gas emissions.*

Policy 2.2 of the Growth Plan provides policies regarding where and how to grow. The subject lands are located in a 'settlement area' and are within the Built-Up Area - Conceptual<sup>4</sup>, where growth is to be focused. Policy 2.2.1.4 provides that applying the policies of this Plan will support the achievement of complete communities that (2.2.1.4):

- a) *feature a diverse mix of land uses, including residential and employment uses, and convenient access to local stores, services, and public service facilities;*
- b) *improve social equity and overall quality of life, including human health, for people of all ages, abilities, and incomes;*
- c) *provide a diverse range and mix of housing options, including second units and affordable housing, to accommodate people at all stages of life, and to accommodate the needs of all household sizes and incomes;*
- d) *expand convenient access to:*

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<sup>4</sup> According to Schedule 2: A Place to Grow Concept. (Growth Plan, 2019)

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- i. a range of transportation options, including options for the safe, comfortable and convenient use of active transportation;*
- ii. public service facilities, co-located and integrated in community hubs;*
- iii. an appropriate supply of safe, publicly-accessible open spaces, parks, trails, and other recreational facilities; and*
- iv. healthy, local, and affordable food options, including through urban agriculture;*
- e) provide for a more compact built form and a vibrant public realm, including public open spaces;*
- f) mitigate and adapt to climate change impacts, improve resilience and reduce greenhouse gas emissions, and contribute to environmental sustainability; and*
- g) integrate green infrastructure and appropriate low impact development.*

Section 2.2 of the Growth Plan provides policies for delineated built up areas. Policy 2.2.2 (1) provides that by the time the next municipal comprehensive review is approved and in effect, and for each year thereafter, a minimum of 50 per cent of all residential development occurring annually within Halton Region will be within the delineated built-up area.

Policy 2.2.2 (3) provides that all municipalities will develop a strategy to achieve the minimum intensification target and intensification throughout delineated built-up areas, which will:

- a) identify strategic growth areas to support achievement of the intensification target and recognize them as a key focus for development;*
- b) identify the appropriate type and scale of development in strategic growth areas and transition of built form to adjacent areas;*
- c) encourage intensification generally throughout the delineated buildup area;*
- d) ensure lands are zoned and development is designed in a manner that supports the achievement of complete communities;*
- e) prioritize planning and investment in infrastructure and public service facilities that will support intensification; and*
- f) be implemented through official plan policies and designations, updated zoning and other supporting documents.*

Section 3.2 of the Growth Plan provides policies for infrastructure to support growth. This includes policy 3.2.1 (1) which specifically provides that infrastructure planning, land use planning, and infrastructure investment will be co-ordinated to implement this Plan.

Section 3.2.2 of the Growth Plan provides policies on transportation. Policy 3.2.2(1) provides that transportation system planning, land use planning, and transportation

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investment will be co-ordinated to implement this Plan. Further, policy 3.2.3 (1) provides that public transit will be the first priority for transportation infrastructure planning and major transportation investments.

Section 3.2.7 of the Growth Plan provides policies on stormwater management. Policy 3.2.7(2) states that proposals for large-scale development proceeding by way of a secondary plan, plan of subdivision, vacant land plan of condominium or site plan will be supported by a stormwater management plan or equivalent, that:

- a) *is informed by a subwatershed plan or equivalent;*
- b) *incorporates an integrated treatment approach to minimize stormwater flows and reliance on stormwater ponds, which includes appropriate low impact development and green infrastructure;*
- c) *establishes planning, design, and construction practices to minimize vegetation removal, grading and soil compaction, sediment erosion, and impervious surfaces; and*
- d) *aligns with the stormwater master plan or equivalent for the settlement area, where applicable.*

All planning decisions after May 16<sup>th</sup>, 2019 must conform to the Growth Plan.

## **Halton Region Official Plan**

The subject lands are designated “Urban Area” in the Halton Region Plan. Lands within the “Urban Area” are intended for residential and employment growth. Policy 76 notes that the range of permitted uses is to be in accordance with Local Official Plans and Zoning By-laws. All development, however, is subject to the policies of the Regional Plan.

### ***Livable Oakville Plan***

#### OP Objectives

Section 2.1 of the *Livable Oakville Plan* provides the following mission statement:

*To enhance the Town’s natural, cultural, social and economic environments by ensuring that environmental sustainability, cultural vibrancy, economic prosperity and social well-being are incorporated into growth and development decisions.*

Section 2.2 of the *Livable Oakville Plan* provides the following guiding principles:

*2.2.1 Preserving and creating a livable community in order to:*

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- a) *preserve, enhance, and protect the distinct character, cultural heritage, living environment, and sense of community of neighbourhoods;*
- b) *direct the majority of growth to identified locations where higher density, transit and pedestrian oriented development can be accommodated; and,*
- c) *achieve long term economic security within an environment that offers a diverse range of employment opportunities for residents.*

2.2.2 *Providing choice throughout the Town in order to:*

- a) *enable the availability and accessibility of a wide range of housing, jobs and community resources to meet the diverse needs of the community through all stages of life;*
- b) *provide choices for mobility by linking people and places with a sustainable transportation network consisting of roads, transit, walking and cycling trails; and,*
- c) *foster the Town's sense of place through excellence in building and community design.*

2.2.3 *Achieving sustainability in order to:*

- a) *minimize the Town's ecological footprint;*
- b) *preserve, enhance and protect the Town's environmental resources, natural features and areas, natural heritage systems and waterfronts; and,*
- c) *achieve sustainable building and community design.*

Urban Structure

The *Livable Oakville Plan* is currently undergoing a 5-year Official Plan Review to ensure the policies are consistent with the Provincial and Regional policies, support the Town's strategic goals, and reflect the visions and needs of the community. Schedule A1, Urban Structure, of the *Livable Oakville Plan* provides the basic structural elements for the Town. Official Plan Amendment 15 to the *Livable Oakville Plan*, confirms the Town's existing urban structure in terms of nodes and corridors, where higher intensity forms of mixed use growth are to be accommodated. OPA 15 was approved by Halton Region on April 26<sup>th</sup>, 2018 and deemed to conform to the Growth Plan and is consistent with the PPS. There is one appeal pertaining to OPA 15.

The subject lands are identified on Schedule A1 – Urban Structure as being within the Town's system of Nodes and Corridors and are in proximity to Speers Road, which is identified as a Regional Transit Priority Corridor.

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Nodes and Corridors are key areas of the Town identified as the focus for mixed use development and intensification. Regional Transit Priority Corridors provide a town-wide network that connects transit systems throughout the Region as well as to local destinations. Land uses adjacent to Regional Transit Priority Corridors provide a key focus for transit-supportive development, which is considered to be compact, mixed use development with higher levels of employment and residential densities to support frequent transit service.

### Land Use Policies

As part of the Town's ongoing [Official Plan Review](#), the land use designations and policies that apply to Kerr Village were studied and reviewed. This review was considered by Council in December of 2017 where Council passed By-law 2017-119 to adopt OPA 19 to the *Livable Oakville Plan*. OPA 19 was then approved by Halton Region and it came into effect on June 19, 2018. This changed the land use designation of the subject lands from 'Urban Centre' to 'Urban Core' on Schedule O1, in the *Livable Oakville Plan* (Appendix A).

Within Kerr Village, the subject lands are located within the Upper Kerr Village District. The Upper Kerr Village District is planned to be a transit-supportive and mixed use area where higher density forms of development are permitted to achieve the critical mass required for enhanced transit. The District is also planned to include appropriate gateway features, an urban park with pedestrian mid-block connections and opportunities for affordable housing<sup>5</sup>.

Pursuant to section 12.5.2 of the *Livable Plan*, buildings within the Urban Core designation of between eight storeys to twelve storeys are permitted. Section 23.8.2 provides that the town may allow up to four storeys of additional height (total of 16 storeys) beyond the maximum permitted in exchange for the provision of public benefits as listed in section 28.6.2, with priority given to those public benefits noted in section 23.8.2 d). This includes: affordable housing units and/or rental housing units; community service/facility space; non-profit child care facilities; public art; enhanced streetscape/public open space improvements; and, enhanced green building and energy conservation technology.

The subject lands are also subject to an exception. Section 23.7.1 of the *Livable Oakville Plan* provides that the following additional policies apply to certain lands on Schedule O1, Kerr Village:

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<sup>5</sup> Policy 23.3.1, *Livable Oakville Plan*

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- a) *As part of any development approval, development and redevelopment shall be based on a comprehensive development plan which demonstrates the potential full build out of the lands.*
- b) *Redevelopment of existing low-rise commercial uses may occur gradually in a phased manner. Notwithstanding the minimum building heights required by this Plan, building additions, alterations and/or replacements may be permitted where they can be demonstrated not to preclude the long-term redevelopment of the properties as set out in this Plan; and,*
- c) *On the west side of Kerr Street abutting the railway, any requirement for, and the size and location of, retail, service commercial and office uses on the ground floor of buildings shall be determined through the development process and regulated by the implementing zoning.*

The westerly extension of Shepherd Road along the northern portion of the subject lands is planned to connect with the northerly extension of St. Augustine Drive which will be a 'secondary street', as identified on Schedule O2. As such, Shepherd Road is required to be planned for as a pedestrian-oriented streetscape through the use of wide sidewalks, landscaping and furnishings<sup>6</sup>. Pursuant to policy 23.5.3 c) buildings along secondary streets, should:

- i. *incorporate a high degree of transparency on the ground floor;*
- ii. *provide building openings and principal entrances facing the street; and,*
- iii. *contain commercial, office, community or cultural uses adjacent to the street which support the main street district, and may also contain residential uses on the ground floor.*

Pursuant to Section 23.5.4 of the *Livable Oakville Plan*, three gateways are proposed in Upper Kerr Village. These locations are to provide gateway treatments which may include well designed built form or structures, distinctive streetscape treatments, landscaping, and/or public art.

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<sup>6</sup> Policy 23.5.3 a), *Livable Oakville Plan*

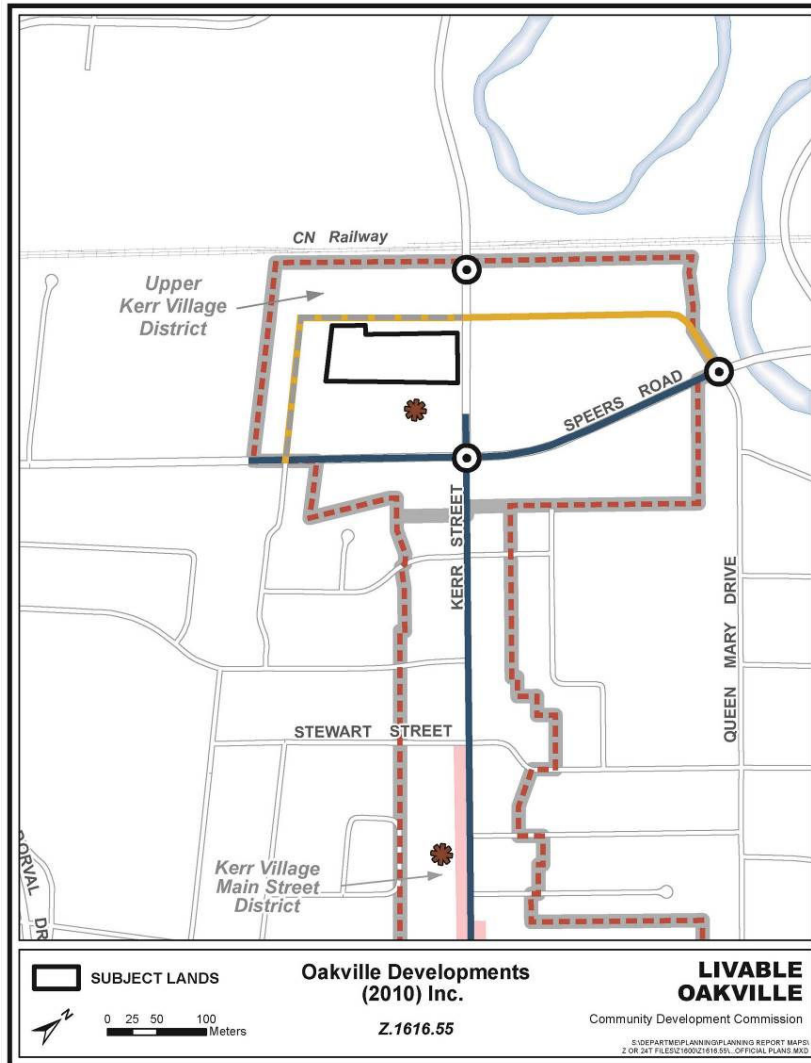


Figure 7: Kerr Urban Design

Pursuant to 23.8.3 c) of the *Livable Oakville* Plan, an urban park is proposed in the Upper Kerr District, west of Kerr Street, north of Speers Road which:

- i. may be located within the site bound by the Shepherd Road extension to the north, Kerr Street to the east, Speers Road to the south and St. Augustine Road extension to the west;
- ii. may provide public underground parking facilities with a “green roof” at street level forming the urban park portion of the site;
- iii. may be accessed at street level via mid-block pedestrian connections and from Kerr Street, Speers Road and the north Gateway; and,
- iv. is encouraged to be maintained through a public-private partnership.

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Pursuant to Section 23.6.2 of the *Livable Oakville* Plan, the maintenance of a food store in any redevelopment of lands within the Urban Core designation shall be encouraged.

Section 23.4.1 a) of the *Livable Oakville* Plan provides for transit service improvements to be introduced at an early stage in the development of Upper Kerr Village District. As the revitalization of this district evolves it will be serviced by the extension of improved transit levels of service, including transit priority measures and infrastructure required to create an efficient and attractive transit environment.

To support the foregoing, it may include transit passenger amenities, minimal surface parking, and other travel demand management strategies to encourage transit ridership<sup>7</sup>. Further, access to parking and servicing areas should not occur from Kerr Street but from local streets, service lanes and to the side or rear of buildings<sup>8</sup>. Bicycle facilities are also encouraged throughout Kerr Village with the appropriate signage and infrastructure such as bicycle racks and bicycle lockers<sup>9</sup>.

The *Livable Oakville* Plan provides that development within Kerr Village will likely occur gradually over the long-term and be coordinated with the provision of infrastructure, including<sup>10</sup>:

- i) transit;
- ii) transportation improvements;
- iii) water and wastewater services;
- iv) stormwater management facilities;
- v) pedestrian and cycling facilities; and,
- vi) utilities.

Section 6 of the *Livable Oakville* Plan sets out a number of policies and objectives related to urban design. The *Livable by Design* Manual, including the section regarding urban design direction for Kerr Village approved by Council on June 11<sup>th</sup>, 2018, also applies to the proposed development.

### **Zoning By-law 2014-014**

Zoning By-law 2014-014 zones the subject lands as H1-MU3, which does not permit the proposed development.

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<sup>7</sup> Policy 24.4.1 b), *Livable Oakville* Plan

<sup>8</sup> Section 24.4.1 c) ii), *Livable Oakville* Plan

<sup>9</sup> Section 24.4.1 d), *Livable Oakville* Plan

<sup>10</sup> Section 23.8.1, *Livable Oakville* Plan



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The application proposes to rezone the lands to a site-specific MU4 zone to permit 3 sixteen storey towers, inclusive of a six storey podium, with 472 dwelling units and 2,415 m<sup>2</sup> of commercial uses at grade. A total of 624 parking spaces are proposed in six underground parking levels. The draft zoning by-law amendment submitted by the applicant may be viewed on the Town of Oakville website at <https://www.oakville.ca/business/da-34100.html>.

Table 1 summarizes the differences between the existing MU3 zone, the parent MU4 zone and the site-specific MU4 zone proposed by the applicant:

**Table 1 – Comparison between Mixed Use 3 & 4 Zones to Proposed Site-Specific MU4 Zone**

Regulation	MU3 (existing)	MU4 Zone	Proposed Site-Specific MU4 Zone
Minimum Front Yard	0.0 m	1.0 m	1.0 m
Maximum Front Yard	5.0 m <sup>11</sup>	5.0 m <sup>6</sup>	shall not apply
Minimum Flankage Yard	0.0 m	1.0 m	1.0 m
Maximum Flankage Yard	5.0 m <sup>6</sup>	5.0 m <sup>6</sup>	shall not apply
Minimum Interior Side Yard	0.0m	0.0m	0.0m
Minimum Rear Yard	0.0m	0.0m	0.0m
Minimum Number of Storeys <sup>12</sup>	6	8	8
Maximum Number of Storeys	8	12	16
Minimum First Storey Height <sup>7</sup>	4.5 m	4.5 m	4.5 m
Minimum Height	19.5 m	25.5 m	25.5 m
Maximum Height	29.0 m	43 m	53 m

The applicant is seeking to enter into a bonusing agreement, with the town, pursuant to Section 37 of the *Planning Act* to permit an additional 4 storeys of height (from 12 to 16 storeys).<sup>13</sup>

<sup>11</sup> Subject to footnotes (1) & (3) in Table 8.3.1

<sup>12</sup> Subject to footnote (7) in Table 8.3.1

<sup>13</sup> It is noted that Bill 108 will be removing the existing Section 37 density/height bonus provisions in the *Planning Act* and replacing this section with a capped community benefit charge. It is unclear when this change will take effect.

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The Zoning By-law Amendment, as proposed, would also remove holding provision ‘H1’ from the subject lands. The conditions of removal of holding provision ‘H1’ are provided below:

16.3.1.3 Conditions for Removal of the “H”	
The “H” symbol shall, upon application by the landowner, be removed by Town Council passing a By-law under Section 36 of the <i>Planning Act</i> . The following conditions, if and as applicable, shall first be completed to the satisfaction of the Town of Oakville:	
a)	That sufficient water and wastewater services are available to the satisfaction of the Regional Municipality of Halton and the <i>Town of Oakville</i> .
b)	The owner has entered into any required servicing agreement(s) with the <i>Town</i> regarding stormwater management.
c)	The completion of detailed design drawings required for the construction of <i>road</i> and <i>infrastructure</i> improvements.
d)	Registration on title of an agreement between the owner and the <i>Town</i> with respect to the <i>road</i> and <i>infrastructure</i> improvements. This agreement shall also address security and advancing of funds, or a letter of credit for the full cost of the <i>road</i> and <i>infrastructure</i> improvements.
e)	The registration on title of a Section 37 Agreement per the <u>Planning Act</u> .
f)	All required land conveyances have been undertaken.

**TECHNICAL & PUBLIC COMMENTS**

The Growth Plan and PPS each provide that they are to be read in their entirety and the relevant policies are to be applied to each situation. They are more than a set of individual policies. When more than one policy is relevant, a decision-maker should consider all of the relevant policies to understand how they work together.

Planning staff circulated the development application to internal departments and external agencies. The Growth Plan, PPS, Halton Region Official Plan, *Livable Oakville Plan* and other relevant policies and supporting guidelines were reviewed in their entirety, with relevant policies applied. Staff have considered, amongst other matters, a full range of factors through a detailed review when forming the independent professional planning opinion provided herein.

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## Applicant's Planning Analysis

The applicant submitted a Planning Justification Report dated July 30<sup>th</sup>, 2019. On February 28<sup>th</sup>, 2020, the Ministry of Municipal Affairs and Housing issued a new PPS under Section 3(1) of the *Planning Act*. The new PPS replaced the 2014 PPS and came into effect May 1<sup>st</sup>, 2020. Now, all planning decisions "shall be consistent with" the 2020 PPS. It is noted that the applicant's Planning Justification Report was prepared in the context of the 2014 PPS, however, staff's review is based on the 2020 version of the PPS.

### PPS

The applicant concluded that the proposed Zoning By-law Amendment is consistent with the Provincial Policy Statement (2014) for reasons including:

- i. The proposal will assist in achieving the Province's policy direction of promoting efficient development and land use patterns that sustain the financial well-being of the Province and the Town of Oakville over the long-term (Policy 1.1.1.a);*
- ii. The proposal will assist the Town of Oakville in meeting the long-term needs for residential uses, including a range of unit types (Policy 1.1.1.b);*
- iii. The proposal promotes cost-effective development, minimizes land consumption and reduce servicing costs as it is within the urban boundary and the lands are serviced by municipal infrastructure (Policy 1.1.1.e);*
- iv. The subject lands are an appropriate location of growth and development as they are located within a growth area within a settlement area (Policy 1.1.3.3). Adding new residents and businesses to the area contributes to the vitality and regeneration of the Kerr Street growth area (Policy 1.1.3.1);*
- v. The density and uses proposed as part of the proposal contribute to a land use pattern that is efficient and supportive of transit and active transportation (Policy 1.1.3.2); and*
- vi. The proposal would introduce a compact form of intensification, mix of uses and density that allows for the efficient use of land, existing infrastructure and public service facilities in an area targeted for this type of use (Policy 1.1.3.4 and 1.4.3).*

Staff agree with the applicant that subject lands are an appropriate location of growth and development.<sup>14</sup> Furthermore, staff agree that development of the subject lands could assist the town in meeting the long-term needs for residential uses, in promoting efficient development and land use patterns that sustain the financial well-being of the Province and the town, and that development would minimize land

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<sup>14</sup> Policy 1.1.3.3, PPS

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consumption and reduce servicing costs.<sup>15</sup> Staff also agree that redevelopment of the subject lands could contribute to the vitality and regeneration of the Kerr Street growth area lands, and that the higher density proposed would be supportive of transit and active transportation.<sup>16</sup> Additionally, intensification of the subject lands would be supportive of the planned compact form within the structure of nodes and corridors of the town (policy 1.8.1).

While the subject lands are a suitable location for growth and development, growth is also required to be appropriate for infrastructure which is planned or available, (policy 1.1.3.2 b)) and must be coordinated, and integrated with infrastructure planning (policy 1.1.1 e), 1.2.1, 1.6.1). The subject development fails to fully demonstrate this coordinated, integrated and comprehensive approach to planning. The technical studies do not fully assess the adequacy of existing infrastructure, and the proposed development has not fully demonstrated coordination with the adjacent Kerr Street underpass project which will have significant implications for development of the subject lands.

Furthermore, policy 1.1.3.7 of the PPS requires planning authorities to establish and implement phasing policies to ensure the orderly progression of development. The zoning by-law amendment would undermine the town's approach to phasing by removing the existing holding provision. This is especially concerning given that the technical studies submitted in support of the application do not fully assess the adequacy of existing infrastructure, and the criteria of the holding removal has, categorically, not been satisfied.

Additionally, policy 1.1.3.4 provides that appropriate development standards should be promoted which facilitate intensification, redevelopment and compact form, while avoiding or mitigating risks to public health and safety. The concept block plan provided by the applicant would undermine the town's standards and present risk to human health and safety by not providing an adequate fire route.

Lastly, policy 1.5.1 b) of the PPS states that healthy, active communities should be promoted by planning and providing for a full range and equitable distribution of publicly accessible built and natural settings for recreation, including facilities, parklands, public spaces, open space areas, trails and linkages. Despite staff's concern that there are no public park lands within walking distance to the subject lands, and that the Section 23.8.3 of the *Livable Oakville Plan* requires a new 'urban park' as part of the comprehensive development plan for the area, no such park has been contemplated on the applicant's concept block plan.

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<sup>15</sup> Policy 1.1.1.a, 1.1.1.b, 1.1.1.e, PPS

<sup>16</sup> Policy 1.1.3.1, 1.1.3.2, PPS

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In summary, the Zoning By-law Amendment, as proposed, has not fully demonstrated conformity with the PPS. As proposed, it would undermine a primary objective of the PPS which is achieve a healthy, livable and safe community, it has not fully demonstrated coordination of growth and development with infrastructure, it proposes inappropriate development standards which pose a risk to human health and safety, and proposes to remove holding provisions without meeting the criteria, and in absence technical studies which fully assess the adequacy of existing infrastructure.

The development, as proposed, is not consistent with the PPS.

### **Growth Plan**

The applicant concluded that the proposed Zoning By-law Amendment conforms with the Growth Plan and the goal to build compact, vibrant and complete communities for reasons including:

- i. The proposal provides new residential and commercial uses within the Oakville settlement area on lands that have access to existing municipal water and wastewater systems. The introduction of new residential and commercial uses, and the manner in which the proposal supports active transportation and street activity on Kerr Street, is supportive of the achievement of complete communities (Policy 2.2.1.2.a);*
- ii. The subject lands are located within a delineated built up area, within the Kerr Village Growth Area, and is in proximity to existing local and higher order transit services (Policy 2.2.1.2.c);*
- iii. The proposed built form and uses will assist in achieving the overall policy direction of encouraging cities to develop as complete communities with: a diverse mix of land uses; a range and mix of housing options; convenient access to services a range of transit options; and a high quality, compact built form and an attractive public realm (Policy 2.2.1.4);*
- iv. The proposed development will contribute to Oakville meeting Provincial growth targets (Policy 2.2.2.1); and*
- v. The Zoning By-law Amendment will ensure the subject lands are zoned and developed appropriately for intensification, as contemplated for lands in the Kerr Village Growth Area in the Oakville Official Plan (Policy 2.2.2.3).*

Staff agree that the subject lands are located within a delineated built up area, within the Kerr Village Growth Area, and is in proximity to existing local and higher order transit services<sup>17</sup>, and that intensification of the subject lands would assist in

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<sup>17</sup> Policy 2.2.1.2.c, Growth Plan

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meeting growth targets for intensification<sup>18</sup>. However, staff do not agree with the applicant's interpretation of a complete community.

In staff's view a complete community includes an appropriate supply of safe, publicly-accessible open spaces, parks, trails, and other recreational facilities. This is specifically stated in policy 2.2.1.4 of the Growth Plan which provides policy in how to apply the plan to support the achievement of complete communities. Despite staff's concern that there are no public park lands within walking distance to the subject lands, and that the Section 23.8.3 of the *Livable Oakville Plan* requires a new 'urban park' as part of the comprehensive development plan for the area, no such park has been contemplated on the applicant's concept block plan.

Furthermore, the subject Zoning By-law Amendment has not fully demonstrated conformity with policy 3.2.1 (1) which specifically provides that infrastructure planning, land use planning, and infrastructure investment will be co-ordinated to implement the Growth Plan or policy 3.2.2(1) provides that transportation system planning, land use planning, and transportation investment will be co-ordinated to implement the Growth Plan.

The technical studies do not fully assess the adequacy of existing infrastructure, and the proposed development has not fully demonstrated coordination with the adjacent Kerr Street underpass project which will have significant implications for development of the subject lands.

The development, as proposed, does not conform to the Growth Plan.

### **Halton Region Official Plan, Livable Oakville Plan, Town Policy and Guidelines**

The principle of development of the subject lands was established, through Council approval of OPA 19, which is now in effect. The subject lands are designated 'Urban Core' which permits building heights ranging from eight to twelve storeys. Up to 4 storeys of height (from 12 to 16 storeys) may also be permitted, subject to Council approval and a bonusing agreement, pursuant to Section 37 of the *Planning Act*.

While the Zoning By-law Amendment can be considered under the *Livable Oakville* policy framework, without amendment to the Plan, staff has serious concerns with the comprehensive development plan provided by the applicant, holding removal request, lack of phasing, inadequate information with respect easements and site-specific site and building design, as follows:

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<sup>18</sup> Policy 2.2.2.1, Growth Plan

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## i. Comprehensive Development Plan

Section 23.7.1 of the *Livable Oakville Plan* requires that a comprehensive development plan which demonstrates the potential full build out of the lands shown in Figure 3. This requirement is important to provide context to the subject site-specific development application and to coordinate provision of new roads, parks, open space, site services, while considering site constraints such as required setbacks to the railway for safety. The comprehensive development plan requirement is supported by strong Provincial policies referenced herein, and the *Livable Oakville Plan* to use a coordinated, integrated and comprehensive approach when dealing with planning matters.

The concept block plan submitted by the applicant has not been amended since submission of the development application in September 2019 despite staff's stated concern that it does not conform to the *Livable Oakville Plan*. Furthermore, the concept block plan conflicts with the block plans presented by all of the remaining landowners of the Upper Kerr Village Plaza and the commercial plaza to the west. While it is not necessary for all landowners to agree on every element of the comprehensive development plan, there are minimum fundamental aspects of the plan that must be consistent, to achieve the underlying objective to plan using a coordinated, integrated and comprehensive approach.

The concept block plan prepared by the applicant is deficient, for the following reasons:

- i. The proposed private road provides inadequate emergency vehicle access, as there is only one point of access through a building without an adequate turnaround to provide a compliant fire route. This would present serious public health and safety concerns. In fact, some of the buildings shown on adjacent lands would not be buildable as they could not meet minimum Ontario Building Code standards regarding fire access (OBC 3.2.5.6).
- ii. The building heights and built form do not conform to the *Livable Oakville Plan*. As an example, '3-4 storey' townhouses are proposed adjacent to the railway tracks together with a number of standalone 6 storey apartment buildings. However, these lands are designated Urban Core which does not permit the proposed townhouse built form and requires a minimum building height of eight storeys.
- iii. Buildings fronting onto a surface parking lot with parking spaces which back directly on a private roadway, without a drive aisle, do not conform to numerous urban design policies of the *Livable Oakville Plan*. For example, policy 12.5.3 provides that underground and/or structured parking shall be

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encouraged and that surface parking should not be permitted between buildings and the adjoining streets within the Urban Core designation.<sup>19</sup>

- iv. It is unclear how buildings internal to the site would be serviced as Halton Region servicing policies do not allow for water and wastewater services to cross lot lines. No viable servicing strategy for these internal lands was identified in the Functional Servicing Study and therefore not reviewed by staff.
- v. It has not been demonstrated how a private road, crossing a number of lot lines for projects which could be redeveloped years or decades apart in time is a feasible approach, especially considering that the applicant and adjacent landowners cannot even agree on the location of the mid-block roadway.
- vi. The concept block plan road layout does not appear to be informed or supported by a transportation engineer. Further, the assessment of the capacity of existing infrastructure in the area and the ability to support the proposed development is incomplete.
- vii. Section 23.8.3 of the *Livable Oakville Plan* requires a new ‘urban park’ to include as part of the comprehensive development plan for future residents. The required park space has not been provided. The *Livable Oakville* policy requirement for a new urban park, conforms to the ‘complete communities’ policies, and the overall principle of creating complete communities of the *Growth Plan* referenced herein. This is an especially important requirement given that there are no public parks within walking distance to the subject lands.

The concept block plan prepared by the applicant is deficient and does not conform to the *Livable Oakville Plan*. In absence of a compliant comprehensive development plan, it is unclear if the site-specific Zoning By-law Amendment provides adequate zoning standards.

**ii. Holding Removal**

While the applicant has applied to remove the existing holding zone (H1) from the subject lands, most of the criteria in the holding zone has not been satisfied.

16.3.1.3 Conditions for Removal of the “H”	Status
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<sup>19</sup> For clarity, consideration may be given to limited surface parking between a building and a street for the purpose of visitor or commercial parking. (Policy 12.5.3, *Livable Oakville*)



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 Subject: Recommendation Report, Zoning By-law Amendment, Oakville Developments (2010) Inc., 550 Kerr Street, File No. Z.1616.55

a)	That sufficient water and wastewater services are available to the satisfaction of the Regional Municipality of Halton and the <i>Town of Oakville</i> .	Functional Servicing Report incomplete (see technical review comments).
b)	The owner has entered into any required servicing agreement(s) with the <i>Town</i> regarding stormwater management.	Functional Servicing Report incomplete (see technical review comments).
c)	The completion of detailed design drawings required for the construction of <i>road</i> and <i>infrastructure</i> improvements.	The detailed design of the Kerr Street grade separation will be completed following the award of the contract, by Metrolinx, to the successful proponent.
d)	Registration on title of an agreement between the owner and the <i>Town</i> with respect to the road and <i>infrastructure</i> improvements. This agreement shall also address security and advancing of funds, or a letter of credit for the full cost of the <i>road</i> and <i>infrastructure</i> improvements.	Transportation Study incomplete (see technical review comments) In any event, no such agreement has been discussed or registered on title
e)	The registration on title of a Section 37 Agreement per the <u>Planning Act</u> .	Has not been discussed or registered on title.
f)	All required land conveyances have been undertaken.	Required, however incomplete.

Accordingly, it is inappropriate to remove the holding zone (H1) from the subject lands, as the applicable criteria has not been satisfied. Premature removal of the holding zone would not be good planning and would not be in the public interest.

**iii. Phasing**

Section 23.8.1 of the *Livable Oakville Plan* provides that development within Kerr Village will likely occur gradually over the long-term and be coordinated with the provision of infrastructure, including: transit; transportation improvements; water and wastewater services; stormwater management facilities; pedestrian and cycling facilities; and, utilities.

The size of the subject lands is expected to be reduced through an expropriation process currently underway for a road widening and realignment of Kerr Street

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between Speers Road and Wyecroft Road. This will allow for a new underpass to be built at the Lakeshore West GO rail line north of the site which will support the Province's plans for more frequent service levels.

Preliminary work on this project is expected to start this year with construction of the underpass starting as early as the spring of 2021. The work is expected to take up to three years to complete. The current road alignment will remain in place during construction while the new road is built to the west (across the frontage of the subject lands).

These planned transportation improvements may impact how the site is accessed, how it is serviced (water, wastewater and stormwater management), and will significantly lower the grade of Kerr Street along the frontage of the site.

While the proposed development plans do present both interim and ultimate conditions, the proposed interim scenario appears misguided in that it would rely on lands being actively expropriated by Metrolinx (which may not be able to be used for interim access). Furthermore, the supporting studies do not fully consider the implications of a rebuilt, relocated and lowered road in front of the subject site with new services.

In any event, the Transportation Study submitted by the applicant does not fully assess the adequacy of existing infrastructure, and it is unclear based on the whether the existing infrastructure could support the proposed development prior to the planned transportation improvements along Kerr Street. As previously identified, phasing policies may be necessary to coordinate development with planned infrastructure improvements.

#### **iv. Easements**

Easements impose constraints on development which may impact what is possible on a site. The applicant provided the following description of easements registered on title of the subject lands:

*Item #1 Mutual Overhang Easement*

*Pursuant to Instruments No. 138843 and No. 567910, there is an easement in place for a mutual overhang.*

*There is a building eaves and column overhang that essentially encroaches over the abutting property and the abutting property's building's overhang encroaches over Oakville.*

*Item #2 Mutual Party Wall*

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*Pursuant to Instruments No. 138842 and No. 567910, there is a easement in place for a mutual party wall.*

*The abutting owner's building shares a mutual wall with Oakville's building.*

*Item #3 Block Building Access Easement*

*Pursuant to Instruments No. 138842 and No. 328492, there is an easement for access for the abutting "block building" for ingress and egress through Oakville's building.*

*As such, the manner in which the abutting building is situate, the exit for the abutting building is via access through Oakville's building.*

*Item #4 Drainage Sewer Easement*

*Pursuant to Instrument No. HR1513388, there is a drainage easement on, over and under Oakville's property for the purposes of keeping, maintaining and repairing storm water and waste water through sewer pipes, drains, catch basins and related 'drainage equipment'. This is in favour of the abutting property to allow storm and waste water drainage.*

*Item #5 Parking and Cross Access Easements*

*Pursuant to Instruments No. 132602 and No. 132604, No. 132611 and No. 138843 along with No. 567910, (along with some old deeds and leases bearing No. 92486, No. 132610, No. 470478 and No. 470487 that bring forward the same easement rights) there are various cross-parking, cross-access, mutual right-of-way and mutual ingress and egress agreements, which in essence indicate that Oakville and the abutting owners have mutual cross parking and cross access agreements to each other's property, with various related rights. Further, Oakville is also to preserve any existing reciprocal parking easements in favour of the abutting owner until redevelopment by the abutting owner's lands occur. At that time, Oakville is to also exercise best efforts to discharge the reciprocal parking easement in favour of Oakville over the abutting owner's lands.*

*Item #6 Rear Ingress and Egress Access*

*Pursuant to Instrument No. HR1513390, there is an easement in place for access for ingress and egress in favour of the abutting owner over Oakville's land, but limited to the rear portion of the building (basically the loading dock area) of Oakville's land.*

*Item #7 Utility Easement*

*Pursuant to Instrument No. 132603, there is an easement in favour of the Town of Oakville for construction and maintenance of electrical power lines, poles, wires and conduits, presumably to service the Oakville lands.*

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*Item #8 Restrictions*

*Pursuant to Instrument No. HR886709, there are Restrictions registered on title.*

*Item #9 Ministry of Environment and Climate Change*

*Pursuant to Instrument No. HR1483748, there is a Ministry Certificate on title in regard to the existing building, restrictions on building construction, ground water monitoring and indoor air quality monitoring with reporting requirements to the MOE*

While the applicant responded to staff's request to identify easements registered on title of the subject property, and stated that the proposed redevelopment will not violate any of these easements, the applicant has refused to substantiate this claim. Instead, it is the applicant's view that the existing easements do not have any bearing on the Zoning By-law Amendment application, and that easements concern those parties who are directly impacted by the easements. Further, it is the applicant's position that they would prefer to discuss these matters as part of a future site plan approval application.

In staff's experience, easements impose constraints on development which may impact what is possible on a site. This is evident in O. Reg. 545/06, as information with respect to the location and nature of any easements affecting the land is included in the list of prescribed information required as part of a Zoning By-law Amendment application. The applicant has failed to provide any meaningful analysis how the proposal would respond to the numerous restrictions registered on title. Accordingly, it is not clear if the subject lands are developable in the manner in which has been applied for, or if the proposed Zoning By-law Amendment appropriately addresses these restrictions which are registered on the title of the subject lands.

**v. Site Design**

In addition to the foregoing deficiencies of the proposal in terms of meeting the planning policy and intent of the comprehensive plan area, there are several major concerns with the proposed development, as submitted:

- i. The development, as proposed, would significantly encumber the viability of future development on the adjacent lands to the south-west. As per the proposal, these lands would only be accessible through a private shared road. This road is proposed over a private parking garage and with a built form overpassing it, which creates a strong concern as the future development on the adjacent lands would lose access when maintenance on the subject lands is needed.

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- ii. The proposed development must be designed with appropriate connections for all properties. Accessible pedestrian connectivity throughout the site and to both Kerr Street and Speers Road must also be demonstrated.
  - iii. The proposed concept block plan does not comply with the policies of the *Livable Oakville Plan* as it does not contemplate the new public park (OP section 23.8.3 c). Provision of a park may alter the proposed site design.
  - iv. Site design standards and urban design guidelines must be prepared to support opportunities for creating a transit and active transportation focused development. These standards should ensure that buildings incorporate distinctive architecture, contribute to a sense of identity and be positioned on and oriented towards the street frontage(s) to provide interest and comfort at ground level for pedestrians (OP sections 6.9.1 and 6.9.4) and that development is designed with variation in building mass, façade treatment and articulation to avoid sameness (OP section 6.9.7).
  - v. The proposed series of retaining walls (3 m in height) along Kerr Street is not an acceptable treatment of the main street. Development on this site would need to reflect the ultimate grades after the Kerr Street grade separation project is complete and to achieve pedestrian-friendly built form with at-grade uses and at-grade access to the residential / commercial units (OP section 6.9.6). Retaining walls are not acceptable streetscape treatment for this section of the main street.
  - vi. As per OP, section 6.9.15, "Buildings should be sited to maximize solar energy, ensure adequate sunlight and sky views, minimize wind conditions on pedestrian spaces and adjacent properties, and avoid excessive shadows." The proposed development will overshadow some amenity spaces of the existing 'Rain' development in the afternoon hours (more than two consecutive times). As proposed, the development will cause undue shadow impacts on the on the surrounding lands. The ultimate development of this site should incorporate a built form that consists of a height and massing that allows public sidewalks, public plazas and public parks to receive at least 5 hours of continuous sunlight per day on April 21, June 21 and September 21.

For the reasons expressed herein, the proposed Zoning By-law Amendment would not be consistent with the PPS, would not conform to the Growth Plan, would not conform to the Halton Plan or the *Livable Oakville Plan*, would not be good planning and approval would not be in the public interest.

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Public Comments

A Public Information Meeting was held by the applicant on June 5<sup>th</sup>, 2019 where 21 members of the public attended. Comments received are summarized on page 8-9 of the Planning Justification Report submitted with the subject application, dated July 30<sup>th</sup>, 2019. The Planning Justification Report provides that the project team did not hear any significant concerns at this meeting relating to the layout or built form that would require alterations to the concept plan.

A second Public Information Meeting was held on October 7<sup>th</sup>, 2019 and hosted by the town where 15 members of the public attended, including some of the area landowners. The following comments / concerns were raised at this meeting:

- a) timing of construction of proposed development;
- b) whether there is a need to acquire adjacent lands for project;
- c) timing of proposed construction related to Kerr Street underpass project;
- d) impact on tenants of plaza;
- e) infrastructure requirements;
- f) environmental (whether site is contaminated)
- g) traffic congestion;
- h) comprehensive development plan;
- i) construction noise;
- j) securities to ensure project is not started and not completed;
- k) location and number of road connections to Speers Road;
- l) provision of rental housing and affordable housing; and,
- m) shadow impact of proposed development.

The foregoing issues were identified in the Statutory Public Meeting report dated October 11<sup>th</sup>, 2019, and considered by Council on November 4<sup>th</sup>, 2019 where the following resolution was adopted:

*For the purposes of Planning Act requirements, the following person(s) made an oral submission:*

- Garnett Mason, re: concerns regarding traffic congestion in the area; infrastructure required to support the proposed development; will allotments be made for existing commercial tenants and assistance in relocating, if necessary; and filed a submission.
- Rob MacFarlane, Zelinka Priamo Ltd., on behalf of the applicant, provided a summary of the proposed development and zoning by-law amendment; and filed a submission.

*The following communication(s) were distributed at the meeting:*

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- (November 1, 2019) from Piper Morley, Borden Ladner Gervais LLP
- (October 29, 2019) from Steven Zakem, Aird & Berlis LLP
- (October 29, 2019) from Garnett Mason providing statements received from local business owners, including Enayat Mahmood, Villi's Pizza & Wings; Muayed Mansur and Saher Boless, Kukapille Sports Barber Shop; Denesh Balar, Techville and Techville Distribution

Notice of this recommendation meeting was mailed to those members of the public who have participated in this application process. All public comments received to date have been appended to this report as Appendix C.

**IMPLEMENTATION**

Should Council refuse this application, the applicant will have appeal rights to appeal the decision to the LPAT. In the alternative, sufficient information and guidance has been provided to the applicant to amend their plans and submit a revised zoning by-law amendment application which conforms to the *Livable Oakville Plan*, and meets other policy requirements, either individually or with the participation of other landowners.

**CONSIDERATIONS:**

**(A) PUBLIC**

Notice for this meeting was distributed to all properties within 120 m of the subject property and included on the two signs posted on the site.

In addition, a Public Information Meeting was held on June 5<sup>th</sup>, 2019 where 21 members of the public attended, and a second meeting was held on October 7<sup>th</sup>, 2019 where 15 members of the public attended.

**(B) FINANCIAL**

None arising from this report.

**(C) IMPACT ON OTHER DEPARTMENTS & USERS**

The Zoning By-law Amendment application was circulated to town departments and external agencies. Comments have been included in this report and are appended as 'Appendix E'.

**(D) CORPORATE AND/OR DEPARTMENT STRATEGIC GOALS**

This report addresses the corporate strategic goal to:

- be the most livable town in Canada

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**(E) COMMUNITY SUSTAINABILITY**

The proposed development was reviewed to ensure compliance with the Town's sustainability objectives of the *Livable Oakville Plan*. The proposal was also reviewed in the context of Council declaring a Climate Change Emergency on June 24<sup>th</sup>, 2019 to provide opportunities to efficiently use infrastructure and add greenspace for future residents.

**CONCLUSION**

Planning staff circulated the development applications to internal departments and external agencies. The Growth Plan, PPS, Halton Region Official *Livable Oakville Plan* and other relevant policies and supporting guidelines were reviewed in their entirety, with relevant policies applied. The proposed Zoning By-law amendment has not fully demonstrated conformity / consistency Provincial, Regional and town policy requirements which form an integral part of the Ontario policy-led land use planning and decision making system. Accordingly, staff recommend refusal of the Zoning By-law Amendment application.

**APPENDICES:**

- A – Official Plan (*Livable Oakville*) extract
- B – Zoning By-law (2014-014) extract
- C – Public Comments
- D – Other Landowner Block Options (February 18<sup>th</sup>, 2020)
- E – Comment Report dated April 16<sup>th</sup>, 2020

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