



**SUBJECT: Zoning by-law amendment for 3267 Mainway**  
**TO: Planning and Development Committee**  
**FROM: Department of City Building - Planning Building and Culture**

Report Number: PB-12-19

Wards Affected: 4

File Numbers: 520-05/18

Date to Committee: April 2, 2019

Date to Council: April 23, 2019

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**Recommendation:**

Approve with modifications the zoning by-law amendment application submitted by U-Haul Canada to rezone the property at 3267 Mainway from “GE2-56” to “GE2-495”, to permit a motor vehicle sales, leasing, rental and service use, on the basis that it is consistent with the Provincial Policy Statement, and conforms to the Growth Plan for the Greater Golden Horseshoe and the Regional and City of Burlington Official Plans; and

Adopt Zoning By-law 2020.407, attached as Appendix B of department of city building report PB-12-19, rezoning the lands at 3267 Mainway from “GE2-56” to “GE2-495”, and deleting Exception 56; and

Deem that Zoning By-law 2020.407 conforms to the Official Plan of the City of Burlington.

**Purpose:**

The purpose of this report is to recommend modified approval of the proposed Zoning By-law amendment at 3267 Mainway to permit a motor vehicle sales, leasing, rental and service use. The request for a retail propane facility is not supported.

The following objectives of Burlington’s Strategic Plan (2015-2040) apply to the discussion of the subject application:

A City that Grows:

- Promoting Economic Growth

A City that Moves:

- Increased Transportation Flows and Connectivity

**Executive Summary:**

<b>RECOMMENDATIONS:</b>		<i>Modified approval</i>	<b>Ward No.:</b>	4
<b>Application Details</b>	<b>APPLICANT:</b>	U-Haul Canada		
	<b>OWNER:</b>	Mainway Real Estate Holdings Inc.		
	<b>FILE NUMBER:</b>	520-05/18		
	<b>TYPE OF APPLICATION:</b>	Zoning By-Law Amendment		
	<b>PROPOSED USES:</b>	Motor vehicle sales, leasing, rental and service; Retail propane transfer facility		
<b>Property Details</b>	<b>PROPERTY LOCATION:</b>	North side of Mainway, between Northside Road and Blair Road		
	<b>MUNICIPAL ADDRESSES:</b>	3267 Mainway		
	<b>PROPERTY AREA:</b>	3.3 hectares		
	<b>EXISTING USE:</b>	Vacant industrial building (to be reused)		
<b>Documents</b>	<b>OFFICIAL PLAN Existing:</b>	General Employment		
	<b>OFFICIAL PLAN Proposed:</b>	General Employment (no change)		
	<b>ZONING Existing:</b>	GE2-56		
	<b>ZONING Proposed:</b>	GE2-495		
<b>Processing Details</b>	<b>APPLICATION RECEIVED:</b>	June 5, 2018		
	<b>STATUTORY DEADLINE:</b>	November 8, 2018		
	<b>NEIGHBOURHOOD MEETING:</b>	N/A		
	<b>PUBLIC COMMENTS:</b>	Staff have received 3 emails		

## Background and Discussion:

### Site Description:

The subject property is located on the north side of Mainway, between Guelph Line and Walker's Line as shown on Figure 1 (below) and Sketch No. 1 (Appendix A). The property has an area of 3.3 ha, with 201.2 m of frontage on Mainway and a lot depth of 170.5 m. The property abuts a residential neighbourhood to the north.

A two-storey industrial building currently exists on the property. It has a total gross floor area of 13,267.8 m<sup>2</sup> and is proposed to be reused.

### Surrounding Land Uses:

Uses surrounding the subject site are:

North:	Low density residential
South:	Industrial
East:	Industrial; service commercial; recreational
West:	Industrial



Figure 1 – Air photo (2017) with subject property outlined

### **Site History:**

The existing building was formerly used as a 24-hour metal die casting and extruding plant from 1967 to 2012. Between 1967 and 2002, numerous additions were made to the north side of the building, facilitated by minor variances for a reduced rear yard setback. As discussed in greater detail in the “City of Burlington Zoning By-law 2020” section of this report, the rear yard deficiency and resultant landscape buffer deficiency next to a residential area remain the condition of the site today.

Noise compatibility with the abutting residential properties was a significant issue during the lifetime of the metal operation, and resulted in the construction of a berm along the north property line and acoustical noise walls at the northeast and northwest corners of the building. The berm and noise walls still exist today.

In 1999, the metal operation became a legal non-conforming use when Council adopted the Comprehensive Zoning By-law 2020. In 2002, the metal business applied to rezone the lands with a site-specific exception (Exception 56) to make the metal die casting and extruding use a conforming use under Zoning By-law 2020. The rezoning was approved by Council in January 2013 (By-law Number 2020.143).

In addition to approving the rezoning, due to concerns about noise from the metal operation, Council undelegated site plan approval for the subject property. In November 2018, City Council redelegated site plan approval to staff for the subject property because the metal operation has since closed.

### **Description of Application and History:**

On June 5, 2018, the City acknowledged that a complete application had been received to amend the City’s Zoning By-law 2020, as amended, with a site-specific exception to allow a motor vehicle sales, leasing, rental and service use, a retail propane facility use, an increase in retail sales floor area, and a reduction in parking at 3267 Mainway.

As shown on Sketch No. 2, the amendment would support the redevelopment of the lands with a storage locker facility, as well as moving truck, van, and trailer rental, motor vehicle repair, retail propane transfer, office, and retail sale uses. The storage facility will consist of self-storage lockers and portable storage containers.

The existing building will be reused. No new buildings or external expansions to the existing building are proposed, however 863 m<sup>2</sup> of floor area for self-storage is proposed to be added internally to the second floor, within the existing building envelope. The total proposed gross floor area (GFA) is approximately 14,131 m<sup>2</sup>, as outlined in Table 1 below.

**Table 1 – Proposed Gross Floor Area (GFA) Overview**

<b>Proposed Use</b>	<b>Proposed GFA</b>	<b>% of total GFA</b>
Self-storage	10,098.8 m <sup>2</sup>	(71%)
Repair garage	3,181.5 m <sup>2</sup>	(23%)
Retail sales	356.5 m <sup>2</sup>	(3%)
Office	340.6 m <sup>2</sup>	(2%)
'Dispatch and Receiving' area*	154 m <sup>2</sup>	(1%)
<b>Total</b>	<b>14,131 m<sup>2</sup></b>	<b>(100%)</b>

\*for loading/unloading goods to be sold in retail sales area and installing hitches to customer's vehicles

Staff note that the self-storage and office uses are permitted in the Zoning By-law 2020, and are not the subject of the rezoning application. During technical review of the application, it was discovered that the proposed development does not conform to a number of regulations that address compatibility with residential zones and the streetscape of Mainway. These deficiencies have therefore been included in the rezoning application. The following paragraphs summarize the proposed site-specific exemption.

#### ***Proposed Motor Vehicle Sales, Leasing, Rental and Service Use***

The proposed motor vehicle sales, leasing, rental and service use consists of two components: rental of moving trucks, vans and trailers; and a motor vehicle repair garage. The latter activity is primarily for mechanical repairs and preventative maintenance of rental vehicles, but will also include installing hitches to customer's personal vehicles. No body work or painting is proposed to occur on site.

The repair activities are proposed to occur indoors at the northerly and southwesterly ends of the existing building, labeled 'Shop Area' on the attached Sketch No. 2. The Shop Area is proposed approximately 8 m away from the abutting residential zone.

#### ***Proposed Retail Propane Transfer Facility Use***

The proposed retail propane transfer facility is intended to be open to the public for the filling of 20 lb BBQ propane cylinders, cylinders up to 100 lb, and recreational vehicles and automobiles. The transfer of propane will be administered by an employee.

The propane will be stored outdoors in a tank with a capacity of 2,000 US gallons. The tank is proposed approximately 140 m from the residential zone to the north, 3 m from the west property line, and 24 m from the front lot line.

***Proposed Increase in Retail Sales Area***

The applicant proposes a retail sales floor area of approximately 360 m<sup>2</sup>, whereas the Zoning By-law 2020 permits 250 m<sup>2</sup> of floor area for retail sales. The proposed retail sales area is intended to be used for the retail sale of moving and packing supplies, and as a rental office for the rental of storage lockers/containers and vehicles.

***Exemptions to Regulations Related to Compatibility with Residential Zone***

The existing building does not meet several regulations of the Zoning By-law 2020 that are intended to ensure compatibility between employment and residential zones. Since the applicant proposes to retain the existing building, exemptions to these regulations are required. The regulations proposed for exemption include: minimum landscape buffer abutting a residential zone; minimum setback of mechanical equipment and machinery from a residential zone; and maximum length of exterior walls facing a residential zone. A detailed noise study has been completed to assess the impacts of the proposed repair garage on the adjacent residential dwellings.

***Exemptions to Regulations Related to Mainway***

The applicant also proposes exemptions to regulations of the Zoning By-law 2020 that are intended to encourage aesthetically pleasing development along Mainway. The applicant proposes to keep an existing loading/unloading dock and related loading/unloading activities in the yard abutting Mainway, and proposes to display rental vehicles within the required yard and landscape area abutting Mainway on the east side of the property. These activities are not allowed by the Zoning By-law 2020. The applicant's preliminary site plan also shows a reduced landscape area abutting Mainway on the east side of the property.

***Proposed Parking Reduction***

A reduction to parking is also proposed. In response to comments from Transportation staff, the applicant revised their proposal to provide parking based on the rates recommended in the City's *Burlington City-Wide Parking Standards Review*.

***Application History & Supporting Materials***

The applicant has submitted the following materials in support of the application:

- [Preliminary Site Plan](#), prepared by Strategy 4 Inc., dated April 13, 2018
- [Planning Justification Report](#), prepared by Strategy 4 Inc., dated April 2018
- [Preliminary Floor Plans](#), prepared by Amerco Real Estate Company, dated February 28, 2018
- [Arborist Report and Tree Preservation Plan](#), prepared by JSW+ Associates, dated May 11, 2018
- [Landscape Concept](#), prepared by Strategy 4 Inc., dated April 09, 2018

- [Functional Servicing Report](#), prepared by Flora Designs Inc., dated May 11, 2018
- [Environmental Site Screening Questionnaire](#), completed by the owner and certified on April 9, 2018
- [Traffic Impact and Parking Study](#), prepared by Strategy 4 Inc., dated April 2018
- [Noise Impact Study](#), prepared by Swallow Acoustical Consultants Ltd., dated April 10, 2018
- [MIACC Risk Assessment](#), prepared by WSP Canada Inc., dated January 15, 2018
- [D-6 Compatibility Assessment](#), prepared by WSP Canada Inc., dated January 15, 2018
- [Preliminary Lighting Plan](#), no date
- [Site Survey](#), prepared by Mackay, Mackay & Peters, signed by Surveyor on April 13, 2018

#### Second Submission

On December 5, 2018 the City received a resubmission of the application in response to comments provided by internal departments and technical agencies. These comments included requests for a revised noise study and traffic impact study that includes the proposed Shop Area; justification for retaining all three existing driveway accesses to Mainway rather than closing the middle access as preferred by Transportation staff; clarification about the ownership of trees on site; additional planning justification for the proposed retail propane use; revisions to the Risk Assessment to discuss how the proposed retail propane use complies with the Technical Safety Standards Association's standards; revision to the site plan to relocate the U-Haul equipment shunting area to meet the recommendations of the submitted D-6 study, and to increase the number of parking spaces; and revision to site survey and floor plans to be in metric measurement.

The applicant submitted the following materials in the resubmission:

- [Response Letter](#), prepared by Strategy 4 Inc., dated December 3, 2018
- [Revised Preliminary Site Plan](#), prepared by Strategy 4 Inc., last revised December 3, 2018
- [Revised Floor Plan](#), prepared by Amerco Real Estate Company, dated October 18, 2018
- [Revised Planning Justification](#), prepared by Strategy 4 Inc., dated April 2018, revised December 2018
- [Revised Arborist Report](#), prepared by JSW+ Associates, dated October 26, 2018
- [Revised Tree Preservation Plan](#), prepared by JSW+ Associates, dated October 2018



- [Functional Servicing Report](#), prepared by Flora Designs Inc., last revised December 4, 2018
- [Revised Traffic Impact and Parking Study](#), prepared by Cole Engineering Group Ltd., dated November 2018
- [Site Access Justification Memo](#), prepared by Cole Engineering Group Ltd., dated December 3, 2018
- [Noise Study Addendum](#), prepared by Swallow Acoustical Consultants Ltd., dated November 13, 2018
- [Revised MIACC Risk Assessment](#), prepared by WSP Canada Inc., dated August 28, 2018
- [Revised D-6 Compatibility Assessment](#), prepared by WSP Canada, dated October 10, 2018
- [Revised Legal and Topographic Survey](#), prepared by Mackay, Mackay & Peters Ltd., signed by OLS on October 5, 2018.

#### Additional Revisions to Noise Study

Staff's review of the resubmission revealed that further revision to the Noise Study was required. On January 19, 2019, the City received a further revised noise study, and further revisions were received on February 7, 20, and 26, 2019. The submitted revised noise studies are listed below:

- [Preliminary Noise Control Recommendations](#), prepared by Swallow Acoustic Consultants Ltd., dated January 15, 2019
- [Preliminary Noise Control Recommendations](#) prepared by Swallow Acoustic Consultants Ltd., dated February 7, 2019
- [Noise Barrier Detail](#), prepared by Swallow Acoustic Consultants Ltd., received February 8, 2019
- [Preliminary Noise Control Recommendations](#), prepared by Swallow Acoustic Consultants Ltd., dated February 19, 2019
- [Preliminary Noise Control Recommendations](#), prepared by Swallow Acoustic Consultants Ltd., dated February 25, 2019

#### Additional Site Access Information

In response to Transportation staff's comments on the submitted Site Access Justification memo, the applicant submitted the following sketches of truck turning templates on January 3, 2019:

- [Truck Turning at 5.0 m](#), prepared by Strategy 4 Inc., dated Jan. 2019.
- [Truck Turning at 6.0 m](#), prepared by Strategy 4 Inc., dated Jan. 2019.



### Additional Information and Sketches to Clarify Proposal

The following additional information was provided by the applicant between December 18, 2018 and January 3, 2019 in response to staff's requests for additional clarification on the proposal:

- [Response letter to Zoning questions](#), dated December 18, 2018
- [Building Height Certificate](#), prepared by Mackay, Mackay & Peters Ltd., signed by the Surveyor on December 19, 2018
- [SK.1](#), prepared by Strategy 4 Inc., dated Jan. 2019. This sketch clarifies the proposed location of customer loading doors, outdoor storage and display areas, landscape buffers and location of rooftop mechanical equipment.
- [Existing and Proposed Floor Areas](#), prepared by Strategy 4 Inc., dated Jan. 2019. This sketch clarifies the existing and proposed gross floor area.

### Revisions to Site Plan

Additional revisions were also made to the Preliminary Site Plan in response to comments from Fire, Site Engineering, and Planning staff comments:

- [Preliminary Site Plan](#), prepared by Strategy 4 Inc., dated January 2019. This revised Site Plan reflects the GFA numbers provided in Sketch 1, and a preliminary fire route. On January 16, 2019, the City's Site Plan Review Committee provided preliminary comments on the revised site plan to help inform the applicant's future site plan application. At this meeting, it was determined that further information about fire access routes would be required prior to rezoning to ensure that the route could be accommodated on site without the need for further variances. This revised Site Plan was received on January 29, 2019 in response to those comments.
- [Preliminary Site Plan](#), prepared by Strategy 4 Inc., dated February 2019. This revised Site Plan removes the proposed retail propane facility from the plan, clarifies the location of existing noise barriers and proposed inventory display areas, and shows additional parking spaces.

All of the supporting documents have been published on the City's website for the subject application, [www.burlington.ca/3267Mainway](http://www.burlington.ca/3267Mainway).

## **Discussion: Conformity Analysis and Policy Framework Review**

The rezoning application is subject to the following policy framework: The Planning Act; Provincial Policy Statement, 2014; Growth Plan for the Greater Golden Horseshoe, 2017; Halton Region Official Plan; City of Burlington Official Plan, 2008; and Zoning By-law 2020.

Staff have reviewed and analyzed the planning merits of the subject application within this framework, as described below.

### Planning Act: Matters of Provincial Interest

Municipalities, when dealing with their responsibilities under the *Planning Act*, shall have regard to a wide range of matters of provincial interest. A number of these matters of provincial interest are relevant to this development application.

Staff’s analyses of these matters are summarized in Table 2 below and discussed in detail in the remainder of this report.

**Table 2 – Matters of Provincial Interest Related to Subject Application (Planning Act, R.S.O 1993, c. P.13, s.2)**

Provincial Interest	Staff Analysis
(f) the adequate provision and efficient use of communication, transportation, sewage and water services and waste management systems;	The proposed development will make efficient use of infrastructure because there is sufficient capacity in the existing water, wastewater and transportation system to accommodate the proposed development.
(h) the orderly development of safe and healthy communities; (o) the protection of public health and safety;	The proposed development will be compatible with the surrounding residential uses from a noise, odour, dust, traffic and safety perspective. It therefore supports the development of safe and healthy communities.
(k) the adequate provision of employment opportunities;	<p>The Regional and City Official Plans designate the subject lands as employment in order to protect the lands for employment uses and ensure that there is an adequate supply of lands in the Region and City to meet anticipated employment needs.</p> <p>The proposed development, with the exception of the proposed retail propane facility use, is for employment or employment-supportive uses. However, the proposed retail propane facility is a retail use that is unrelated to the employment uses proposed on the subject site. It is also not intended to support the businesses and activities in the surrounding employment area. Therefore, the proposed development, with the exception of the proposed retail propane facility use, supports the adequate provision of employment opportunities in the City.</p>
(l) the protection of the financial and economic well-being of the Province and its municipalities;	The proposed development is not expected to result in noise complaints to the City’s by-law enforcement staff. Furthermore, the proposed rezoning will support the viability of the City’s transit system by increasing employment densities along an existing Burlington Transit bus route.

<p>(p) the appropriate location of growth and development</p>	<p>The proposed development, with the exception of the proposed retail propane facility use, is appropriately located because it is for employment and employment-supportive uses within the City's employment lands, where employment uses are intended to occur. Moreover, although the proposed development is located adjacent to residential uses, the development will not have a negative impact on the residential uses as a result of the noise mitigation measures that are recommended by the applicant's supporting noise study.</p>
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### **Provincial Policy Statement, 2014**

The Provincial Policy Statement (PPS) provides broad policy direction on matters of provincial interest related to land use planning and development, and sets the foundation for regulating development and land use in Ontario. Official Plans are the primary vehicle for implementing the PPS, and all planning decisions are required to be consistent with the PPS.

Section 1.1.1 of the PPS provides general principles for development and land use planning. It states that:

*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 range and mix of...employment (including industrial and commercial), institutional...and other uses to meet long-term need;*
- c) avoiding development and land use patterns which may cause environmental or public health and safety concerns*

#### ***Efficient development and land use patterns***

Policy 1.1.3.2a) of the PPS directs growth and development to settlement areas, and states that land use patterns shall be based on densities and a mix of land uses which *"efficiently use land and resources; ... are appropriate for, and effectively use the infrastructure and public service facilities which are planned or available"*; minimize negative impacts to air quality and climate change; and support active transportation and transit (PPS, 1.1.3.2a)).

The proposed development will result in a more efficient use of land and resources because it will facilitate the redevelopment of a vacant property that is within the City's settlement area and that has adequate water and wastewater servicing. Furthermore, the site is also located along a bus route on Mainway and is in front of a bus stop. While

the retail propane facility use is unlikely to generate transit or active transportation trips, the truck rental and repair use may. The proposed motor vehicle and retail sales uses are thus consistent with PPS policies for a mix of land uses and densities that efficiently use land and transportation infrastructure, and support active transportation and transit.

***Appropriate Mix and Range of Uses***

Policy 1.3.1 of the PPS states that planning authorities shall provide for “*an appropriate mix and range of employment and institutional uses to meet long-term needs*” and provide “*opportunities for a diversified economic base, including maintaining a range of suitable sites for employment uses which support a wide range of economic activities and ancillary uses*”. The PPS also requires planning authorities to plan for, protect and preserve employment areas for current and future use in their Official Plans. The subject site is designated as employment area in the Region and City Official Plans.

Staff are of the opinion that the proposed motor vehicle sales, leasing, rental and service use is an employment use because of the large amount of floor area to be devoted to motor vehicle repair. Moreover, the motor vehicle rental component of the use is directly related to and supportive of the principal employment (storage locker facility) use of the site. Also, as discussed in the ‘Land Use Compatibility’ section below, it has been demonstrated that the proposed use will not pose safety, noise, odour and contaminant concerns for the sensitive residential uses to the north. Thus, the proposed motor vehicle use is consistent with the PPS.

The proposed ancillary retail area is also consistent with the PPS. Employment areas are defined in the PPS as, “*areas designated in an official plan for clusters of business and economic activities, including, but not limited to, manufacturing, warehousing, offices, and associated retail and ancillary facilities*”. While ‘associated’ and ‘ancillary’ are not terms defined in the PPS, Provincial Growth Plan, Regional Official Plan or City Official Plan, the terms are generally understood to mean connected to or providing necessary support to the primary activity or operation (Oxford Dictionary). Although the proposed floor area for retail sales is greater than the threshold permitted by the City’s Zoning By-law 2020, the proposed floor area is relatively small and would be used to support the future primary and proposed secondary employment uses of the site (i.e. storage locker facility, and motor vehicle sales, leasing, rental and service). The sales area will also be used for the retail sale of products that are related to the primary storage use.

However, staff are of the opinion that the proposed retail propane transfer facility use is neither an employment use nor an associated or ancillary retail use. The primary use of the site is unrelated to propane, the proposed rental vehicles are not fueled by propane, and the proposed auto repair activities also do not involve the use of propane. Instead, the applicant’s revised Planning Justification Report explains that the purpose of the propane facility is “*to serve the filling of BBQ cylinders, automobiles and Recreational*

*Vehicles*”, and that “*the retail propane facility is located adjacent to residential uses who are planned to be the primary user of the propane facility*” (p.2 & 22). Also, during the Statutory Public Meeting for the subject application, the applicant explained to the Planning and Development Committee that the proposed propane use is not critical to the operation of his business. Based on this information, staff conclude that the propane transfer facility use is a retail use that is unrelated to and unnecessary for the proposed motor vehicle use or the anticipated storage or office uses of the site, and is not intended to support the businesses and economic activities in the surrounding employment area. Staff are therefore of the opinion that this use is not consistent with the PPS, and do not recommend approval of it.

***Land Use Compatibility and Public Health and Safety***

Policy 1.2.6.1 of the PPS states that “*major facilities and sensitive land uses should be planned to ensure they are appropriately designed, buffered and/or separated from each other to prevent or mitigate adverse effects from odour, noise and other contaminants, minimize risk to public health and safety, and to ensure the long-term viability of major facilities*”. Moreover, policy 1.1.3.4 of the PPS states that within Settlement Areas, “*appropriate development standards should be promoted which facilitate intensification, redevelopment, and compact form, while avoiding or mitigating risks to public health and safety.*”

The applicant has demonstrated that the proposed uses will be adequately separated and buffered from the residential uses to the north to avoid safety, noise, odour conflicts, and that the site can be designed to minimize dust impacts. The proposed uses and exemptions to the Zoning By-law 2020’s regulations related to separation from residential zones are therefore consistent with the PPS’s policies about odour, noise and air quality compatibility and public health and safety.

Summary: The proposed rezoning, with the exception of the proposed retail propane facility use, is consistent with the Provincial Policy Statement because it will facilitate the redevelopment of a vacant property in the City’s employment area with employment and ancillary uses that can be accommodated by existing water and wastewater servicing and transportation infrastructure, and that will support existing transit service. The proposed uses are also compatible with the adjacent sensitive residential uses. However, the proposed retail propane transfer facility use is not consistent with the employment policies of the Provincial Policy Statement because it is not ancillary to the proposed employment uses on the subject site or those in the surrounding employment area.

## **Growth Plan for the Greater Golden Horseshoe, 2017**

The new Growth Plan for the Greater Golden Horseshoe (Growth Plan) came into effect on July 1, 2017. All planning decisions made on or after July 1, 2017 must conform to the Growth Plan. The Growth Plan builds on the policy foundation set out in the PPS and provides a framework for managing growth and achieving compact, complete communities in the Greater Golden Horseshoe (GGH). The guiding principles of the Growth Plan include prioritizing intensification and higher densities to efficiently use land and infrastructure and support transit viability, and providing flexibility to capitalize on new economic and employment opportunities while providing certainty for traditional industries.

The Growth Plan envisions that development and the majority of growth in the GGH will be directed to settlement areas, particularly delineated built up areas, strategic growth areas, and locations with existing or planned transit (2.2.1.2d & c)). With respect to employment, the Growth Plan directs that economic development and competitiveness of the GGH be promoted by “*making more efficient use of existing employment areas and vacant and underutilized employment lands and increasing employment densities*” and by ensuring that there is sufficient availability of lands for a variety of employment activities (2.2.5.1a) and b)).

Furthermore, upper-tier municipalities are directed by the Growth Plan to designate employment areas in official plans and protect them for appropriate employment uses over the long-term, and all municipalities are required to plan for employment areas by prohibiting residential uses and prohibiting or limiting sensitive land uses and major retail facilities within employment areas (2.2.5.6; 2.2.5.7). The conversion of employment areas to non-employment uses (i.e. the re-designation of an employment area to a designation that permits non-employment uses) may only be permitted through a municipal comprehensive review under certain conditions.

Finally, retail and office uses are directed to locations that support active transportation and have existing or planned transit infrastructure (2.2.5.3), and policy 2.2.5.4 states that “*in planning for employment, surface parking will be minimized and the development of active transportation networks and transit-supportive built form will be facilitated*”. Transit-supportive is defined in the Growth Plan to mean “*development that makes transit viable and improves the quality of the experience of using transit...Transit-supportive development will be consistent with Ontario’s Transit Supportive Guidelines*” (p.88).

Staff are of the opinion that the proposed site-specific rezoning conforms to the Growth Plan, as explained below.

***Intensification, Efficient Use, and Protection of Employment Areas***

The subject site is located in front of a bus stop within the City's delineated built-up area and employment area, where adequate water and wastewater infrastructure exists. The site is currently underutilized, and the anticipated future principal use of the site (storage) is a low-density employment use. By allowing the proposed motor vehicle sales, leasing, rental and service use, the rezoning will increase employment densities on this site and in the City's employment area, and will therefore support the efficient use of existing infrastructure and land. By increasing densities, the rezoning will also support the viability of the existing transit route that is adjacent to the subject property.

Furthermore, the proposed rezoning, except for the proposed retail propane use, represents appropriate employment uses and not major retail uses in the employment area, and is not considered an employment conversion. The Halton Region and City Official Plans conform to the Growth Plan by prohibiting residential uses and non-employment uses, and specifying the range of uses that may be permitted within employment areas. As discussed in the Region of Halton Official Plan and City of Burlington Official Plan sections of this report, the proposed motor vehicle sales, leasing, rental and service use and retail floor area conform to the Regional and City Official Plans, including the City's Official Plan policies about appropriate land uses abutting residential land uses within employment areas.

Moreover, although the proposed ancillary retail sales floor area is greater than that permitted in the Zoning By-law 2020, it is less than the maximum permitted by the Official Plan. The proposed retail sales area is also not considered a major retail facility because it is not a large-scale or stand-alone store. Major retail facilities are defined in the Growth Plan as "*large-scale or large-format stand-alone retail stores or centres that have the primary purpose of commercial activities*".

Since the motor vehicle use and retail sales area is in conformity to the Regional and City Official Plans, and are not major retail, they do not constitute an employment conversion.

However, staff are of the opinion that the proposed retail propane facility conflicts with the Growth Plan. As outlined in the City of Burlington Official Plan section of this report, the proposed retail propane transfer facility does not satisfy the City's Official Plan criteria for limited retail in employment areas. The proposed use therefore is not considered an appropriate use in the employment area, and constitutes an employment conversion.



***Transit-Supportive Built Form and Minimizing Surface Parking***

The *Ontario Transit-Supportive Guidelines (2012)* referenced by the Growth Plan recommend that industrial and employment areas be designed to enhance conditions for pedestrians and cyclists. The City's Zoning By-law 2020 is consistent with these guidelines by regulating where loading/unloading docks, loading/unloading activities, and outdoor storage of vehicles for rent may be located on a site, requiring decorative exterior finishes on building walls facing a street, and requiring adequate landscaped areas adjacent to streets.

Staff are of the opinion that the proposed reduction in landscape area abutting Mainway and outdoor storage of rental vehicles within the required yard and landscape area abutting Mainway do not enhance conditions for pedestrians or minimize surface parking. Therefore, staff recommend refusal of these zoning regulations.

Staff recognize that the proposed loading/unloading dock and related loading/unloading activities the yard abutting Mainway is not an ideal condition for pedestrians. However, staff note that of the three docks that currently exist on the subject site, the dock to be retained is the farthest away from the residential zone and would have the least impact on the adjacent residential uses. Furthermore, because this dock already exists, allowing this dock to be retained will not result in new impacts to pedestrians.

As discussed in the Zoning By-law 2020 section of this report, staff support a parking reduction in accordance with the updated parking rates of the *Burlington City-Wide Parking Standards Review*. A reduction in parking would allow for more of the site to be landscaped, and is consistent with the Growth Plan's policy to minimize surface parking.

Summary: The proposed development, with the exception of the retail propane facility, reduced landscape area, and outdoor storage within the required landscape area, conforms to the Growth Plan because it supports the appropriate intensification and development of the employment area, the efficient use of infrastructure and transit. The rezoning, except for the proposed reduction in landscape area abutting Mainway and storage of rental vehicles in the required yard and landscape area abutting Mainway, facilitates transit-supportive development and minimizes surface parking. However, the proposed retail propane facility use does not conform to the Growth Plan because it is not an employment or employment-supportive use.

## **Halton Region Official Plan (ROP)**

The subject lands are designated Urban Area and are within the Employment Area overlay, as identified on Map 1 in the Region of Halton's Official Plan (ROP). Lands within the Urban Area and Employment Area are subject to the objectives and policies the Urban Area and Employment Area in the ROP.

The Urban Area is where urban services are provided to accommodate concentrations of existing and future development. The objectives of the Urban Area include:

*To accommodate growth in accordance with the Region's desire to improve and maintain regional unity...create healthy communities, promote economic prosperity... To provide for an appropriate range and balance of employment uses including industrial, office and retail and institutional uses to meet long-term needs. To direct where employment uses should be located and to protect areas designated for such uses.*  
(ROP, s. 72(1), (10) & (10.1))

The ROP states that the range of permitted uses within the Urban Area shall be in accordance with local official plans and zoning by-laws, but all development shall be subject to the policies of the ROP (ROP, 76). These policies include the ROP's policies for the Employment Area overlay, and Development Criteria policies (policies 57 to 70.1).

The objectives of the Employment Area overlay include:

*77.1(1) To ensure the availability of sufficient land for employment to accommodate forecasted growth to support Halton's and its Local Municipalities' economic competitiveness.*

*77.1(2) To provide, in conjunction with those employment uses within the residential and mixed use areas of the communities, opportunities for a fully-diversified economic base, including maintaining a range and choice of suitable sites for employment uses which support a wide range of economic activities and ancillary uses, and take into account the needs of existing and future businesses.*

Residential and other non-employment uses, including major retail uses, are prohibited within the Employment Area, except to recognize uses permitted by specific policies of a Local Official Plan on December 16, 2009, or for institutional uses under certain circumstances (ROP, 77.4(1)).

The ROP's Development Criteria policies direct development to areas with the appropriate land use designation, in accordance with the goals, objectives and policies of the ROP. Furthermore, development is permitted as specified for the Urban Area, provided that the site is not considered hazardous; adequate supply of water and

treatment of wastewater of the proposed use has been secured to the satisfaction of the Region; and the development meets all applicable statutory requirements.

### ***Staff Analysis***

The proposed rezoning, with the exception of the propane facility, conforms to the Regional Official Plan because the proposed motor vehicle sales, leasing, rental and service use is an employment use that is permitted and in conformity with the City's Official Plan. The proposed ancillary retail sales floor area also conforms to the City's Official Plan. The City's Official Plan, in effect as of December 16, 2009, allows retail uses under certain conditions, including that the use is ancillary to the uses in the surrounding employment area, and that no more than 15% of the floor area of any one building is used for ancillary uses (City Official Plan, Part III, policy 3.3.2d)).

Halton Regional staff have also confirmed that in general, there is adequate water and wastewater capacity available to support the development of the subject lands at this time, and that the submitted Functional Servicing Report is satisfactory for the purposes of the rezoning. Furthermore, Regional staff comment that they have reviewed the submitted Environmental Site Screening Questionnaire, and are satisfied that the ROP's policies related to site contamination have been addressed.

However, the proposed retail propane facility use is a non-employment use and does not meet the City's Official Plan criteria for retail uses in the employment area. The proposed retail propane use therefore does not conform to the ROP.

### **City of Burlington Official Plan**

The property is designated as 'General Employment' on Schedule B, Comprehensive Land Use Plan – Urban Planning Area of the Official Plan. The objectives of this designation include to provide locations in the City for a broad range of employment and office uses, and to provide some locations in the General Employment designation for low-intensity industrial uses and office uses (Part III, 3.3.1). Uses that may be permitted within the General Employment designation include industrial uses that involve warehousing, distribution and storage uses and repair activities; office uses; and large scale motor vehicle dealerships.

Motor vehicle dealerships are generally considered to be retail or service commercial uses and are allowed in Commercial designations of the City's Official Plan. However, the Official Plan considers 'large scale motor vehicle dealerships' to be a distinctive type of motor vehicle dealership and permits them in the General Employment designation due to their size and the extent of related repair and service activities. Large scale motor vehicle dealerships are defined in the City's Official Plan as those that are "*greater than 0.2 ha in size which contains significant outdoor storage and a large proportion of automobile repair and service facilities*".

The Official Plan also allows a limited range of retail and service commercial uses in the General Employment designation, provided that the retail and service commercial uses are ancillary to employment uses and are of a limited size:

*3.3.2 d) The retail and service commercial uses that are permitted [in the General Employment designation] shall be subject to the following:*

- (i) such uses shall be ancillary to, and primarily serve, uses, businesses and employees within the surrounding employment area;*
- (ii) such uses shall only be permitted on lands having one or more buildings with a total floor area greater than 3,000 sq. m;*
- (iii) no more than 15 per cent of the total floor area of any one building shall be used for ancillary uses, except [for restaurants, under certain circumstances]; and*
- (iv) automotive related uses such as gas stations and car washes are not subject to clauses (ii) and (iii).*

However, within locations adjacent to residential areas, such as the subject site, the Official Plan states that “*only uses that would have a limited impact on the surrounding area will be permitted*”, and the full range of permitted uses may not be allowed in the zoning of individual sites due to site-specific factors such as land use compatibility and traffic (Part III, 3.3.2 a) (iii) & c)). Moreover, the exposure of sensitive land uses, such as residential, to noise, dust, vibration and other effects caused by industrial facilities “*shall be avoided through the use of separation distances and placement of non-sensitive uses in buffer areas*” (Part II, policy 2.7.3 n)).

Part II, policies 2.7.3 n) and o) of the Official Plan direct the City to refer to provincial guidelines and risk-based land use planning guidelines when making land use planning decisions, and allows the City to request proponents to submit compatibility assessments and risk assessments and undertake necessary mitigation measures to address compatibility issues. The provincial and risk-based land use planning guidelines referenced in these policies are the Ministry of Environment’s “D-6 Compatibility Between Industrial Facilities” guide (D-6 Guide), the Major Industrial Accidents Council of Canada’s (MIACC) Risk-Based Land Use Planning Guidelines, and the Technical Safety Standards Association (TSSA) standards.

### ***Staff Analysis***

The proposed rezoning is generally in conformity with the City’s Official Plan. The proposed motor vehicle sales, leasing, rental and service use meets the definition of ‘large scale motor vehicle dealership’ because it occupies more than 0.2 ha of the site, and includes significant amounts of outside storage as well as a substantial amount of floor space for motor vehicle repair. Furthermore, the proposed retail sales area

satisfies the criteria outlined in Part III, subsection 3.3.2 d) of the Official Plan regarding retail and service commercial uses within the General Employment designation:

- (i) The use is ancillary to the primary employment uses on the site;
- (ii) The use is proposed within a building that has a total floor area of 12,953.46 m<sup>2</sup> (i.e. greater than 3,000 m<sup>2</sup>);
- (iii) The proposed floor area of the retail sales area is 358.9 m<sup>2</sup>, which is less than 15% (1,943 m<sup>2</sup>) of the total floor area of the building;
- (iv) 3.3.2d) (iv) does not apply.

The applicant has also submitted studies as well as a landscaping concept plan that demonstrate that the proposed development is compatible with the residential uses to the north and the surrounding employment area (see 'Compatibility' section below).

However, the proposed retail propane use does not conform to policy 3.3.2d) (i) of the Official Plan, which requires the use to be "*ancillary to and primarily serve uses, businesses, employees within the surrounding employment area*". As mentioned in the Provincial Policy Statement section of this report, the intent of the proposed propane use is to primarily serve the residential uses to the north for the filling of BBQ tanks, automobiles and recreational vehicles. The proposed propane facility is also unrelated to the proposed employment (storage, truck rental and repair, office) uses on the site.

### *Compatibility*

The proposed development will be compatible with the surrounding area in terms of noise, odour, dust, traffic and safety:

- *Noise*

The main sources of noise associated with the proposed development include rooftop mechanical equipment; outdoor mechanical equipment at grade; truck movement and idling; and two open overhead doors to the Shop Area at the northeast and southwest ends of the building, facing east and south, respectively. Sources of noise from the Shop Area include air compressors and air tools.

The applicant's revised Noise Study, dated February 25, 2019, states that noise barriers at ground level and on the rooftop are required to meet the Ministry of Environment's sound level limits. A 1.8 m high noise barrier is recommended to be installed along the north property line, near the parking area, starting at the northwest corner of the site and terminating on the plane of the west façade of the auto repair shop. The existing 3.8 m high concrete noise barrier meets the noise barrier surface density and height requirements, but the existing wood fence does not and will need to be replaced with a barrier that meets requirements. A 1.8 m noise barrier is also required on the rooftop around the rooftop mechanical equipment to break the line of sight from the residential dwellings.

City Site Engineering staff have reviewed the latest revised noise study and agree with the conclusions of the study. Staff have also reviewed the drawing detail of the recommended noise barrier at ground level, and comment that revisions to the design of the fence as well as details of the rooftop barrier will be required at the Site Plan stage. However, for the purposes of the rezoning, Site Engineering staff are satisfied that noise from the proposed development can be mitigated to acceptable levels, and do not have an objection to the rezoning.

- *Odour and Dust*

The Province’s D-6 Guide provides recommended minimum separation distances and minimum areas of influence for different scales of industrial facilities to prevent or minimize future land use problems related to noise, odour and dust (Table 2).

**Table 2 - D-6 Recommended Minimum Separation Distances & Potential Areas of Influence**

<b>Industrial Facility Type</b>	<b>Minimum Separation Distance<sup>a</sup></b>	<b>Potential Area of Influence<sup>b</sup></b>
Class I (small scale, self contained; infrequent outputs)	20 m	70 m
Class II (medium scale processing and manufacturing with outdoor storage of wastes or materials; periodic outputs of minor annoyance)	70 m	300 m
Class III (large scale manufacturing or processing; frequent outputs of major annoyance)	300 m	1000 m

- Minimum Separation Distance: “No incompatible development ... should occur in the [minimum separation distance], even if additional mitigation for adverse effects, [such as buffers], is provided” (D-6, s.4.3)
- Potential Area of Influence: “The potential influence areas, or where known, the actual influence areas (see Section 4.1 of this guideline) should act as a ‘flag’, and no sensitive land uses shall be permitted within the actual or potential influence areas of Class I, II or III industrial land uses, without evidence to substantiate the absence of a problem.” (D-6, ss.4.5.1)

According to the submitted D-6 Compatibility Assessment, the proposed development is classified as a Class II facility. The Province’s D-6 Guidelines recommend a 70 m minimum separation distance, and a 300 m influence area around Class II facilities. Within the 70 m separation distance, “no incompatible development should occur”, and

within the 300 m influence area, “*no sensitive land uses should be permitted without evidence to substantiate the absence of a problem*” (D-6 Guidelines, s.4.3 & ss.4.5.1).

The parking lot and proposed northerly automotive repair shop do not meet the Province’s recommended minimum separation distance. The proposed retail propane facility and equipment shunting areas meets the minimum separation distance requirements, but are within the 300 m influence area.

However, according to the assessment, the development is not expected to be incompatible with the residential uses to the north with respect to odour and dust. The main odour and dust impacts are expected to come from the proposed retail propane facility and vehicle emissions, but based on an analysis of meteorological data and the location of the facility and onsite operations, the development is expected to have limited odour impact on the surrounding residential uses. Dust generators are also expected to be limited and controlled by speed limits and paved parking areas and laneways. The assessment concludes that the development is not anticipated to have an adverse impact on the dwellings, but recommends that a speed limit of 20 km/h be posted and enforced on paving areas, and that the propane refuelling operation be conducted by trained staff to prevent odour from being released.

Based on the assessment, staff are satisfied that the proposed development will not result in adverse odour or dust impacts for the abutting residential uses. Staff comment that the recommendation for posting of speed limits can be enforced through the future site plan approvals.

- *Traffic and Parking*

Transportation staff have reviewed the applicant’s revised Traffic Impact Study and agree with the conclusions that the existing traffic conditions operate at acceptable levels of service and below capacity, and the intersections of the study area will continue to operate under capacity in the future should the development be approved. Transportation staff also do not have concerns with a reduction in parking, provided it is in accordance with the updated rates identified in the *Burlington City-Wide Parking Standards Review*.

- *Risk Assessment & TSSA Standards for Propane*

The MIACC guidelines address compatibility based on the risk of industrial accidents such as spills, explosions and fire. These guidelines outline the levels of risk that are acceptable near sensitive uses and the levels of risk where certain uses should not occur. According to MIACC, where the annual risk of fatality is 1 in 10,000 (the ‘exclusion zone’), no other land uses should occur. Where the annual risk of fatality is 1 in 1,000,000 (the ‘unrestricted land use zone’), all land uses may occur, including institutional and high density residential. Between the exclusion zone and unrestricted



land use zone, uses are recommended by MIACC to be limited to manufacturing, warehouses and open space.

According to the submitted Risk Assessment, the exclusion zone from the proposed propane tank is 90 m, and the unrestricted land use zone is 130 m and beyond. The nearest residential land use is located in the unrestricted land use zone, but there are industrial buildings located within the exclusion zone on the subject property and to the west at 3225 Mainway. However, the assessment notes that the propane facility complies with the Technical Safety Standards Authority (TSSA) separation distances, and risks to the adjacent industrial buildings can be mitigated through the implementation of a Risk and Safety Management Plan, and preparation of an emergency response plan that includes the adjacent industrial buildings.

Staff comment that the recommendations of the MIACC assessment are required to be implemented as per Ontario's Technical Standards and Safety Act, 2000. All propane filling facilities are required to be licensed by the TSSA, and applicants for licenses are required to submit a Risk and Safety Management Plan (RSMP) to the TSSA. The RSMP is required to include an emergency response and preparedness plan, and be circulated to City Fire Services for review.

However, staff do not support the proposed propane transfer use because it does not conform to City, Regional and Provincial policies to protect the employment area for employment uses.

Summary: The proposed motor vehicle sales, leasing, rental and service use and retail sales area conform to the City's Official Plan because they are permitted in the General Employment designation and are compatible with surrounding uses. Regarding the proposed retail propane use, although the use will be compatible from an odour and safety perspective, the use does not conform to the Official Plan's criteria for retail uses in the employment area. Staff therefore recommend refusal of the proposed retail propane use.

### **New City of Burlington Official Plan (Council Adopted)**

The proposed New Official Plan was adopted by Council on April 27, 2018 and has been developed to reflect the opportunities and challenges facing the City as it continues to evolve. Halton Region has identified areas of non-conformity, and as such, the adopted Official Plan will be subject to additional review and revision prior to its approval. Further, City Council has directed a new staff review and public engagement process to consider potential modifications, including a review of height and density provisions. As a result, no weight is placed on the policies of the adopted Official Plan in the review of this application at this time.

### City of Burlington Zoning By-law 2020

The property is currently zoned “General Employment with a site specific exception (GE2-56)” in the City’s Zoning By-Law 2020, as shown on Sketch No. 1. This zone permits a range of industrial uses, such as storage, as well as office uses. Motor vehicle repair garages are also permitted, but not on lands abutting a residential zone. Accessory retail sales with a maximum floor area of 15% of the main use or 250 m<sup>2</sup>, whichever is lesser, is permitted. Exemption number 56 allows metal die casting and extruding as an additional permitted use on this site.

The applicant seeks to amend the Zoning By-law 2020 to allow motor vehicle sales, leasing, rental and service use and retail propane transfer facility use on this site. Motor vehicle sales, leasing, rental and service use is defined in the Zoning By-law 2020 as a use that may include a motor vehicle repair garage. The applicant also seeks exemptions to the setback, landscape buffer, landscape area, built form, loading/unloading, outdoor storage, retail sales and off-street parking regulations of the GE2 zone.

Table 3 below provides an overview of the GE2 regulations, the applicant’s proposal, and staff’s comments. In summary, staff are generally supportive of the proposed rezoning, but do not recommend approval of the proposed retail propane transfer facility use, or a reduction in landscape area abutting Mainway. Staff’s recommended draft zoning by-law amendment can be found in Appendix B to this report.

**Table 3 – GE2 Zone Regulations, Proposal and Staff Comments**

Regulation	Required	Proposed	Staff Comment
<b>Lot Width, Area, Yards, Building Height</b>			
Lot width	30 m	201.2 m	Meets regulation.
Lot area	2,500 m <sup>2</sup>	33,130.2 m <sup>2</sup> (post-widening); 33,512.1 m <sup>2</sup> (pre-widening)	
Yard abutting Mainway	6 m	6.1 m	
Side yard	3 m	3 m to propane tank; > 3 m to building	

Regulation	Required	Proposed	Staff Comment
Yard abutting a residential zone	30 m	Existing building is approximately 8 m from residential zone.	<b><u>Exemption not required.</u></b> Regulation 1.6.1(b) of the Zoning By-law 2020 allows existing buildings not in conformity to yard regulations to change to any use which is permitted within the zone designation of the property.
Building height on lands abutting a residential zone	9 m	9 m	Meets regulation.
<b>Landscape Area and Buffer</b>			
Landscape buffer abutting residential zone	9 m	8.1 m (existing)	<b><u>Support.</u></b> The intent of this regulation is to provide separation and partially obstruct the view of adjacent uses through a dense landscape screen consisting of evergreen trees or a combination of solid screen fencing with trees, shrubs or berms.  The applicant's arborist report shows that the existing buffer is heavily planted with trees, and all of the trees are proposed to be retained. There is also a berm within the buffer, and two 3 m high noise walls along the edge of the buffer. Moreover, as per the recommendations of the noise study, the existing board fence along the north edge of the parking lot will be replaced with a 1.8 m high noise mitigation fence,

Regulation	Required	Proposed	Staff Comment
			<p>which can also act as a visual barrier. Staff are of the opinion that together, these elements will effectively obstruct the view of residential uses and vice versa, and support the reduced landscape buffer.</p>
<p><b>Landscape Area Abutting Mainway</b></p>	<p><b>6 m</b></p>	<p><b>2.8 m on east side</b></p>	<p><b><u>Do not support.</u></b> The intent of this regulation is to enhance the streetscape through decorative landscaping (e.g. the planting of trees, shrubs flower beds), provide visual continuity along Mainway.</p> <p>The existing building on the east side is setback from Mainway by over 40 m, and the space between the building and sidewalk is proposed to be used for loading/unloading, parking and outdoor storage of rental vehicles. Also, the average landscape area of surrounding properties is well over 6 m.</p> <p>Staff recommend that the deficient landscape area on the east side be brought into conformity with the required 6 m to allow adequate space for enhanced landscaping to mitigate the visual impact of the proposed loading dock, outdoor storage of rental vehicles, and parking in the yard abutting Mainway, and to achieve greater visual continuity between the site and surrounding properties.</p>

Regulation	Required	Proposed	Staff Comment
<b>Built Form</b>			
<p>A decorative exterior finish shall be maintained on building elevations:</p> <ul style="list-style-type: none"> <li>• facing a street;</li> <li>• facing a residential zone; and</li> <li>• within 15 m of a wall facing Mainway</li> </ul>		<p>Details to be provided at site plan stage.</p>	<p>Staff recommend that the elevations facing Mainway be upgraded to provide a functional/office appearance. This will be reviewed at the Site Plan stage.</p>
<p><b>Maximum length of exterior walls facing a residential zone</b></p>	<p><b>36 m</b></p>	<p><b>Length of north exterior wall closest to and facing residential zone is approximately 83 m long.</b></p>	<p><b><u>Support for lifetime of existing building.</u></b> The intent of this regulation is to achieve a built form that is compatible with residential uses. Staff are of the opinion that exempting the existing building from this regulation will not have a noticeable impact on the adjacent residential uses because this is an existing condition and external additions to the building are not proposed.</p>

Regulation	Required	Proposed	Staff Comment
<p><b>Mechanical equipment or machinery may not be installed or used within 20 m of a residential zone.</b></p>		<p><b>Rooftop exhaust fan equipment is approximately 11 m from residential zone.</b></p>	<p><b><u>Support for lifetime of existing building.</u></b> The intent of this regulation is to minimize noise incompatibility. The applicant's Noise Study demonstrates that noise from the site, including the proposed repair shop and rooftop mechanical equipment, can be mitigated to acceptable levels by installing noise barriers at ground level and on the roof. Staff recommend limiting the exception for this regulation to the existing building so that equipment or machinery not within or on the existing building will continue to be prohibited within 20 m of the residential zone.</p>
<p><b>Outdoor Storage</b> Outdoor storage of materials, equipment, parts, refuse, waste, finished products, unfinished products is prohibited except in accordance with the following regulations:</p>			
<p>Not permitted in front yard on lots less than 4 ha. On lots 4 ha in area or greater, permitted in front yard but not within required front yard, provided the outdoor storage area shall be screened from all streets and residential zoned lands.</p>		<p>Outdoor storage is not proposed in the front yard.</p>	<p>Meets regulation.</p>
<p>Not permitted within 9 m of a residential zone.</p>		<p>Greater than 9 m from residential.</p>	<p>Meets regulation.</p>

Regulation	Required	Proposed	Staff Comment
<p>Refuse, waste, and refuse and waste containers shall be screened such as not to be visible from any street or residential zone.</p>		<p>Exemption not proposed.</p>	<p>Meets regulation.</p>
<p>Where the principal use is a permitted commercial use, outdoor storage of merchandise kept for retail sale on the premises is permitted provided such outdoor storage is not located within a required yard or landscaping strip abutting a street.</p> <p><b>Where the principal permitted use is a Motor Vehicle Sales, Leasing, Rental and Service, the outdoor storage of motor vehicles kept for retail sale, lease or rental on the premises is permitted within the required yard abutting a street except within the required landscaping area.</b></p>		<p><b>Motor vehicle sales, leasing, rental and service is not the principal use, but outdoor storage of rental vehicles (labeled ‘Inventory Display’ on site plan) is proposed within the required yard abutting Mainway and within the required landscaping area on the east side of the property.</b></p>	<p><b><u>Do not support.</u></b> The intent of this regulation is to allow some storage of vehicles for retail sale, lease or rent that may be visible from Mainway, while providing for visual continuity with surrounding properties and adequate landscaping to mitigate the visual impact of the storage from the street. Staff note that vehicles for rent are allowed to be stored in the yard abutting Mainway, provided it is not within the required yard and landscape area. Within the GE2 zone, the required yard abutting Mainway and landscape area are the same (6 m).</p> <p>Staff do not support an exemption to this regulation because the average landscape area of surrounding properties on the same side of Mainway is greater than 6 m. Furthermore, the east side of the existing building is set much farther back from the street than other buildings on Mainway, and the applicant proposes a loading/unloading dock and activities, and parking between the building and sidewalk on this side of the property. Staff are of the opinion that providing the required landscape area will help mitigate the visual impact of these</p>



Regulation	Required	Proposed	Staff Comment
			activities and achieve greater visual harmony between the subject site and surrounding properties.
<b>Loading and Unloading</b>			
Setback of loading and unloading activities from residential zone	20 m; 9 m where loading and unloading activities are fully enclosed	Greater than 20 m.	Meets regulation.
Loading/unloading docks and activities shall be screened from view from a residential zone		Landscape buffer and existing and future noise barriers along northwest property line will screen loading/unloading activities from view of residential zone.	Meets regulation.

Regulation	Required	Proposed	Staff Comment
<p><b>Loading/unloading docks in building elevations facing Mainway; and Loading/unloading activities in yard abutting Mainway</b></p>	<p><b>Not permitted</b></p>	<p><b>Existing loading dock on the east side of the building, facing Mainway and in the yard abutting Mainway, is proposed to be retained.</b></p> <p>The purpose of this dock is for loading and unloading medium flatbed and large tractor trailer vehicles containing storage containers that will be warehoused in the southeast section of the building.</p>	<p><b>Support.</b> The purpose of this regulation is to provide for an attractive streetscape along Mainway. Staff note that this loading dock already exists, and therefore will not result in new impacts to the street. The visual appearance of the building from the street can also be improved through decorative treatments, and enhanced landscaping along Mainway.</p> <p>Furthermore, a number of loading/unloading docks currently exist on site. The applicant proposes to close all of them, except for the one facing Mainway. Staff prefer that this dock be retained instead of the other existing docks that are located closer to the residential zone.</p>
<p><b>Retail Sales</b></p>			
<p>Maximum total floor area of 15% only in conjunction with manufacturing, fabricating, processing, assembling or warehousing uses.</p>	<p>N/A</p>	<p>N/A - No manufacturing, fabricating, processing, assembling or warehousing uses to take place.</p>	

Regulation	Required	Proposed	Staff Comment
<p><b>Maximum total floor area for accessory* retail sales shall be the lesser of 15% of the main use or 250 m<sup>2</sup></b></p> <p>*Accessory is defined in Zoning By-law 2020 as: "A use customarily incidental to, subordinate to, and exclusively devoted to the principal use and which operates together with the principal use on the same lot. An accessory use within a principal building shall provide customer/client access from the building interior only."</p> <p>Additionally, Part 1, Section 2.1.1 of Zoning By-law 2020 states, "...the following are deemed not to be accessory uses: retail propane facilities..."</p>		<p><b>360 m<sup>2</sup> (4% of storage use)</b></p>	<p><b>Support.</b> The purpose of this regulation is to ensure that retail uses are limited in the employment area and are accessory to employment. Staff are of the opinion that the proposed floor area for retail sales is reasonable because it will also be used as a rental office to support the storage locker and proposed motor vehicle rental use on site.</p> <p>The retail sales area technically does not meet the definition of 'accessory' because it will be accessible from the outside. However, the sales area is subordinate to and devoted to the storage locker facility and ancillary motor vehicle use. Also, given the nature of the rental activities and items to be sold in this area, it is reasonable for this space to be accessible from the outside.</p>
<p>The accessory retail or showroom area shall be contained within the same premises as the associated permitted use.</p> <p>The area within the building used for accessory retail sales shall be separated from the remainder of the facility by a permanent, solid, floor-to-ceiling and wall-to-wall partition, including closed doors.</p>		<p>The retail area is in the same premise as the associated storage use, and is separated from the rest of the building.</p>	<p>Meets regulations.</p>

Regulation	Required	Proposed	Staff Comment
<b>Fencing</b>			
Shall be installed along the common boundary, with a minimum height of 1.8 m, which may be a solid screen fence or combination of fencing and landscape planting to form a dense, year-round screen.		Chain link fencing and landscape planting exists along boundary. No changes proposed.	Meets regulation.

### ***Retail Propane Facility***

Propane transfer facilities are defined in the Zoning By-law 2020 as “a fixed location where the transfer of propane fuel from one container to another is affected”, and consist of two types: 1) private propane transfer facilities, used for refueling vehicles, appliances or other equipment of the business or establishment to which the private facility belongs; and 2) retail propane transfer facilities, facilities from which the retail sale of propane fuel to the public is effected. The proposed propane facility is considered a retail propane facility as it is intended for the sale of propane to the public.

In addition to the regulations of the GE2 zone, Part I, section 2.7 of the Zoning By-law 2020 also apply to the proposed retail propane facility, as outlined in Table 4 below. While the proposed facility meets most of these regulations, staff do not support this use in principle because it is not an accessory or ancillary retail use that is consistent and in conformity with the Provincial Policy Statement, Growth Plan, Halton Region Official Plan and City Official Plan.

**Table 4 – Additional Zoning Regulations for Retail Propane Transfer Facilities**

(Part I, Section 2.7 of Zoning By-law 2020)

Regulation	Proposed	Staff's Comments
Minimum lot area: 3,000 m <sup>2</sup>	33,130 m <sup>2</sup> .	Meets regulation.
<b>The property is located 30 m from a residential zone, and separated from a residential zoned property by a street having a deemed width of 30 m or greater.</b>	<b>Property abuts a residential zone.</b>	Based on the submitted D-6 Compatibility Assessment and Risk Assessment, the proposed retail propane facility is unlikely to pose an odour or safety concern for the residential uses to the north.

Propane storage tanks shall not be located in a required front, side or street side yard and shall maintain a setback of 6 m from a street line and 3 m from any other property line.	Propane tank is not proposed within required yards; tank is 24 m from street line and 3 m from side lot line.	Meets regulation.
The maximum aggregate storage capacity of propane fuel shall be 45,000 litres.	7,571 L (2,000 US gal)	Meets regulation.

### ***Off-Street Parking***

Based on the proposed gross floor area breakdown, 159 parking spaces are required by the Zoning By-law 2020. The applicant's revised Site Plan shows 108 spaces for parking, and 15 spaces for rental vehicle display. It is staff's opinion that the vehicle display spaces should not be counted towards satisfying the required number of off-street parking spaces because they are not primarily intended for employee or customer parking.

Transportation staff comment that the parking rates contained in the Zoning By-law 2020 are outdated and no longer reflect current parking trends. In 2017, the City of Burlington completed a comprehensive study of a wide range of land uses and developed an up-to-date series of parking rates as part of the *Burlington City-Wide Parking Standards Review* ('City-wide study'). Transportation staff recommend that the rates identified in the City-wide study be applied for this development proposal. Based on the updated rates, 106 spaces are required.

Table 5 below outlines the parking rates of the Zoning By-law 2020 and the City-wide study.

**Table 5 – Off-Street Parking Rates and Proposal**

Use	Proposed GFA	Zoning By-law 2020		City-Wide Study	
		Rate (per 100 m <sup>2</sup> GFA)	Required Spaces	Rate (per 100 m <sup>2</sup> GFA)	Required Spaces
Office	340.6	3.5 spaces	12	3 spaces	10
Retail Sales	356.5	3.5 spaces	12	3 spaces	11
Dispatch & Receiving	154.0	1 space	2	1 space	2
Storage & Warehousing	10,098.8	1 space	101	0.5 space	50
Shop Area	3,181.5	1 space	32	1 space	32
<b>Total</b>			<b>159</b>	<b>Total</b>	
					<b>106</b>

Summary: Staff generally support the proposed rezoning, but do not recommend approval of the proposed retail propane facility use or reduction in landscape area abutting Mainway. Moreover, staff recommend that exemptions related to compatibility with the residential zone be allowed for the lifetime of the existing building only. Staff also recommend that the reduced parking rates as per the 2017 *City-Wide Parking Standards Review* be applied for this site.

### **Technical Review**

The rezoning application was circulated to internal staff and external agencies for review. Written responses to the technical circulation have been received from Burlington Economic Development, Burlington Hydro, Halton Region, as well as City Fire Services, Site Engineering, Burlington Transit, Transportation, Urban Forestry/Landscaping, and Finance. No objections have been identified by these agencies.

#### ***Burlington Economic Development Corporation***

The Burlington Economic Development Corporation comments that it supports the proposed development as it will provide approximately 80 new jobs in the near future, redevelop an underutilized and neglected site for employment uses, and increase tax assessment for the City of Burlington.

#### ***Matters to be Resolved at Site Plan Review***

The purpose of the subject rezoning application is for the City to assess whether the proposed uses and zoning regulations should be permitted in principle. Refinement and review of site functioning, landscaping, and exterior building design will be required to be undertaken at the Site Plan stage. The matters to be reviewed through Site Plan include:

- Detailed drawings and collection of securities for noise wall and rooftop noise barrier
- Decorative details of building elevations facing Mainway
- Detailed Landscape Plan, including the types and quantities of proposed plantings, of landscape area abutting Mainway and landscape buffer abutting residential zone
- Site Lighting Plan
- Site circulation design and controls

#### ***Number of Accesses to Mainway***

Transportation staff have no objections to the rezoning, but note that detailed design of the site accesses and site circulation will be required at the Site Plan stage. Staff recommend removing the existing middle entrance that is located 40 meters west from the east property line, so that the proposed development has only two points of entry.

This will improve the traffic operations on Mainway by reducing the potential for turning move conflicts, and facilitating access to the proposed development by consolidating access on the eastern side of the site.

Staff have reviewed the memorandum provided by the applicant prepared by Cole Engineering, and are in agreement with the results of the study and the proposed improvements to control traffic on the subject site. However, staff are still in favor of closing the middle access and maintaining the eastern access as the primary access to the eastern side of the site. Should both accesses be retained, the driveway widths will need to be reduced. This matter may be resolved at the Site Plan stage.

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### **Financial Matters:**

In accordance with the Development Application Fee Schedule, all fees determined have been received.

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### **Public Engagement Matters:**

The application was subject to the standard circulation requirements for a property in the urban area. A notice sign was posted on the property on June 3, 2018, and a public notice and request for comments was circulated in June 2018 to all property owners and tenants within 120 m of the subject property. All technical studies and required supporting materials for the development were posted on the City's website, at <https://www.burlington.ca/3267Mainway>.

A Statutory Public Meeting was held on November 5, 2018. The Planning and Development Committee heard from 1 delegate (the applicant). In response to public circulation, staff also received 3 emails on the subject application. A copy of the emails is provided in Appendix C of this report. The emails were from residents north of the property and a business owner to the west.

Table 6 below provides a summary of public comments received and staff's response.

**Table 6 – Public Comments Received and Staff's Response**

<b>Public Comment</b>	<b>Staff's Response</b>
Concern about safety risks, odour and noise issues from proposed retail propane facility.	The proposed retail propane facility is unlikely to pose safety, odour or noise issues. However, staff recommend refusal of the proposed retail propane use because it is not consistent and in conformity to the Provincial Policy Statement, Growth Plan, Region of Halton Official Plan or City Official Plan.

Concern about noise generated by proposed retail propane facility use.	The main sources of noise are expected to come from rooftop mechanical equipment, outdoor mechanical equipment at grade, truck movement and idling and open overhead doors at the north end of the site. Staff are satisfied that noise from the proposed development can be mitigated to acceptable levels.
Concern about traffic generated by proposed retail propane facility use.	Transportation staff have reviewed the proposed development and comment that the existing transportation network can accommodate the development.

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**Conclusion:**

Staff's analysis of the application for a Zoning By-law Amendment considered the applicable policy framework and the comments submitted by technical agencies and the public. Staff find that the application is generally consistent with the Provincial Policy Statement and conforms to the Growth Plan for the Greater Golden Horseshoe and the Regional and City Official Plans. This report recommends that the subject rezoning application be approved with modifications, and that Zoning By-law 2020-XX attached as Appendix B to the Department of City Building and Planning Report PB-12-19 be adopted.

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Respectfully submitted,

Rebecca Lau

Planner I

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**Appendices:**

- A. Sketches
- B. Proposed Zoning By-law
- C. Public Comments Received

**Report Approval:**



All reports are reviewed and/or approved by Department Director, Director of Finance and Director of Legal. Final approval is by the City Manager.