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Electronic Submission only

ATTENTION:

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Environmental Registry of Ontario (ERO) Posting No. 025-0626: Proposed Amendment to the Minister's Zoning Order, Ontario Regulation 482/73

On June 10, 2025 posting 025-0626, "Proposed Amendment to the Minister's Zoning Order, Ontario Regulation 482/73", was added to the Environmental Registry of Ontario (ERO) with a comment deadline of July 10, 2025. The Ministry of Municipal Affairs and Housing is seeking public input on a privately initiated application requesting an amendment to the Minister's Zoning Order, filed as Ontario Regulation 482/73, for lands municipally known as 5244 1 Sideroad in the City of Burlington, Halton Region ("the subject lands").

The subject lands are legally described as Part of Lots 3 to 5, Concession 1, North of Dundas Street, designated as Part 1 on Reference Plan 20R12169, and Parts 1, 20 to 23 on Reference Plan 20R11390; City of Burlington, and further identified by Property Identification Numbers 07201-0018 (LT) and 07201-0019 (LT). The purpose of the amendment is to permit recreational uses on the subject lands. The applicant is proposing to convert the existing equestrian academy and training facility into a soccer athletic facility.

The City's comments have been informed by an analysis of the following:

- Planning Act
- Provincial Policy Statement, 2020ⁱ
- Greenbelt Plan, 2017
- Growth Plan for the Greater Golden Horseshoe, 2019ⁱⁱ
- Parkway Belt West Plan, 1978
- Halton Region Official Plan, 1995ⁱⁱⁱ
- City of Burlington Official Plan, 2020

Provincial Planning Framework

Under Section 47 (1.2) of the Planning Act, a Minister's Zoning Order does not have to be consistent with the Provincial Planning Statement and does not have to conform with applicable

provincial plans, except within the Greenbelt Area. Within the Greenbelt Area, Section 3 (5) (a) of the Planning Act remains applicable. As the subject lands fall within the Greenbelt Area, City planning staff's analysis focused on the policies of the Greenbelt Plan, and particularly its conflict provisions. Section 1.4 of the Greenbelt Plan provides the following guidance:

"The PPS provides overall policy direction on matters of provincial interest related to land use and development in Ontario and applies to the Greenbelt, except where this Plan or another provincial plan provides otherwise. Like other provincial plans, this Plan builds upon the policy foundation provided by the PPS and provides additional and more specific land use planning policies to address issues facing specific geographic areas in Ontario. This Plan is to be read in conjunction with the PPS. The policies of this Plan take precedence over the policies of the PPS to the extent of any conflict, except where the relevant legislation provides otherwise. Where the policies of this Plan address the same, similar, related or overlapping matters as policies in the PPS, applying the more specific policies of this Plan satisfies the requirements of the more general policies in the PPS. In contrast, where matters addressed in the PPS do not overlap with policies in this Plan, those PPS policies must be independently satisfied."

The same section also states:

"...Within the Greenbelt Area, there may be other provincial, federal or agency plans, regulations or standards that also apply. An application, matter or proceeding related to these plans, regulations or standards shall conform with the Greenbelt Plan. However, where the plans, regulations or standards are more restrictive than this Plan, the more restrictive provision shall prevail. With respect to the Growth Plan specifically, the policies of that Plan that address the same, similar, related or overlapping matters as this Plan do not apply within the Greenbelt Area, except where the policies of this Plan provide otherwise. In contrast, where matters addressed in the Growth Plan do not overlap with policies in this Plan, those Growth Plan policies must be independently satisfied."

With respect to the Parkway Belt West Plan, section 2.3 of the Greenbelt Plan states that:

"The requirements of the Parkway Belt West Plan, deemed to be a development plan under the Ontario Planning and Development Act, 1994, continue to apply to lands within the Parkway Belt West Plan Area and the Protected Countryside policies do not apply, with the exception of sections 3.2 and 3.3."

Section 3.2 of the Greenbelt Plan sets out policies for the Natural Heritage System and Section 3.3 addresses Parkland, Open Space and Trails. This leaves out section 3.1, which speaks to the Agricultural System. This policy has been in place since the Greenbelt Plan was first approved in 2005, though there have been significant changes to broader provincial planning framework in the twenty years since. The following subsections provide a more detailed analysis

of the proposed amendment in relation to both Natural Heritage System and Agricultural System considerations.

Natural Heritage System

In its responsibility to make decisions under the Planning Act, the City must have regard for, among other things, the protection of ecological systems including natural areas, features and functions. This is reinforced by the Provincial Policy Statement, 2020 (PPS, 2020) which recognizes the importance of the long-term ecological function and the biodiversity of natural heritage systems.

As shown on Schedule 4 of the Greenbelt Plan, the subject lands are located within the Greenbelt Natural Heritage System of the Protected Countryside designation, meaning that the policies of section 3.2 “Natural Heritage System” are applicable. The relevant policies of the section 3.2 have been implemented via the Burlington Official Plan, 2020 (BOP, 2020). Though large portions of the BOP, 2020 remain subject to appeal and therefore not in effect, the Plan represent the City’s most recent provincial conformity exercise and may be considered on an informative, but not determinative, basis. Further, the BOP, 2020 rural, agricultural and natural heritage systems policies are based on the policies of the Halton Regional Official Plan (now an official plan of the City of Burlington), which is in effect and therefore also applicable.

With respect to the Greenbelt Natural Heritage System, section 4.2.3 g) (v) of the BOP, 2020 sets out that “*non-intensive recreation uses such as nature viewing, pedestrian trails and small-scale structures such as boardwalks, footbridges, fences, docks, and picnic facilities where negative impacts are minimized*” may be permitted within Key Natural Features of the Greenbelt Natural Heritage System, subject to the applicable policies of the BOP, 2020. For clarity, the BOP, 2020 defines a non-intensive recreation use as:

“Recreational and open space development and uses, including related facilities, operations and programs, which involve a relatively low degree of human activity, maintenance or management and which are compatible with, and have been determined to not negatively impact, the form, function or integrity of the Natural Heritage System or the Agricultural System, when assessed either individually or cumulatively. It includes such uses as trails, trail heads and nature viewing.”

It is the opinion of City planning staff that the proposed soccer athletic facility, which would be serviced, constitutes a major recreational use, as defined by the Greenbelt Plan:

“Means a recreational use that requires large-scale modification of terrain, vegetation or both and usually also requires large-scale buildings or structures, including but not limited to the following: golf courses; serviced playing fields; serviced campgrounds; and ski hills.”

It is therefore also the opinion of City planning staff that, although the proponent has indicated that the existing buildings and structures would be utilized, the use is not permitted according to the policies of the Greenbelt Plan (and, subsequently, the Halton Regional Official Plan and the Burlington Official Plan). Further, City planning staff are of the opinion that the existing equine facility and the proposed soccer training facility are not interchangeable in terms of scale and intensity. Whereas livestock facilities typically have a lower human occupancy rate and may have been constructed under the distinct provisions of the National Farm Building Code, it is anticipated that there would be operational differences for a major recreational use which could have impacts on the Natural Heritage System. It is noted that an Environmental Impact Assessment has not been provided as part of the application materials.

Agricultural System

The Planning Act sets out that the City must have regard for the protection of the agricultural resources of the province. This is reinforced by the PPS, 2020, which states that prime agricultural areas shall be protected for long-term use for agriculture. The PPS also states that planning authorities are encouraged to use an agricultural system approach to maintain and enhance the geographic continuity of the agricultural land base and the functional and economic connections to the agri-food network. Further, the province has identified a prime agricultural area, which is in full effect for the Protected Countryside Area (in accordance with section 4.2.6 of the Growth Plan). These lands can only be re-designated for non-agricultural use in accordance with the [implementation procedures issued by the province](#).

In accordance with section 9.2.3 a) (x) BOP, 2020, permissions for recreational uses within a prime agricultural area are limited to *“non-intensive recreation uses such as nature viewing and pedestrian trail activities, only if the lands are publicly owned or are part of the Bruce Trail.”* Within the current policy framework, the Parkway Belt West Plan permits a very limited range of uses within the lands it regulates, which are generally non-intensive. Within this context, the exemption from Greenbelt Plan Agricultural System policies poses minimal risk to the Agricultural System. However, if this framework is amended to allow for the introduction of intensive non-agricultural uses within prime agricultural areas, then the lack of protective policies for agriculture becomes problematic.

City planning staff understand that there are differences between the permitted uses of the Parkway Belt West Plan and O. Reg. 482/73. Section 5.5.1 d) of the Plan permits: *“Low-density, low-intensity outdoor recreational uses and associated buildings and structures that meet, to the maximum possible degree, the conditions set out in Paragraph 5.5.1 (b).”* whereas the Regulation only permits agricultural uses: *“Every use of land and every erection or use of buildings or structures on the lands to which this Regulation applies is prohibited except agricultural uses and buildings and structures accessory thereto, including one single dwelling used in connection with each agricultural operation.”*

The Parkway Belt West Plan also includes the following definitions, which provide additional context for interpreting the permitted uses referenced above:

“Low-density Use – A use of land that only has a small part of the site covered by structures or equipment of limited height and low mass appearance.”

“Low-intensity Use – A use of land that has an average low level of activity; e.g., small number of employees, few visitors per acre, low traffic generation.”

Given the definitions for “low-density” and “low-intensity” uses in the Parkway Belt West Plan, in combination with the definition of “major recreational” use in the Greenbelt Belt, City planning staff are of the opinion that the proposed use does not meet the requirements of the Parkway Belt West Plan. It is noted that a detailed analysis of these criteria has not been provided as part of the application materials.

However, even if the use were deemed to conform to the Parkway Belt West Plan, City planning staff note that these policies are from 1978, which pre-dates the applicable PPS, Greenbelt Plan, Growth Plan, Halton Regional Official Plan and City of Burlington Official Plan policies. Whereas O. Reg. 482/73 appears to have been enacted in 2009 under a policy framework that more closely resembles the one in effect today. It is therefore reasonable to infer that the restrictive approach to permitted uses within the O. Reg. was likely intentional. Background information regarding the planning analysis which supported the initial approval of O. Reg. 482/73 would support a more comprehensive assessment of the amendment proposed through ERO Posting 025-0626.

It is also of note that, in October of 2022, the province announced its intent to revoke the Parkway Belt West Plan through [ERO Posting No. 019-6167](#). While a final decision has not been made and the proposal is still being considered, the background details provide useful context in relation to this proposal. The 2022 posting states that:

“The Plan has been successful over the years in protecting transportation and utility corridors for projects (e.g., Hwy 403, Hwy 407, transitway corridors, hydro corridors) that were planned for, and most of which were built decades ago. Over the years, provincial legislation, land use policies (e.g., Provincial Policy Statement) and provincial plans have provided a more modernized and up-to-date policy framework that has resulted in the Parkway Belt West Plan becoming outdated. This includes policies in the Provincial Policy Statement and Provincial Plans related to infrastructure, natural heritage, agriculture, parks and open space.”

City planning staff concur with these conclusions and believe it is likely that the Greenbelt Plan exemptions for lands within the Parkway Belt were originally developed with the intent of advancing provincial infrastructure, as opposed to private recreational and/or sports facilities. However, as the Greenbelt policy does not distinguish between the Public Use Area (mainly for utilities) and the Complementary Use Area (mainly for open space) of the Parkway Belt West Plan, it is difficult to confirm the intent. Regardless, the more modern PPS and Greenbelt Plan

already contain detailed provisions to achieve an appropriate mix of open space and recreational uses as a component of complete communities, in a manner that respects the protection of the Agricultural System. For example, outside of the Parkway Belt West Plan area, a proposal of this nature would be subject to section 3.1.3 of the Greenbelt Plan

“...2. Lands shall not be redesignated in official plans for non-agricultural uses except for:

- a) Refinements to the prime agricultural area and rural lands designations, subject to the policies of section 5.3; or*
- b) Settlement area boundary expansions, subject to the policies of section 3.4.*

3. Non-agricultural uses may be permitted subject to the policies of sections 4.2 to 4.6. These uses are generally discouraged in prime agricultural areas and may only be permitted after the completion of an agricultural impact assessment.”

Note that the only acceptable exemptions for non-agricultural uses in prime agricultural areas are section 4.2, Infrastructure, and 4.6, Lot Creation, and these uses would be subject to an Agricultural Impact Assessment. It is noted that an Agricultural Impact Assessment has not been provided as part of the application materials.

Additional Comments

City Planning staff note that section 5.1.3 of the existing Parkway Belt West Plan states that *“municipalities are not required to permit every land use that may be permitted under the Plan. By-laws implementing the Plan may be more restrictive than the provisions of the Plan, provided that they are consistent with its intent and purpose.”*

Further, ERO Posting 025-0626 states *“Should the proposed amendment proceed, the permitted uses would continue to be subject to the City of Burlington’s Official Plan and Zoning By-law. Any future development on the subject lands would require approval from the City of Burlington.”*

However, it is the City’s understanding that, if there is a conflict between a zoning order and a municipal zoning by-law, the zoning order prevails to the extent of the conflict. The province’s [Zoning Order Framework](#) sets out that *“Zoning orders address the zoning of a site. They do not provide a proponent with approval to start construction and do not exempt them from getting other downstream approvals such as plan of subdivision approval, environmental approvals, building permits and other applicable permits.”*

The City’s Zoning By-law is informed by its Official Plan, and both documents would require amendments to permit a proposed use of this nature. However, as outlined in this submission, it is unlikely that the City would be able to support such amendments based on the applicable provincial policy framework. As a Minister’s Zoning Order prevails in the event of a conflict, City planning staff would appreciate clarification from the Ministry regarding which components of the

City of Burlington's Official Plan and Zoning By-law would remain applicable if an amendment to O. Reg. 482/73 were to be approved.

Conclusion

It is the opinion of City planning staff that the current restrictions for non-agricultural uses within O. Reg. 482/73 are appropriate and that the proposed amendment is not consistent with/does not conform to the applicable policy framework. The proposed use conflicts with the broader Natural Heritage System and Agricultural System directives set out within the Planning Act, the Provincial Policy Statement, the Greenbelt Plan and the Growth Plan, which are reflected in the City of Burlington's Official Plan and Zoning By-law. However, City planning staff remain open to further discussion with the Ministry in relation to the concerns raised within this submission.

Next Steps

Please accept this letter as the City of Burlington's submission on ERO posting 025-0626. Given the short period for consultation, the attached comments have not been approved by City Council. This letter will be shared through an upcoming Council Information Package. Should Council determine any additional comments or refinements to these comments are required, the province will be advised at the earliest opportunity.

ⁱ A consequential administrative amendment to the Greenbelt Plan was made on August 15, 2024 so that the policies of the [Provincial Policy Statement, 2020 \(PPS 2020\)](#) and the [Growth Plan for the Greater Golden Horseshoe 2019 \(APTG\)](#) will continue to apply where the Greenbelt Plan refers to them to maintain existing protections for the Greenbelt following the revocation of the PPS 2020 and APTG.

ⁱⁱ See endnote ii, of this document.

ⁱⁱⁱ On July 1, 2024, through changes to the *Planning Act*, the province identified the Region of Halton as an "upper-tier municipality without planning responsibilities". As a result, the Regional Official Plan is no longer an official plan for the Regional Municipality of Halton. Instead, it has been deemed an official plan of each of the lower-tier municipalities in Halton (City of Burlington, Town of Halton Hills, Town of Milton, and Town of Oakville), until it is revoked or amended by the respective municipality. Therefore, any reference to the Regional Official Plan and its requirements shall be interpreted as a reference to an official plan/requirement of the City of Burlington.