

Detailed Planning Analysis

The application is subject to the following framework: the Provincial Planning Statement (PPS), the Halton Region Official Plan, the City of Burlington Official Plan (1997 and 2020), and City of Burlington Zoning By-law 2020. Planning staff has reviewed the application in the context of this planning framework. The planning merits of the application within this policy framework are provided below.

1.0 The Provincial Planning Statement, 2024 (PPS)

The PPS came into force and effect on October 20, 2024, and applies to decisions concerning planning matters occurring after this date. This replaces the Provincial Policy Statement (2020) and A Place to Grow: Growth Plan for the Greater Golden Horseshoe (The Growth Plan) (2019). The PPS provides broad policy direction on matters of provincial interest related to land use planning and development and supports improved land use planning and management, which contributes to a more effective and efficient land use planning system.

The subject properties are located within the Urban Area in the Halton Region Official Plan and designated Employment Commercial in the local Official Plan. As per Section 2.1 and 2.3 of the PPS, the proposal provides for a mix of land uses by adding Convenience/Specialty Food Store, Automotive Uses, Recreational Establishments, Restaurant Uses and Veterinary Services to the existing Employment Commercial designated properties. However, Planning Staff have considered Section 3.5 of the PPS which states that major facilities and sensitive land uses shall be planned and developed to avoid, or if avoidance is not possible, minimize and mitigate any potential adverse effects from odour, noise, and other contaminants, minimize risk to public health and safety, and to ensure the long-term operational and economic viability of major facilities in accordance with provincial guidelines, standards and procedures. Planning Staff have considered that the Automotive Uses proposed may have negative impacts on the existing sensitive uses (ie. residential, parkland, and daycare centre). The applicant did not submit a Land Use Compatibility Study with the application package. Planning Staff would recommend modified approval of the proposal to continue to prohibit Automotive Uses in the CE-33 zone as a Land Use Compatibility Study was not provided.

Planning staff is of the opinion that the proposal as modified by Planning Staff is consistent with the PPS.

2.0 Halton Region Official Plan (2009, as amended)

Section 44 of the Regional Official Plan (ROP) provides “broad policy directions on strategic matters such as management of land and natural resources, growth strategies, housing, economic development, water and wastewater services, solid waste management, transportation, and health and social services”. The Planning Act requires

that Burlington's Official Plan and Zoning By-law be amended to conform with the ROP. In accordance with Map 1H – Regional Urban Structure of the ROP, as amended, the subject lands are designated 'Urban Area'.

The Urban Area (Section 72) policies of the Regional Official Plan (ROP) identify that the goal of the Urban Area and the Regional Urban Structure is to manage growth in a manner that fosters complete communities, enhances mobility across Halton, addresses climate change, and improves housing affordability, sustainability and economic prosperity.

Within the Urban Area, the Regional Urban Structure as shown on Map 1H implements Halton's planning vision and growth management strategy to ensure efficient use of land, amongst other matters.

Section 118 (1) of the ROP requires Local Official Plans and Zoning By-laws to recognize the Regional Natural Heritage Systems and include policies and mapping to implement the ROP. The subject properties are adjacent to or within proximity to watercourses (i.e. west of 1510 North Service Road and east of 2208 Industrial Street). Further, the subject lands are adjacent to or in proximity to potential unmapped features. Conservation Halton was circulated at the Pre-Consultation stage of the proposal and indicated that the lands are regulated by Conservation Halton as they are adjacent to tributaries of Upper Rambo Creek and contain the erosion hazard and flood hazard associated with that watercourse, along the regulatory allowance. However, Conservation Halton has no concerns with the proposed Zoning By-law Amendment application as no site modifications are required or proposed to accommodate the changes in use.

Section 143 (10) of the ROP requires the Region, in consultation with local municipalities, to develop Land Use Compatibility Guidelines to minimize the adverse effects of noise, vibration, odour and air pollution from industrial, transportation and utility sources on sensitive land uses, including the application of separation distance between these non-compatible uses. The Land Use Compatibility Guidelines (2014) reference the Ministry of Environment, Conservation and Parks D-Series Guidelines. The MECs D-Series are applicable when:

- new sensitive land use requires a land use amendment and is proposed to be located within the influence, or potential influence, area of an impacting use, such as an existing industrial land use; or when a
- new industrial use requires a land use amendment and is proposed to be located near an existing sensitive residential use.

The proposal requests a Zoning By-law Amendment to add a maximum of one Convenience/Specialty Food Store and the Recreational Establishment into the CE-33 and CE-34 zones; and, add Automotive Uses, Restaurant Uses, and Veterinary Services into the CE-33 zone. The Recreational Establishment is a new sensitive land use proposed to be added to all the properties as it is currently prohibited through CE-33 and

CE-34. Planning Staff have considered the existing uses on the property and the surrounding residential uses and parkland (Roly Bird Park) north of the properties. Planning Staff have also considered that there is a daycare centre and fitness club/health spa (yoga studio) on 2202-2208 Industrial Street. As per Part 1, 2.21 f) of the Zoning By-law, a daycare is permitted in the Employment Commercial zone. Considering the existing sensitive uses in the area, Planning Staff do not anticipate any negative impacts to the proposed recreational establishment use provided a Phase One ESA and Record of Site Condition are completed to address any concerns with site contamination.

The new industrial use being proposed is the wide range of Automotive Uses as listed in Part 4, Table 4.2.1 of the Zoning By-law. These include Cash Wash, Motor Vehicle Service Station, Motor Vehicle Sales, Leasing, Rental, and Service, Motor Vehicle Repair Garage, Motor Vehicle Parts & Accessory Sales, and Retail Propane Facility. These uses are defined in Part 16 of the Zoning By-law. Currently, Automotive Uses are permitted in CE-34 which is 2202-2208 Industrial Street. There is also an existing Tire Installation use at 1225 Brant Street zoned CR-35 (Regional Commercial) and Automotive Use at 2235 Industrial Street zoned CN2 (Neighbourhood Commercial). The proposal is to add Automotive Uses to the CE-33 zone which is 1510 and 1515 North Service Road. Planning Staff have considered that there are residential properties along Mountainside Road and Dequincy Crescent to the north as well as parkland (Roly Bird Park). The parkland is located on lands owned by City of Burlington and the Hydro One Corridor. The width of this area is approximately 70 metres. For a Class 1 use to residential uses the area of influence is 70 metres and the minimum separation distance is 20 metres. For a Class 2 use to residential uses the area of influence is 300 metres and the minimum separation distance is 70 metres. The applicant has not submitted a Land Use Compatibility Study to confirm that there will be no impacts to the existing sensitive uses. As mentioned, there is an existing Tire Installation use at 1225 Brant Street immediately adjacent to 1510 North Service Road. In reviewing CR-35 which permits the Tire Installation use, the use is only permitted facing the highway at the opposite side of the lot than the residential use. The remainder of the building is a large scale retail/warehousing use which is an added buffer to the residential use. The existing building at 1510 North Service Road faces the residential use and would need to be assessed for land use compatibility. Further, 1515 North Service Road directly abuts the parkland (Roly Bird Park) and the residential properties. Planning Staff are recommending that the request for Automotive Uses being refused and continue to be included in the prohibited uses of the CE-33 zone.

Section 147 (17) of the ROP requires the applicant undertake a process in accordance with the Region's Guidelines (Protocol) for Reviewing Development Applications with Respect to Contaminated or Potentially Contaminated Sites and any applicable Provincial legislation, regulations and guidelines to determine whether there is any potential contamination on the site and the steps necessary to bring the site to a condition suitable

for its intended use. The applicant is required to follow the processes outlined in O.Reg 153/04 in the preparation of all Environmental Site Assessment (ESA) reports and supporting documentation. ESA reports must be no older than 18 months old. Further, O.Reg 153/04 states that a person shall not change the use of the property for the purposes of clause 168.3.1 (1) b) of the Act in any of the following matters:

- 10. ii) a change from an industrial use, a commercial use or a community use, other than a community use described in subparagraphs I and ii, to a community use, that is an indoor swimming pool, an indoor ice rink, an indoor arena, an enclosed stadium, and indoor sports field or an indoor gymnasium.

As such, the Recreational Use proposed would trigger a Record of Site Condition.

The applicant has submitted Phase 1 ESAs for the subject properties that are not to O.Reg 153/04 standards and are older than 18 months. The only sensitive use being proposed through this application is the Recreational Establishment. Therefore, Planning Staff are recommending a holding provision to require a Phase One ESA and Record of Site Condition be completed prior to permitting a Recreational Establishment.

As per the analysis provided, Planning Staff are of the opinion that the proposed Zoning By-law Amendment as modified by Planning Staff with the holding provision conforms with the ROP.

3.0 City of Burlington Official Plan (1997, as amended)

The subject property is identified as “Major Retail” on Schedule A, Settlement Pattern. These lands provide locations where the primary use of land involves the buying and selling of services and goods on a City-wide or community-wide basis (Part III, Subsection 4.0).

According to the policies of “Major Retail Areas” Part III, Subsection 4.2.2 (iii), Employment Commercial areas shall allow for a wide range of employment uses and also a limited range of retail commercial uses which have employment characteristics, such as:

- serving business uses to a large extent.
- requiring expansive land areas which cannot be easily accommodated in community and regional commercial areas.
- often locating in or adjacent to employment areas.
- are not intended to serve the regular daily and weekly shopping needs of the surrounding residential and business community.

As per Part III, Subsection 4.2.2 c), Employment Commercial areas shall be developed for large-scale retail uses which cannot be easily accommodated in the other commercial areas and which also serve the business community.

As per Part III, Subsection 4.2.2 g), in addition to the above, any proposal for additional retail uses which includes a warehouse club, supermarket/grocery store or large department store, or the sale of food in excess of 1,800 sq. m. in area, shall require the submission of a comprehensive market impact study which assesses the market impact of the proposal on existing and designated commercial areas throughout the City.

The following uses may be permitted within the Employment Commercial designation:

- uses permitted within the General Employment designation:
 - industrial uses that involve assembling, fabricating, manufacturing, processing, warehousing and distribution uses, repair activities, communications, utilities, transportation, storage, service trades and construction uses; offices uses; research and information processing; recreational uses; large scale motor vehicle dealerships; and adult entertainment uses.
 - a limited range of retail uses such as convenience stores, and a limited range of service commercial uses such as restaurants and banks, subject to the provisions of Part III, Subsection 3.3.2 d);
 - in locations adjacent to residential areas, only uses that would have a limited impact on the surrounding area will be permitted; and
 - a residence for a watchman or caretaker (Part III, Subsection 3.3.2 a)).
- commercial sales and services to the business community or those that have a significant processing, wholesaling or warehousing component;
- retail uses that require significant land areas, many with outdoor sales and storage and characterized as infrequent shopping destinations;
- home improvement and home décor sales uses which require large building areas, some of which have significant warehousing components and which are infrequent shopping destinations (Part III, Subsection 4.5.2 a)).

The retail and service commercial uses permitted under Part III, Subsection 3.3.2 a) (ii) 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 that a restaurant may occupy up to 100 per cent of the total floor area of any one building if the total floor area of all buildings on the site is greater than 3,000 sq. m., if the total floor area of all restaurants does not exceed 15 per cent of the total floor area of all buildings on the site, and if the site abuts and has vehicular access to a major arterial, multi-purpose arterial or minor arterial road; and

- iv. automotive related uses such as gas stations and car washes are not subject to clauses (ii) and (iii).

The zoning of individual sites may not allow for the full range of permitted uses or the full extent of development intensity at every location. This determination will be based on site-specific factors that may include, but not be limited to, market impact, traffic, land use compatibility, natural hazards and features, and environmental factors such as soil contamination (Part III, Subsection 4.5.2 d)).

The proposal requests a Zoning By-law Amendment to add a maximum of one Convenience/Specialty Food Store and the Recreational Establishment into the CE-33 and CE-34 zones; and, add, Automotive Uses, Restaurant Uses and Veterinary Services into the existing CE-33 zone. The applicant has not identified any future tenants for the additional uses to be added or the location of these uses. The intent of the application is to support additional flexibility in leasing the existing spaces on the subject lands to prevent vacancies. The Employment Commercial designation in the Official Plan (1997, as amended) allows for retail and service commercial uses and automotive uses. The Official Plan (1997, as amended) does not explicitly state that recreation uses are permitted. However, the Zoning By-law that regulates the use of the property and lists a recreational establishment as a permitted use in the Employment Commercial zone. In this case, a recreational establishment is only prohibited due to the exception CE-33 and CE-34 zones. If the property was not subject to the exception zoning, recreational establishment would be permitted as-of-right on the subject property. Further, the Official Plan (2020) envisions recreation uses within the future Employment Commercial Centre designation. The property also already contains a fitness club/health spa (yoga studio) and daycare centre. Additionally, Planning Staff are recommending a holding provision be implemented on the site to require a Phase One Environmental Site Assessment and Record of Site Condition to be completed prior to permitting a recreational establishment as it is a sensitive use.

Planning Staff have considered permitting the retail and service commercial uses, automotive uses, and recreation establishment use on the property and the ability for the employment function to be maintained. The intent of the Employment Commercial designation is to provide a wide range of employment uses and also a limited range of retail commercial uses which have employment characteristics. The subject lands currently contain large scale retail commercial uses, a recreational establishment, a daycare facility, and a convenience/specialty food store. The subject lands would continue to permit a range of employment uses across the sites while providing further flexibility for future retail and service commercial uses. Planning Staff have considered whether a recreational establishment use would limit the possibility for future employment uses but have considered that there is already a daycare facility and fitness club/health spa (yoga studio) located at 2202-2208 Industrial Street. Planning Staff do not anticipate

any negative impacts with the introduction of retail and service commercial uses, or recreation establishment uses when considering the existing uses across the sites provided that the recreational establishment are subject to holding provisions. Planning Staff have also considered adding the Automotive Uses to the CE-33 zoning. As mentioned, the sites already contain a fitness club/health spa (yoga studio) and daycare centre. The new industrial uses being the Automotive Uses may have land use compatibility issues. Planning Staff have not received or reviewed a Land Use Compatibility Study to ensure that there are no negative impacts to the surrounding uses (residential, daycare centre, and parkland). Planning Staff are not supportive of adding the automotive uses to the CE-33 zone without a supportive land use compatibility study.

Planning Staff have reviewed the Zoning By-law Amendment application and materials and are of the opinion that the proposed development as modified by staff with the holding provision conforms to the Official Plan (1997, as amended).

4.0 City of Burlington Official Plan (2020, as amended)

On Nov. 30, 2020, the City's new Official Plan (Burlington Official Plan, 2020) was approved by Halton Region. All parts of the Burlington Official Plan, 2020 that were not appealed came into effect the day after the end of the appeal period, Dec. 22, 2020.

Until all broad appeals of the Burlington Official Plan, 2020 are resolved through the Ontario Land Tribunal (OLT) process, parts of the old Official Plan (Burlington Official Plan 1997, as amended) will be applicable. The current Zoning By-law will remain in effect until a new comprehensive Zoning By-law is enacted and comes into effect. Policies of the Burlington Official Plan, 2020 that are not in effect are relevant as an indication of City Council's vision but are not determinative.

The City has prepared an annotated "Burlington Official Plan, 2020 (July 2024 Office Consolidation)" that reflects which policies are in effect and which are not, in accordance with all Decisions and Orders issued by the OLT under case no. OLT-22-002219, as of July 2, 2024. You can view this document by visiting the City's webpage for the Official Plan at [Burlington.ca/newop](https://burlington.ca/newop).

As the OLT process continues, the Burlington Official Plan, 2020 is subject to change. Readers of the Plan must satisfy themselves as to the legal status and applicability of the policies by reviewing all Orders and Decisions from the OLT. You can view these documents by visiting the OLT's webpage for case no. OLT-22-002219: "OP - New Official Plan – City of Burlington" at jus-olt-prod.powerappsportals.com/en/e-status/.

The subject property at 1510-1515 North Service Road is identified as Mixed Use Nodes and Intensification Corridors, Schedule B – Urban Structure. As per Chapter 2, Subsection 2.3.1 I) of the Official Plan 2020, Mixed Use Nodes and Intensification Corridors will be a focus of re-urbanization. These areas vary widely and will be guided by the underlying land use designations of this Plan. Some areas will be planned to evolve

with higher residential intensities and a full mix of uses, while others may permit a more limited range of employment-oriented permitted uses, both designed to achieve their planned function. These areas will support the frequent transit corridors and provide focal points of activity and a vibrant pedestrian environment and facilitate active transportation through careful attention to urban design, enhancing the opportunities for the location of public service facilities and institutional uses.

The subject property at 1510-1515 North Service Road is identified as Employment Growth Area, Schedule B-1 – Urban Structure. Employment Growth Areas shall consist of employment oriented designations not captured within the Primary Growth or Secondary Growth Areas, and will be an area of focus for the intensification of employment as per Chapter 2.4.2 (4) a) of the Official Plan 2020.

North Service Road is identified as a Transit Support Corridor, Schedule B-2 – Urban Structure. Transit Support Corridors service lower density areas and employment uses and are intended to provide a basic level of service, such as peak service, connecting to the frequent transit corridors as per Chapter 6, Subsection 6.2.3 (2) c) of the Official Plan 2020.

The subject property at 2202-2208 Industrial Street is identified as Lands Designated for Employment Uses and Region of Halton Employment Area, Schedule B – Urban Structure. In the case of conflict, the Regional Official Plan shall be relied upon. These lands provide, in conjunction with those employment uses within the residential and mixed use area of the community, 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.

The subject properties at 1510-1515 North Service Road & 2202-2208 Industrial Street are identified as Employment Growth Area, Schedule B-1 – Urban Structure. Employment Growth Areas shall consist of employment oriented designations not captured within the Primary Growth or Secondary Growth Areas, and will be an area of focus for the intensification of employment as per Chapter 2.4.2 (4) a) of the Official Plan 2020.

1510-1515 North Service Road & 2202-2208 Industrial Street are designated Employment Commercial Centre, Schedule C – Urban Structure. The objectives are to provide locations in the city in close proximity to designated Employment Lands, for a wide range of employment uses, as well as retail uses which have employment characteristics, such as:

- serving business uses to a large extent;
- requiring expansive land areas which cannot be easily accommodated in Mixed Use Intensification Areas;

- and are not intended to serve the regular day-to-day and weekly shopping needs of the surrounding residential and business community and shall not compete with the planned commercial function of other Mixed Use Nodes and Intensification Corridor designations as per Chapter 8, Subsection 8.1.3 (6.1) a) of the Official Plan 2020.

The following uses may be permitted on lands designated Employment Commercial Centre:

- industrial uses that involve assembling, fabricating, manufacturing, processing, warehousing and distribution uses, repair activities, communications, utilities, transportation, storage, service trades and construction uses; office uses; research and information processing; and automotive commercial uses;
- retail and service commercial uses that serve the business community or those that have a significant processing, wholesaling or warehousing component;
- retail uses that require significant land areas, many with outdoor sales and storage and characterized as infrequent shopping destinations;
- home improvement and home décor sales uses which require large building areas, some of which have significant warehousing components and which are infrequent shopping destinations;
- hospitality uses;
- entertainment uses, and
- recreation uses.

As per the Site-Specific Policies in Chapter 8, Subsection 8.1.3(6.3) b), 1510 & 1515 North Service Road and 2202 & 2208 Industrial Street: Notwithstanding Subsection 8.1.3(6.2) d) of this Plan, the minimum floor area requirement for each individual retail unit shall not apply to the lands designated Employment Commercial Centre along the North Service Road, east of Brant Street, and identified as 1510 & 1515 North Service Road and 2202 & 2208 Industrial Street.

The proposal requests a Zoning By-law Amendment to add Convenience/Specialty Food Store and Recreational Establishments to the CE-33 and CE-34 zones; and add Automotive Uses Restaurant Uses and Veterinary Services into the existing CE-33 zone. The applicant has not identified any future tenants for the additional uses to be added of the locations of these uses. The intent of the application is to support additional flexibility in leasing the existing spaces on the subject lands to prevent vacancies. The Official Plan (2020) designates the lands as Employment Commercial Centre which permits retail and service commercial uses, automotive uses, and recreation uses. The applicant has not provided a land use compatibility study to address the automotive uses impact on the existing sensitive uses. The proposed added uses conform to the Official Plan (2020); however, Planning Staff are not including the automotive uses into the recommendation as no land use compatibility study has completed.

Planning staff have reviewed the Zoning By-law Amendment application and materials and are of the opinion that the proposed development with the modified approvals and holding provision conforms to the City's new Official Plan, 2020.

5.0 Zoning By-law 2020

The subject properties are currently zoned Employment Commercial (CE-33 and CE-34). The proposal requests a Zoning By-law Amendment to add a maximum of one Convenience/Specialty Food Store and the Recreational Establishment into the CE-33 and CE-34 zones; and, add Automotive Uses, Restaurant Uses and Veterinary Services into the CE-33 zone.

The current site-specific zoning includes a list of prohibited uses including Recreational Establishments on both CE-33 and CE-34 zoned lands, and Automotive Uses, Restaurant Uses and Veterinary Services on CE-33 zoned lands. However, the Employment Commercial zone permits Automotive Uses, Restaurant Uses, Veterinary Services, and Recreational Establishments. Further, the CE-33 and CE-34 zone permits a maximum of one Convenience/Specialty Food Store and there is currently one operating at 1510 North Service Road. These policies were written into CE-33 and CE-34 at the time of the original rezoning in 2001 when the sites were being developed, to address concerns from owners of the nearby residential properties on DeQuincy Crescent and Mountainside Drive about noise and traffic. Since the rezoning in 2001, there was a 2016 rezoning to add a standard restaurant. Due to the existing commercial function of the site, Planning Staff would recommend that the Convenience/Specialty Food Store, Restaurant Uses, and Veterinary Services be added to the zoning. However, the Recreational Establishment use shall be subject to a holding provision to address concerns with site contamination. Further, Planning Staff are not supportive of the Automotive Uses being added to the CE-33 zone as a Land Use Compatibility Study was not provided.

Planning Staff are of the opinion that the holding provision will appropriately address any concerns with site contamination. Overall, Planning Staff have recommended modified approval with a holding provision to address matters that are required to occur first.

Planning Staff are of the opinion that the Draft Zoning By-law as modified by Planning Staff in Appendix D of this report meets the intent of the Zoning By-law.