

Town of Oakville Memorandum

To: Mayor Rob Burton, Councillors Gittings and Haslett-Theall

From: Leigh Musson, Senior Planner - East District

Date: December 10, 2021

Subject: **SP.1601.028/01 - 560 Winston Churchill Blvd.**
SP.1601.029/01 - 772 Winston Churchill Blvd.

Planning staff are processing two site plan applications on lands municipally known as 560 and 772 Winston Churchill Blvd. to permit the construction of three and two warehouse buildings respectively.

Both site plan applications including reports/studies/drawings have been circulated to various Town departments and outside agencies including the Region of Halton, Region of Peel, City of Mississauga, Credit Valley Conservation, and the Ministry of Transportation, among others.

Planning staff expect a resubmission of the applications to address previous comments in the near future. Once the resubmissions are received the plans/reports will be posted on the Town's website.

Planning staff acknowledge receipt of several questions from the JCRA and the public and we provide the following response.

Ontario Planning Legislation - Nature of Site Plan Authority

Site plans applications may be required under **Section 41** of the *Planning Act* and provide municipalities with an opportunity to review and approve plans and drawings related to a proposed development. These plans and drawings show the proposed location and design of buildings, parking, landscaping and other facilities.

The general purpose of the site plan approval process is to manage implementation details related to a development before the issuance of building permits or the commencement of site works. These details generally relate to technical matters such as grading, drainage, tree preservation, landscaping, the external design of buildings, the location of garbage facilities, and vehicular and pedestrian traffic movement, both within the site and in areas where there are connections to public roads and sidewalks.

Section 41 - Subsection (4) - The site plan approval process involves the review of detailed drawings which illustrate the physical arrangement and layout on the property

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such as the location of buildings, driveways, parking areas, pedestrian sidewalks, landscaping, fences, light fixtures, waste collection areas, snow storage, stormwater drains, municipal services and similar facilities. Municipal staff and commenting agencies review the drawings to ensure they comply with the town's development standards, regulations and policies. Unlike zoning by-laws or similar applications, there is rarely a complete "refusal" of an application. Instead, revisions are made to the plans and drawings until approval is achieved or if the proposal cannot meet the town's standards, the application may be appealed to the Ontario Land Tribunal (OLT) to determine the details of the plans, drawings and conditions.

It should be noted that changes to matters that are regulated by the zoning by-law (such as use, height, setbacks, the number of permitted parking spaces etc.) are beyond the scope of the changes that can be sought through the site plan process

Section 41 - Subsection (7) – Municipalities can impose conditions of site plan approval relating to:

1. Road widenings – as required by the Official Plan of Town/Region
2. Access to/from Roads – curbs, access ramps, traffic direction signs
3. Loading and Parking Facilities – covered or uncovered, driveways, surfaces
4. Walkways / Pedestrian Access
5. Accessibility for People with Disabilities
6. Lighting
7. Landscaping – including walls, fences, hedges, trees, shrubs or other groundcover, for the landscaping of the lands or the protection of adjoining lands
8. Garbage/Waste – vaults, central storage, collection areas, enclosures
9. Municipal Easements – related to watercourses, ditches, land drainage works, sanitary sewage facilities and other public utilities of the municipality or local board
10. Grading and Drainage – including disposal of storm, surface, and wastewater

Since site plan approvals deal with the provision of facilities, rather than the use of those facilities, conditions related to operational matters such as restrictions on the hours of operation, construction phasing and who the prospective tenants could be are beyond the scope of the site plan authority.

Approval of a Site Plan Application

Under the Town's Site Plan Control By-law 2019-114, the Director of Planning Services is given the authority to approve site plans. However, section 9 of By-law 2019-114 allows the option for the Planning Director to present the site plans to Council at any time before final approval and shall do so if specifically requested by Town Council.

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Appeal to the Ontario Land Tribunal (OLT)

Section 41 – Subsection (12) of the *Planning Act*, sets out the rights of appeal for site plan applications. Subsection 12 states that only the applicant/landowner can appeal the municipality's lack of a decision within 30 days of submission of the application. The applicant/landowner can also appeal the conditions imposed by the municipality.

The application at 560 Winston Churchill Blvd. was received on July 11, 2019.

The application at 772 Winston Churchill Blvd. was received on June 29, 2021.

To date, neither application has been appealed to the OLT although both are eligible to file an appeal.

If an appeal is received, the Tribunal determines the details of the drawings/conditions that will be approved as opposed to refusing a development. Unless the appeal is withdrawn, the OLT will make the final decision on the application instead of the town.

Third parties (such as abutting neighbours) have no right of appeal for a site plan application under the *Planning Act* since the application is not proposing a change in land use, only the technical implementation of what is already permitted in the town's Zoning By-law.

Provincially Significant Employment Zones

The Province has identified employment lands within the Greater Golden Horseshoe to be protected to provide “..*stable, reliable employment across the Region*”. The subject lands have been identified by the Province as part of a Provincially significant employment area. (<https://www.ontario.ca/page/provincially-significant-employment-zones>)

Region of Halton Official Plan

The Region of Halton Official Plan designates the subject lands as “Employment Area” (Map 1). The objectives of employment areas are:

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

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(3) To locate Employment Areas in the vicinity of existing major highway interchanges and rail yards, where appropriate, within the Urban Area.”

Both applicants intend to comply with the Halton Regional Official Plan. The Region of Halton is a commenting agency concerning both applications.

Livable Oakville Plan

The Town's Official Plan provides a framework for how land in the community should be used/developed. It is the long-term vision of the community. The guiding principles for the Town's Livable Oakville Plan are to preserve and create a liveable community in order to:

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

The subject lands are designated as *Business Employment* on Schedule G – South East Land Use (Figure 1). Lands designated as *Business Employment* are intended to provide a wide range of businesses and industrial uses within enclosed buildings and provide for office uses and light and service industrial operations with minimal impacts on the surrounding areas. Limited outdoor storage and display areas within lands designated *Business Employment* shall be adequately screened.

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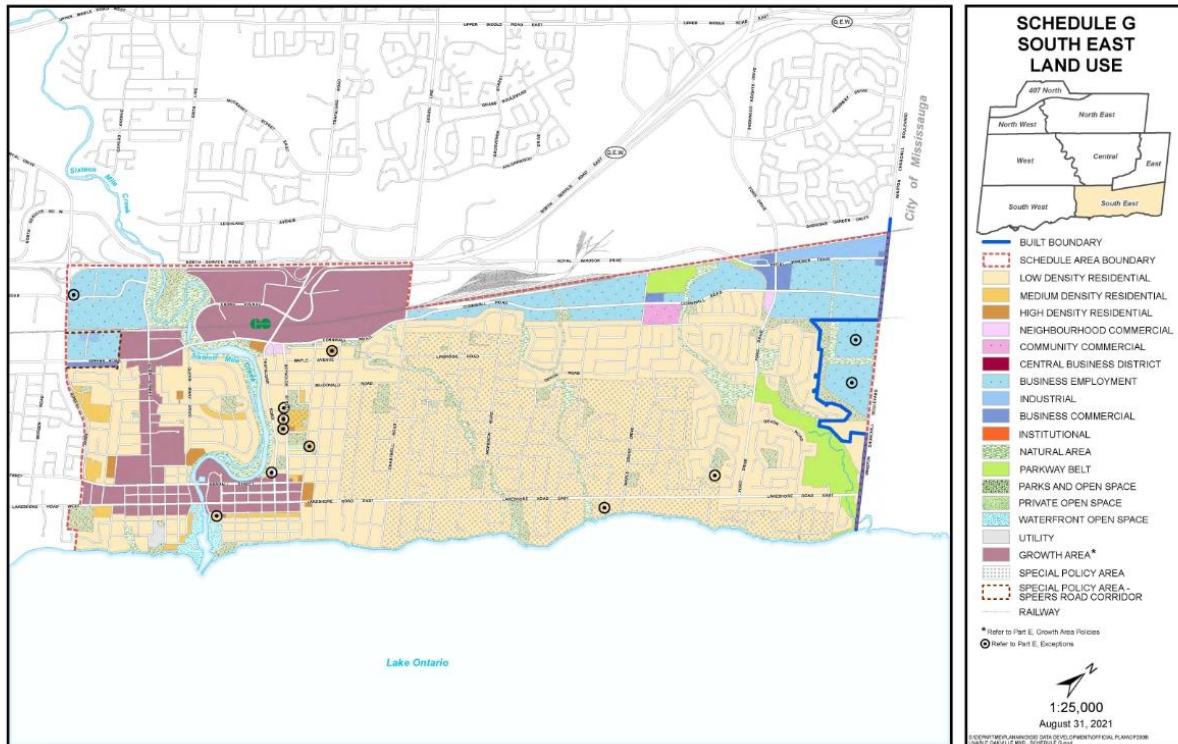


Figure 1: Schedule G

Permitted uses for lands designated as *Business Employment* include:

- a) offices and light industrial uses such as manufacturing, assembling, processing, fabricating, repairing, warehousing and wholesaling. Hotels, public halls, indoor sports facilities, and training facilities and commercial schools may also be permitted.
- d) New service commercial uses, limited to restaurants, financial institutions and drive-through facilities, may also be permitted on the same lot as uses listed in subsection a), above.

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

Policy 27.2.2 also states: "On the lands designated *Business Employment* on the west side of Winston Churchill Boulevard, north of Deer Run Avenue and south of the railway spur line, outside storage may also be permitted provided that it is not adjacent to the open space corridor and is appropriately buffered from the Residential Area to the west."

Lands designated as *Business Employment* are intended to provide for a transition between more sensitive land uses (residential) and more 'heavy' industrial uses (east side of Winston Churchill Boulevard).

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Both properties abut the former Hydro lands which are designated as *Parks and Open Space*. The *Parks and Open Space* lands provide an additional buffer between the residential community and the *Business Employment* lands.

Neither the Town's Official Plan nor Zoning By-law, can regulate the types of goods stored in the warehouse or the end users/tenants.

Both applicants intend to comply with the Town's Livable Oakville Plan.

Interpretation of the Zoning By-law

Zoning By-laws regulate the use of land, where buildings/structures can be located on the site, lot sizes/dimensions, parking requirements, building heights and setbacks. The Town's Zoning by-law sets out the permitted uses for lands, but cannot regulate the tenants. The application before the Town is not to change the zoning on the land, but rather to review the detailed drawings which illustrate the physical arrangement and layout on the property for a use that is currently permitted.

The subject lands have been zoned for industrial/employment uses for many years. The Town's former by-law 1965-136 zoned the lands fronting onto Winston Churchill Blvd as *M1 – Light industrial* (Figure 2) which permitted warehousing and storage within enclosed buildings and assembly of manufactured products. The Hydro corridor was also zoned as *M1- Light Industrial*.

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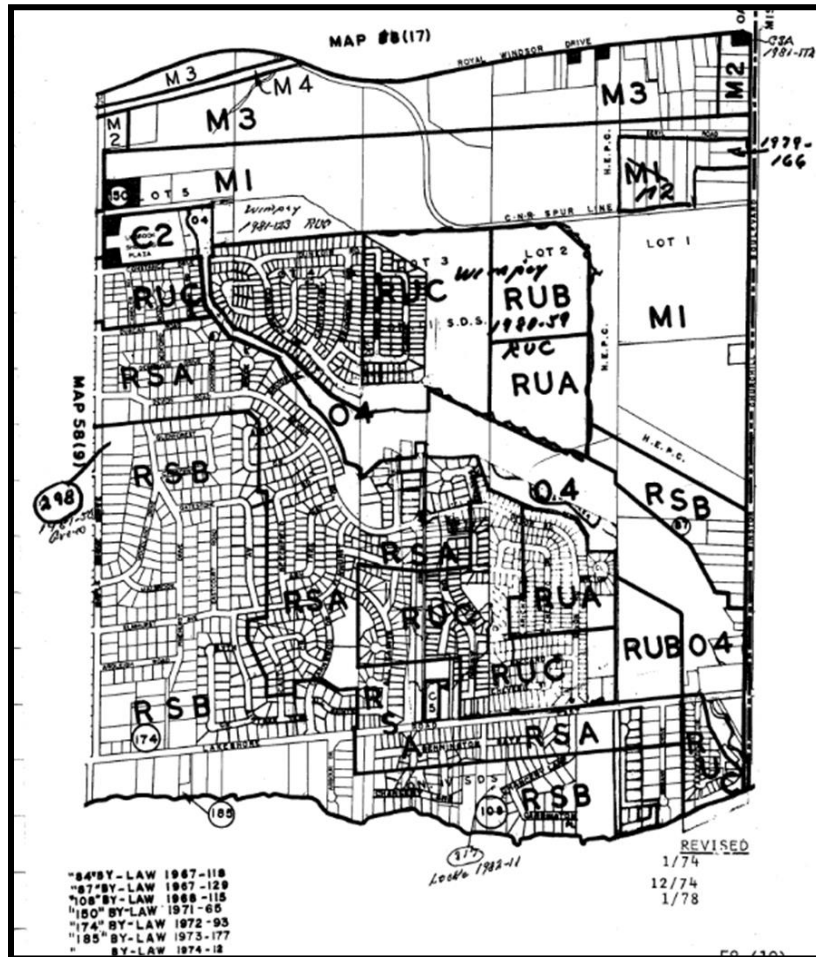
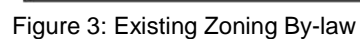


Figure 2: 1965 Zoning By-law Extract – consolidated in 1978

Currently, the property at 560 Winston Churchill Blvd. is zoned *E2 - Business Employment* subject to special provision 201. The property at 772 Winston Churchill Blvd. is zoned *E2 – Business Employment* subject to special provision 201 and *N – Natural Area*. The *Natural Area* zone reflects the existing realigned channel (Figure 3).

To provide an additional buffer to the residential community, the former Hydro corridor was rezoned from *M1 – Light Industrial* to *O1 – Park* and is under the ownership of the Town.



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The as-of-right permitted uses within the *E2 - Business Employment* zone includes:

<ul style="list-style-type: none">• art gallery• commercial school• conservation use• daycare• dry cleaning/laundry establishment• financial institution• food production• manufacturing• outside display and sales area• public works yard• repair shop• retail store - accessory and showroom• sports facility• taxi dispatch• veterinary clinic• training facility• stormwater management facility• warehousing	<ul style="list-style-type: none">• business office• commercial self-storage• contractors establishment• drive-through facility• emergency service facility• foodbank• hotel• medical office• outside storage associated with a permitted use• parking area - heavy vehicle associated with a permitted use• public hall• rental establishment• restaurant• private school• wholesaling
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Vehicle storage is permitted in conjunction with a permitted use.

Within the parent E2 zone category, there are no maximum height or maximum floor area regulations. However, Special Provision 201 (Figure 4) was imposed on these lands and includes additional regulations that were intended to minimize the impact of as-of-right employment uses on the residential properties in the vicinity.

Concerns have been raised by the public regarding the warehousing use and parking on site. As mentioned earlier, warehousing and heavy vehicle parking are permitted uses within the E2 zone and given the nature of warehousing operations, it is not unusual for tractor-trailers to be parked on a site. The inclusion of site-specific zoning (Special Provision 201) on these lands was to minimize the impact on the residents by restricting the location of loading areas, restricting the location of outdoor storage and applying a maximum height when a maximum is not included as part of the standard E2 zone regulations.

Special Provision 201 can be summarized as follows:

- imposes a height maximum of 11 m for any buildings within 120 m of the Park zone (O1) whereas the parent E2 zone doesn't include a maximum height.
- does not permit loading docks to be located between a building and the Park zone (O1) (*Note: the purpose of this regulation would allow the building to act as a noise barrier for the loading areas and the residential uses*)
- restricts the location of as-of-right outdoor storage, whereas the parent E2 zone doesn't provide a restriction

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Since Special Provision 201 does not permit the loading docks between the building and the O1 zone the loading areas will not be visible from the abutting residential uses.

Both applicants intend to comply with the as-of-right zoning.


201	560-772 Winston Churchill Boulevard	Parent Zone: E2
Map 19(10)	(Part of Lot 1, Concession 3 S.D.S.)	(2002-189) (2006-002) (2008-074) PL140317
15.201.1 Zone Provisions		
The following regulations apply:		
a)	Maximum <i>height</i> within 120.0 metres of the Park (O1) Zone	11.0 m
b)	A loading dock shall not be located between a <i>building</i> and any <i>lot line</i> abutting the Park (O1) Zone.	
c)	All lands identified as Block 1 in Figure 15.201.1, below, shall be considered as one <i>lot</i> for the purposes of applying footnote 6 of Table 10.2, related to maximum <i>net floor area</i> for applicable uses.	
15.201.2 Special Provisions for Outside Storage		
The following additional regulations apply for <i>outside storage</i> :		
a)	<i>Outside storage</i> is permitted anywhere on a <i>lot</i> except within 120 metres of the Park (O1) Zone, in a <i>front yard</i> , or any yard abutting Winston Churchill Boulevard.	
b)	Notwithstanding subsection (a) above, <i>outside storage</i> is not permitted within 80.0 metres of the Park (O1) Zone on lands within 150.0 metres south of the northwest limit of lands subject to this Special Provision.	
c)	<i>Outside storage</i> exceeding 1.8 metres in height is permitted only in a rear yard.	
d)	<i>Outside storage</i> shall not exceed the <i>height</i> of the <i>building</i> .	
15.201.3 Special Site Figures		
Figure 15.201.1		
Special Provision 201		
		

Figure 4: Special Provision 201

Noise Concerns

Noise studies are prepared in accordance with the Ministry of Environment document referenced as “*Environmental Noise Guidelines Stationary and Transportation Sources – Approval and Planning, Publication NPC-300*”. The Ministry guidelines set out

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acceptable sound levels for various times of day (7am-11pm and 11pm-7am) and recognize that backup beepers are safety devices and as such do not provide any specific guidelines for these sources of noise. The Ministry guidelines also do not require that noise is inaudible but that the noise levels fall within the acceptable limits.

The applicants have submitted noise studies as part of the site plan application process. The purpose of these studies is to investigate the potential noise impacts of the proposed warehouse facilities. The analysis includes an assessment of the noise emission of both the anticipated truck activities and rooftop mechanicals in relation to the closest residential uses. Planning staff anticipate updated noise studies as part of the applicant's resubmission. Once updated noise studies are received they will be posted on the website and circulated to a third-party peer reviewer for comment.

(Note: Noise studies can be a stand-alone study or form part of a Land Use Compatibility Study (LUC). The Region of Halton has requested the submission of a LUC study and once received it will also be circulated to a third-party peer reviewer for comment.)

Both sites have been designed to ensure that loading and unloading take place centrally on the sites (as required by SP 201). The location of the buildings in themselves provides a noise barrier to the residential uses in the vicinity. If the noise report provides recommendations for noise mitigation measures or the Town's peer reviewer recommends additional noise mitigation measures, the proposed site plans will be revised accordingly.

Road Capacity/Traffic Concerns

As part of any site plan application submission, the Town may request an applicant to prepare a Transportation Impact Study. A Transportation Impact study evaluates the effects a proposed development is expected to have on an existing road system and is based on established transportation planning and traffic engineering principles.

These principles include but are not limited to:

- study assumptions such as horizon years and analysis periods, traffic data collections;
- existing conditions such as a site and area description, study area description, road network, traffic volumes, transit service, bicycle and pedestrian facilities, traffic intersection operations;
- future background traffic conditions including planned road network improvements, existing traffic, background traffic growth, background development traffic, future background intersection operations;
- details regarding the proposed development including a site concept plan, site access;
- future total conditions with development including vehicular trip generation, trip distribution, future total traffic intersection operations, queuing analysis, etc.;

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- site traffic impacts;
- preliminary design review; and
- conclusions and recommendations

The scope or terms of reference for a Traffic Impact Study is usually discussed with the Town's transportation engineers and Regional transportation engineers if the site abuts a Regional road. The terms of reference for a typical traffic study are outlined in the Halton Region TIA Guidelines. These studies are reflective of what is forecasted based on the methodology used in North America for the proposed developments' trip generation. The methodology is a combination of different land uses with trip generation rates based on surveys collected by the Institute of Transportation Engineers (ITE). The total future traffic volumes are determined by adding the site-generated traffic to future background traffic, which is the sum of existing background traffic factored up for growth and traffic generated by other known area developments. In this case, this would also include known developments in Mississauga, east of Winston Churchill Boulevard. Forecast of future total traffic based on the above summation, they are estimated trips. This methodology is used in North America (ITE Guidelines).

The future traffic level of service is determined by calculating volume to capacity ratios for all movements at key intersections. Capacity is a theoretical measure of the amount of volume an intersection can process in a given time frame based on the future lane configurations and signal timing. The future volume is compared to the capacity to calculate a volume to capacity ratio. Typically any ratio < 0.90 is acceptable, anything 0.90 and greater is considered critical and require mitigation measure for improvement. These improvements may include but are not limited to recommendations to adjust signal timing plans, upgrading traffic control devices, upgrading the road configurations and widening roadways.

The Town requested the submission of Transportation Impact Studies as part of the two site plan applications under consideration. The transportation reports were circulated to the Town's Transportation engineers, the Regions of Halton and Peel Transportation engineers, the City of Mississauga and the Ministry of Transportation for review and comment. Planning staff are currently waiting for a resubmission of the transportation reports and once received they will be uploaded to the Town's website. Once updated transportation studies are received they will be posted on the website and circulated to a third-party peer reviewer for comment.

Winston Churchill Road Classification: The Town's Official Plan - Schedule C – Transportation Plan identifies Winston Churchill Boulevard as a "Major Arterial" road. The purpose of Major Arterial roads is to accommodate high volumes of traffic moving between communities travelling to activity centres and traffic on route to the Provincial Highway system. Major Arterial roads are 4-6 lanes in width (35m-50m) and are designed to accommodate 40,000 to 60,000 vehicles per day. The Region of Peel undertakes traffic counts on Winston Churchill Boulevard and provided the following traffic counts:

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2019 – 5369 vehicles/day
2020 – 4092 vehicles/day
2021 – 4759 vehicles/day

Since Winston Churchill Boulevard is a 4-lane cross-section in the vicinity of the site, we would not expect to see 60,000 vehicles per day on this road. If volumes increase because of this use or any other use it is expected that Winston Churchill Boulevard can handle the volumes safely. If the traffic report provides recommendations for any road improvements or the Town's peer reviewer recommends additional road improvements both the Region of Halton and the Region of Peel will be advised since this road is under the latter's jurisdiction.

Lastly, the existing road has a right-of-way width of 41.5 m (20.75 m from the centreline of the road) and both the Region of Halton and the Region of Peel have advised that a road widening will be required as a condition of approval.

Environmental Concerns

The Region of Halton has requested both landowners prepare a Land Use Compatibility report (LUC). The LUC reports would provide an assessment on noise, vibration, odour and air pollution effects to provide better clarity on the impacts of the proposed industrial warehouse development on the surrounding sensitive land uses and to demonstrate if the proposal is in accordance with the D-6 guidelines, including potential mitigation measures. The Town/Region will require a peer review of the LUC once the reports are submitted.

Flooding Concerns

The subject lands are not within the Joshua Creek Flood Mitigation Study Area as they are located within a different watershed. The Stormwater Management (SWM) criteria for both of these developments were based on the previously approved Subwatershed Study (SWS) for Clearview Creek. Given that both developments are proposed to outlet directly to the creek, the Credit Valley Conservation (CVC) would also be reviewing the SWM strategies for both of the proposed developments.

Berm/Fencing/Lighting Concerns

As mentioned earlier **Section 41, subsection 7** of the *Planning Act* outlines the types of items the municipality can review as part of the site plan process. The Town's Urban Design and Parks staff will review the on-site landscaping requirements, as well as the berm location, fencing and landscaping.

It is anticipated that the berm will be approximately 2.5 m in height plus tree plantings. The berm would have a minimum 2:1 slope which would allow for the berm to be landscaped. If the berm was taller it would need to be wider which may impact the newly planted trees to the south.

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Fencing will be considered as part of the site plan applications but has not been identified as a requirement to date. It is noted that several existing trees (including a hedgerow) are currently located on the shared property line. Installing a fence may result in the removal of existing trees.

The applicants were also required to submit a photometric plan prepared by a professional electrical engineer. The purpose of this plan is to demonstrate the location of light fixtures and the illumination levels. The Town requires all exterior lighting fixtures are full cut-off in order to direct illumination downward and dark sky compliant to reduce light pollution, sky glare, and light trespass onto neighbouring properties. The plans will need to demonstrate illumination levels of 0.0 lux measured at all property lines and to provide readings that extend 6 m beyond the property lines of the subject site. The plans received to date comply with these requirements but will continue to be reviewed as part of the ongoing site plan process.

Servicing Concerns

The Region of Halton has been in discussions with the engineers representing the landowners to establish a preferred servicing scenario for the subject lands concerning their development proposals.

The Region's preferred servicing of the subject lands would be as follows:

- Water servicing would be by way of constructing a minimum 300mm dia. watermain on Winston Churchill Boulevard from Deer Run Avenue northward to Beryl Road.
- Wastewater servicing would be by way of a gravity sewer to be located within the Town of Oakville's open space block/park, walkway block with a connection to the existing sewer on Acacia Court. The existing sewer on Acacia Court has to be upgraded to a larger size to accommodate the flows from these developments.
- Accommodating the sanitary servicing for the future development of 568 Winston Churchill Boulevard (the small parcel surrounded by 560 WCB) through the approvals for these files.

All costs associated with the construction of these services would be borne by the developer.

An option for a pumping station with a sanitary service from the subject lands running up Winston Churchill to Beryl Road was evaluated and rejected. It was determined that a pumping station would incur long-term maintenance, operational and future replacement costs for Halton Region above and beyond that of the linear infrastructure itself.

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Although the Region of Halton has not yet issued conditions of approval for the two applications, conditions dealing with construction impacts will be required and will include:

- a requirement for the submission of a work plan to address the timing of the construction operations, details on construction methods, sewer excavation, paving operations, landscaping restorations, traffic control, resident disruptions, sewer lateral "switchovers" and methods for replacing a "live" sanitary sewer
- a requirement for a pre-condition survey of buildings, landscaping etc in the area of the proposed construction
- a requirement for a construction vibration study with recommendations related to reducing/minimizing vibration impacts from construction activities
- a requirement for a landscape plan to address restoration of disturbed areas (including in park and walkway)
- a requirement to restore the Acacia Court right-of-way where it has been impacted by development including fully repaving the road (as opposed to patching); repairing of curbs and boulevard where they have been impacted

General Operational Issues

The current E2 zoning permits warehousing operation and heavy vehicle parking. Given the nature of warehousing operations, it is not unusual for tractor trailers to be parked on a site. The site-specific zoning was placed on these lands to minimize impact to the residents by restricting the location of loading areas and by placing the buildings between the residential uses and the loading areas, the loading area will not be visible from the residential uses in the vicinity.

Since site plan approvals deal with the provision of facilities, rather than the use of those facilities, conditions related to operational matters such as restrictions on the hours of operation, construction phasing and prospective tenants are beyond the scope of the site plan authority.

Enforcement Issues

The Municipal Enforcement Services Department has officers that enforce the Town's by-laws, rules, laws, codes or regulations. If there are concerns, residents can lodge a complaint with Municipal Enforcement Services Department and they will investigate and determine if there is an infraction.

Relevant nuisance by-laws:

Noise - The Town has a Noise By-law (2008-098 as amended). The Noise by-law is administered and enforced by the Municipal Enforcement Section and is based on provincial standards.

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Idling – Idling is an operational issue and falls outside of the scope of Section 41 of the *Planning Act*, however, the Town has an Anti-Idling By-law (2002-153 as amended by 2017-011 and 2019-050). The Anti-Idling by-law is enforced by the Municipal Enforcement Services.

Halton Regional Police may be contacted to request enforcement for speeding or *Highway Traffic Act* violations.

Some concerns have been raised concerning coyote displacement with the construction of the proposed warehouse buildings. The Municipal Enforcement Services Department has coyote information and an education/response procedure including a response strategy available online. We also encourage residents to report coyote sightings and encounters through our coyote reporting form as this assists staff with our coyote response and educational programs.

General Comments

The subject lands are unique in Oakville as they are the largest individual employment blocks currently undeveloped. Other large employment areas in Oakville (i.e. Winston Park) have smaller individual employment blocks but cumulatively would have more employment floor area and more loading bays. Unlike the subject lands, the Winston Park employment area does not provide a cap on height nor has specific regulations about the location of loading areas. The site-specific regulations for the subject lands relating to the height and location of loading areas are intended to mitigate impacts of the employment uses to the residential properties in the vicinity

We trust you find this information helpful.

Regards, Leigh