

**MINUTES OF SETTLEMENT  
DATED JANUARY 7, 2011**

B E T W E E N:

OAKVILLE GREAT LAKES MARKETPLACE INC.  
(“GREAT LAKES”)

-AND-

GLBP NOMINEE CO. II  
(“THE OWNER”)

-AND-

THE CORPORATION OF THE TOWN OF OAKVILLE  
(“TOWN”)

**WHEREAS** the Owner is the registered owner of a 5.31 hectare parcel of vacant lands located at the northeast corner of Rebecca Street and Burloak Drive, in the Town of Oakville and which lands are legally described as Block 1, Plan 20M-1084 (“**the Development Lands**”);

**AND WHEREAS** the Development Lands are shown as Parts 1 and 2 on the sketch attached hereto as Schedule “A” (“**the Property Sketch**”);

**AND WHEREAS** the Development Lands are currently designated under the Town’s in-force Official Plan as *Employment Lands* and are zoned under the Town’s Zoning By-law No. 1984-63 as *T1-Transitional Employment Zone*;

**AND WHEREAS** Great Lakes had applied for approvals to amend the Town’s in-force Official Plan and Zoning By-law No. 1984-63 related to the proposed construction of a retail and service commercial complex on the Development Lands comprising nine buildings containing approximately 12,135 square metres of gross floor area;

**AND WHEREAS** Great Lakes has subsequently appealed these applications to the Ontario Municipal Board which have been assigned Board Files No. PL100365 (appeal of official plan

amendment) and PL100366 (appeal of zoning by-law amendment) and which are collectively referred to as “**the Great Lakes Appeals**”;

**AND WHEREAS** Great Lakes and the Town are parties to the Board hearing regarding the Great Lakes Appeals;

**AND WHEREAS** Great Lakes has also appealed the Decision issued by the Region of Halton to approve with modifications the Town’s new Official Plan (“**Livable Oakville**”) which appeal has been forwarded to the Ontario Municipal Board and assigned Municipal Board File No. PL100058 (“**the Livable Oakville Appeal**”);

**AND WHEREAS** Great Lakes, the Owner and the Town (hereinafter referred to jointly as “**the Signatories**”) have reached these Minutes of Settlement and agreements herein which address and resolve all of those matters at issue as between themselves with respect to the Great Lakes Appeals and the Livable Oakville Appeal;

**AND WHEREAS** the Signatories have also agreed as to certain principles to be applied to the review of a future application for site plan approval intended to be submitted by Great Lakes to the Town, in connection with the implementation of the proposed improvement of that portion of the Development Lands shown as Part 1 on the Property Sketch in accordance with the terms of settlement set forth herein.

**NOW THEREFORE THIS AGREEMENT WITNESSETH** that in consideration of the mutual covenants and agreements hereinafter expressed and the sum of TWO DOLLARS (\$2.00) of lawful money of Canada now paid by the Signatories to each other, the receipt and sufficiency of which is hereby acknowledged by the each of the Signatories, the Signatories hereby covenant and agree to and with each other as follows:

1. The Signatories agree that the recitals are true.
2. Great Lakes and the Town shall jointly file these Minutes of Settlement to be marked as an Exhibit by the Board panel presiding in connection with the hearing of the Great Lakes Appeals, and shall request that the Board determine the Great Lakes Appeals in accordance with and subject to the terms of these Minutes of Settlement by the Board ordering that:
  - (i) the Great Lakes Appeals as related to that portion of the Development Lands shown as Part 2 on the Property Sketch to be dismissed;
  - (ii) the Great Lakes Appeals as related to Part 1 on the Property Sketch to be allowed in part to allow the development of a retail/service commercial complex with a maximum gross floor area for convenience retail and service commercial uses of not more than 7600 square metres, of which not more than 3252 square metres may be permitted for construction of a food store. In addition, not less than 1393 square metres of office space shall be provided;

- (iii) the Town's in-force Official Plan and Zoning By-law No. 1984-63 be amended in accordance with the form of amendments attached hereto as Schedules "B" (the "**Great Lakes Amendment**") and "C" (the "**Great Lakes By-law**");
  - (iv) the Town be authorized to assign a By-law number to the Great Lakes By-law; and
  - (v) there be no Order as to costs.
3. Subject to the Municipal Board determining the Great Lakes Appeals substantially in accordance with the terms set out in Section 2 of these Minutes of Settlement, Great Lakes and the Town jointly agree to file a duplicate original of these Minutes of Settlement with the Board panel presiding in connection with the Livable Oakville Appeal and shall request the Board to determine the appeal in accordance with and subject to the terms of these Minutes of Settlement by ordering that:
- (i) approval be granted to such modifications to the policies and schedules of Livable Oakville, as may be reasonably required to recognize the approvals granted by the Great Lakes Amendment and the Great Lakes By-law referred to in Section 2 above. The Signatories confirm that the draft modification attached as Schedule "D" is acceptable subject to any changes that may be necessary arising from the Board's approval of the Great Lakes Appeals.;
  - (ii) the balance of the Livable Oakville Appeal be dismissed; and
  - (iii) there be no Order as to costs.
4. It is acknowledged by the Signatories that it is the intention of Great Lakes, following the issuance of an order by the Municipal Board approving the Great Lakes Amendment and Great Lakes By-law, to file with the Town an application for site plan approval related to Part 1 on the Property Sketch. The Signatories agree that in considering the site plan application neither party shall take any position inconsistent with these Minutes of Settlement and it is further agreed that any approval of the site plan application shall include the following elements:
- (i) Notwithstanding section 6.2.7 (a) of Livable Oakville, if applicable, the provision of an enhanced landscaped buffer treatment, including the use of berms, evergreen plantings and other landscape materials across that portion of Part 1 on the Property Sketch adjacent to Rebecca Street. The enhanced landscape buffer shall include a minimum 6 metre buffer area between the buildings and the property line, excluding a daylight triangle at the corner of Rebecca Street and Burloak Drive. A minimum of 50% of all shrub material planted within the landscape buffer shall be coniferous. Where such buffer areas are adjacent to parking areas, along the Rebecca Street frontage, a berm with a minimum height of 750 mm shall be provided and shall incorporate

landscaping inclusive of coniferous trees within each area, at least 25% of which are a minimum of 2.5 metres in height with the remaining trees at a minimum height of 2.0 metres..

- (ii) no external garbage disposal areas for buildings to be located adjacent to Rebecca Street;
  - (iii) no loading bays to be permitted for buildings to be located adjacent to Rebecca Street;
  - (iv) any drive-thru facility to be restricted to a location which is oriented to Burloak Drive to the north side of the building proposed at the corner of Burloak Drive and Rebecca Street, and otherwise designed in accordance with all applicable Town of Oakville design guidelines and municipal by-laws;
  - (v) enhanced façades are to be provided on the buildings to be located along Rebecca Street and shall incorporate elements of the southerly residential neighbourhood (inclusive of stone and stucco external finishes);
  - (vi) the requirement that all lighting and signage proposed to be designed and situated in accordance with the standards established in the applicable Town of Oakville design guidelines and municipal by-laws, including the provision of shut-off or dimming mechanisms for signage;
  - (vii) the location and nature of vehicular access onto Rebecca Street to be assessed having regard to the requirements of the proposed development on Part 1 of the Property Sketch, the potential for integration of access and circulation of future development that may occur on Part 2 of the Property Sketch and the potential for traffic conflicts on Rebecca Street; and
  - (viii) No road widening with respect to Rebecca Street would be required based on the Town's in-force Official Plan or Livable Oakville other than a daylight triangle at the corner of Rebecca Street and Burloak Drive.
5. Great Lakes and the Town acknowledge that the Town will provide notice to the participants to the Great Lakes Appeals of any meeting of the Town's Site Plan Committee at which the Great Lakes site plan application is to be considered.
6. Great Lakes and the Town undertake to work in a cooperative and timely fashion in an effort to settle or resolve all issues related to the intended future Great Lakes site plan application. In the event that Great Lakes and the Town cannot settle any issues related to the said application then Great Lakes may appeal the outstanding issues to the Ontario Municipal Board for determination, provided no party shall take any position before the Board that is inconsistent with their respective undertakings and covenants as set out in these Minutes of Settlement.

7. If any individual provision(s) of these Minutes of Settlement is or are determined by a Court or tribunal of competent jurisdiction to be illegal or beyond the power, jurisdiction, or capacity of any party bound hereby and any appeal period has expired and any appeals commenced during that period have been finally determined, such provision shall be severed from these Minutes of Settlement and the remainder of these Minutes of Settlement shall continue in full force and effect, *mutatis mutandis*. In such case, Great Lakes, the Owner and the Town agree to negotiate in good faith to amend these Minutes of Settlement in order to implement the intentions as set out herein.
8. It is agreed and acknowledged by the Signatories that each is satisfied as to the jurisdiction of the others to enter into these Minutes of Settlement. Great Lakes and the Owner agree that they shall not question the jurisdiction of the Town to enter into these Minutes of Settlement, nor question the legality of any portion hereof and likewise the Town agrees it shall not question the jurisdiction of Great Lakes or the Owner to enter into these Minutes of Settlement, nor question the legality of any portion hereof. The Signatories, their successors, assigns and lessees are and shall be estopped from contending otherwise in any proceeding before a Court of competent jurisdiction.
9. Nothing in these Minutes of Settlement is intended to waive Great Lakes' or the Owner's obligations to obtain such development approvals, fulfill draft plan conditions or to do such other things which may be required pursuant to the *Planning Act* or any other legislation or by-laws. Great Lakes acknowledges that during the course of such approvals and registrations, the Town and other public authorities may seek to impose additional development conditions or obligations in respect of the development of the Development Lands, provided such additional conditions or obligations shall not alter the terms and conditions of these Minutes of Settlement.
10. In the event that Great Lakes or the Owner proposes to transfer, mortgage or otherwise encumber all or a portion of that portion of the Development Lands shown as Part 1 on the Property Sketch to a third party purchaser or mortgagee, they shall provide the Town with not less than 15 days written notice prior to the completion of the proposed transaction and shall further require the purchaser or mortgagee to enter into an assumption agreement with the Town whereby it undertakes to accept and abide by the obligations imposed upon Great Lakes and/or the Owner pursuant to the terms of these Minutes of Settlement in relation to the lands subject to the proposed conveyance or mortgage. The obligations imposed on Great Lakes and/or the Owner under this section shall not apply to a transfer of Part 1 on the Property Sketch from the Owner to Great Lakes and shall cease following the completion of the requirements in Sections 2 and 3 above and the registration of a Site Plan Agreement on title to Part 1 on the Property Sketch in respect of the site plan application contemplated in Section 4 above.
11. If any notice is required to be given with respect to this Agreement, such notice shall be in writing and shall be deemed to be sufficiently given if delivered or sent by confirmed

facsimile transmission and addressed to the Signatories as follows, or such other address as may subsequently be given in writing by any party to the other parties:

**Town of Oakville**

Attention: The Clerk  
1225 Trafalgar Road  
Oakville, Ontario  
L6J 5A6

Fax: 905 -815-2025

**Oakville Great Lakes Marketplace Inc.**

Attention: David Wallace  
3300 Bloor Street West, Suite 670  
Toronto, Ontario  
M8X 2X2

Tel: 416-975-4444

Fax: 416-975-8291

**GLBP Nominee Co. II**

Attention: Chris Holtved  
700 Dorval Drive, Suite 306  
Oakville, Ontario  
L6K 3V3

Tel: 905-849-4600

Fax: 905-849-3801

Any such notice given as aforesaid shall be conclusively deemed to have been given and received, if delivered, on the date of delivery or if sent by facsimile transmission, on the date of transmission.

12. These Minutes of Settlement shall enure to the benefit of, and be binding upon the Signatories and their respective successors and assigns.
13. The Signatories agree to execute such further documents and cause the doing of such acts and cause the execution of such further documents that are within their power as any of the Signatories may reasonably request be done or executed, in order to give full effect to the provisions of these Minutes of Settlement.
14. The Signatories agree to act reasonably and in good faith in carrying out the terms of these Minutes of Settlement. If any dispute arises between the Signatories relating to the

application, interpretation and/or implementation of these Minutes of Settlement or any part thereof, the Signatories agree to act in good faith to attempt to resolve the dispute in an expeditious manner and should the Municipal Board have jurisdiction, any of the parties may request that the Municipal Board mediate or hear the dispute.

15. These Minutes of Settlement may be executed by facsimile transmission and in multiple counterparts, each of which shall be deemed to be an original document, and all of which shall constitute one Minutes of Settlement. The Signatories further agree that each of the Signatories shall countersign copies of the document in order that each of the Signatories has an original Minutes of Settlement executed by all the Signatories, and same shall be provided on a timely basis.

**IN WITNESS WHEREOF** the Signatories have executed these Minutes of Settlement by the hands of their proper signing officers or by the hands of their legal counsel in this matter, duly authorized in that behalf.

**OAKVILLE GREAT LAKES MARKETPLACE INC.**

Per: \_\_\_\_\_

Name:

Title:

Per: \_\_\_\_\_

Name:

Title:

**GLBP NOMINEE CO. II**

Per: \_\_\_\_\_

Name:

Title:

Per: \_\_\_\_\_

Name:

Title:

**TOWN OF OAKVILLE**

Per: \_\_\_\_\_

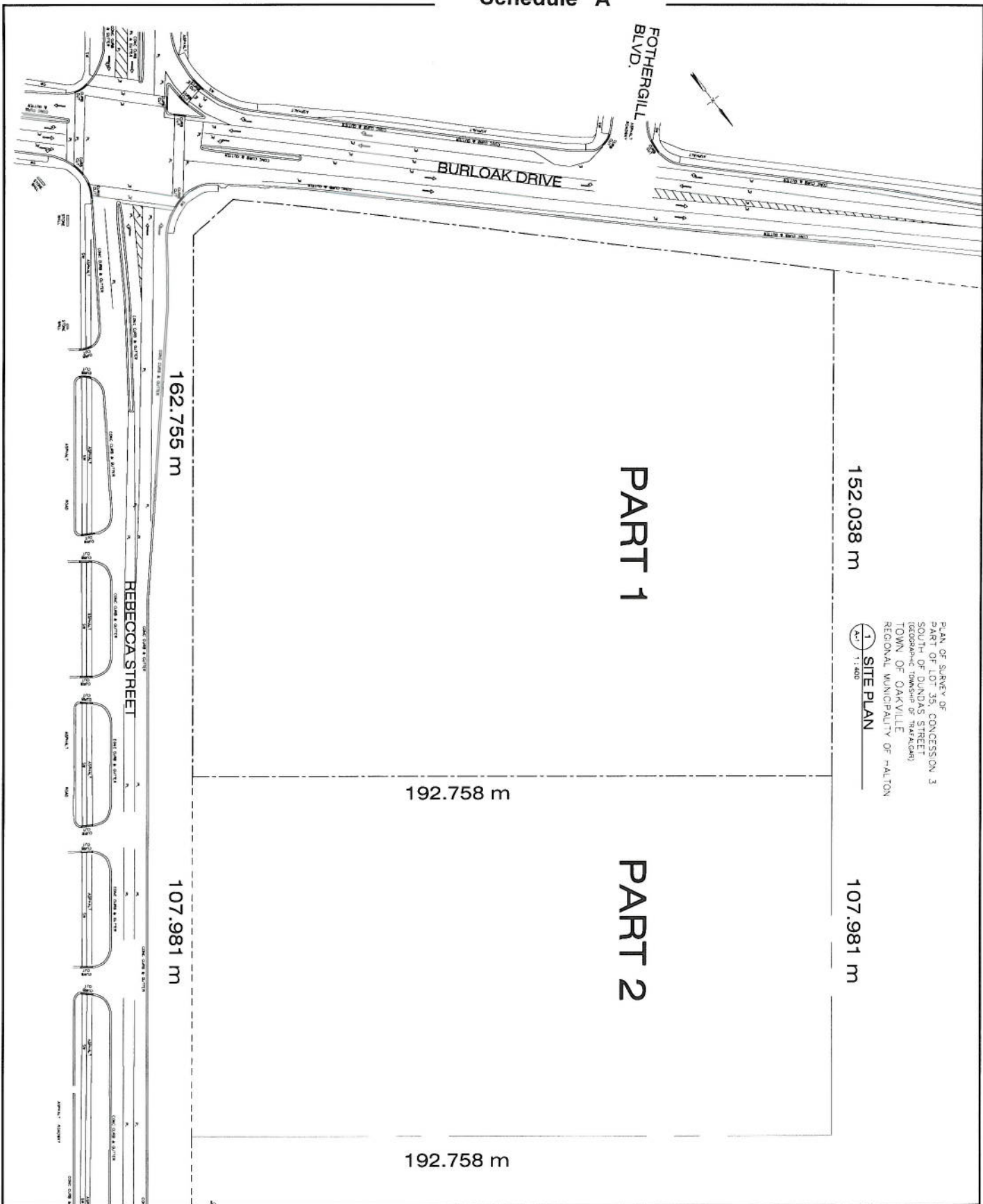
Name:

Title:

By authority of Council granted December 13, 2010.



Schedule "A"



PLAN OF SURVEY OF  
 PART OF LOT 35, CONCESSION 3  
 SOUTH OF DUNDAS STREET  
 (Geographic Township of "HARFORD")  
 TOWN OF OAKVILLE  
 REGIONAL MUNICIPALITY OF HALTON

1 SITE PLAN  
 A-1 1:1,400

PART 1

PART 2

152.038 m

107.981 m

192.758 m

192.758 m

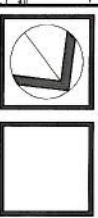
162.755 m

107.981 m



CONTEXT PLAN

NO.	DESCRIPTION	DATE



COMMERCIAL DEVELOPMENT  
 REBECCA ST. & BURLOAK DR.  
 OAKVILLE, ONTARIO

**PART PLAN**

P-1

DATE: 2013  
 DRAWN BY: [Name]  
 CHECKED BY: [Name]  
 SCALE: 1:1,400

**Schedule "B"**

**THE CORPORATION OF THE TOWN OF OAKVILLE**

**BY-LAW NUMBER 2011-004**

A by-law to adopt an amendment to the Official Plan of the Oakville Planning Area,  
Official Plan Amendment 310  
(Northeast corner of Rebecca Street and Burloak Drive),  
Part of Block 1, Plan 20M-1084  
(Oakville Great Lakes Marketplace Inc. – File No.  
Z.1635.08)

**AS APPROVED BY THE ONTARIO MUNICIPAL BOARD:**

1. The attached Amendment Number 310 to the Official Plan for the Oakville Planning Area is hereby adopted.

Approved by the Ontario Municipal Board on            day of            2011.

# Official Plan Amendment

## Number 310

to the  
Official Plan  
for the  
Town of Oakville

THE TOWN OF OAKVILLE  
OFFICIAL PLAN AMENDMENT 310

Part 1, Constitutional Statement

Part 1 and 2 do not constitute operable parts of this amendment.

The details of the amendment as contained in Part 3 constitute Amendment 310 to the Official Plan of the Town of Oakville.

Part 2 – The Preamble

1. Purpose of the Amendment:

The lands that are subject to this Official Plan Amendment are located at the northeast corner of Burloak Drive and Rebecca Street in the Town of Oakville and are 3.15 ha in size.

The purpose of the Official Plan Amendment is to expand the range of permitted uses to include retail commercial uses within the Transitional Employment category of the Burloak Employment District as it relates to the subject lands.

2. Location:

The subject site is located on the northeast corner of Burloak Drive and Rebecca Street. The site has approximate frontages of 163 metres (534 feet) along Rebecca Street, and 193 metres (633 feet) along Burloak Drive and a total lot area of approximately 3.15 hectares (7.8 acres).

The lands are legally described as Part of Block 1, Plan 20M-1084, Town of Oakville. The general location of the lands is shown on the attachment to this Amendment.

3. Basis:

An application was submitted for an Official Plan Amendment by Oakville Great Lakes Marketplace Inc in October 2008 to develop approximately 5.1 ha of land for a retail and service commercial development.

In February 2010, Planning staff recommended refusal of the application and Council subsequently refused the application. The applicant appealed

Council's decision and an Ontario Municipal Board Hearing was scheduled for January 2011.

As a result of discussions with the Town, the applicant has revised its application. The revised development is on approximately 3.15 ha of land with a maximum of 7,600 square metres of convenience retail and service commercial uses permitted. Of the 7,600 square metres of convenience retail and service commercial uses, a maximum of 3,252 square metres may be permitted for a food store. In addition, a minimum of 1,393 square metres shall be provided for office uses.

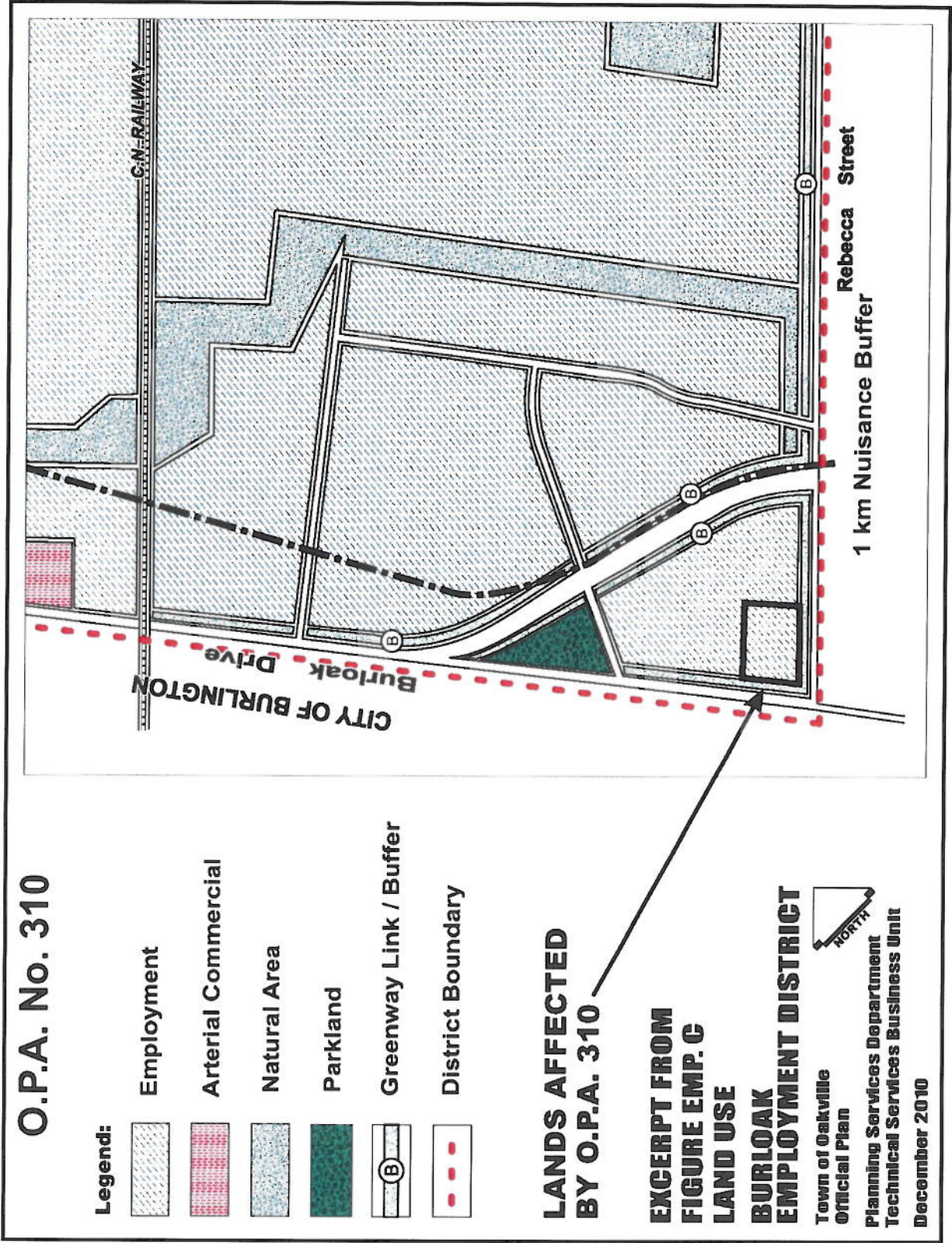
It is the intent of this Amendment to implement the settlement as agreed to by the Town and the applicant and approved by the Ontario Municipal Board.

### PART 3 – The Amendment

The Official Plan for the Town of Oakville is hereby amended by the following:

Item 1: Part E: Burloak Employment District – Section 2.3.1 c) – Special Policies is hereby further amended by adding a new paragraph as follows:

“xiv) Notwithstanding the provisions of Part D, Land Use Policies, Policy 3.1 b) iii) Transitional Employment, on the lands at the northeast corner of Burloak Drive and Rebecca Street, a maximum of 7,600 square metres of convenience retail and service commercial uses may be permitted. Of the 7,600 square metres of convenience retail and service commercial uses, a maximum of 3,252 square metres may be permitted for a food store. In addition, a minimum of 1,393 square metres shall be provided for office uses. All uses will be subject to further limitations defined within the implementing zoning.”



## Schedule "C"

### THE CORPORATION OF THE TOWN OF OAKVILLE

#### BY-LAW NUMBER 2011-005

A By-law to amend the Town of Oakville's Comprehensive Zoning By-law 1984-63, as amended, to permit a commercial development on lands at the north-east corner of Rebecca Street and Burloak Drive described as  
Part of Block 1, Plan 20M-1084  
(Oakville Great Lakes Marketplace Inc. – File No. Z.1635.08)

#### APPROVED BY THE ONTARIO MUNICIPAL BOARD

1. This by-law applies only to the lands identified as "Affected Lands" on Schedule "A" to this by-law.
2. By-law 1984-63 is amended by adding to Section 89 a new subsection (848) as follows:

Special Provision	Applies to / Location	By-law Number
(848)	<u>Oakville Great Lakes Marketplace Inc.</u> Part of Block 1, Plan 20M-1084	2011-005

The land to which By-law 2011-005 applies may be used for the uses listed below, subject to the general regulations of By-law 1984-63, as amended, except where in conflict with the following regulations, in which case the following shall prevail.

#### **Permitted Uses**

- i) All uses permitted by the T1 Zone.
- ii) A food store with a maximum Gross Floor Area of 3,252 square metres.
- iii) Retail uses, other than a food store.

#### **Regulations**

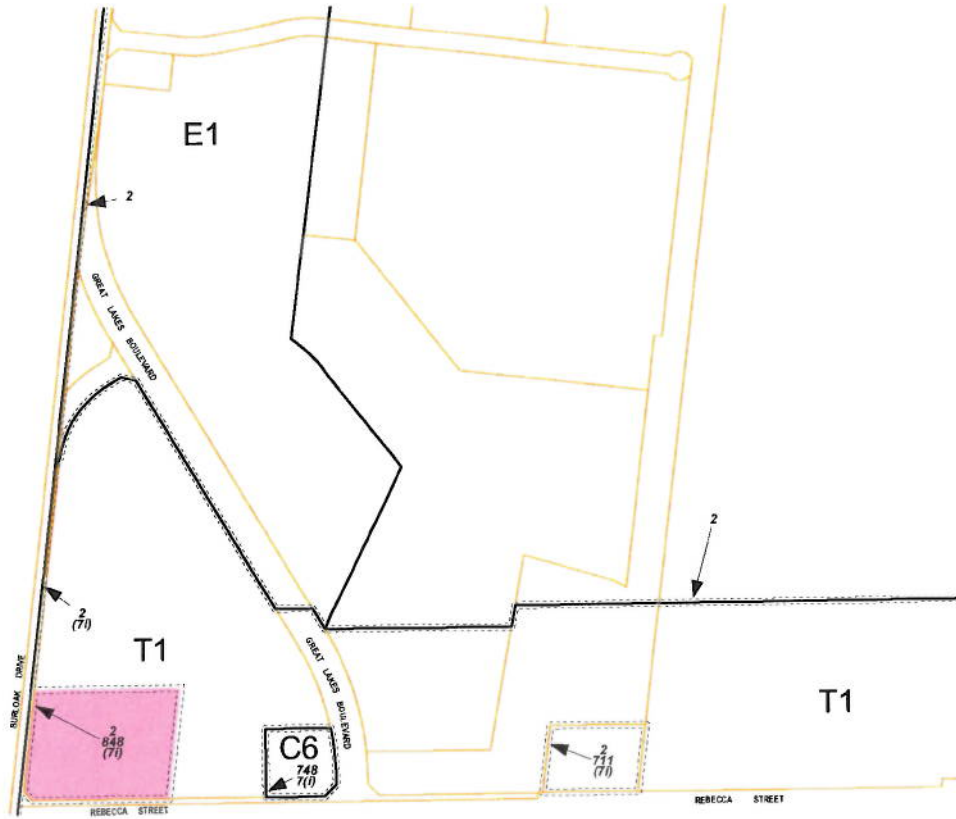
- i) Minimum building setback to property line abutting Burloak Drive – 5.0 metres.

- ii) Minimum building setback to property line abutting Rebecca Street – 6.0 metres.
  - iii) Minimum building setback to property line abutting daylighting triangle at the corner of Burloak Drive and Rebecca Street – 3.0 metres.
  - iv) Maximum Gross Floor Area for retail and service commercial uses – 7,600 square metres.
  - v) No more than 50 percent of the maximum Gross Floor Area permitted by regulation iv) may be constructed without construction of a minimum of 929 square metres of space for office uses, including administrative offices.
  - vi) No more than 90 percent of the maximum Gross Floor Area permitted by regulation iv) may be constructed without construction of a minimum of 1,393 square metres of space for office uses, including administrative offices.
  - vii) Maximum ground floor area of any building within 80 metres of Rebecca Street – 500 square metres.
  - viii) Required parking – 1 space per 22 square metres on the ground floor and 1 space per 28 square metres on the second floor.
  - ix) For buildings to be located adjacent to Rebecca Street, garbage and recycling containers shall only be permitted if located within a commercial or office building. Any space in a building dedicated for the purpose of garbage disposal and/or storage shall be excluded from the calculation of Gross Floor Area.
  - x) No separate loading doors are permitted for buildings adjacent to Rebecca Street. All other loading doors shall be screened from the street by an opaque wall at least four metres in height.
3. This By-law is enacted to implement a Decision of the Ontario Municipal Board pursuant to Subsection 34(26) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, and comes into force the day the final Board Order is issued for Case No. PL100365.

**APPROVED** by the Ontario Municipal Board Decision/Order this \_\_\_\_ day of \_\_\_\_\_, 2011, Case No. PL100365.



**SCHEDULE "A"**  
**To By-law 2011-005**



**PROPOSED AMENDMENT**

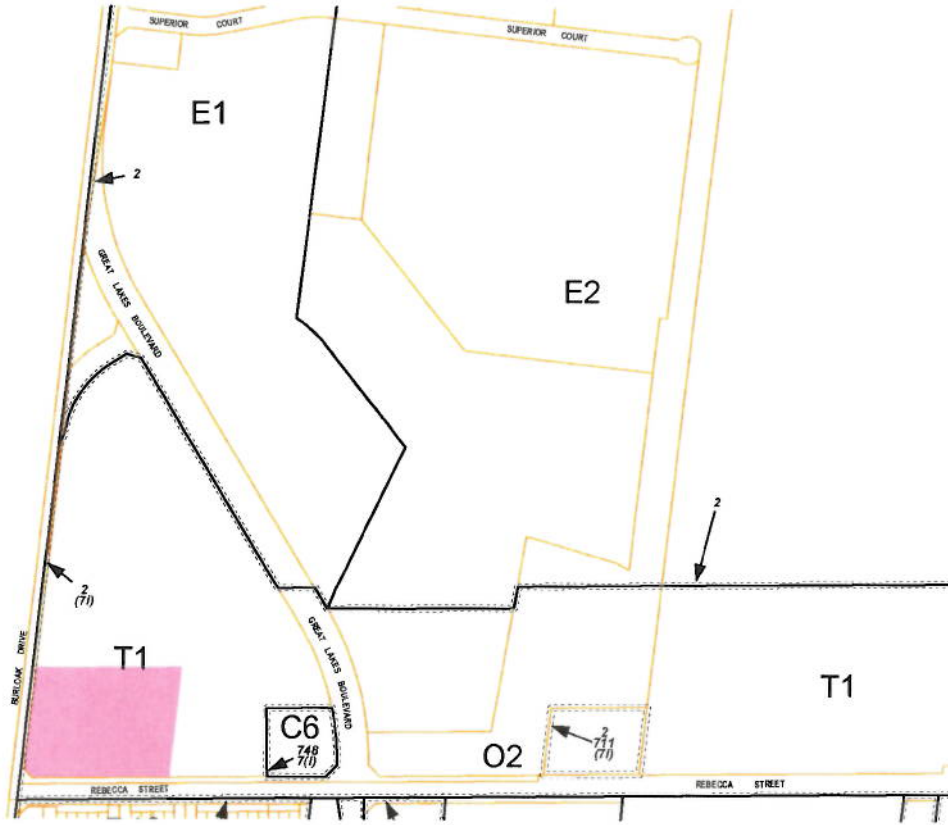
 **AFFECTED LANDS**

**EXCERPT FROM MAP**  
**91 (4)**



**SCALE 1 : 6500**

Attachment To  
By-law 2011-005



EXISTING ZONING

 AFFECTED LANDS

EXCERPT FROM MAP  
91 (4)



SCALE 1 : 6500

## Schedule “D”

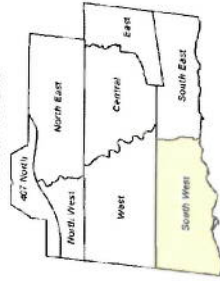
### Proposed Draft Modification to Livable Oakville – Great Lakes Market Place

- Change the designation applying to the 3.15 ha of land located at the northeast corner of Burloak Drive and Rebecca Street from “**Business Employment**” to “**Business Commercial**” on Schedule F, South West Land Use. Refer to the attached revision to Schedule F.
- Include a new site specific exception, 27.1.8, to permit convenience retail uses greater than the maximum 2,500 square metres (allowing a maximum of 3,252 square metres for a food store and a minimum of 1,393 square metres of office space) and providing an overall limitation on all convenience retail and service commercial uses of 7600 square metres.

Page	Policy or Schedule	Modification to Livable Oakville Text
E-54	<u>27.1.8</u> EXCEPTIONS, Schedule F (South West) Exceptions	<u>On the lands designated Business Commercial at the northeast corner of Burloak Drive and Rebecca Street a maximum of 7,600 square metres of convenience retail and service commercial uses may be permitted. Of the 7,600 square metres of convenience retail and service commercial uses, a maximum of 3,252 square metres may be permitted for a food store. A minimum of 1,393 square metres shall be provided for office uses. All uses will be subject to further limitations defined within the implementing zoning.</u>

underline = insertion

# SCHEDULE F SOUTH WEST LAND USE



- SCHEDULE AREA BOUNDARY
- LOW DENSITY RESIDENTIAL
- MEDIUM DENSITY RESIDENTIAL
- HIGH DENSITY RESIDENTIAL
- NEIGHBOURHOOD COMMERCIAL
- COMMUNITY COMMERCIAL
- CORE COMMERCIAL
- OFFICE EMPLOYMENT
- BUSINESS EMPLOYMENT
- INDUSTRIAL
- BUSINESS COMMERCIAL
- INSTITUTIONAL
- NATURAL AREA
- PARKWAY BELT
- PARKS AND OPEN SPACE
- WATERFRONT OPEN SPACE
- UTILITY
- GROWTH AREA \*
- SPECIAL POLICY AREA
- RAILWAY
- MAJOR TRANSIT STATION

\* Refer to Part E, Growth Area Policies



1:25,000

November 30th, 2009  
 Revised Date December 6th, 2010

City of Burlington Planning Department

