

October 18, 2023,

Our File: 911-001

By electronic mail only

Development Services
Planning, Building and Economic Development
Town of Caledon
2 Wellington Street West
Brampton, ON L6Y 4R2.

**Re: 6809 Healey Road
PRE-2022-0167
Town of Caledon
Regional Municipality of Peel**

Glen Schnarr & Associates Inc. (GSAI) is pleased to submit this letter in response to the email correspondence received September 6, 2023, from Town of Caledon staff regarding the PARC application PRE-2022-0167 for the site known as 6809 Healey Road. We offer the following comments in direct response to the email correspondence which should be read in conjunction with the previously submitted Planning Justification Report.

We have shown staff's comments from the email correspondence (to which staff requested a direct response to), in **BOLD** and GSAI's responses in normal text.

The lands are located within the Community Area of the [Settlement Area Boundary Expansion] SABE. The Town is undertaking a Growth Management and Phasing Plan to review where, when and how we grow in a responsible and sustainable manner within the SABE. The GMPP will be brought forward to Council this fall.

Firstly, we note that the GMPP was withdrawn from the Planning and Development Committee on October 17, 2023, for further discussion with Council and therefore, continues to be subject to discussion and refinement. In light of this, as well as the ongoing Official Plan review and at the direction of staff, we are seeking a temporary approval of this use to continue the for another three years. This use can continue to function as an interim use until the GMPP and associated studies are finalized, and the appropriateness of the future land use is determined. This use continues to be temporary in nature in the sense that the site could be converted or used for another use (including a more sensitive use) in the future if that ever is necessary or appropriate.

Section 6.2.13.1 of the Town of Caledon Official Plan (In-Effect) discusses how temporary use by-laws can be used strategically to permit for a use in the short term, where appropriate. While we recognize this as a third renewal of the request, we maintain our position that this use continues to remain appropriate as an interim use. Considering that presently, there is a lack of clarity for the future of this site in relation to the Town-wide Official Plan review and secondary planning for the future Community Area, permission for this site to continue to operate on an interim basis remains appropriate from a land use planning process and policy perspective consistent with the direction of upper and lower tier policy intentions. Revoking or not extending the permission for temporary use would effectively render the site underutilized whereas presently, it contributes to job generation and assists with supporting the agricultural land base across the Town and Region. The importance of retaining jobs and creating jobs is evidenced in the 2022 Employment Strategy Report prepared by Watson & Associates, which was used to inform the Town’s Official Plan review:

“Over the next 30 years, it is anticipated that approximately 40% of the Town’s employment growth will be accommodated within the Community Area (including downtown, other designated commercial and institutional lands, and Community Area Settlement Area Boundary Expansion lands). Based on the detailed review of commercial land supply and demand provided herein, the Town will require approximately 162 ha (400 acres) of additional commercial land within the Community Area Settlement Area Boundary Expansion lands (i.e., Community Area expansion lands).”

“Currently, the Town has a very limited amount of Employment Area lands available for development that are fully serviced and available for development today, or over a short-term time frame (i.e., one to three years). It is anticipated that the Town will completely deplete its remaining supply of serviced Employment Area lands within the next five years if new Employment Areas are not added to the Town’s Employment Area land supply.”

This extract notes employment growth on lands situated within the Community Area (although not exclusively) and tells us that in order to meet the commercial land demand outlined in the Report, additional lands will be required to be used for employment uses. This application before the Town presents a logical opportunity to continue to utilize lands within the Community Area (and SABE) for an employment use particularly in the shorter term, or potentially in the longer term.

Aside from the Town-led OP review, there is also the ongoing issue of the GTA West Transportation Corridor (“GTA West”) which will require resolution or direction prior to understanding the future potential usability of this site. This site is situated within the study area and could potentially require expropriation to facilitate the construction of GTA West. When considering the fact that the future of this site is uncertain per the GTA West proceedings, this temporary use by-law can be seen as an appropriate interim solution which will provide for economic opportunity in the interim and moreover, preserve the lands until their future can be solidified following the adoption of the ultimate solution/design of the GTA West corridor

expansion. It is our opinion that this use would continue to be appropriate, locationally, with the introduction of GTA West, should that ever be the case.

Further, we acknowledge that the Region requires local municipalities to approve secondary plans in the 2051 New Urban Area only after the structure of a connected transportation system is planned to the Region's satisfaction. This includes the conceptual alignment of transportation corridors to support travel including goods movement capacity, in recognition of policies in this plan regarding the GTA West and support for alternatives to a highway. This directly speaks to the appropriateness of this use as an interim condition prior to understanding the future of GTA West and in the absence of any Secondary Plan for this area.

Conclusively, we are of the opinion that this use continues to be appropriate in light of the direction provided by Provincial and Regional plans and the ongoing Town-led technical studies, and their status, and in the absence of a decision or definitive direction on GTA West. It is not anticipated that any new land uses will be constructed, nor this Community Area built out, prior to the lapsing of the Temporary Use By-law. We do maintain our position that this use can co-exist with other more sensitive uses in the future.

In addition, through our Future Caledon Official Plan Review and further anticipated subsequent studies in 2024 related to temporary uses in the SABE and uses similar to this in nature (i.e., contractors facilities, transportation depots, etc.), there will be further refinement of permitted uses, our policies related to growth and overall temporary use policies.

GSAI has provided rationale to address the temporary use policies in both the existing and draft Official Plan. This is provided in the Planning Justification Report under section 8.1.4.

That said, while we acknowledge that staff continue to review and refine Official Plan policies related to temporary uses, it is not reasonable to refute an application on the grounds of policy that is yet to exist as there is no valid method of analysis or evaluation of the merits of the application, against policy. In this instance, and in light of the information available at the time of filing the application, the merits of the application should be evaluated against the policies in effect at the time of filing the application. We acknowledge that the draft Official Plan has slightly amended policies related to temporary uses, and as such, have addressed the draft Official Plan policies (in our formal Planning Justification Report) which have been released. However, we are not able to address policies related to temporary uses and new policies related to Contractor's Facilities (or the like), as they simply do not exist. To that end, we would encourage staff to work with owners, such as Tolia Landscaping & Plowing in order to understand the intricacies associated with the business operation as they determine, and draft policies related to such uses.

Lastly, this use has existed for several years and has complied with all on-site improvements at the request of Town staff. GSAI nor our client are aware of any formal complaints or by-law contraventions filed against the owner or the property with the ongoing existing operations.

Staff has significant concerns that the use is not compatible with the intended Community Area land use for the area. Furthermore, staff has significant concerns that this use is not temporary, which is demonstrated through the repeated discussions and your correspondence noting a "reluctancy" to submit a temporary use by-law instead of a permanent use rezoning.

In consideration of Town Planning staff comments on this first matter, GSAI has considered this issue with two lenses of review: firstly, existing conditions of similar uses in the Town and secondly, against the Town Zoning By-law general provisions.

GSAI has reviewed various Town locations considering aerial photography and Town Zoning schedules to find locations where employment uses similar to our client's business are located proximate to residential uses. While there are various examples like our client's situation in the rural landscape, some of which continue with illegal operations, the exercise focussed on built-up areas and thus primarily focussed on the Bolton community. Based on our review, we found numerous examples of lands zoned MU or MS near residential uses. These zones were selected as they are the closest example of a base zone category applicable for our client's operations (see Section 8, Industrial Zones, Table 8.1). In the examples, some of the residential uses are separated by a transportation feature, while others directly abut the employment use. Some conditions have front or side yards facing the employment use, while others have rear yards facing the employment uses. Our review further suggests some of the conditions we found were from historical evolution of this part of the Town, while others appeared to be recent approvals of residential uses in proximity to these employment uses. In some cases, the employment uses provided some form or natural or artificial screening when proximate to residential uses. Therefore, permitting residential or a sensitive use in close proximity to certain industrial uses, or lands that are zoned for uses which mimic the uses permitted at 6809 Healey Road, already exist in the Town.

To address staff's primary concern on compatibility, GSAI has also reviewed the Town's Employment provisions in the Zoning By-law. Notwithstanding each development application has to be able to prove the planning justification and merits are sound, which in turn may include technical analysis, the Town's zoning provisions provide a regulatory separation from employment uses to residential uses for various matters which likely includes compatibility considerations.

Per our review of the by-law, specifically the regulations set out in Section 4.36 related to separation distances from residential zones, it would appear that the Town has intentionally regulated separation distances for some uses but has not included Contractors Facilities (or any other uses permitted under the Healey Road site specific by-law provisions). Through deliberately omitting such uses from such separation distance requirements, we interpret this to mean that these uses can be seen as appropriate or compatible when proximate to residential.

The following is noted from the Town's zoning regulations:

- MA zone: has a 30 m setback requirement from a lot line abutting a zone other than an Industrial zone. There is no equivalent minimum for the MS or MU zone.
- MS zone: various front, exterior side yard, interior yard, or rear yard setbacks ranging from

15 – 20 m setbacks required when abutting a Residential zone or a lot containing a Residential use.

- MX zone: has a 90 m setback requirement from an interior side, or rear yard lot line abutting a Residential zone. There is no minimum noted for the MS or MU zone.
- Accessory open storage areas setbacks are 90 m from any lot line which abuts a Residential zone, and 30 m from any other lot line for an MX zone. While there are generic footnote requirements for MS and MU zones, there is no specificity for this use in any other zone category (accessory open storage areas are permitted in the MS and MU zones among others). The footnotes note exclusions that apply in the front and exterior side yard and with either screening requirements for other lot lines in an MS zone, or exclusions in interior or rear yards which abut a Residential zone or Residential use.

GSAI's review of these industrial as-of-right provisions suggest certain zones have more stringent requirements, such as MX, and there are limits on setbacks when considering certain use permissions in the MS and MU zone. However, even the foot notes referenced above don't expressly forbid the accessory open storage areas outright in the applicable zones. More importantly, the uses on our clients' lands including the primary "contractor's facility" have no zoning regulations regarding setbacks. Even within the MS and MU zones, there are no setback requirements specific to residential uses for other uses including various motor vehicles uses, industrial use, or transportation depot.

It is surmised that the Town has deliberately identified uses where, without further study, potential compatibility concerns might occur and thus, regulations have been established to address these potential proximate situations. GSAI therefore concludes that the operations which generally exist at 6809 Healey Road could co-exist abutting a future residential use as envisioned in the "Community Area". Even if potential compatibility issues were identified, it is more than likely mitigation measures could be considered for the site operations to ensure compliance with applicable guidelines. This is no different than the acoustical issue which was identified from previous temporary use approvals.

In response to GSAI's development application requests, it should be noted that GSAI had previously asked that consideration be given to preparing a site-specific Official Plan Amendment for 6809 Healey Road to capture the business operation permission for the broader parcel. The intent of this exercise was to establish the business in the Official Plan as the lands were changing from Prime Agricultural to newer land use designations. If this had been completed, it would likely not interfere with the Town's ongoing long-term planning for the broader Community Area as another designation could be applied for the lands (i.e., residential, commercial) with the exception continuing to apply.

As Town Planning is aware, and as discussed above, for the majority of the time of considering the land use permissions for this site, the GTA West project has been underway. The Ministry staff in consideration of GTA West have noted in response to being circulated temporary use applications for our client lands in correspondence that they will only support a temporary zoning application for the proposed land uses. They, conversely, would not support a permanent rezoning application.

Based on the most recent information from the PIC dated October 5, 2023, it appears that mapping and/or further refining the highway corridor and surrounding uses will be advancing shortly. It was noted at the PIC that exact property requirements for highway will only be known once preliminary design is completed. This will help to inform property impact reports for each property which will be impacted by GTA West construction. It is understood that in May 2021, the Federal Minister of Environment and Climate Change decided that the GTA West work warranted designation under the Impact Assessment Act. At the PIC, it was noted that timing of Completion will be dependent on whether full Federal Impact Assessment will be required. Our understanding is that the Federal Impact Assessment can run concurrent with Provincial process and has yet to begin, however is targeted to start in December of this year.

It is possible this matter might finally conclude on whether our client's lands are impacted by the GTA West project, and if so, to what extent. Until this impact is completely transparent, and staff from the Ministry can confirm there is no need to discuss any land needs in the short or long term, GSAI is unable to proceed forward with permanent zoning specific to the GTA West limitations. Doing so will result in GTA West likely recommending to the Town of Caledon that the application should be refused to protect the highway corridor planning, or, if the application was successful for permanent zoning, the Ministry may object to the application resulting in a tribunal hearing.

In the summer of 2022, as part of the pre-consultation submission, GSAI had wanted to pursue permanent zoning as part of the ongoing development application process for this site in the hopes the GTA West matter would resolve itself in time for where we stand today (on the cusp of losing our client's temporary zoning). However, yet again, the GTA West project was/is delayed, and this has not occurred. As noted in previous correspondence, our client wishes to remain in this location for various reasons including locational advantages for client sites, available labour, ability to potentially expand, functionality of both the site and site buildings, as well as the lack of available sites in Caledon appropriate for this business. Ultimately, our client would pursue permanent zoning if they could and GSAI would support this request before the Town.

The issue of permanent versus temporary zoning application types is further complicated by the Town's interpretation of Bill 109 and based on previous correspondence from summer 2022, the Town is not prepared, at this time, to accept any permanent rezoning within the SABE until the Town has completed the various policy/land use planning exercises which in Town Planning's opinion need to occur first before allowing for the potential to evaluate our client's request for permanent zoning. GSAI has made it clear we don't feel this is necessary as previously discussed. Our intentions and our clients' intentions are to not continue to renew the temporary zoning application as this prolongs finalizing the development approvals process which in turn continues to burden our client with unnecessary costs to his business.

We acknowledge staff's request to explore other locations around the Town and appreciate the assistance received to date. GSAI would note both previous and current attempts at gaining insight into this matter.

Previously, when asked about relocation opportunities, our client started to explore various options both in Caledon and throughout the broader area. The results of the extensive review and

discussions with other landowners revealed no other opportunity which would suit our client, and the records to prove the availability of sites on the market were included with the GSAI development application materials.

To address today's application, GSAI requested to meet with Town Economic Development staff to engage them as a Town resource to help provide guidance on relocation opportunities in Caledon for this business. Both in virtual meetings and correspondence in September and October of this year, Town staff have confirmed through their internal research that they are not aware of any properties within the employment areas that would suit the business currently at 6809 Healey Road. This would appear to align with the Watson report prediction on available industrial land supply in Caledon. They have noted that while they are sympathetic to our client's needs, and many other similar requests for appropriately zoned lands which are not available, they note future employment lands will become available as part of the Official Plan/SABE policy planning exercise completion. However, it is not realistic to think this process can be completed quickly, nor realistically in the next few years. As noted above, providing the existing business security through a Town-initiated Official Plan Amendment would permit the operation to continue while the Town policy planning/phasing exercises can continue throughout the SABE area. Once the Town has established the appropriate land use framework, including zoning, for the employment areas in the SABE, then our client could consider relocation opportunities.

On the basis of just the inability to relocate elsewhere in Caledon in the short term as evidenced above, a temporary use rezoning application is warranted at this time.


We would refer staff back to point one, above, regarding appropriateness of the use in the context of the future Community Area. We would encourage staff to review our Planning Justification Report in this regard. This use continues to be revertible for other uses, if required in the future. To clarify for the benefit of staff, our reluctance to file a Temporary Zoning By-law application was rooted in the fact that we believe that there is merit in granting this use permanent zoning permission.

We trust this addresses staff's comments in the email correspondence dated September 6, 2023. In conclusion, we would ask that Town Planning staff consider our commentary above acceptable, and in turn proceed immediately with advancing our development application to ensure no lapsing of the subject site zoning for the reasons cited herein in direct response to staff's email correspondence as well as the responses provided in our formal Planning Justification Report, in support of this request.

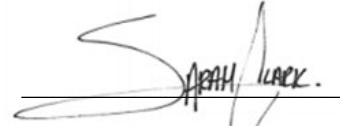
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