

ISSUE DATE:

January 20, 2010



Ontario

Ontario Municipal Board
Commission des affaires municipales de l'Ontario

PL070927

IN THE MATTER OF subsection 36(3) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended

Appellant: Calloway REIT (Burlington Appleby) Inc.
Subject: Zoning By-law No. 2020, as amended
Municipality: City of Burlington
OMB Case No.: PL070927
OMB File No.: Z070130

IN THE MATTER OF subsection 41(12) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended

Subject Site Plan
Referred by Calloway REIT (Burlington Appleby) Inc.
Property Address/Description 3071, 3074, 3081 Harrison Court
Municipality City of Burlington
OMB Case No. PL070927
OMB File No. M070093

Calloway REIT (Burlington Appleby) Inc. has appealed to the Ontario Municipal Board under subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, from Council's refusal or neglect to enact a proposed amendment to Zoning By-law 2020 of the City of Burlington to rezone lands respecting 3071, 3074, 3081 Harrison Court to permit an indoor physical fitness centre use in the proposed commercial development on the property zoned H-MXE-312 Mixed-Use Corridor – Employment (Holding) Exception Zone
OMB File No. PL081039

BEFORE:

S.B. CAMPBELL)
VICE-CHAIR) Wednesday, the 20th
) day of January, 2010

THE BOARD ORDERS the following:

1. That the appeal by Calloway REIT (Burlington Appleby) Inc. ("Calloway") under subsection 36(3) of the *Planning Act* to amend Zoning By-law 2020, as amended, to remove the "H" symbol on its lands at 3011 Appleby Line (formerly, 3071, 3074, 3081

Harrison Court) in the City of Burlington (the "Calloway Lands") is allowed in part. Zoning By-law 2002 is amended in the manner set out in Schedule "A".

2. That the same appeal shall be allowed in further part by removing the amended "H" symbol set out in Schedule "A", upon a further Order of the Board in accordance with either paragraph 25 or 27 of the Minutes of Settlement attached hereto as Schedule "B" (the "Minutes of Settlement").
3. That this panel of the Ontario Municipal Board remains seized of the appeal by Calloway under subsection 36(3) of the *Planning Act*.
4. That this panel of the Ontario Municipal Board remains seized of the appeal of Calloway's application for site plan approval under subsection 41(12) of the *Planning Act* (the "Site Plan Appeal").
5. That the appeal by Calloway under subsection 34(11) of the *Planning Act* from Council's refusal or neglect to pass an amendment to Zoning By-law 2020 of the City of Burlington to rezone the Calloway Lands to permit an indoor physical fitness centre use is allowed. Zoning By-law 2020 is amended in the manner set out in Schedule "A".
6. That the Clerk of the City of Burlington is authorized to assign a number to the Zoning By-law amendment attached as Schedule "A" for record keeping purposes.
7. That this Board Order will take effect upon the earlier of:
 - (a) the settlement of the Site Plan Appeal with respect to Phase 1 (as defined in the Minutes of Settlement) in accordance with the Minutes of Settlement; or
 - (b) a Board determination on the Site Plan Appeal.



SECRETARY