Ontario Land Tribunal
Tribunal ontarien de l'aménagement du territoire

ISSUE DATE: July 3, 2024 **CASE NO.:** OLT-22-004680

PROCEEDING COMMENCED UNDER subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant and Appellant:	FGL Kerns Inc.
Subject:	Application to amend the Zoning By-law – Refusal or neglect to make a decision
Description:	To permit the development of a four-storey retirement home with ground floor for commercial use
Reference Number:	520-02/21
Property Address:	1600 Kerns Road
Municipality/UT:	Burlington/Halton
OLT Case No.:	OLT-22-004680
OLT Lead Case No.:	OLT-22-004680
OLT Case Name:	FGL Kerns Inc. v. Burlington (City)

BEFORE:

HUGH S. WILKINS	)	Wednesday, the 3rd
	)	
VICE CHAIR	)	day of July, 2024

THESE MATTERS having come before the Tribunal for a hearing on October 3 and 4, 2023, and the Tribunal, in its decision issued on January 30, 2024, having ordered that the proposed Zoning By-law Amendment is approved in principle with the Final Order being withheld pending receipt and approval by the Tribunal of the proposed Zoning By-law Amendment submitted in a final form and confirmed to be satisfactory to the Parties and pending notification by the City of Burlington and FGL Kerns Inc. that the City's 2020 Official Plan has come into force and effect as it relates to 1600 Kerns Road;

AND THE TRIBUNAL having been advised with confirmation from the Parties that the above-stated pre-requisite matters have been satisfied;

THE TRIBUNAL ORDERS that the Zoning By-law Amendment, set out in Attachment 1 to this Final Order, is approved.

"Euken Lui"

EUKEN LUI
ACTING REGISTRAR

ATTACHMENT "1"

ZONING BY-LAW

BY-LAW NUMBER 2020.461

THE CORPORATION OF THE CITY OF BURLINGTON

BY-LAW NUMBER 2020.461

Being a By-law to amend By-law 2020, as amended for 1600 Kerns Road to facilitate the development of a 4-storey retirement home excluding roof-top mechanical.

File Nos. : 520-02/21

WHEREAS Section 34(1) of the Planning Act, R.S.O. 1990, c. P. 13, as amended, states that Zoning By-laws may be passed by the councils of local municipalities; and,

WHEREAS the Ontario Land Tribunal issued a decision on XXX, 2023, to amend the City's existing Zoning By-law 2020, as amended, to permit a 4-storey retirement home excluding roof-top mechanical for land located at 1600 Kerns, Burlington.

THE COUNCIL OF THE CORPORATION OF THE CITY OF BURLINGTON HEREBY ENACTS AS FOLLOWS:

1. Zoning Map Number XX of PART 15 to By-law 2020, as amended, is hereby amended as shown on Schedule "A" attached to this By-law.

2. The lands designated on Schedule "A" attached hereto are hereby rezoned from CN2 (Neighbourhood Commercial) to CN2-526 (Neighbourhood Commercial Exception) and O2 (Open Space).

3. PART 14 of By-law 2020, as amended, Exceptions to Zone Classifications, is amended by adding a new Exception 526 with the following:

Exception 526	**Zone CN2**	**Amendment 2020.461**	**Enacted XXX**
1. Additional Permitted Use:			Retirement Home with ground floor Retail, Service Commercial and all Office Uses
2. Regulations for a Retirement Home			
a. Lot Area			0.5 ha
b. Yard abutting Four Seasons Drive			5 m
c. Yard abutting Kerns Road			4.5 m
d. Yard abutting a Residential Zone, inclusive of terraces and balconies: i. Lower Level ii. Floors 1 to 2 iii. Floor 3: iv. Floor 4: v. Mechanical Penthouse:			 7.5 m 7.5 m 12 m 16 m 24 m
e. Yard Abutting O2 Zone			0 m inclusive of terraces and balconies
f. Maximum Number of Retirement Units			115 units
g. Floor Area for Retail, Service Commercial and Office			450 m²
h. Maximum Floor Area for Retirement Home			9,779 m^2
i. Maximum Building Height			4-storeys up to 14m measured from fixed grade of Four Seasons Road excluding roof-top mechanical penthouse.
j. Parking: i. Retirement Home: 1. Occupant/Employee 2. Visitor and Maintenance ii. Retail and Service Commercial:			 0.5 parking spaces per unit Not required 4 parking spaces per 100 m² of gross floor area.
k. Above-Grade and Below-Grade Parking Structure i. Yard Abutting an O2 Zone:			 0 m

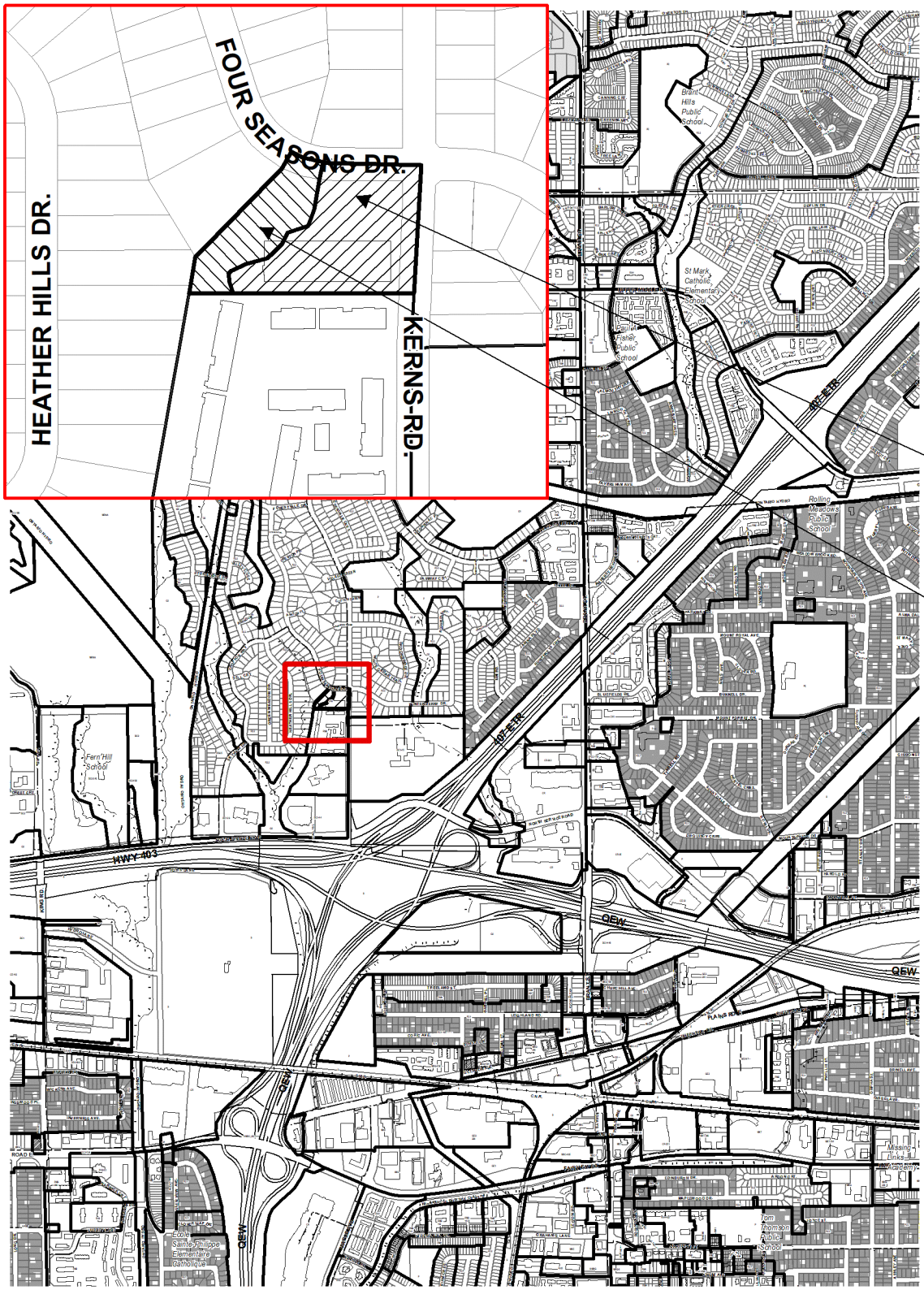
ii. Yard Abutting Four Seasons Drive: iii. Yard Abutting Kerns Road: iv. Yard Abutting a Residential Zone:	2.7 m 4.5 m 12 m
l. Entrance and Exit Ramps from a street line	0 m
m. Landscape Buffer Abutting a Residential Zone i. Abutting the entrance and exit ramp to the parking structure and loading area ii. Abutting an outdoor Amenity Area	 2.3 m 3 m
n. Landscape Area: i. Abutting a street: ii. Abutting an O2 Zone:	 3 m, a transformer may encroach. 0 m
o. Every non-residential use shall provide a pedestrian accessible door on the building elevation facing Kerns Road or Four Seasons Drive.	
p. Amenity Area	15.4 m² per unit

ZONING
1600 Kerns Road

SCHEDULE "A"

OLT Case No. OLT-22-004680
File No. 520-02/21

Exhibit No. _____



Area 'A'

To be rezoned from 'CN2' to 'CN2-526'

Area 'B'

To be rezoned from 'CN2' to 'O2'

SCHEDULE 'A' TO BY-LAW 2020.461 AMENDING MAP NO. 11E PART 15, BY-LAW 2020 AS AMENDED.
PASSED THE 30th DAY OF JANUARY, 2024

MAYOR

CITY CLERK

TERANET City of Burlington
Community Planning Department