

Ontario Land Tribunal
Tribunal ontarien de l'aménagement
du territoire



ISSUE DATE: June 22, 2026

CASE NO(S): OLT-26-000146

PROCEEDING COMMENCED UNDER subsection 34(19) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellant:	1959025 Ontario Inc.
Subject:	Zoning By-law 2020.514
Description:	To permit To permit the development of a 25-storey mixed-use building with 50 residential units and 154 hotel suites
Reference Number:	Zoning By-law 2020.514
Property Address:	2076 Old Lakeshore Rd.
Municipality/UT:	Burlington/Halton
OLT Case No.:	OLT-26-000146
OLT Lead Case No.:	OLT-26-000146
OLT Case Name:	Acamar Dwelling Corporation v. Burlington (City)

Heard: June 16, 2026 by Video Hearing

APPEARANCES:

Parties

1959025 Ontario Inc.
("Applicant")

City of Burlington
("City")

Counsel

Narmada Gunawardana
Denise Baker *in absentia*

Hannah Ruby
Andrea Peebles *in absentia*

DECISION DELIVERED BY W. DANIEL BEST AND ORDER OF THE TRIBUNAL

[Link to Order](#)

INTRODUCTION

[1] The Tribunal convened a Merit Hearing to consider a settlement regarding an appeal brought forward for the above-noted matter. The Applicant appealed under s. 34(19) of the Planning Act, R.S.O. 1990, c. P.13, as amended (“Act”), regarding holding provisions (“Holding Provisions”) prescribed under Zoning By-law Amendment 2020.514 (“ZBA”) for 2076 Old Lakeshore Road in the City (“Subject Property”).

[2] The Applicant proposed a 25-storey (including mezzanine and mechanical penthouse) mixed-use building. The proposed development is comprised of 50 residential units and 154 hotel suites, with a total gross floor area of 13,914 square metres. The development proposal includes four levels of underground parking, with 82 parking spaces. At grade, the parking will be accessed via a driveway on the east side of the Subject Lands from Old Lakeshore Road, with a dedicated loading space immediately to the west of the parking access.

[3] On January 6, 2026, City Council approved applications for an Official Plan Amendment (“OPA 159”) and the ZBA Application for the Subject Property.

[4] At the same January meeting, City Council passed By-law 01-2026, which gave effect to OPA 159 and the ZBA. OPA 159 was not appealed and is in full force and effect.

[5] The Subject Property is located on the south side of Old Lakeshore Road, immediately north of Lake Ontario. The Subject Property currently contains an existing one-storey motel, ancillary buildings and surface parking.

[6] The Subject Property is irregular in shape and has an area of 0.54 acres of land and a frontage of approximately 47 metres (“m”) along Old Lakeshore Road.

[7] The lands surrounding the Subject Lands comprise the following:

- to the north is Old Lakeshore Road, and further north, mixed-use tall building developments have been approved with heights of 27 storeys and 22 storeys;
- to the east is a two-storey restaurant which is a designated heritage property;
- to the south is Lake Ontario;
- to the west is the Waterfront Trail), and further west is a 22-storey mixed-use building and nine-storey hotel.

[8] There are several Burlington Transit bus stops within 300 m of the Subject Property. The Subject Property has access to The Queen Elizabeth Way from the Lakeshore Road on-ramp and Highway No. 403 from the Brant Street on-ramp located approximately three kilometres to the north. The Subject Property is approximately 450 m southeast of the downtown bus depot on John Street which provides multiple connections.

[9] The appeal of the ZBA was initiated by the Applicant due to holding provisions that were described as exceeding the authority of the City. The ZBA stated the following:

4. Part 11 of By-law 2020, as amended, Holding Zone Provisions, is hereby amended by the addition of the following section to Appendix A:

#106 H-DL-A-567 Map 9A Resolution:

The Holding symbol shall be removed from the zoning designation by way of an amending by-law when:

- a) A revised Sun Shadow Study has been submitted and reviewed to the satisfaction of the Director of Community Planning;
- b) That sufficient wastewater services are available to the satisfaction of the Regional Municipality of Halton and the City of Burlington. In this regard, downstream sewer constraints that include the sanitary sewer pumping station shall be addressed and any upgrades and/or replacement for the station be constructed and in operation, or other arrangements, satisfactory to Halton Region, have been made for the provision of wastewater services; and,
- c) That a revised Transportation Impact Study has been submitted and reviewed to the satisfaction of the Director of Planning in consultation with the Director of Transportation.

d) The Owner implements the waterfront trail extension works and dedicates the lands below stable top of bank in an improved condition, free of charge to the City, as identified in Report DGM-06-26 and shown on Appendix B - Concept Plan to the report, to the satisfaction of the Director of Community Planning.

Notwithstanding subsection (d) above, this Holding Provision does not prevent the issuance of a building permit and/or site alteration by-law permit necessary to authorize the demolition of existing buildings, installation of servicing works, or activities, including the removal of soil, rock or fill, excavation and shoring, necessary to accommodate shoreline protection and waterfront trail extension works.

[10] The Settlement Proposal modifies the ZBA by striking subsections b), c) and revising subsection d). In all other respects, the ZBA remains the same.

[11] The Region of Halton confirmed that any concerns with respect to subsection b) and the pumping station had been resolved, thus negating the need for this holding provision.

[12] With respect to subsection c), the Applicant advised that a revised transportation impact study ("Transportation Impact Study") has been submitted and reviewed to the satisfaction of the Director of Planning in consultation with the Director of Transportation and further refinements will occur during the site plan process.

[13] In the modified ZBA, the revised language for subsection d) relating to the extension of the Waterfront Trail continues to appropriately secure the conveyance of the land in accordance with the Act and allows for the lands to be used for construction staging to reduce costs associated with the construction of the development.

LEGISLATIVE FRAMEWORK

[14] When considering an appeal of an application to amend a zoning by-law filed pursuant to s. 34 of the Act, the Tribunal must have regard to matters of Provincial interest as set out in s. 2 of the Act and to the decision of the City Council, and the information it considered pursuant to s. 2.1(1) of the Act.

[15] Section 3(5) of the Act requires that the decisions of the Tribunal affecting planning matters be consistent with the Provincial Planning Statement, 2024 ("PPS").

[16] The Tribunal must also be satisfied the ZBA conforms with the Official Plan(s) in effect.

[17] Overall, the Tribunal must be satisfied that the ZBA represents good planning and is in the public interest.

SUBMISSIONS AND EVIDENCE

[18] In support of the proposed settlement, the following Exhibits were filed:

Exhibit 1: Affidavit of David Falletta sworn on June 3, 2026.

[19] Mr. Falletta is a registered planner and a partner in a land-use planning firm. Based on his experience and expertise outlined in his *curriculum vitae*, the Tribunal qualified him to provide opinion evidence as an expert in land-use planning.

[20] Mr. Falletta stated that the planning instrument as modified has appropriate regard to matters of Provincial interest. Mr. Falletta highlighted that the ZBA:

- has no impact on the natural heritage system, agricultural resources, or any natural or mineral resources;
- is supported by existing communication, transportation, sewage and water services, and waste management systems as described in the supporting functional servicing report and transportation impact assessment; and
- will facilitate the creation of new housing and commercial amenities for the City and assist with the financial and economic well-being of the Province and the City once the Holding Provisions are lifted.

[21] Mr. Falletta stated the planning instrument, as modified and presented to the Tribunal is consistent with the PPS, as it:

- optimizes existing infrastructure by utilizing available capacity as confirmed by the Region;
- creates transit-supportive development which supports active transportation;
- supports intensification and redevelopment to support the achievement of complete communities by developing a new hotel and residential use with 50 new residential units and 154 new hotel rooms;
- requires the dedication of land to support a waterfront trail connection along the Lake Ontario waterfront, supporting healthy, active, and inclusive communities and providing opportunities to public access to shorelines; and,
- the Revised Holding Provisions ensure that the development is planned in a coordinated, integrated, and comprehensive approach which manages and promotes growth, is integrated with infrastructure and public service facilities, manages natural heritage resources, supports infrastructure, multi-modal transportation systems, protects shoreline and Great-Lakes related issues and natural hazards, and addresses housing needs.

[22] Mr. Falletta opined that the Settlement Proposal conforms to the Halton Region Official Plan (“HROP”) as the revised holding provisions will:

- assist the Region in building a healthy community by adding to the range of housing options in the community;
- conform to the Region’s objectives of the Urban Area, including creating healthy communities, promoting economic prosperity, supporting growth that is compact and supportive of transit and non-motorized modes of

travel, directing growth to Strategic Growth Areas, and facilitating intensification and increased densities;

- implement the Regional Urban Structure objectives to focus a significant proportion of population and employment growth to Strategic Growth Areas through mixed use intensification;
- leverage infrastructure investments and public service facilities to support a significant share of growth and achieve transit supportive densities;
- are designed to support active transportation and public transit;
- encourage active transportation within a designated intensification area;
- protect and enhance the Halton waterfront as a major resource.

[23] Mr. Falletta confirmed that the Settlement Proposal conforms to the applicable policies of the Burlington Official Plan (“COP”) adopted in 1997 and brought into effect in 2008.

[24] Mr. Falletta advised that a new Official Plan was approved by the City in 2020 (“New OP”). However, the New OP was appealed, and land use designations that apply to the Subject Property are under appeal. Although a small number of the policies of the New OP are in effect, the land use designations and related policies remain under appeal and are not in force.

[25] Mr. Falletta opined that the Settlement Proposal conforms with the COP as amended by OPA 159 since it:

- implements appropriate holding zones to specify the conditions of development;
- identifies the sequence of growth which shall be phased in a manner to ensure the logical extension of adequate services;

- directs for the implementation of a continuous waterfront trail through development and/or re-development along Lake Ontario;
- identifies that a transportation study may be required for development, as one was previously provided as a part of the Applications; and
- planning for reduced parking ratios on site as identified in the submitted TIS and supporting shared commercial parking within the City's downtown as identified in the ZBL.

[26] Mr. Falletta advised that the Settlement Proposal conforms with the New OP and its in-force policies as it:

- Supports the direction for the coordination of land use and infrastructure to achieve complete, diverse, adaptable, and sustainable communities;
- Creates safe, accessible places by requiring the conveyance of lands for a Waterfront Trail extension that will activate the Lake Ontario waterfront and create a significant new public amenity across the Subject Property;
- Provides a range of multi-modal and sustainable transportation choices;
- Secures appropriate access to shoreline protection measures through a 5-metre access allowance, including the incorporation of a Waterfront Trail, to be conveyed to the City.

[27] Mr. Falletta stated that, through his review of all of the public comments, he believes all relevant and appropriate comments have been addressed regarding built form in OPA 159 and the ZBA. He further stated that any refinements to built form will be addressed through the site plan process.

[28] The Tribunal finds that Mr. Falletta adequately addressed the concerns identified related to the public comments.

SUMMARY

[29] Mr. Falletta summarized that the Settlement Proposal represents good planning and that the revised ZBA has regard for matters of Provincial interest outlined in section 2 of the Act, is representative of good land use planning, is consistent with the PPS, and conforms with the HROP, COP and New OP. Mr. Falletta recommended the Tribunal approve the ZBA as presented.

FINDINGS AND DISPOSITION

[30] The Tribunal accepts the uncontroverted planning opinion evidence of Mr. Falletta in its entirety. The Tribunal finds the Settlement Proposal addresses the relevant matters of Provincial interest identified in s. 2 of the Act, is representative of good land use planning, is consistent with the PPS, and conforms with the HROP, COP and New OP.

ORDER

[31] **THE TRIBUNAL ORDERS THAT** the appeal is allowed, in part, and directs the City of Burlington to amend Zoning By-law 2020, as amended, as set out in **Attachment 1** to this Order. The Tribunal authorizes the clerk of the City of Burlington to assign a number to this by-law for record-keeping purposes.

“W. Daniel Best”

W. DANIEL BEST
MEMBER

Ontario Land Tribunal

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The Conservation Review Board, the Environmental Review Tribunal, the Local Planning Appeal Tribunal and the Mining and Lands Tribunal are amalgamated and continued as the Ontario Land Tribunal (“Tribunal”). Any reference to the preceding tribunals or the former Ontario Municipal Board is deemed to be a reference to the Tribunal.

Attachment 1**THE CORPORATION OF THE CITY OF BURLINGTON****BY-LAW NUMBER 2020.514**

A By-law to amend By-law 2020, as amended; for 2076 Old Lakeshore Road,
File Nos.: 505-09/25 & 520-10/25

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, 2026, to amend the City's existing Zoning By-law 2020, as amended, to permit a 25-storey mixed use building consisting of 154 hotel suites and 50 residential units for lands located at 2076 Old Lakeshore Road, Burlington.

THE ONTARIO LAND TRIBUNAL AMENDS ZONING BY-LAW 2020 AS FOLLOWS:

1. Zoning Map Number 9A 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 as "A" on Schedule "A" attached hereto are hereby rezoned from DL-C (Downtown Old Lakeshore Road) zone to the H-DL-A-567 (Downtown Old Lakeshore Road) zone with a holding and site-specific regulations.
3. The lands designated as "B" on Schedule "A" attached hereto are hereby rezoned from DL-C (Downtown Old Lakeshore Road) to PC (Community Park) zone.
4. Part 11 of By-law 2020, as amended, Holding Zone Provisions, is hereby amended by the addition of the following section to Appendix A:

#106	H-DL-A-567	Map 9A	Resolution:
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The Holding symbol shall be removed from the zoning designation by way of an amending by-law when:

- a) A revised Sun Shadow Study has been submitted and reviewed to the satisfaction of the Director of Community Planning;
 - b) That the owner enters into a site plan agreement which shall require, prior to the occupancy of the first unit, the dedication of lands below the stable top of bank, free of charge to the City, as identified in Report DGM-06-26, to the satisfaction of the Director of Community Planning.
5. PART 14 of By-law 2020, as amended, Exceptions to Zone Designations, is amended by adding a new Exception 567 with the following:

Exception 567	Zone H-DL-A	Map 9A	Amendment 2020.514	Enacted XXX, 2026
1. Permitted Uses:				
a) In addition to the uses permitted in the DL-A zone, the following uses shall also be permitted; i) An apartment building with hotel. ii) Notwithstanding Part 6, Section 2A, Table 6.2.1, footnote (g), permitted uses on the ground floor of an apartment or hotel building shall include retail, service commercial, all office uses, an apartment building lobby and hotel lobby.				
2. Regulations for an apartment building with hotel:				
a) Yards:				
i) Abutting Old Lakeshore Road: i. Floors 1 and 2 (mezzanine) ii. Floors 3 and 4 iii. Floors 5 to 24 iv. Floor 25 (Mechanical Penthouse)			0 m to column; 2 m to building 0 m 2.5 m 5 m	
ii) West Side Yard: i. Floors 1 and 2 (mezzanine) ii. Floors 3 to 23 iii. Floor 24 iv. Floor 25 (Mechanical Penthouse)			0 m to column; 2 m to building 0 m 0 m to terrace; 6.5 m to building 6.5 m	
iii) East Side Yard: i. Floors 1 to 3 ii. Floors 4 to 25 (Mechanical Penthouse)			0 m 5.5 m	
iv) Rear Yard abutting the PC zone: a) Floors 1 to 3 b) Floors 4 to 24 c) Floor 25 (Mechanical Penthouse)			11.8 m 13.3 m 16.5 m	
b) Notwithstanding Part 6, Section 4.1, Table 6.4.1, the maximum yards abutting a street shall not apply.				
c) Setback for below-grade parking structures from easterly and westerly property lines and street lines: Rear Yard abutting the PC zone:			0 m 11.8 m	

d) Setback from the top of the long-term stable slope of Lake Ontario:	9 m
e) Maximum Building Height:	25 storeys (inclusive of mezzanine and mechanical penthouse) and up to 80 metres measured from grade including mechanical penthouse.
f) Height of first storey:	3 m
g) Height of second storey:	2.5 m
h) Second storey floor area:	150 m ²
i) Maximum number apartment dwelling units:	50
j) Maximum number hotel units:	154
k) Dwelling Units	Not permitted on the 2 nd storey (mezzanine) or 25 th storey (mechanical penthouse).
l) Maximum Floor Area Ratio:	11.9:1
m) Amenity Area: i) For the purposes of this By-law, all areas intended for recreational purposes on the property, including shared hotel and residential facilities, will be included in the calculations for amenity area	
n) Landscape Area abutting a PC zone:	None required
o) In-ground Swimming Pool setbacks:	14 m
i) West Side Yard:	3 m
ii) East Side Yard:	3 m
iii) Rear Yard as measured from the PC zone:	
p) Parking:	
i) Apartment Dwelling Units:	1 space per unit
ii) Designated accessible apartment dwelling units:	None required
iii) A required occupant parking space, excluding designated accessible parking, can be provided in an automated parking system.	

q) Notwithstanding Part 1, Section 2.26(1)(a), an automated parking system, including vertical lifts and pallet systems, shall be permitted to provide required parking vehicle stackers where parking spaces shall not be readily accessible without obstructions at all times without the necessity of moving any other vehicle or obstruction. r) Vertical lifts and parking pallet systems within an automated parking system shall have the following dimensions: i) width of 2.5 m; ii) length of 5.5 m; iii) area of 13.75 m² iv) vertical clearance of 2 m	
s) For the purposes of this by-law an automated parking system shall be defined as follows: i) An automated system for the purpose of parking and retrieving motor vehicles and without the use of ramping or driveway aisles, and which may include but is not limited to, a vertical lift and the storage of cars on parking pallets.	
t) Bicycle Parking: i) Short-term: ii) Long-term:	0.05 spaces per unit 0.5 spaces per unit
u) Bicycle Parking space size: i) Vertical space: ii) Stackable space:	0.6 m x 1.2 m 0.6 m x 1.8 m
v) For the purpose of Bicycle parking regulations: i) Long-term bicycle parking spaces are bicycle parking spaces for use by the occupants, employees or tenants of a building, and must be located in a building. Required long term bicycle parking spaces in apartment buildings may not be in a dwelling unit, on a balcony or in a storage locker. ii) Short-term bicycle parking spaces are bicycle parking spaces for use by visitors to a building. Short-term bicycle parking spaces are to be located close to a building entrance and sheltered from the elements. iii) Bicycle parking shall be permitted between the building and Old Lakeshore Road.	

Schedule "A"

