



## Community Planning Department

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**SUBJECT: Planning Analysis for 407 Martha Street - Official Plan and Zoning By-law Amendment**

**DATE: March 22, 2023**

**TO: Blake Hurley, Deputy Corporation Counsel**

**FROM: William Wallace, Coordinator of Development Review**

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### **1.0 Background**

#### **1.1 Purpose**

This analysis concerns a proposed settlement in relation to the appeal of site-specific applications for Official Plan Amendment and Zoning By-law Amendment by Bousfields Inc on behalf of 2413350 Ontario Inc. for the lands known as 407 Martha Street (file numbers 505-01/21, 520-01/21).

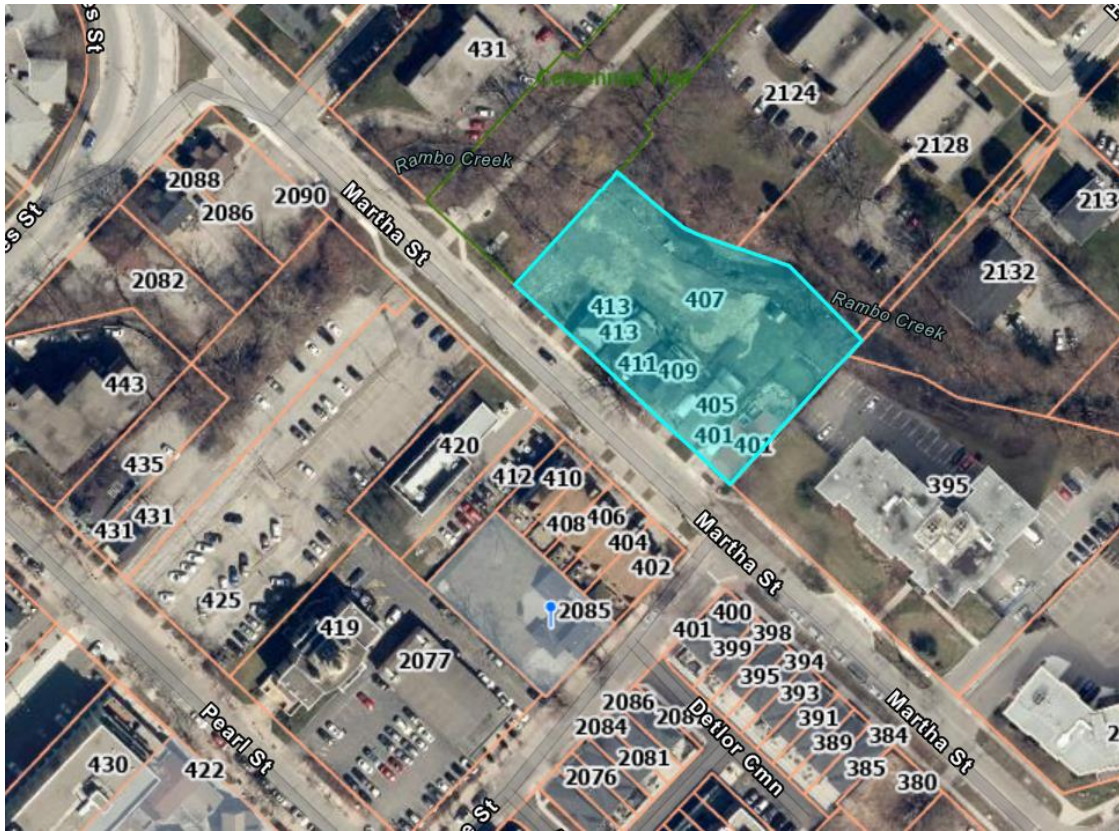
#### **1.2 Site Description and Surrounding Uses**

407 Martha Street (the 'subject lands') is located on the east side of Martha Street between Pine Street and the Centennial Trail and have an area of approximately 0.32 hectares. The subject lands formerly comprised six properties with the addresses 401, 405, 409, 411, 413, and 417 Martha Street, but have now been assembled into a single property with the address 407 Martha Street. Portions of Rambo Creek and associated slopes are located within the property boundary. The associated hazards are regulated by Conservation Halton.

Existing uses on the site include multiple detached residential dwellings and vacant lands formerly occupied by detached residential dwellings.

The subject lands are surrounded by the following existing uses:

- To the north: the Centennial Trail, a recreational trail within a TransNorthern Pipeline corridor that extends from Downtown Burlington east to Burloak Drive. Low-rise apartment buildings are located on the other side of the Trail across from the subject lands.
- To the east: Rambo Creek, beyond which are low-rise multi-unit residential buildings on Harris Crescent.
- To the south: a 12-storey residential apartment building
- To the west: three-storey townhouse dwellings, a surface parking lot, and a one-storey infrastructure building on the west side of Martha Street.



*Figure 1: location of 407 Martha Street on the east side of Martha Street between the Centennial Trail and Pine Street*

The planned context for the surrounding area includes several developments within 200 metres of the subject property that have been approved by the Ontario Land Tribunal in recent years. These include:

- a 13-storey residential building located at the southwest corner of James Street and Martha Street,
- a 9-storey residential building located at 2085 Pine Street, west of the subject lands;

- a 26-storey mixed-use building at the northwest corner of Lakeshore Road and Martha Street;
- a 29-storey mixed-use building at the northeast corner of Lakeshore Road and Pearl Street;
- a 27-storey mixed-use building on the south side of Lakeshore Road at the southern terminus of Martha Street;
- a 27-storey mixed-use building at the southwest corner of Lakeshore Road and Old Lakeshore Road, located east of Martha Street.

### **1.3 Application History**

On April 19, 2021, the Community Planning Department acknowledged that a complete application had been received for an Official Plan Amendment and Zoning By-law Amendment for 407 Martha Street. The application proposed to amend the Official Plan and Zoning By-law to facilitate a development consisting of one 11-storey residential building comprising 130 units, with a density of 407 units per hectare. The proposal included 167 vehicle parking spaces and four levels of underground parking.

On August 19, 2021, the applications were appealed by the applicant to the Ontario Land Tribunal (OLT) on the basis of non-decision.

A Statutory Public Meeting for this development application was held on September 14, 2021. Report PL-41-21 provided a summary of the proposal and comments received to that date from the public and technical agencies and departments regarding the subject applications. At this meeting, the Community Planning, Regulation, and Mobility (CPRM) Committee received one spoken delegation and one written delegation from members of the public. Report PL-41-21 was received and filed by City Council at the Council meeting of September 21, 2021.

### **1.4 Current Proposal**

The City has received a without-prejudice settlement proposal from the applicant, consisting of revised architectural drawings by SRM Architects Inc., dated March 10, 2023. These drawings reflect a revised development proposal with a reduced footprint compared to the original proposal, due in part to new information about the extent of the floodplain/hazard lands on the site. Whereas the subject applications originally proposed an 11-storey mid-rise residential building, the revised proposal is for a 14-storey tall residential building.

The revised development proposal is further summarized as follows:

- Reduced residential unit count from 130 units to 111 units;

- Increased density of approximately 652 units per hectare from 407 units per hectare, due to the exclusion of the floodplain area from the calculation of lot area;
- Decreased gross floor area (GFA) from of 14,152m<sup>2</sup> to 12,500m<sup>2</sup>;
- Floor Area Ratio of approximately 7.35:1, excluding floodplain from calculation of lot area;
- Increased total building height of 50.5 metres (including mezzanine and penthouse) from 39.7 metres;
- Increased total building height of 14 storeys (not including mezzanine and penthouse), which includes a 6-storey podium from 11 storeys;
- The front wall of the building steps back 1.5 metres above the fourth floor. Balconies on the 6<sup>th</sup> floor project into this stepback;
- The front wall of the building steps back an additional 3 metres above the sixth floor, where the building transitions from podium to tower;
- Tower floorplate of 769 m<sup>2</sup> above the sixth floor;
- At ground level, the rear and side walls of the building are set back a minimum of 6 metres from the Regional Flood Line. Outdoor amenity space is proposed within this 6-metre ground-level setback. On levels 2-14, portions of the building and balconies are cantilevered over this space, maintaining a minimum setback of 4.8 metres (walls) and 3.3 metres (balconies) from the Regional Flood Line on levels 2-14;
- Below grade, the underground parking structure has a minimum zero-metre setback from the Regional Flood Line and from the front and south-side lot lines;
- Building width of 48 metres (podium) and 30 metres (tower), reduced from originally proposed width of 69 metres (lower building) and 65 metres (upper building);
- Amenity space: 221 m<sup>2</sup> indoor + 1,968 m<sup>2</sup> outdoor = 2,189 m<sup>2</sup> total (approximately 19 m<sup>2</sup> per unit). Total amenity space includes rooftop amenity, patios, private balconies, and ground-level outdoor space, but excludes lands within the floodplain;
- 118 parking spaces (1.06 spaces per unit, including visitor parking) within four-level underground parking structure;
- Front setback of 3 metres;
- South side setback of 3 metres;
- North side setback of 22.5 metres from the current shared property line with the Centennial Trail; and
- Rear setback of 12.5 metres (on levels 2-6) from the current shared property line with the properties to the east on Harris Crescent.

Staff’s review of the revised development proposal, as presented in the revised architectural drawings provided without prejudice by the applicant, forms the basis of the policy analysis described in this report.

**Report Fact Sheet**

Ward:	2	
<b>Application Details</b>	<p>APPLICANT:</p> <p>OWNER:</p> <p>FILE NUMBERS:</p> <p>TYPE OF APPLICATION:</p> <p>PROPOSED USE:</p>	<p>Bousfields Inc.</p> <p>2413350 Ontario Inc.</p> <p>505-01/21 &amp; 520-01/21</p> <p>Official Plan and Zoning By-law Amendment</p> <p>14 -storey (plus mechanical penthouse and mezzanine) residential building</p>
<b>Property Details</b>	<p>PROPERTY LOCATION:</p> <p>MUNICIPAL ADDRESSES:</p> <p>PROPERTY AREA:</p> <p>EXISTING USES:</p>	<p>East side of Martha Street between the Centennial Trail and Pine Street</p> <p>407 Martha Street</p> <p>0.32 hectares</p> <p>Vacant and detached residential</p>
<b>Requested Amendments</b>	<p>OFFICIAL PLAN Existing:</p> <p>OFFICIAL PLAN Proposed:</p> <p>ZONING Existing:</p>	<p>Downtown Residential Medium and/or High Density Precincts, Watercourse</p> <p>Downtown Residential Medium and/or High Density Precincts – with site-specific policy; Watercourse</p> <p>Downtown Residential High Density with Holding Symbol (H-DRH)</p>

	ZONING Proposed:	Downtown Residential High Density with site specific exception (DRH-XXX)
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## 2.0 Discussion

### 2.1 Policy Framework

The applications are subject to the following policy framework: Provincial Policy Statement (2020); A Place to Grow: Growth Plan for the Greater Golden Horseshoe (2020); Halton Region Official Plan; City of Burlington Official Plan (1997, as amended); Burlington New Official Plan (2020); and Zoning By-law 2020. Staff have also reviewed the proposed development with consideration for the following City of Burlington Urban Design Guidelines: Tall Building Guidelines (2017), Pedestrian-Level Wind Study Guidelines and Terms of Reference (2020), Shadow Study Guidelines and Terms of Reference (2020), Sustainable Building and Development Guidelines (2021), and Downtown Streetscape Guidelines (2019).

Planning staff is of the opinion that the proposed Official Plan and Zoning By-law amendment applications are consistent with the Provincial Policy Statement, conform to all applicable Provincial Plans; Halton Region Official Plan (ROP); reflect the policy direction of the City of Burlington Official Plans, have regard for matters of Provincial interest and represent good planning for the reasons set out in this report.

### 2.2 Provincial Policy Statement (PPS) 2020

The Provincial Policy Statement (PPS) came into force and effect on May 1, 2020 and applies to decisions concerning planning matters occurring after this date. The PPS provides broad policy direction on matters of provincial interest related to land use planning and development and supports improved land use planning and management, which contributes to a more effective and efficient land use planning system.

The PPS recognizes that Official Plans are the most important vehicle for implementation of the PPS; however, all Council decisions affecting planning matters “shall be consistent with” the PPS.

The PPS directs growth to settlement areas and promotes efficient development and land use patterns which sustain financial well-being of municipalities over the long term. The plan promotes appropriate densities and a mix of land uses that optimize use of land, infrastructure and public service facilities; promote energy efficiency and minimize negative impacts to air quality and climate change; and support transit and active

transportation. The PPS requires that sufficient land be made available through intensification and redevelopment and, if necessary, designated growth areas.

In addition, the PPS directs planning authorities to identify appropriate locations and opportunities for intensification and to promote appropriate development standards to facilitate intensification, redevelopment and compact form, while avoiding or mitigating risks to public health and safety. The PPS directs planning authorities to establish and implement minimum targets for intensification and redevelopment within built-up areas, based on local conditions. The PPS notes that where a provincial target is established through a provincial plan that the provincial target shall represent the minimum target, which in this case is the Growth Plan. The PPS sets out that new development within designated growth areas shall have a compact form and contain a mix of uses and densities that allow for the efficient use of land, infrastructure and public service facilities.

The PPS recognizes the importance of local context given the diversity of Ontario and that not all policies are applicable to every site and thus some flexibility in policy implementation is offered provided provincial interests are upheld. Further, the PPS identifies Official plans as the vehicle to identify and protect provincial interests and set out appropriate land use designations and policies that direct development to suitable areas. The City's Official Plan provides this policy framework and includes evaluation criteria for intensification proposals.

Planning authorities are to identify appropriate locations and promote opportunities for intensification and redevelopment where it can be accommodated taking into account existing areas and availability of suitable existing or planned infrastructure and public service facilities to accommodate needs. The appropriate locations and opportunities for infill and intensification are identified in the City of Burlington's Official Plan that provide policy framework and includes evaluation criteria for intensification proposals.

The housing policies of the PPS direct planning authorities to provide an appropriate range and mix of housing options and densities to meet the needs of current and future residents of the regional market area. This is to be accommodated by promoting densities for new housing and establishing development standards for new residential intensification and development which minimize the cost of housing and facilitate compact form, while maintaining appropriate levels of public health and safety. In addition, the provision of an appropriate range and mix of housing options and densities is through permitting and facilitating all housing options required to meet the social, health, economic and well-being requirements of current and future residents, including special needs requirements and needs arising from demographic changes. The City's Official Plan intensification strategy has appropriately considered, planned for and implemented an effective strategy that directs growth towards underutilized or vacant

parcels in existing communities and to the City's mixed use centres and intensification corridors, which is consistent with the PPS.

Density and a mix of land uses should minimize the length and number of vehicle trips and support current and future use of transit and active transportation and improve connectivity within and among transportation systems and modes and between cross jurisdictional boundaries.

The PPS acknowledges that the long-term prosperity, environmental health, and social well-being of Ontario depends upon the conservation and protection of our natural heritage resources and reducing the potential for public cost or risk to residents from natural or human-made hazards. The PPS requires that natural heritage features shall be protected, and development shall not be permitted on adjacent lands unless the ecological function of the adjacent lands has been evaluated and it has been demonstrated that there will be no negative impacts on the natural features or on their ecological functions. The provincial policy framework also directs development away from areas of natural or human-made hazards where there is an unacceptable risk to public health or safety or of property-damage, as well as to not create new or aggravate existing hazards.

### Opinion

Staff is of the opinion that the revised proposal is consistent with the policy directives of the PPS. The revised proposal represents an appropriate level of intensification within the urban boundary, efficient use of land and provides for a range and mix of housing options and densities. The revised proposal provides for an appropriate density and built form that represents compatible intensification.

The proposed revised development can be supported through use of existing and newly proposed infrastructure and public service facilities and the land is attractive for intensification given the proximity to existing transit routes, cultural and recreational resources, parks, institutional uses and community amenities. The revised development proposal will provide a range and mix of housing options within the urban boundary and directs development away from any natural hazards. As noted, the Environmental Impact Assessment (EIA) that has been prepared in support of the proposal identified that there were significant woodlands on the subject lands in accordance with the Regional Official Plan and that the natural heritage feature has been removed. Additional information needs to be provided to demonstrate the removal of the woodland resulted in no negative impact to the entirety of the remaining woodland feature. This would be addressed through the provision of an updated EIA prior to final approval (see Section 3.0 below for more detail).

The initial submissions were circulated to all applicable agencies that included the Region of Halton, City department staff and other agencies and a coordinated approach



was taken with respect to multi-jurisdictional features. The initial technical studies submitted in support of the proposed development have been reviewed and additional detail is contained elsewhere in this report.

The proposed intensification would contribute towards achieving the City's minimum intensification targets established by the Growth Plan, through the efficient use of land, infrastructure and resources.

Staff is of the opinion that the revised applications are consistent with the policy directives of the PPS.

### **2.3 A Place to Grow: Growth Plan for the Greater Golden Horseshoe (The Growth Plan) 2020**

A Place to Grow: Growth Plan for the Greater Golden Horseshoe (Growth Plan) came into effect on May 16, 2019, with Amendment 1 to the Growth Plan taking effect on August 28, 2020. The Growth Plan provides a growth management policy direction for the defined growth plan area. The policies in the Growth Plan intend to build on the progress that has been made towards the achievement of complete communities that are compact, transit-supportive, and make effective use of investments in infrastructure and public service facilities. They also continue to ensure the protection of our agricultural and natural areas and support climate change mitigation and adaptation as Ontario moves towards the goal of environmentally sustainable communities.

The guiding principles of the plan include prioritizing intensification and higher densities in strategic growth areas to make efficient use of land and infrastructure and support transit viability; supporting a range and mix of housing options to serve all sizes, incomes, and ages of households; and protecting and enhancing natural heritage, hydrologic, and landform systems, features and functions.

The Growth Plan contains population and employment forecasts to plan for and manage growth to the horizon of the Growth Plan (2051). The policies direct the vast majority of growth to settlement areas and more specifically within delineated built-up areas and strategic growth areas where there is an existing or planned transit and public service facility.

The Growth Plan requires municipalities to develop and implement, through their official plans and other supporting documents, a strategy and policies to phase in and achieve allocated intensification and the intensification targets. Policies are to encourage intensification throughout the delineated built-up areas; identify the appropriate type and scale of development in strategic growth areas and transition of built form to adjacent areas; encourage intensification generally throughout the delineated built-up area; and ensure lands are zoned and development is designed in a manner that supports the achievement of complete communities.

The Growth Plan supports the achievement of minimum intensification and density targets by identifying and considering a range and mix of housing options and densities and by planning to diversify overall housing stock across the municipality. Municipalities are to consider the use of available tools to require that multi-unit residential developments incorporate a mix of unit sizes to accommodate a wide range of household sizes and incomes. In addition, municipalities are to maintain at all times land with servicing capacity sufficient to provide at least a three-year supply of residential units. This supply will include, and may exclusively consist of, lands suitably zoned for intensification and redevelopment.

The Growth Plan identifies minimum density targets within the Urban Growth Centre by 2031 or earlier, of 200 residents and jobs per hectare. The Growth Plan supports the achievement of minimum allocated density targets through the consideration of a range and mix of housing options and densities and by planning to diversify the overall housing stock across the municipality. The Growth Plan notes that density targets are minimum standards and municipalities can go beyond these minimum targets, where appropriate.

Another focus of the Growth Plan is the planning and management of transportation systems that include the movement of people and goods. Transportation systems are to offer a balance of transportation choices to reduce automobile dependence and promote use of public transit and active transportation.

Public transit is to be a priority in transportation planning, and land use will be planned to achieve transit supportive densities and provide a mix of residential, office, institutional, and commercial development. In addition, municipalities are to ensure that active transportation networks provide for safe, comfortable travel for pedestrians, bicyclists and other users. The policies support the development and implementation of transportation demand management policies in Official Plan and other planning documents that reduce trip distance and time, increase alternatives to the automobile, prioritize active transportation, transit and movement of goods.

### Opinion

The Growth Plan defines intensification as the development of a property, site or area at a higher density than currently exists. Staff support intensification of the site as it is located within the urban boundary and within the Urban Growth Centre at a location that is well served by existing transit and pedestrian infrastructure, has adequate servicing capacity and is in close proximity to various land uses and amenities to support the day to day needs of future residents.

The subject lands are recognized as being within an Urban Growth Centre (UGC). On November 10, 2021, the Minister of Municipal Affairs and Housing approved Regional Official Plan Amendment (ROPA) 48 for Halton Region. The purpose of ROPA 48 was

to define and provide direction on a regional urban structure and identify non-discretionary components of a Regional Urban structure including strategic growth areas such as UGCs, Major Transit Station Areas, Regional Nodes and Employment Areas. ROPA 48 adjusted the boundary of the UGC; however, the Province indicated that active development applications that were formerly located within the UGC and submitted prior to November 10, 2021 would continue to be evaluated against the UGC policy framework that was in effect and applied to the UGC area of Burlington's downtown prior to November 10, 2021. Since these applications were deemed complete on April 19, 2019, prior to the approval of ROPA 48 on November 10, 2021, the applications were reviewed in the context of the UGC policies.

The revised proposed development will contribute to the range and mix of housing options within Burlington, in a pedestrian-oriented, transit-supportive, compact urban form that supports the efficient use of land, infrastructure, and public service facilities. The surrounding area is evolving and contains a number of existing and planned similar built forms that include a mix of mid-rise and tall buildings with a range of densities. Further, the revised development has incorporated appropriate design techniques to ensure that the proposed development is compatible with the existing neighbourhood.

Through the provision of bicycle parking, reduced but adequate on-site vehicle parking rates, and close access to multiple transit routes and pedestrian trails, the proposed development offers a balance of transportation choices to reduce automobile dependence and promote the use of public transit and active transportation.

Staff is of the opinion that the revised development proposal conforms with the policies of the Growth Plan.

#### **2.4 Halton Region Official Plan (ROP)**

The subject lands are designated as "Urban Area" in accordance with the ROP and have been reviewed as being within the Urban Growth Centre (UGC) in accordance with Map 1 of the ROP, based upon the applications having been submitted prior to the approval of ROPA 48 on November 10, 2021. The Urban Area objectives promote growth that is compact and transit-supportive, and the development of vibrant and healthy mixed use communities which afford choices for residence, work or leisure. Section 81 of the ROP provides policy direction with respect to UGCs wherein these defined areas are to serve as a focal point for intensification and development. The ROP directs that UGCs are to achieve a minimum density target of 200 residents and jobs combined per hectare by 2031. The ROP states that permitted uses shall be in accordance with local Official Plans and Zoning By-laws, and that all development shall be subject to the policies of the ROP (Section 76).

Regional Official Plan Amendment (ROPA) No. 48:

It should be noted that on November 10, 2021, ROPA 48 for Halton Region was approved. The purpose of ROPA 48 was to define and provide direction on a regional urban structure and identify non-discretionary components of a Regional Urban structure including strategic growth areas such as UGCs, Major Transit Station Areas, Regional Nodes and Employment Areas. ROPA 48 adjusted the boundary of the UGC; however, the Province indicated that active development applications located within the UGC prior to November 10, 2021 would continue to be evaluated against the UGC policy framework. The subject applications were submitted prior to this date, and as such, will be evaluated in accordance with this direction.

#### Regional Official Plan Amendment (ROPA) No. 49:

ROPA 49 is the second amendment to be advanced as part of the Regional Official Plan Review. ROPA 49 was adopted by Regional Council on June 15, 2022 and was approved by the Minister of Municipal Affairs and Housing with 45 modifications on November 4, 2022. ROPA 49 outlines a land use policy framework to guide growth and development within the Region to 2051, including policies and schedules that address housing and growth management and long-term planning for employment and infrastructure.

#### Regional Natural Heritage System (RNHS)

The policies of the PPS and ROP support the identification and long-term protection of natural features and areas. The Regional Natural Heritage System (RNHS) implements this policy direction of the PPS. The subject lands appear to contain Key Features that form part of the RNHS. The lands also contain or are adjacent to:

- Features identified as Key Features as illustrated on Map 1G of the ROP
  - o Candidate significant woodlands;
  - o Potential habitat of endangered or threatened species;
  - o Potential significant wildlife habitat; and,
  - o Potential fish habitat
- Slope hazard, watercourse and floodplain regulated by Conservation Halton (CH);
- Significant Groundwater Recharge Areas identified within the April 2015 Halton-Hamilton Source Protection Region Assessment Report.

Section 118(3) of the ROP requires that an Environmental Impact Assessment (EIA) be submitted as part of the application in order to demonstrate that the proposed development will result in no negative impacts to that portion of the Regional Natural Heritage System or that proper impact avoidance, mitigation measures or opportunities for enhancement are implemented into the proposal.

Subject to the provision of additional information (i.e. updated Environmental Impact Assessment) to confirm conformity to Regional policies for the Natural Heritage System, staff is of the opinion that the revised development proposal conforms to the ROP.

## **2.5 City of Burlington Official Plan (OP) (1997, as amended)**

The Official Plan was adopted by City Council in 1994 and approved by Halton Region on March 5, 1997. It has since been amended over 100 times, notably including Official Plan Amendment (OPA) 55, which was adopted by Council in 2006 to implement a City-initiated 5-year Official Plan review. The effects of OPA55 included amendments to policies for Downtown Burlington to conform with the 2006 Growth Plan for the Greater Golden Horseshoe. Part 1 of the Official Plan sets out guiding principles and a land use vision for the City of Burlington. The guiding principles include the promotion of efficient land use through intensification within appropriate areas of the City, such as the Downtown, in accordance with provincial growth objectives. The land use vision anticipates significant population growth over the horizon of the Plan, which will be directed to appropriate locations including the Downtown in the form of transit supportive, compact development.

### Downtown Mixed Use Centre

As shown on Schedule B, “Comprehensive Land Use Plan – Urban Area”, the subject lands form part of the Downtown Mixed Use Centre. The Downtown Mixed Use Centre is a vibrant people place with a distinct identity within the City. It is the City’s pre-eminent centre for public gatherings, festive and civic occasions, and social interaction. It is an objective of the Official Plan to create a compact Downtown city core with a mix of residential, commercial, and other uses. Development within the Urban Growth Centre, which the subject lands are being reviewed against, will contribute to achieving the minimum gross density target of 200 people and jobs per hectare in accordance with the Growth Plan for the Greater Golden Horseshoe (Part III, 5.5.2-3).

### Downtown Residential Medium and/or High-Density Precincts

Schedule E, “Downtown Mixed Use Centre – Land Use Plan” shows the subject lands designated as Downtown Residential Medium and/or High Density Precinct. The objective of the Downtown Residential Medium and/or High-Density Precincts is to recognize the variety of existing development that currently exists within these precincts and to provide for future medium or high-density residential development/redevelopment that is compatible with the existing development. This Precinct permits ground or non-ground oriented housing ranging between 26 and 185 units per net hectare, offices, and existing uses. All development and redevelopment shall be compatible with the existing character of these precincts and neighbouring precincts with respect to such matters as heights, setbacks, massing, design, and community features. In order to permit the proposed development, the Official Plan

would need to be amended to include a site-specific permission increasing permitted density from 185 units per net hectare to 652 units per gross hectare (or net equivalent after factoring in creek dedication).

Portions of the subject property are designated as Watercourse. The precise limits of the Watercourse designation shall be determined by the City in conjunction with Conservation Halton, as set out in Part III, section 5.5.11(c) of the OP. Development is prohibited within the Watercourse designation. As a condition of development approval, the City will normally require the dedication of the greater of the regulatory floodplain, or the valley through which the watercourse flows including a conservation setback from top of bank, regulatory floodplain or meander belt width.

### Design Policies

Part II, section 6 of the Official Plan is concerned with Design. This section outlines the City's objectives to ensure that the design of the built environment strengthens and enhances the character of existing distinctive neighbourhoods within the City, and that developments contributing to intensification are compatible with and sympathetic to existing neighbourhood character, among others. The City may give preference to designs that contain more compact forms of development that support higher densities, are pedestrian-oriented, and encourage increased use of public transit. Section 6.5 states that the density, form, bulk, height, setbacks, spacing, and materials of development are to be compatible with the surrounding area, and that the design of all buildings must recognize pedestrian scale, safety, and the perception of safety and access, and the preservation of public vistas and views. The urban design implications of the proposed development, including bulk/massing and scale, have been assessed and are discussed throughout later sections of this report.

### Housing Intensification Criteria

Part III, section 2.5.2 (a) of the Official Plan provides criteria that shall be considered when evaluating proposals for housing intensification in established neighbourhoods. In accordance with Part III, section 2.2.2(f) and Part III, section 5.4.2 (k), these criteria are also applicable to housing intensification proposals in other land use designations including Mixed Use Centres. The following is an evaluation of the proposed 14-storey development using these criteria:

*Policy 2.5.2 a) i) – “adequate municipal services to accommodate the increased demands are provided, including such services as water, wastewater and storm sewers, school accommodation and parkland”*

A Functional Servicing Report was prepared by Wood, dated January 4, 2021 which was submitted to the Region for review. The report contains the details outlining how the initial development proposal, for an 11 storey residential building, site will be serviced by water and wastewater and how stormwater

will be managed for the site. The Region of Halton indicated that the FSR is satisfactory for the Official Plan and Zoning By-law Amendment stage of the review, since it adequately identifies how the site can be serviced.

Both the Halton District School Board and the Halton Catholic District School Board have commented on the proposal and note that students generated as a result of the development could be accommodated at their respective schools. In some cases, portables may be required. No objections were received by either school board.

Parks and Open Space staff have noted that the proposed development is in proximity to parkland, with Lions Park and Apeldoorn Park located within 0.8 km of the subject lands, and Spencer Smith Park and Central Park are both located within 2.4 km of the subject lands. As such, cash-in-lieu of parkland dedication would be required for this proposal. Staff is satisfied that this criterion has been met.

Policy 2.5.2 a) ii) – *“off-street parking is adequate”*

The current proposal includes parking at a rate of 1.06 spaces/unit. Transportation staff have indicated that they are willing to accept this rate which yields a total of 118 parking spaces. There are concerns about the layout of these spaces, and staff have indicated that revisions would be necessary through the Site Plan review stage. At this time, Staff is of the opinion that the amount of parking spaces proposed is appropriate for the subject proposal. Staff is of the opinion that opportunities providing for off street parking exist within the vicinity of the subject lands and is satisfied that this criterion has been met.

Policy 2.5.2 a) iii) – *“the capacity of the municipal transportation system can accommodate any increased traffic flows, and the orientation of ingress and egress and potential increased traffic volumes to multi-purpose, minor and major arterial roads and collector streets rather than local residential streets”*

The City’s transportation staff reviewed the proposal and did not have any objections to the application with respect to the impact on the municipal transportation system. Staff is satisfied that this criterion has been met.

Policy 2.5.2 a) iv) – *“the proposal is in proximity to existing or future transit facilities”*

To the north, along New Street, the proposal is in proximity to bus routes 4 and 10 which provide service every 30 minutes and 15-30 minutes, respectively. To the south, on Lakeshore Road, the property is in proximity to bus route 3 which provides service every 30 minutes. In addition, the proposal is within walking distance to the John Street Downtown Bus Terminal which provides access to multiple transit routes and the Burlington GO Station.

Transit-supportive development that reduces vehicular traffic, parking demands and congestion (air pollution) are priorities in the assessment of levels of transit service available at a location. The level of transit service provided at this location promotes the use of public transit and is well served for the long-term. Staff is satisfied that this criterion has been met.

Policy 2.5.2 a) v) – *“compatibility is achieved with the existing neighbourhood character in terms of scale, massing, height, siting, setbacks, coverage, parking and amenity area so that a transition between existing and proposed buildings is provided”*

Parking and amenity area have been discussed throughout this report and staff is of the opinion that proposed parking and amenity area totals are appropriate.

As it relates to scale, massing, and height, planning staff is of the opinion that the proposed built form would be compatible with the existing neighbourhood character. The Official Plan defines compatibility as development or redevelopment that is capable of co-existing in harmony with, and that will not have an undue physical (including form) or functional adverse impact of, existing or proposed development in the area or pose an unacceptable risk to environmental and / or human health. Compatibility should be evaluated in accordance with measurable / objective standards where they exist, based on criteria such as aesthetics, noise, vibration, dust, odours, traffic, safety and sun-shadowing, and the potential for serious adverse health impacts on humans or animals.

Using the City’s definition of compatibility, staff have assessed the existing and planned built form context surrounding the subject lands. It is noted that there are a variety of existing built forms on the lands abutting the subject property, including a 12-storey tall building to the south, low-rise apartment buildings to the east and north and low-rise townhouses to the west. As outlined in Section 1.2 – Site Description and Surrounding Uses above, the surrounding context is changing with a number of approved developments including a number of mid-rise and tall buildings in the immediate vicinity.

Scale refers to the apparent size or massing of a building as created by the placement and size of the building in its setting in comparison with the size of adjacent buildings and as perceived from the street in relation to human scale. People tend to evaluate the physical size and massing of built elements in relationship to their perception of objects that are the approximate height and size at a human scale. While the building would be taller than other structures on abutting properties, the appropriate design of the building, in particular the lower building would reinforce a human / pedestrian scale by creating a positive relationship with the street. The proposed development proposes a 3 metre setback along Martha Street. This setback allows for a wider streetscape and public realm, which contributes to additional ‘breathing room’ around the site, reducing the overall scale of the proposed development. Above the 4<sup>th</sup> storey, the proposed development would contain a stepback from the podium to the upper floors with an



additional setback along Martha Street above the 7<sup>th</sup> floor. These setbacks reduce the impact of the proposed scale and massing from street level, which once again contributes to an appropriate building scale.

The City's Official Plan defines massing as the overall bulk, size, physical volume, or magnitude of a structure or project. A properly designed tall building would include three distinct components being the building base (podium), building tower (middle) and building top, each of which can contribute to or mitigate building massing. The tower of a tall building is the most substantial and impactful component. The massing of a tower should recognize and reflect this important role and should be carefully considered to minimize adverse impacts. The height of the tower and its location on the building base shall provide a gradual and appropriate transition in height to help mitigate potential impact on the surrounding context. Limiting the tower floorplate ensures the tower would be slender and would maximize sky views and sunlight.

The proposed building floorplate size is significantly reduced above the 7<sup>th</sup> storey, which reduces the impacts associated with the proposed massing and height. This differs from many of the existing towers within the City's Downtown, which contain large slab floorplates, including the tall building located directly to the south. Historically, these slab towers with larger floorplates were constructed at lower heights; however, the built form resulted in significant adverse impacts (wind, shadowing, scale, etc.) on adjacent streets, neighbourhoods, parks and open spaces. Staff is of the opinion that the increased massing on this site, up to 14 storeys in height, is acceptable due to the design that is being proposed, which mitigates the majority of the impacts associated with the massing.

In terms of siting and setbacks, it is noted that the proposed development has been pushed into the south-west corner of the site to respond to the floodplain hazards associated with Rambo Creek. Notwithstanding, staff is of the opinion that the proposed development would not compromise the future development potential of adjacent properties and is considered to be an appropriate transition between development on the subject lands and surrounding built forms.

Policy 2.5.2 a) vi) – *“effects on existing vegetation are minimized, and appropriate compensation is provided for significant loss of vegetation, if necessary to assist in maintaining neighbourhood character”*

The subject lands are identified as being adjacent to natural features. As discussed throughout this report, the applicant was required to submit an Environmental Impact Assessment (EIA) in order to demonstrate that the proposal would not negatively impact the lands associated with the creek. Additional information needs to be provided to demonstrate the removal of the woodland resulted in no negative impact to the entirety

of the remaining woodland feature. This would be addressed through the provision of an updated EIA prior to final approval (see Section 3.0 below for more detail).

Policy 2.5.2 a) vii) – *“significant sun-shadowing for extended periods on adjacent properties, particularly outdoor amenity areas, is at an acceptable level”*

A *Shadow Study Guidelines and Terms of Reference* was approved by Council in June 2020. The applicant did submit a Shadow Impact Study; however, it is not in accordance with the Terms of Reference. Staff note that a proper Shadow Study would need to be reviewed and accepted prior to Site Plan approval. Nonetheless, the submitted shadow study was reviewed by staff. The main points of concern to staff were the low-density residential uses approximately 90 metres to the east, the medium-density residential uses approximately 100 metres to the north and the medium-density residential uses directly across Martha Street. Staff is satisfied that only those uses mentioned to the east and north are directly impacted by shadows, and only at certain points on December 21<sup>st</sup>. An updated Shadow Impact Study will be required at the Site Plan stage in accordance with the *Shadow Study Guidelines and Terms of Reference*.

Policy 2.5.2 a) viii) – *“accessibility exists to community services and other neighbourhood conveniences such as community centres, neighbourhood shopping centres and health care”*

The subject lands are located within the Downtown *Mixed-Use Centre* and within the boundary of the *Downtown Urban Growth Centre*, which allows for a range of different uses. The site is also within walking distance to a wide range of uses including restaurants, grocery stores, recreational centres, parks and trails and other neighbourhood services and conveniences. The subject lands are also well-served by transit, which improves accessibility. Staff is satisfied that this criterion has been met.

Policy 2.5.2 a) ix) – *“capability exists to provide adequate buffering and other measures to minimize any identified impacts”*

As noted throughout this report, the Lower Rambo Creek watercourse natural heritage feature is located adjacent to and partially within the subject property. As such, technical reports were submitted to the City which provide measures intended to mitigate potential impacts on the fish and wildlife habitat on and near the site during construction and post-construction periods. A buffer is proposed which will help to protect the water quality and fish habitat within the Lower Rambo Creek. The application has been revised to avoid floodplain conflicts and to provide a 6 metre setback from the Regional Flood Line at ground level. And as such, staff is satisfied that this criterion has been met.

Policy 2.5.2 a) x) – *“where intensification potential exists on more than one adjacent property, any re-development proposals on an individual property shall demonstrate that*

*future re-development on adjacent properties will not be compromised, and this may require the submission of a tertiary plan, where appropriate”*

The subject lands are comprised of a total of six single detached lots that were consolidated in order to facilitate the proposed mid-rise built form. To the east of the lands are natural hazard lands and to the north is the Centennial Trail. While the location of the tower is proposed 3 metres from the southerly lot line the separation distance in this case is considered appropriate and would not compromise the future redevelopment potential of the adjacent property to the south. For the reasons noted in Policy 2.5.2 a) v) above, staff is of the opinion that the proposed built form would not compromise future redevelopment on adjacent properties.

Policy 2.5.2 a) xi) – *“natural and cultural heritage features and areas of natural hazard are protected”*

The subject lands contain lands associated with the Lower Rambo Creek. As noted, these lands are proposed to be protected, rezoned to an Open Space Zone and dedicated to public ownership. The proposal was reviewed extensively by the Region of Halton, Conservation Halton and City staff. Staff is of the opinion that the proposed development would be located on an area of the site that is outside of hazardous lands.

Policy 2.5.2 a) xii) – *“where applicable, there is consideration of the policies of Part II, Subsection 2.11.3, g) and m)”*

Part II, Subsection 2.11.3 g) of the Official Plan states:

*as a condition of development approval, the City will normally require the dedication of the greater of the regulatory floodplain, or the valley through which the watercourse flows including a conservation setback from top of bank, regulatory floodplain, or meander belt width. Dedication of these lands shall not be considered part of parkland dedication requirements of the Planning Act, unless the dedicated lands provide needed public recreational opportunities as identified by the City. If any such land remains in private ownership, it will be protected by zoning, agreement or easement to protect the ecologic and floodplain function of such land.*

The applicant is proposing to dedicate the lands associated with the floodplain free of charge to the City, and have them appropriately zoned to an Open Space zone category. Lands outside of the floodplain hazards will remain part of the development site, and will be zoned DRH-XXX but will include site-specific regulations to ensure appropriate buffers and setbacks are provided. Staff note that portions of the underground parking are proposed to be established underneath the 6 metre setback that is requested by Conservation Halton. City Development Engineering staff have indicated that the design is acceptable at this stage; however, further details relating to this building element will need to be further reviewed during the Site Plan review stage.

Policy 2.5.2 a) xiii) – “proposals for non-ground oriented housing intensification shall be permitted only at the periphery of existing residential neighbourhoods on properties abutting, and having direct vehicular access to, major arterial, minor arterial or multi-purpose arterial roads and only provided that the built form, scale and profile of development is well integrated with the existing neighbourhood so that a transition between existing and proposed residential buildings is provided”

The subject lands are identified as being within a Mixed Use Activity Area, in accordance with *Schedule A – Settlement Pattern* of the Official Plan. As such, the lands are not within a designated Residential Area. This criterion is therefore not applicable.

### **Urban Design**

The City of Burlington is committed to a high standard of urban design and architecture which is becoming increasingly important as redevelopment and intensification become more prominent forms of development. The review of proposed building and site design in the context of other development best practices (i.e. pedestrian and transit connections and the continuity of grade-related activity); public realm considerations (i.e. safety and comfort), compatibility and neighbourhood character, as well as built form are critical components in the review and evaluation of development applications.

The design of the built environment should strengthen and enhance the character of the surrounding neighbourhoods. Intensification within existing neighbourhoods is to be designed to be compatible and sympathetic to the neighbourhood character. The Official Plan also sets out that preference will be given to community design containing more compact forms of development that support higher densities, are pedestrian-oriented and encourage increased use of public transit.

The implementation policies of the City of Burlington Official Plan state that the preparation of design guidelines shall be required as part of the consideration of major site or area-specific development proposals which are to review and recommend solutions to issues such as compatibility with surrounding uses, transit use, microclimate effects, pedestrian safety, noise abatement and issues of human scale and views.

### **Specific Guidelines Relevant to the Proposed Development**

The proposed development has been reviewed for conformity with the following City Council-approved guideline documents for matters related to building and site design and implement the intent of the City’s Official Plan objectives.

City of Burlington Tall Building Guidelines (2017)

The City of Burlington Tall Building Guidelines are applicable across the City wherever tall buildings are permitted, and for the purposes of the guidelines, include any buildings over 11-storeys in height.

The Guidelines are broken down by the main components of a tall building, being the Building Base (Podium), Building Middle (Tower) and Building Top. Staff has completed a review of the proposed residential building in this context.

With respect to the building base, the podium is located appropriately to frame Martha Street. The proposed podium height and setbacks establish a pedestrian scaled street-wall along Martha Street.

With respect to the proposed building middle (i.e. tower), the tower floorplate above the 6<sup>th</sup> storey meets the intent of the tall building guidelines and is of a size that would mitigate impacts related to massing, height, and shadowing. The tower is proposed to be stepped back at least 3 metres from the podium along Martha Street to differentiate between the building podium and tower, and to ensure usable outdoor amenity space (see Section 2.8 below for more detail).

The details of the final design of the rooftop mechanical penthouse treatment is pending further input from the applicants as part of subsequent processes.

### Opinion

In summary, the proposed development utilizes urban design and the City's tall building guidelines as a method of ensuring compatibility with the surrounding properties. The proposed building incorporates suitable massing, setbacks, setbacks and spacing to facilitate a desirable transition with the surrounding properties.

Staff is of the opinion that the proposed development is consistent with the policies and intent of the Official Plan. The proposed development, as revised, encourages development that is served by various modes of transportation and is located in close proximity to a variety of community amenities. The proposal is providing a mix of residential unit types at an appropriate density within the urban boundary on an underutilized parcel that provides for efficient use of land, infrastructure and services.

The revised proposal is compatible with adjacent building typologies, scale, massing, setbacks, setbacks and building heights and provides an appropriate transition between the proposed development and the adjacent neighbourhood. It would also supply adequate off-street parking and there is existing public transit located in close proximity to the site. The proposed development can be accommodated by the existing road network surrounding the development. As well, there are community services and amenities located within close walking distance to the subject lands.

## **2.6 City of Burlington New Official Plan (2020, subject to appeals)**

On November 30, 2020, the Region of Halton issued a Notice of Decision approving the new Burlington Official Plan. The new Official Plan has been developed to reflect the opportunities and challenges facing the City as it continues to evolve.

Section 17(27) of the Planning Act (R.S.O. 1990, as amended) sets out that all parts of an approved official plan that are not the subject of an appeal will come into effect on the day after the last date for filing a notice of appeal, that date being December 22, 2020 for the new Burlington Official Plan.

While sections of the new Official Plan are under appeal, the new Official Plan reflects Council's vision and as such will be considered in staff's evaluation of the applications.

The boundary of Burlington's Urban Growth Centre (UGC) was adjusted by ROPA 48. Section 80.3 of the ROP states that, for lands that were within the UGC prior to the approval of ROPA 48, the ROP policies for UGCs continue to apply to development applications that were made prior to the approval of ROPA 48 by the Minister of Municipal Affairs on Housing on November 10, 2021. As the Official Plan Amendment and Zoning By-law Amendment applications were deemed complete on April 19, 2021, the UGC policies of the ROP are applicable to the subject lands. As such, the Urban Structure of the new Official Plan identifies the subject lands as being within the Downtown Urban Centre, the provincial Urban Growth Centre, and in proximity to the Downtown Major Transit Station.

The City's Growth Framework, depicted on Schedule B-1 of the new Official Plan, shows that the subject lands are located within a Primary Growth Area. Primary Growth Areas shall be recognized as a distinct area within the Urban Area accommodating the majority of the City's forecasted growth, and consequently will experience the greatest degree of change. Primary Growth Areas shall be regarded as the most appropriate and predominant location for new tall buildings in accordance with the underlying land use designations, and shall support frequent transit corridors and accommodate development that is compact, mixed-use and pedestrian oriented (2.4.2.1).

The New Official Plan identifies the lands as being within the *Mixed Use Intensification Areas* in accordance with Schedule B: Urban Structure of the New Official Plan. These lands are intended to provide locations where a range and intensity of employment, shopping, public service facilities, residential uses, and complementary uses such as open space and parks, institutional, and cultural uses will be developed with transit supportive densities in compact built form.

### Downtown Urban Centre

The lands are located within the *Downtown Urban Centre* in accordance with Schedule C – Land Use-Urban Area. The Downtown Urban Centre is recognized as an Urban Growth Centre under the Provincial Growth Plan which is as an area that shall accommodate significant population and employment growth. The Downtown Urban Growth Centre will be a focal area for investment in regional public service facilities, such as the hospital, as well as commercial, recreational, cultural and entertainment uses and will serve as a high-density major employment centre.

Although the Downtown Urban Growth Centre is identified as an intensification area, not all sites within the Urban Growth Centre will develop or redevelop to the same extent. The amount of height and density for each site will depend on the site's location and context within the Downtown as set out in each precinct. The following are some objectives of this area, in accordance with subsection 8.1.1(3.1) of the new Official Plan (2020):

- a) To establish the Downtown as a major centre for office, retail, service commercial, residential, culture, and public service facilities, including educational and institutional uses that contribute towards the Downtown's role as a unique destination and important source of identity for the city, consistent with Chapter 5: Economic Activity, of this Plan;
- c) To establish a precinct system that recognizes areas with distinct character and sets policies for differences in land uses, height and built form, informed by historical development patterns and the planned function of each precinct;
- d) To ensure development incorporates effective transitions with adjacent development and surrounding areas;
- m) To achieve urban design and architectural excellence in new developments;
- o) To permit building heights and intensities that support the designation of the Downtown as an Urban Growth Centre while protecting the predominant low-rise character of Brant Street and providing a transition to adjacent low-rise neighbourhoods.
- aa) To maintain, restore and where possible enhance the long term ecological integrity and biodiversity of the Natural Heritage System and its ecological and hydrologic functions within the Downtown.
- bb) To protect life and property from natural hazards.

#### Village Square Precinct

The subject lands are further designated *Village Square Precinct* in accordance with Schedule D - Land Use-Downtown Urban Centre of the City's Official Plan. The Village Square Precinct serves as a pre-eminent retail destination with predominantly low-rise residential uses within stand alone or mixed-use buildings. Permitted uses within this designation include residential uses with the exception of single detached dwellings and semi-detached dwellings. Development within the Village Square Precinct shall be comprised of predominantly low-rise buildings and some mid-rise buildings in accordance with Schedule D-2: Downtown Urban Centre Heights and shall generally transition to a lower scale residential built form along Martha Street.

A site specific policy for the subject properties permits a maximum building height within this designation of 22 metres and requires a built form transition to Martha Street and the Centennial Pathway.

#### Downtown Watercourse and Natural Heritage System

The lands include a Downtown Watercourse designation on the east side of the subject lands. These lands have been identified as Watercourse to reflect that hazardous lands and/or other elements of the Natural Heritage System are associated with these watercourses but the boundaries are not mapped.

Section 8.1.1(3.16.1) c) of the new Official Plan states that the precise limits of the Downtown Watercourse and Natural Heritage System designation including required buffers/setbacks/allowances shall be determined by the City, in consultation with Conservation Halton, at the time of a development application.

#### Opinion

Planning staff is of the opinion that the revised development proposal maintains the general intent and purpose of the new OP. The development proposal exceeds the envisioned height of the new Official Plan for this site, but staff believe that the proposed building provides an acceptable built form transition to Martha Street and the Centennial Pathway and is compatible with the surrounding area. This is achieved by providing an appropriate separation distance between the built form elements on and adjacent to the site; limits overlook to adjacent low-rise areas; provides an appropriate transition through the use of setbacks, stepbacks and podium height and adequately limits shadow impacts on adjacent properties.

Staff acknowledge that the Phase 2 Floodplain Study undertaken by the City has not been approved by Conservation Halton and that the final delineation of the floodplain and erosion hazards may change. However, in consultation with Conservation Halton and City Development Engineering staff, planning staff is of the opinion that the proposed development would not be impacted by the adjacent floodplain. Modifications



may be required to the proposed development, pending the outcome of the floodplain study, but staff feel that any modifications, if required, will be achievable and can be addressed at the Site Plan stage.

### Urban Design

Urban Design policies and objectives are contained in Chapter 7 of the new Official Plan. This section relates to the design of the city's future and existing communities, public realm and buildings and emphasizes land use compatibility, a high-quality built environment, and innovative design in public projects and private developments. A high standard of design and more attention to the relationships between the public and private realms in the development of communities, buildings, streets, urban parks, and open spaces are expected.

In addition, Section 8.1.1 (3.17) contains the Downtown Urban Design objectives and policies, and Section 8.1.1 (3.19.3) has urban design policies for tall buildings, which are applicable to the proposal.

### Opinion

Planning staff is of the opinion that the revised development proposal maintains the general intent and purpose of the new OP. The proposed development contains a mix of residential unit types and transit supportive development that supports the achievement of complete communities through a more compact built form, while ensuring compatibility with surrounding areas. To that end, the revised development proposal is considered compatible with adjacent buildings; provides appropriate separation distances between buildings on and adjacent to the site (including podiums and towers); limits overlook to adjacent low-rise areas; provides an appropriate transition through the use of setbacks, stepbacks and the stepping down of heights; and adequately limits shadow impacts on adjacent properties.

## **2.7 Zoning By-law**

The property is zoned Downtown Residential High-Density with a Holding Provision (H-DRH) in accordance with Zoning By-law 2020. The purpose of the Holding Provision is to ensure the lands formerly known as 401-417 Martha Street are consolidated, which has been completed. The DRH Zone permits apartments, retirement homes or offices on the ground floor of a building.

The applicant is seeking permission to remove the Holding Provision and add a site-specific zoning exception to the DRH Zone (DRH-XXX). In order to permit the proposed development, the applicant would require a number of site-specific permissions including setbacks, density, height, amenity area, landscape buffers and parking.

The current and proposed zoning regulations are shown in the chart below:

<b>Regulation</b>	<b>Current DRH Requirement</b>	<b>Proposed DRH Provisions</b>
<b>Permitted Uses</b>	Apartment Buildings	Apartment Building
<b>Front Yard</b>	6 m	3 m
<b>Rear Yard</b>	7.5 m	6 m at ground level
<b>Side Yard</b>	6 m	North: 12.5 m South: 3 m
<b>Building Setback Abutting a Creek Block (East)</b>	7.5 m, 4.5 m if block includes a 3 m buffer	6.3 m
<b>Setbacks to Underground Parking Structure</b>	May encroach into a required yard but shall not encroach into a required landscape buffer, provided that a minimum 3 m setback shall be maintained from a street line or property line	North (side): 0 m East (rear): 0 m South (side): 0 m West (front): 0 m
<b>Density</b>	50 units per ha minimum, 185 units per ha maximum	Approximately 650 units per hectare maximum
<b>Height</b>	22 m maximum	14 storeys, 50.5 m maximum
<b>Amenity Area</b>	20 m <sup>2</sup> per unit = 2,220 m <sup>2</sup>	19.7m <sup>2</sup> per unit = 221m <sup>2</sup> indoor and 1,968m <sup>2</sup> outdoor amenity space

		*Outdoor amenity space excludes the hazard lands at ground level, as they would not count towards the amenity area calculation
<b>Landscape Areas and Buffers</b>	<b>Landscape Area</b> Abutting a street having a deemed width up to 26 m: 3 m  Abutting a street having a deemed width greater than 26 m: 4.5 m	3 m  Main entrance and walkways encroach into required landscape buffer
	Abutting a street or O2/O3 Zone: 3 m	3 m abutting a street  *O2 Zone does not currently exist on the property, but will be implemented through the Zoning By-law. Setbacks to the O2 Zone will be confirmed once the final delineation of the floodplain is complete.
	<b>Landscape Buffer</b>  Abutting R1, R2, R3, DRL Residential zones: 6 m	N/A
	Abutting other residential zones: 3 m	3 m  Walkway encroaches into required landscape buffer
<b>Parking</b>	1.25 spaces per unit inclusive of visitor parking	1.06 spaces per unit inclusive of visitor parking

	= 139 spaces	= 118 spaces
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In order to facilitate the proposed development, the creek and associated natural hazards would need to be zoned with an appropriate Open Space zone and conveyed to the City to ensure their long-term protection.

Staff is generally supportive of the proposed zoning amendments but will require additional details from the applicants to support the proposed underground parking structure setbacks.

The proposed development, as revised, provides for a more intensive form of development that was not originally anticipated by the Zoning By-law. The revised development proposal improves upon the original submission and meets the general intent and purpose of some of the key performance standards outlined in the base DRH zone category, such as minimum amenity area and setbacks. In addition, the proposed development is in general alignment with the direction and built form objectives of the City's Official Plans and urban design guidelines. Staff is of the opinion that the relief of the zoning provisions are appropriate as it will result in a compatible built form.

## **2.8 Tall Building Guidelines**

The City of Burlington Tall Building Guidelines are applicable across the City wherever tall buildings are permitted, and for the purposes of the guidelines, include any buildings over 11 storeys in height.

The Guidelines are broken down by the main components of a tall building, being the Building Base (Podium), Building Middle (Tower) and Building Top. Staff has completed a review of the proposed residential building in this context.

With respect to the building base, the podium is located appropriately to frame Martha Street. The proposed podium height establishes a pedestrian-scaled street wall along Martha Street.

With respect to the proposed building middle (i.e. tower), the tower has generally been sited in an appropriate location which ensures sufficient setbacks from most adjacent property lines. The tower is proposed to be stepped back at least 1.5 metres at podium for storeys 5-6 and 3 metres at 7 storeys to differentiate between the building podium and tower. The location of the tower is proposed 3 metres from the southerly lot line which does not maintain the 25 metres separation guidelines to the adjacent 12 storey building; however, given the site's floodplain constraints the built form has been pushed towards the south-west corner of the site. Notwithstanding, the separation distance in this case is considered appropriate and would not compromise the future redevelopment potential of the adjacent property. The tower floor plate does modestly

exceed the maximum floor plate area of 750 square metres; however, staff is of the opinion that the general intent of the guideline has been met.

The details of the final design of the rooftop mechanical penthouse treatment are pending further input from the applicants as part of subsequent processes.

Staff is of the opinion that the proposal in general is in keeping with the intent of the Tall Building guidelines.

## **2.9 Pedestrian-Level Wind Study Guidelines**

A Pedestrian Level Wind Study ('Wind Study') is conducted to predict and assess the wind impacts of proposed buildings and site designs on surrounding public and private spaces in addition to on-site wind conditions. The objective is to ensure pedestrian comfort and safety is maintained as Burlington continues to grow and develop. Acceptable pedestrian level wind conditions are assessed by season and the intended use for the areas being studied. Acceptable pedestrian level wind conditions do not exceed the recommended maximum for a particular activity, such as sitting, standing, leisurely or fast walking.

Taller buildings can introduce wind conditions that impact their surrounding context especially when the building is considerably taller than surrounding buildings. Consideration of potential impacts on the local micro-climate should be determined early in the planning and design process, allowing for sufficient time to consider appropriate wind control and mitigation strategies, that may include changes to site and building designs.

In accordance with section 2.1, a Quantitative Wind Assessment ('Wind Tunnel Test') a Wind Tunnel Test is required for development proposals with building heights of 12-storeys or more. Similarly, section 2.3 describes development proposals with building heights of 5-storeys or more that are located between Queen Elizabeth Way and the Lake Ontario shoreline require a Wind Tunnel Test due to wind conditions present in proximity to the lake. Furthermore, A Wind Tunnel Test is required for development proposals with building heights of 5-storeys or more when a proposed building is located within a distance equal to the height of the tallest proposed building from a low-rise residential neighbourhood area.

As part of the previously submitted Pedestrian Wind Assessment, the wind data recorded at Burlington Piers for the period of 1991 to 2015 were obtained and analyzed to create a wind climate model for the seasonal extremes. The models demonstrated that annual winds approaching from the southwest through west are most prevalent and the seasonal winds shift throughout the year. Furthermore, the directions from stronger winds (e.g., > 30 km/h) approach are also of interest as they have the highest potential of creating problematic wind conditions, depending upon site exposure and building

massing or alignment. On an annual basis, strong winds occur from the northeasterly and easterly directions.

In accordance with section 4.2, categories and measurements for wind impact are defined through the 'Pedestrian Wind Comfort Criteria' and 'Pedestrian Wind Safety Criteria'. Each comfort category contains a Gust Equivalent Mean (GEM) wind speed which should be evaluated as a comparison between the existing wind condition and the wind condition resulting from the proposed development. A criterion is met if the predicted wind speeds and frequencies occur at least four out of five days below the respective threshold. Gust winds are used exclusively when considering wind safety and are generally rare events that may impact pedestrian safety. Descriptions used in the 'Pedestrian Wind Comfort Criteria' are to be applied to specific locations on and around a proposed development site, based on the intended use of each space. Data should be presented based on tests conducted for both summer and winter.

The 'Sitting' comfort criteria is the most stringent and is appropriate for dedicated seating areas including areas for sitting located in outdoor amenity areas. The 'Standing' comfort criteria applies to areas where pedestrians will tend to stand and linger for short periods. This includes main building entrances and amenity areas other than seating locations. The 'Leisurely Walking' comfort criteria applies to areas where lower-speed walking or strolling is intended. This includes retail streets and streets with high levels of activity between interior and exterior areas. The 'Fast Walking' comfort criteria applies to areas through which pedestrians and other users walk and travel at medium to high speeds. The 'Uncomfortable' comfort criteria indicates where pedestrian activities are inappropriate under the present wind conditions. Wind mitigation measures to attenuate wind speeds to an acceptable level are required.

In accordance with section 5, the most effective wind control measures involve adjustments to the building and site design may include the following:

- Building massing adjustments or alternative designs that are more responsive to the local wind climate;
- Incorporating podiums, tower setbacks, notches and/or colonnades;
- Strategic implementation of canopies, wind screens, façade elements, landscaping, planters, public art and/or other features that prove to be effective for mitigating problematic wind conditions; and
- Modifications to the proposed function of an area.

The proposed building footprint has been reduced which results in a smaller building frontage along Martha Street and contains tower setbacks on the 6<sup>th</sup> and 8<sup>th</sup> storeys along the south-west portion of the building. Furthermore, the proposed development continues to provide landscaped areas along the amenity spaces including patios on

Martha Street as well as feature walls along the loading areas on Martha Street and the south-eastern property line.

Furthermore, the amenity spaces located on the 6<sup>th</sup> storey on the south-west portion of the building is located along the area where less winds occur in accordance with the previously mentioned study findings.

Staff is of the opinion that additional materials are required as part of a subsequent Site Plan application in order to confirm the proposed development does not result in inappropriate wind impacts onto the subject lands and surrounding neighbourhood. These materials may include an updated Wind Tunnel Study or additional required materials in accordance with Site Plan requirements.

## **2.10 Shadow Study Guidelines**

The purpose of the Shadow Study Guidelines is to provide a best practices approach to Shadow Studies in order to promote high-quality development proposals that ensure adequate access to sunlight is maintained for the enjoyment of public and private spaces alike throughout the City. This document is a tool for City Staff to be used in the review and evaluation of development applications including the subject application and any subsequent Site Plan applications. Shadow Studies are generally required for development proposals with building heights of 5-storeys or more.

Section 4.3 describes that to maximize the usability of private outdoor amenity areas such as rear yards, decks, and (rooftop) patios, including common outdoor amenity areas, shadows from proposed developments should not exceed 2 hours in duration, between 09:00 and 18:00 on March 21st. In cases where existing shadows limit access to sun during those times, net new shadows resulting from proposed buildings should allow a minimum amount of sunlight to reach nearby private residential outdoor amenity areas, between the hours of 09:00 and 18:00. The criterion is met if the Sun Access Factor is at least 0.22 on each of the test dates.

In accordance with section 4.6, shadows cast by all existing buildings and proposed developments onto the full extents of the boulevard and sidewalk on the opposite side of the adjacent right-of-way, must allow for either full sunlight 50 per cent of the time or 50 per cent sun coverage at all times between 09:00 and 18:00 on March 21. The criterion is met if the Sun Access Factor is at least 0.50 for the specified date. The boulevard includes the area between the curb and the front property line or the building face, defined by projecting perpendicular lines from the subject site's property lines.

In accordance with section 5.1, where shadow impacts are considered unacceptable for the given Shadow Impact Criteria, mitigation strategies must be developed and tested. Test results must demonstrate the resultant conditions meet the applicable Shadow Impact Criteria. Unacceptable shadow impacts occur when an area is being partially or

fully shadowed for a duration and extent such that the use and enjoyment of the space is impeded. The definition of unacceptable will vary based on use, location, and the specific metrics used in defining the acceptability of conditions. The most effective shadow impact mitigation measures involve adjustments to the building and site design early in the design process. This may include: lot assembly; reduced building footprints; building massing adjustments including but not limited to building setbacks and stepbacks; reduction in building height; and building placement and orientation.

Staff is of the opinion the additional materials are required as part of a subsequent Site Plan application in order to confirm the proposed development does not result in inappropriate shadow impacts onto the subject lands and surrounding neighbourhood. These materials may include a Shadow Study or additional required materials in accordance with Site Plan requirements.

## **2.11 Sustainable Building and Development Guidelines**

The purpose of the Sustainable Building and Development Guidelines is to encourage sustainable design approaches through Planning Act applications, in keeping with the City's declaration as a sustainable community, and in alignment with Burlington's Strategic Plan from 2015 to 2040. Burlington's Strategic Plan encourages energy efficient buildings and other on-site sustainable features and sets a net carbon neutral goal for the community. Sustainable design is an integrated design process that helps to reduce infrastructure demands and costs, environmental impacts, greenhouse gas emissions, long-term building operating costs, and contributes to the City's goal of being a prosperous, livable and healthy community. The guidelines address sustainability approaches related to site design, transportation, the natural environment, water, energy and emissions, waste and building materials, and maintenance, monitoring, and communication.

Guideline 2.1 describes developments are required to provide pedestrian and cycling connections from on-site buildings to off-site public sidewalks, pedestrian paths, trails, open space, active transportation pathways, transit stops and adjacent buildings and sites in accordance with Official Plan policies. Staff is of the opinion the proposed plan continues to meet these intents.

Guideline 2.3 describes developments are required to provide bicycle parking spaces in accordance with the minimum required spaces under Zoning Bylaw and in accordance with Official Plan policies. Similarly, guideline 2.5 describes that developments are encouraged to provide occupant or employee bicycle storage spaces near the main entrance or easy to identify area, in a weather protected area with controlled access or secure enclosures, at no extra charge to the occupant or employee. Additionally, guideline 2.6 describes developments are encouraged to provide visitor bicycle parking spaces in a weather protected area at grade near the main entrance or easy to identify



area. At this time, the applicant has demonstrated bicycle storage areas will be provided within the underground parking structure in two enclosed rooms in close proximity to building entrances.

Guideline 2.4 describes developments are encouraged to provide and implement a Transportation Demand Management Plan (TDMP), as required for parking reductions and required in Primary, Secondary and Employment Growth areas as per Official Plan policies. TDMPs are plans that encourage sustainable modes of transportation and evaluate building transportation needs comprehensively and may consider measures such as the provision of transit passes, flexible work hours, unbundled parking, on site transit facilities, priority parking for carpooling and autoshare programs, etc.

Guideline 3.8 describes developments are encouraged to maintain existing on-site trees that are 30 cm or more DBH (diameter at breast height) or Maintain 75% of healthy mature trees greater than 20 cm DBH. Tree preservation requirements will be determined by Official Plan urban forestry policies. As part of a subsequent Site Plan application, City staff request that additional forestry related materials be submitted to address compliance with this guideline.

Guideline 4.1 describes developments are required to achieve a level one/enhanced stormwater treatment for all stormwater runoff. Stormwater quality treatment reduces the total suspended solids in runoff to ensure the protection of receiving watercourses and Lake Ontario. Furthermore, guideline 4.3 describes developments are encouraged to minimize impervious surfaces and stormwater runoff through the use of Low Impact Development (LID) measures, such as: permeable pavements; bioswales; infiltration trenches/bioretention areas; rain gardens; draining roofs to pervious areas, and other innovative stormwater management strategies. Low Impact Development strategies mitigate the impacts of increased urban runoff and stormwater pollution by managing it as close to its source as possible. It comprises a set of site design approaches and small-scale stormwater management practices that promote the use of natural systems for infiltration and evapotranspiration, and rainwater harvesting.

Guideline 5.1 describes developments are required to provide vegetated landscape areas in hard surface areas as per the Zoning By-law in order to. Vegetation can reduce the urban heat island effect to improve human comfort and energy efficiency in the surrounding areas.

Guideline 6.1 describes developments are required to provide and implement a waste management plan in accordance with Regional requirements. Recycling and composting treats waste as a resource and reduces the need for landfill expansion.

Staff is of the opinion the additional materials are required as part of a subsequent Site Plan application in order to confirm the proposed development generally complies with the Sustainable Building Guidelines.

## **2.12 Downtown Streetscape Guidelines**

The subject property is located just outside of the area to which the Downtown Streetscape Guidelines apply; however Martha Street and the lands opposite are located within the area subject to these guidelines. This section of Martha Street is identified as forming part of the Mixed-Use Commercial District, in accordance with section 2.3 of the guidelines.

Detailed streetscape design for the proposed development will be considered through a future Site Plan application. Staff note that the proposed development provides a 3 metre setback from the front lot line, which will allow for a boulevard area (spanning public and private property) of at least 6 metres or more between the curb and the proposed building wall. With this in mind, staff is satisfied that sufficient space has been provided to allow for implementation of the Downtown Streetscape Guidelines through a future Site Plan application. This will allow for the achievement of a streetscape that is appropriate for the context of the subject lands and is consistent with the streetscape on the opposite side of Martha Street.

## **3.0 Technical Review**

The original applications were circulated to internal departments and external agencies for review. Written responses to the technical circulation were received from Canada Post, Conservation Halton, Enbridge, Development Engineering, Fire Department, Halton District School Board, Halton Catholic District School Board, Transportation Department, Halton Region, and Trans-Northern Pipeline Inc.

It should be noted that there are a number of technical studies that will need to be revised and completed to the City's satisfaction to reflect the revised development proposal. Staff would recommend to the Ontario Land Tribunal that, should the Tribunal approve the proposed development through a settlement or contested hearing, that the Tribunal withhold its order approving the development until these additional items are completed to the satisfaction of the City. Once this is completed, the Tribunal would issue its order.

## **4.0 Conclusion**

The revised proposal has been reviewed in accordance with applicable Provincial, Regional, and Municipal planning policies and staff is of the opinion that the revised proposal is consistent with these documents and represents an appropriate level of intensification, efficient use of land and provides a range and mix of housing options that promote the use of active transportation and transit.

The proposal, as revised, will provide a mix of residential unit types at an appropriate density within the urban boundary on an underutilized parcel that provides for efficient

use of land, infrastructure and services. The revised proposal is compatible with adjacent building typologies, scale, massing, setbacks and building heights.

The proposed development has access to the street network which can accommodate the additional traffic associated with the increased intensity of this site. There is also existing public transit located in close proximity to the subject lands, as well as community services and amenities located within walking distance to the subject lands.

Staff is satisfied that the applicant has made appropriate modifications in an effort to reduce the overall impact of the development on the neighbouring properties. The revised applications are consistent with the Provincial Policy Statement, conform to all applicable Provincial Plans, the Region of Halton Official Plan and the City of Burlington Official Plans and have regard for matters of Provincial interest.

As such, Staff is satisfied with proceeding by way of a Settlement Hearing before the Ontario Land Tribunal for the revised proposal on the condition that the Ontario Land Tribunal withhold its order on any settlement decision until the additional technical studies, as requested by the City, are completed to the satisfaction of the City.

Respectfully submitted,

William Wallace, MCIP, RPP

Coordinator of Development Review