



## Community Planning Department

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**SUBJECT: Planning Analysis for 420 Guelph Line - Official Plan and Zoning By-law Amendment**

**TO: Blake Hurley, Assistant City Solicitor**

**FROM: Melissa Morgan, Planner II – Development**

**Background:**

On March 10, 2020, the Department of Community Planning acknowledged that a complete application had been received for an Official Plan Amendment and Zoning By-law Amendment for 420 Guelph Line. The application proposed to amend the Official Plan and Zoning By-law to facilitate a development consisting of one 13-storey residential building.

A Statutory Public Meeting which provided a recommendation by Planning staff to refuse this development application was held on September 15, 2020. Report PL-49-20 provided a summary of the proposal, comments received to that date from the public and technical agencies and departments and a staff recommendation to refuse both the Official Plan and Zoning By-law Amendment applications. The applications were refused and subsequently appealed to the Local Planning Appeal Tribunal (LPAT), now known as the Ontario Lands Tribunal (OLT), by the proponent within the required time period set out by the *Planning Act*.

Based on feedback received during the Official Plan and Zoning By-law Amendment processes, the proponent made changes to the proposed development in April 2021 and submitted revised studies and reports on a Without Prejudice basis.

As part of negotiations with the proponent, several further revisions were made to the development proposal. The most recently revised plan was provided by the proponent on a “with prejudice” basis. Final changes to the plans include the following:

- The proposal was revised to an 11-storey height rather than the previously proposed 13-storey height.

- A total of 334.9 m<sup>2</sup> of commercial space is proposed on the ground floor and 155.6 m<sup>2</sup> of office and business centre space is proposed on the second floor for a total of 490 m<sup>2</sup> of non-residential floor area. Previous versions of the proposal included the following:
  - In the original Official Plan Amendment and Zoning By-law Amendment applications, no non-residential floor area was proposed. Only residential uses were proposed.
- The commercial area is oriented to Guelph Line, with a building wall fronting on adjacent public property, and includes a separate building entrance.
- The façade no longer features overhead doors for parking and loading purposes fronting onto Guelph Line.
- Access to parking is internal to the site, turning movements contained on property to ensure no vehicles reversing onto Guelph Line.
- North side of building recessed on east side to increase north setback.
- Inset balconies on north side of building.
- Terrace above 7<sup>th</sup> storey set back 10 m to 18 m from the south property line for storeys 8-11
- Large outdoor amenity area on the 3<sup>rd</sup> storey including 329.3 square metres of common outdoor amenity.
- Southwest setback has increased to facilitate additional greenspace at grade for common amenity.
- Southeast corner of building has been reduced in size to allow for additional pedestrian connectivity and more landscaped greenspace visible from Guelph Line.
- Indoor amenity area from the second storey has been moved to the first storey in order to be adjacent to the outdoor ground floor amenity area.
- Surface parking is now enclosed within the building and is no longer visible from surrounding properties.

<b>Ward:</b>	2	
<b>Application Details</b>	<b>APPLICANT:</b> <b>OWNER:</b> <b>FILE NUMBERS:</b> <b>TYPE OF APPLICATION:</b> <b>INITIAL PROPOSED USE:</b> <b>REVISED PROPOSAL:</b>	<i>Weston Consulting</i> <i>Valour Capital Inc.</i> <i>505-01/20 &amp; 520-02/20</i> <i>Official Plan and Zoning By-law Amendment</i> <i>13 -storey residential building</i> <i>11-storey residential building with commercial and office uses</i>
<b>Property Details</b>	<b>PROPERTY LOCATION:</b> <b>MUNICIPAL ADDRESSES:</b> <b>PROPERTY AREA:</b> <b>EXISTING USE:</b>	<i>West side of Guelph Line, south of New Street</i> <i>420 Guelph Line</i> <i>0.38 hectares</i> <i>Two vacant commercial buildings (one on each former site)</i>
<b>Documents</b>	<b>OFFICIAL PLAN Existing:</b> <b>OFFICIAL PLAN Proposed:</b> <b>ZONING Existing:</b> <b>ZONING Proposed:</b>	<i>Neighbourhood Commercial</i> <i>Neighbourhood Commercial with Site Specific Policy</i> <i>Neighbourhood Commercial (CN1)</i> <i>Neighbourhood Commercial with site specific exception (CN1-XXX)</i>

## **Site Description and Surrounding Land Uses**

The subject lands are located on the west side of Guelph Line, south of New Street and are approximately 0.38 hectares in size. The lands currently support two vacant commercial buildings; one on each of two former sites, being 418 and 422 Guelph Line. Surrounding land uses include the following:

North: Retail and service commercial plaza

East: Retail and service commercial plaza

South: Centennial Multi-Use Path and associated parking

West: Retail and service commercial plaza

### **Current Proposal:**

The revised proposal is for an 11-storey mixed-use building which includes 170 residential units comprised of 121 one-bedroom units, 46 two-bedroom units and 12 three-bedroom units; as well as 334.9 m<sup>2</sup> of commercial space on the ground floor and 155.6 m<sup>2</sup> of office and business centre space on the second floor. A density of 446 units per hectare and a Floor Area Ratio (FAR) of 4.2:1 are proposed. Access to the site is proposed off Guelph Line, where two driveway entrances would be located. The proposal includes two levels of underground parking, accessed from a ramp at the north side of the building via Guelph Line. At the ground level, the development proposes 27 parking spaces, indoor amenity area and commercial area at the southeast corner of the building. The indoor amenity connects to an outdoor amenity area on the southwest side of the site, and a sidewalk is provided from the building entrance to the amenity area. It should be noted that the parking proposed at the ground level is enclosed by the proposed building and would not be visible from Guelph Line, as previously proposed.

The second storey includes additional parking as well as office space. The previous version of the subject proposal contemplated indoor amenity on the second floor and additional parking at grade, however the proponent has switched the location in order to provide comprehensive indoor and outdoor ground floor amenity area. This change is encouraged and supported by staff.

Outdoor common terraces as well as private outdoor balconies are provided on top of the second storey where the building is stepped back. This includes a terrace at the southeast corner of the building that proposes 337.6 m<sup>2</sup> of outdoor amenity area. In order to increase the separation distance between the proposed building and potential future development to the north, the proponent has stepped the north wall back further at the east side in order to create a building setback ranging from 7.72 m to more than 8 m to the north side

of the property. Above the third storey, this building footprint continues, and an outdoor rooftop terrace is proposed on the 11<sup>th</sup> storey.

To facilitate the proposed development, amendments to the Official Plan and Zoning By-law are required. The Official Plan Amendment application originally proposed to re-designate the property to “*Residential (High Density) with a site specific policy*” to permit the proposed residential use. For the reasons noted in this report, staff are of the opinion that “Neighbourhood Commercial with a site specific policy” would be more appropriate for the subject lands.

The proposed rezoning will also require site-specific regulations to permit the proposed development. Staff recommend a site-specific exemption for the “Neighbourhood Commercial (CN1)” Zone. A chart is included later in this report which summarizes the existing zoning regulations; those that were included in the previous proposal and those that are included as part of the current development proposal.

### **Policy Framework Review:**

The applications are subject to the following policy framework: The Planning Act, Provincial Policy Statement, 2020; A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2019; Halton Region Official Plan; City of Burlington Official Plan (1997, as amended); and Zoning By-law 2020.

### **Provincial Policy Statement (PPS) 2020**

The (PPS) came into effect on May 1, 2020 as an update to the previous PPS (2014) and provides broad policy direction on matters related to land use and development that are of provincial interest. Local Official Plans are recognized through the PPS as the most important instrument for implementation of the land use policies stated by the PPS. Decisions affecting planning matters made on or after May 1, 2020 are required to be consistent with the PPS.

The PPS requires that settlement areas shall be the focus of growth and development and the subject lands are located within the settlement area of the City of Burlington.

Within settlement areas, the PPS encourages densities and a mix of land uses which efficiently use land and resources; are appropriate for, and efficiently use, infrastructure and public service facilities; minimize negative impacts to air quality and climate change and promote energy efficiency; support active transportation; are transit-supportive, where transit is planned, exists or may be developed, and are freight-supportive (Subsection 1.1.3.2). Planning authorities are directed by the PPS to identify appropriate locations for intensification and redevelopment and to provide development standards

which facilitate this intensification, redevelopment and compact form, while avoiding or mitigating risks to public health and safety (Subsections 1.1.3.3, 1.1.3.4).

The PPS requires that new development in designated growth areas should occur adjacent to the existing built-up area and shall have a compact built form, a mix of uses and densities that allow for an efficient use of land, infrastructure and public service facilities (Subsection 1.1.3.6). The existing “Neighbourhood Commercial” designation of the lands would help to efficiently use the lands by providing residents with a mix of uses, including retail or service commercial uses, in their neighbourhood that are accessible for their day-to-day or weekly service needs.

The PPS provides housing policies which direct planning authorities to provide an appropriate range and mix of housing types and densities to meet projected demands of current and future residents of the regional market area (Subsection 1.4.3).

The PPS recognizes that the province of Ontario is diverse, and that local context is important. The policies of the PPS represent minimum standards, and planning authorities and decision makers may go beyond these minimum standards to address matters of importance to a specific community provided provincial interests are upheld (PPS, Part III).

Policy 4.7 of the PPS identifies that the official plans are the most important mechanism for the implementation of provincial policy and shall establish appropriate land use designations and policies that direct development to suitable areas. The City of Burlington’s Official Plan contains development standards to facilitate housing intensification through specific evaluation criteria. The development standards from the City’s Official Plan are integrated in the City’s Zoning By-law 2020 in the form of regulations to inform appropriate development. The City’s Official Plan also considers built form in its policies for design and associated Council approved design guidelines. In this case, the Design Guidelines for *Mixed-Use and Residential Mid-Rise Buildings* are applicable and have been reviewed in the context of the existing proposal.

### **Staff Analysis:**

The lands are intended to be developed as a Neighbourhood Commercial site which would provide small-scale commercial needs to the community. Staff are of the opinion that residential intensification will be able to occur on the site while incorporating uses that meet the needs of the community. The proposed level of intensification is appropriate for the subject lands as a result of the changes that have been made to the proposal throughout the appeal process. Staff are of the opinion that the proposal shall be consistent with the policies of the PPS.

The Growth Plan came into effect on May 16, 2019 as an update to the previous provincial growth plan. Amendment No. 1 to the Growth Plan was subsequently approved and came into effect on August 28, 2020. The Growth Plan provides specific growth management policy direction for the Greater Toronto and Hamilton Area (GTHA) and focuses development in the existing urban areas through intensification. The guiding principles of the Growth Plan include building complete communities that are vibrant and compact, and utilizing existing and planned infrastructure in order to support growth in an efficient and well-designed form.

Section 2.2.1.4 a) of the Growth Plan states that the policies of this Plan will support the achievement of complete communities that feature a diverse mix of land uses, including residential and employment uses, and convenient access to local stores, services and public service facilities. The Growth Plan specifies that municipalities, in planning to achieve their mandated minimum intensification targets, are to develop and implement urban design and site design policies within their Official Plan and supporting documents that will direct the development of a high-quality public realm and compact built form (Section, 5.2.5.6).

**Staff Analysis:**

Increased residential density on this site will assist in achieving the Growth Plan's minimum intensification targets for Halton. The provision of retail and office uses in addition to the originally proposed residential use will also allow for a mix of uses that contribute to a complete community and are in keeping with local policy requirements for the area. Staff are of the opinion that the proposal is in keeping with the policies of the Growth Plan.

**Halton Region Official Plan (ROP):**

The subject lands are designated as "Urban Area" in accordance with the ROP. The Urban Area objectives promote growth that is compact and transit supportive. The subject lands are not located within a Regionally mapped or identified *Intensification Area*; however, the policies of the ROP support opportunities for live/work relationships, achieving higher densities and a mix of uses as prescribed by the City's Official Plan. 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).

**Staff Analysis:**

The proposed development generally conforms with the ROP direction to accommodate intensification within the built boundary. The development can be supported with existing water and sanitary services which satisfies the ROP servicing policy for new development. Staff are of the opinion that the proposed development is in keeping with the policies of the ROP.

## **City of Burlington Official Plan (1997)**

The current City of Burlington Official Plan designation on the subject lands is “*Neighbourhood Commercial*”, in accordance with Schedule “B” of the Official Plan. This designation seeks to *provide opportunities for limited neighbourhood commercial centres within and at the periphery of residential neighbourhoods in locations that meet residents’ day-to-day and weekly goods and service needs*. The proponent originally proposed an Official Plan Amendment to amend the designation of the subject lands to permit high-density residential uses. Given the proposed changes to the development, a site specific policy for the *Neighbourhood Commercial* designation is now proposed to permit the proposed height and density.

### **Housing Intensification**

The City’s OP encourages residential development and residential intensification within the Urban Planning Area to increase the availability of a variety of housing options, while recognizing that the proposed additional housing must be compatible with existing residential neighbourhoods. Re-development of underutilized residential lands is encouraged, where appropriate, at the periphery of existing residential neighbourhoods for non-ground-oriented housing purposes (OP, Part III, 2.5.1).

Applications for housing intensification within established neighbourhoods are evaluated based on a framework of criteria provided in Part III, Section 2.5.2 (a) of the City’s Official Plan. The City’s Official Plan criteria for housing intensification evaluation have been reviewed by Planning staff with respect to this proposal. Only the criteria that were not previously met will be discussed below. Those not discussed below are determined by staff to be met for the reasons outlined in report PL-49-20.

### **Intensification 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”*

The proponent has been working with the Region to ensure appropriate servicing is available for the subject lands. Details of the proposed servicing will need further approval from the Region at the Site Plan stage.

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. No objections were received by either school board.

Parks and Open Space staff have noted that the development is in proximity to the Centennial Multi-Use Trail (adjacent to the south side of the site) and Central Park. As such, cash-in-lieu of parkland dedication would be required for this proposal; however, there should be green space provided on the site. This was previously identified as a concern by staff. The proponent has revised their proposal and is now proposing outdoor amenity area on the southwest side of the subject lands, adjacent to the parking lot to the south. The outdoor amenity area could be accessed from the building entrance at the Guelph Line frontage via a walkway as well as a connection to the south-facing indoor amenity area. Staff are of the opinion that the outdoor amenity space proposed is appropriate and functional for the subject lands.

**Staff Analysis:** This criterion has been met.

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

While the proposed parking meets the zoning requirements with respect to the number of spaces, planning staff previously had concerns with other aspects of the proposed parking. The ground level was proposed to be used for parking accessed via overhead doors fronting onto Guelph Line and as a residential lobby. These features did not contribute to a desirable or pedestrian-friendly streetscape.

While the proponent continues to propose parking at the ground level, the parking is now proposed to be enclosed within the building walls and would not be visible from the street or surrounding properties. Previous concerns from staff involved the visual impacts and the loss of the potential for commercial space along Guelph Line caused by using the space for vehicle parking. Given the revisions proposed, staff are of the opinion that the parking has been adequately visibly screened from the street. It is the opinion of staff that the proponent has demonstrated that an appropriate amount of retail can be provided while appropriately including parking at grade to support these uses.

**Staff Analysis:** 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*”

### Scale and Massing

The proposal seeks to rezone the existing Neighbourhood Commercial lands in order to facilitate an 11-storey mixed-use development comprised of 170 residential units, ground

floor retail and second floor office space. These amendments proposed would result in a building proposal that is located closer to some street and property lines than permitted, which will be discussed further in this report, and is a more intense development than what previously existed on the site.

The Zoning By-law permits a maximum FAR of 1.25:1. The proposed FAR of the subject lands is 4.2:1. The impacts of the building size were reviewed by staff in the context of the proposal and the surrounding area. The proponent has made revisions to the proposal in order to reduce the impacts of massing. Changes included larger setbacks to include amenity area at grade; a height reduction and the provision of stepbacks throughout the building. The proposal also has regard for surrounding development and permissions for future development. Staff are of the opinion that the proponent has adequately revised the proposal in order to achieve appropriate scale and massing.

### Height

The proposal was previously 13 storeys, whereas the current proposal is for 11 storeys. It should be noted that the 11<sup>th</sup> storey is used as outdoor rooftop terrace. The lands are surrounded by one and two-storey retail and service commercial uses and a parking lot that is accessory to the Centennial Multi-Use Trail. To the southeast of the subject lands is the Roseland Character Area, an established low-density residential area.

The current zoning for the site permits three storeys up to 22 m. As such, an amendment is required to permit the proposed intensity, including the height. In reviewing the proposed height increase, staff looked at potential impacts that could result from an increased height including privacy and shadows. The site is not directly adjacent to residential development and as such, the additional height is appropriate in this respect. The applicant has designed the building footprint, including setbacks, to reduce the impacts of the height and has stepped the building back appropriately as the building height rises. In the opinion of staff, the proposed height is now appropriate for the subject lands.

### Siting and Setbacks

Staff were previously of the opinion that the proposed setbacks did not contribute to a development that is compatible with the surrounding area. It was noted that the setbacks should be increased in order to allow for pedestrian activity, landscaping, amenity area and opportunity for commercial spaces. The proponent reduced the height of the building to 11 storeys and incorporated some additional setbacks in order to mitigate potential impacts on nearby properties.

The building has been set further back from the front (Guelph Line) property line to a minimum of 8.95 metres in order to provide for access and landscaping. The originally proposed surface level parking has also been removed from the Guelph Line frontage and commercial has been proposed; thereby creating a more pedestrian-friendly environment. The proponent recently removed a protruding section of the building at the southeast corner in order to provide increased pedestrian connectivity through the south side of the site. The building has been set back on the south side to 5.5 metres at the closest point in order to provide common outdoor amenity area, which has been discussed in other sections of this report.

Other setbacks and stepbacks have been included in the revised proposal and will be discussed in other sections of this report, including discussion of transition, however staff are of the opinion that the setbacks are appropriate for the subject lands.

### Coverage

Staff were previously of the opinion that the proposed coverage was not appropriate for the subject lands. The site did not have space to accommodate the intended commercial uses or outdoor amenity area at the ground level. The ground level was previously proposed to be used primarily for parking. In order to address this concern, staff added retail floor area to the ground floor and incorporated amenity area and additional greenspace at grade. Staff are of the opinion that the lands are being used more appropriately, particularly at grade, and that the proposed coverage is now appropriate for the subject lands.

### Parking

As per the discussion of Official Plan Policy 2.5.2 a) ii) in this report, staff are of the opinion that sufficient parking has been provided to support the proposed use. Staff did not previously agree that the proposed parking location or configuration were appropriate on the site and were of the opinion that the location of parking above grade was inappropriate given the Neighbourhood Commercial designation of the property. Active uses such as commercial/retail uses were preferred at grade to activate and animate the streetscape and to protect the planned commercial function of the subject lands.

The proponent has since revised the proposal to enclose the parking at the surface level and have added commercial uses at grade in order to activate the streetscape. It is the opinion of staff that the proposed amount of parking (discussed further in this report) is appropriate for the lands and given recent changes proposed by the proponent, the configuration is now appropriate.

### Amenity

The CN1 Zone of the City's Zoning By-law 2020 requires 20 m<sup>2</sup> of amenity area per unit. Amenity area is proposed in the form of common indoor and outdoor amenity area at the ground level, outdoor terraces and further indoor amenity area above and private outdoor amenity in the form of balconies and terraces. Staff were previously of the opinion that ground level outdoor amenity area is an important feature and should be provided as part of the subject proposal. The proponent revised the proposal to include amenity space at the southwest corner of the site as well as pedestrian connections from the building entrance to this amenity area. Staff are of the opinion that this is a substantial improvement and are supportive of this change.

### Transition

The proposal is adjacent to one and two-storey retail and service commercial plazas to the north, east and west. To the south, the property is adjacent to a parking lot associated with the Centennial Multi-Use Bike Trail. The previously proposed building height of 13 storeys did not provide adequate transition to these uses. The proponent has increased the setback on the north side of the building, above the third storey, to 7.7 metres at its closest point. This will provide a greater setback to the property to the north and will protect for a greater separation distance in the future should the property redevelop. A more detailed discussion of the proposed separation distances is included in the Urban Design section of this report.

**Staff Analysis:** This criterion has been met.

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”*

Urban Forestry and Landscaping staff commented on the proposal and noted that all of the trees on or at the boundary of the site (19 public trees and 37 private trees) have been or are proposed to be removed. All but two trees were noted to be in poor condition. In the opinion of Urban Forestry and Landscaping staff, adequate caliper-per-caliper replacement is proposed according to the Landscape Plan submitted.

While appropriate compensation is being proposed for the loss of vegetation on the subject lands in accordance with City requirements, staff previously noted that further landscaping or greenspace should be provided on the subject lands. The proponent has provided an amenity area at the southwest corner of the site which will provide greenspace and provide enjoyment for its users. As a result of increasing setbacks and providing more space on the site, additional greenspace will be provided which will be

visible from Guelph Line. Staff are of the opinion that this is appropriate and are supportive of this change.

**Staff Analysis:** This criterion has been met.

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 subject applications were submitted prior to this date and as such, staff were unable to review the Shadow Study in accordance with this document.

The proponent did submit a Shadow Impact Study which was reviewed by staff. Shadow Impacts were shown at various times on March 21, June 21 and December 21 and compared the proposed development to what is currently permitted for the subject lands (in accordance with the existing CN1 Zone). The majority of shadows cast are on nearby retail and service commercial development. The proponent has reduced the height of the building and has increased the setbacks; resulting in reduced shadow impact.

**Staff Analysis:** 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”*

Staff were not of the opinion that landscape buffers were adequate to offset the impact of a 13 storey building given the considerations of Official Plan policy 2.5.2 a) v. While not immediately adjacent to low-density residential uses, there is an established low-density residential area to the southeast as well as many established low-rise retail and service commercial uses.

The proponent increased the front yard setback, contributing to a streetscape that is pedestrian-friendly and creates differentiation between the public and private realm. Additionally, the provision of outdoor ground floor amenity area on the south side of the subject lands assists in providing a buffer to the property to the south. The height reduction allows for a reduction in massing which thereby reduces to impact on adjacent properties.

**Staff Analysis:** 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”*

There is one property that wraps around the north and west of the subject lands which fronts onto New Street and Guelph Line. While it would be preferred that the lands are assembled, the proponent indicated that they had attempted to consolidate the subject lands with the lands to the north and were unsuccessful.

The proponent originally proposed a north side yard setback of 2.6 metres at the ground level for a building that is 13 storeys in height. In order to provide adequate separation between buildings and ensure proper screening, the property to the north would require additional setbacks on their side should the lands be redeveloped in the future. If a tall or mid-rise building were proposed on the lands to the north in the future in addition to the originally proposed tall building, a separation distance of 25 metres between towers would be required. Increasing setbacks further in order to compensate for the reductions on the subject lands would limit the development potential of the property to the north.

The proposal was revised to a mid-rise building design which includes a minimum 7.72 m setback to the property line to the north after the third storey. Previously, the building followed the irregular shape of the property line; however staff requested that the building be flush from the portion of the wall furthest south. The applicant has agreed to this. Staff are of the opinion that the height reduction and increased setbacks allow for the potential of redevelopment of the property to the north in the future.

**Staff Analysis:** This criterion has been met.

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 proposed development fronts onto and would have access onto a minor arterial road. The lands are also located in proximity to a low-density residential area with an established character. As such, the potential impacts on such areas were carefully considered. Staff are of the opinion that the proponent has made an effort to provide increased transition to the nearby established neighbourhood area and have provided

non-residential uses that contribute to a complete community. These reasons are outlined throughout the report.

**Staff Analysis:** This criterion has been met.

## **Urban Design**

With re-development and intensification being the dominant form of new development in the City of Burlington, a thorough review of proposed building design and site design is recognized as a critical component of the evaluation of development applications.

Part II, Section 6 of the City's Official Plan provides specific reference to ensuring that the design of the built environment strengthens and enhances the character of existing distinctive locations and neighbourhoods, and that proposals for intensification and infill within existing neighbourhoods are designed to be compatible and sympathetic to existing neighbourhood character. The objectives of this section of the Official Plan also include a commitment to the achievement of high-quality design within the public realm. Consideration of urban design is to be integrated into the full range of activities by Planning Staff.

The City has prepared design guidelines that relate to various building typologies. Part 2, Section 6.6 c) states: "...*Any City Council-approved design guidelines are considered City policy and shall be implemented for all public or private development proposals*". Proponents are expected to have regard to the relevant design guidelines when preparing their development proposals. Originally, the proposal was for a 13-storey building and as such, staff conducted a review of the application based on the City of Burlington *Tall Building Guidelines* in report PL-49-20. The application is now for an 11-storey building and is subject to the Council approved *Mixed-Use and Residential Mid-Rise Building Guidelines*. As such, staff have reviewed the proposal in this context.

### *Mixed-Use and Residential Mid-Rise Building Guidelines (Mid-Rise Building Guidelines) 2019*

The intent of the Mid-Rise Building Guidelines is to implement the City's Official Plan objectives and policies for Design (Part II, Section 6), specifically as they relate to buildings between 6 and 11-storeys in height.

#### *2.1 Building Placement*

- 1) *In general, buildings should be placed parallel to streets or public open spaces (within or along the edge of the site) to frame and define these spaces. This will also increase the amount of private open space behind the building and separation from neighbouring properties.*
  
- 8) *On corner sites, the building should frame both streets. The placement of corner buildings may be subject to a daylight triangle.*

The subject lands have frontage on Guelph Line. The development proposes a sidewalk that extends north-south along the property, connecting to the existing sidewalk on either side. A pedestrian walkway also provides access to proposed residential and commercial entries to the subject lands. It should be noted that this frontage was previously proposed to be used for parking, and the front building façade included overhead door access to the proposed parking. Staff are of the opinion that this is an improvement from the original proposal and that the pedestrian connection and experience has been significantly improved. The amenity area now proposed at the southwest corner of the site provides connection to a parking lot and multi-use pathway to the south which can now be easily accessed and enjoyed by residents. Staff are of the opinion that the proposed development properly frames its surrounding area.

## *2.2 Building Separation and Spacing*

- 1) *In general, taller buildings should provide greater separation distances. Separation distances should generally range between 15.0 – 20.0 metres.*

The original proposal included a 2.6 m setback (at a pinch point) to the north side, whereas the *Tall Building Guidelines* recommended a separation distance of 25 m between tall buildings, or 12.5 m on each side. The proponent revised the proposal to a mid-rise building, which still recommends 15-20 m of separation. The proponent has revised the plans and now proposes a minimum of 7.7 m above the third storey to the north property line. Staff are of the opinion that an appropriate separation distance is provided.

## *2.3 Built Form: Height and Massing*

- 3) *In general, a building's form should reflect the existing and planned context in terms of street character (including the planned street function and right-of-way width), land use, and built form.*

The intent of the current and proposed Official Plan designations in this area is to protect the planned commercial function of the subject lands and to provide for the day-to-day and weekly shopping needs of residents of the area. Staff are of the opinion that the provision of commercial area at the ground floor reflects this.

- 7) *Pushing (projecting) and pulling (recessing) building volumes from the main building form is encouraged to help break down the mass of larger buildings.*
  
- 10) *Stepping back upper level building volumes is encouraged to assist with transitions between neighbouring buildings with lower heights.*

The applicant has incorporated terraces and stepbacks into their building proposal. The third storey steps back from the first two storeys, above the podium, and provides a large outdoor amenity rooftop terrace as well as large private patios in the space that is stepped back. Above the third storey the building continues to rise in this form, with the exception of the rooftop amenity on the 11<sup>th</sup> storey.

- 8) *Balconies are encouraged and should be integrated into the building design and massing with inset or Juliette balconies. Projecting balconies should not be within the streetwall to avoid negative impacts to the public realm including additional building massing and shadowing.*

The applicant has inset the balconies on the north side of the subject lands where the property is directly adjacent to a service commercial plaza. The commercial plaza property wraps around to the west side of the subject lands. To the south, the property abuts a parking lot which is accessory to a trail. Projecting balconies are also proposed on the south and west sides of the subject lands; however staff are not of the opinion that these will have significant impacts on abutting properties or the streetscape.

#### *2.4. Street Level Design, Façade Articulation & Materials*

- 9) *Design the main entrance to be clearly distinguishable from other entrances through its architectural design and treatment, high visibility, wayfinding and direct pedestrian access.*

Originally, the proposed building was residential only and included 44 surface parking spaces at grade. Staff were of the opinion that the entrance should be distinguishable, pedestrian friendly and should provide a connection between the public and private realm, especially given its location within a Neighbourhood Commercial area. The proponent added commercial and office uses to the proposal. The two entrances are now separate and staff are satisfied that both are distinguishable and a positive addition to the streetscape.

## 2.5 Site Design, Open Space & Streetscaping

- 9) *Most on-site parking should be provided underground. In general underground or structured parking is encouraged before surface parking.*
- 11) *Where parking is provided within an above ground structure, it should be wrapped with retail/commercial or residential units along the street frontage.*
- 13) *Any surface parking areas visible from the street should be buffered and screened with high quality architectural elements, setbacks or landscaping. On larger sites with surface parking areas, incorporate landscaped islands and high-quality landscaping to create comfortable and safe pedestrian walkways and amenity areas.*

The original proposal included 44 surface parking spaces as well as 48 parking spaces on the second level (in addition to more parking spaces underground). The building was cantilevered over many of the surface spaces, creating an undesirable ground level treatment. While the applicant did not remove all of the parking spaces at grade, the parking has now been enclosed within the building and is not visible from the street. The proponent has improved the streetscape abutting Guelph Line by adding retail space for the use of area residents. Staff is of the opinion that the proposed parking is appropriate for the subject lands.

- 15) *In general, maximize outdoor amenity areas at grade. The width to depth proportion of this area should not exceed 4:1 and it should be provided in one contiguous area to ensure the space is functional.*
- 16) *When outdoor amenity area is provided at grade, design it to:*
  - *Be in a highly visible area to enhance the sense and perceptions of personal safety and minimize potential for crime and vandalism through natural surveillance;*

- *Have consideration for micro-climatic conditions such as access to sky-views and sunlight as well as shade in the summer;*
- *Be animated and framed by buildings with active uses such as at grade cafes;*
- *Include multiple activities and functions such as a play area, dog run, seating, shade structure or water features;*
- *Incorporate high-quality landscaping to define areas and screen them from surface parking, mechanical equipment and other servicing areas to minimize noise and air quality impacts; and,*
- *Where possible connect to abutting open spaces.*

18) *Common outdoor amenity areas should be located next to interior amenity facilities with direct physical and visual access between these spaces through doors and windows.*

The original proposal did not include common outdoor amenity area at grade. This was a significant concern for staff. The proponent later revised the proposal to include amenity area at the southwest corner of the subject lands, adjacent to the parking lot which is accessory to the Centennial Multi-Use Trail. The location of the additional amenity area allows for it to be accessed by users of the trail, residents of the building and pedestrians. In addition to providing this outdoor space, the proponent has revised the proposal to re-locate indoor amenity from the second floor to the first floor in exchange for the re-location of parking from the first to second storey of the proposed building. This creates connectivity between indoor and outdoor amenity and it is the opinion of staff that this layout is more appropriate for the subject lands.

25) *Avoid locating utilities and other equipment in areas that may impact pedestrian walkways, public or private open spaces, and the ability of trees to grow to maturity.*

A hydro transformer is proposed on the southeast corner of the site. Staff requested that the proponent set the southeast corner of the building further back at the ground floor in order to provide for appropriate pedestrian movement and green space at grade. The proponent has made the requested changes.

**City of Burlington New Official Plan (2020)**

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.

The appeal record submitted to the Local Planning Appeal Tribunal (LPAT) by the Region of Halton indicates that a total of 48 appeals to various parts of the new Burlington Official Plan were received during the appeal period.

Although the City is preparing a working version of the new Official Plan, it is the Ontario Land Tribunal (OLT – formerly LPAT) that will issue Orders throughout the appeal process to establish and confirm which portions of the Plan remain subject to appeal, and which portions are in effect. The City anticipates that these Orders will be issued by the OLT following the case management conferences in this matter. At the appropriate time, City staff will also bring forward a repeal by-law(s) for the former Burlington Official Plan (1997, as amended).

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

The Adopted Official Plan identifies the lands as being within the Mixed Use Nodes and Intensification Corridors in accordance with Schedule C: Land Use – Urban Area of the Adopted Official Plan. The following are some objectives of this area, in accordance with subsection 8.1.3(1) of the Adopted Official Plan:

- a) *To provide locations in the city that will serve as areas for more intensive integration of uses such as retail, service commercial, offices, institutional and entertainment uses with residential uses, public service facilities, cultural facilities, institutional uses and open space;*
- b) *To establish for each element of the Mixed Use Nodes and Intensification Corridors the appropriate range of uses, scales of development and levels of intensity;*
- c) *To provide amenities and services closer to where people live, with the objective of creating complete communities;*
- d) *To ensure that development in Mixed Use Nodes and Intensification Corridors is compatible with the surrounding area.*

The lands are further designated as *Neighbourhood Centres* within the New Official Plan. This designation also seeks to provide for the unique and/or occasional goods and service

needs of residents from across the city and adjacent municipalities. Other objections of this designation include *to create vibrant and attractive places with increased day and night activity through the introduction of residential development and the integration of uses and open spaces; and to protect the planned commercial function within Neighbourhood Centres.*

Previously, the proponent put forward a development proposal for a residential-only building. Staff were of the opinion that this did not meet the intent of the Official Plan designation or protect the planned commercial function for the subject lands. The proponent revised their proposal to reflect a design which included 190.5 m<sup>2</sup> of commercial area, and later revised it further to include 334.9 m<sup>2</sup> of commercial space on the ground floor and 155.6 m<sup>2</sup> of office and business centre space on the second floor for a total of 490 m<sup>2</sup> of non-residential floor area.

Staff are of the opinion that the proposal now meets the intent of the Neighbourhood Centres designation, recognizing that these policies are not yet in effect.

### **Zoning By-law 2020**

The property is zoned “Neighbourhood Commercial (CN1)” in accordance with Zoning By-law 2020. The CN1 Zone permits various retail, service commercial, office, community, automotive, entertainment and recreation uses. Dwelling units are permitted on the second and third floors. Because the proposed use is not permitted, a Zoning By-law Amendment application is required.

The current and proposed zoning regulations are shown in the chart below that reflect the proposed changes to the plans.

<b>Regulation</b>	<b>Current CN1 Requirement</b>	<b>Original Proposal</b>	<b>Current Proposal</b>	<b>Staff Comment</b>
<b>Permitted Uses</b>	Dwelling units permitted on second and third floors with requirement for various neighbourhood commercial uses at ground-level	Residential building	Parking and retail/office proposed for first and second storeys, residential above	The purpose of the CN1 Zone is to provide uses that serve the day-to-day or weekly shopping needs of a community. The proposal originally included only residential uses; however non-residential uses have now been incorporated into the proposal.

Regulation	Current CN1 Requirement	Original Proposal	Current Proposal	Staff Comment
<b>Front Yard</b>	6 m	2.4 m at base 7.9 m at top	8.95 m at base 12.41 m at top	The proponent has increased the front yard setback in order to accommodate a environment that is more inviting for pedestrians. In combination with distinct residential and commercial entrances proposed along Guelph Line and the proposed commercial uses that were introduced, staff are of the opinion that the proposed front yard setbacks are appropriate for the proposed development.
<b>Rear Yard and Side Yard</b>	Rear: 6 m Side: no minimum setback	2.6 m	Rear Yard: 2 m Side Yard (north): 0.83 m pinch point at narrowest point Side Yard (south): 1.35 m pinch point	Staff were previously of the opinion that the proposed rear and side yard setbacks are not sufficient. Low-density residential uses exist in the area surrounding the subject lands. Staff were of the opinion that the impact of reduced setbacks and increased building height would negatively impact the transition to nearby uses and that these impacts must be carefully reviewed. The applicant has reduced the height of the

Regulation	Current CN1 Requirement	Original Proposal	Current Proposal	Staff Comment
				<p>proposed building to 11 storeys and has provided a number of stepbacks and terraces in order to reduce the impacts of privacy and transition on nearby uses. While the rear yard setback has not substantially changed in the most recent proposal, the cumulative impact of all of the proposed changes has alleviated this concern. Proposed stepbacks and terraces have been discussed in detail throughout this report.</p>
<b>Height</b>	3 storeys up to 12 m maximum	13 storeys	11 storeys	<p>The proponent has reduced the height to 11 storeys from the originally proposed 13 storeys and has made efforts, as outlined throughout this report, to reduce the impacts of building mass. Staff are of the opinion that an 11 storey building provides adequate transition to surrounding land uses, has setbacks that respect the surrounding area and has regard for the <i>Council Approved Mixed-Use and Residential Mid-Rise Design Guidelines</i>.</p>

Regulation	Current CN1 Requirement	Original Proposal	Current Proposal	Staff Comment
<b>Amenity Area</b>	20 m <sup>2</sup> per unit for residential uses located on the second and third storeys (3400 m <sup>2</sup> )	3609.73 m <sup>2</sup>	3400 m <sup>2</sup> (20 m <sup>2</sup> per unit)	<p>One of the most prominent concerns expressed to the proponent as part of the original proposal was with respect to outdoor common amenity area at grade, as none was originally proposed.</p> <p>The proponent made many changes to the ground floor, including the addition of ground floor amenity area on the southwest corner of the proposed lands. This amenity area connects to the lands to the south which are comprised of a parking lot which is accessory to the Centennial Multi-Use Trail. This is an important improvement to the plans as it improves the streetscape, the site design and the experience for residents.</p> <p>In addition, the proponent has relocated indoor amenity area from the second floor to the first floor to provide a continuous space.</p> <p>Other amenity area is proposed for the development in the form</p>

Regulation	Current CN1 Requirement	Original Proposal	Current Proposal	Staff Comment
				of indoor common amenity area, outdoor common terraces and balconies. Staff are supportive of these changes.
<b>Landscape Areas and Buffers</b>	3 m abutting a street	0 m	0 m	While the proponent has not provided a full landscape area abutting Guelph Line in accordance with the Zoning By-law requirement, significant improvements have been made to this space. These changes have been discussed throughout the report but include increased setbacks and improved pedestrian realm. The property includes some landscaped area to the south of the driveway on the subject lands. In the most recent revision, the proponent has pulled the building back at the southeast corner in order to provide additional landscaped area. Staff are of the opinion that the combination of improvements to the front of the property, including the increased landscaped area, achieve the desired

Regulation	Current CN1 Requirement	Original Proposal	Current Proposal	Staff Comment
				effect of the zoning by-law.
<b>Parking</b>	<p><b>Residential (Zoning By-law):</b>  Occupant Parking:  1.25/1 bedroom unit  1.5/2 bedroom unit  1.75/3 bedroom unit</p> <p>Visitor Parking:  0.35/unit</p> <p>=230 spaces</p> <p><b>Residential (City-Wide Parking Standards Review):</b>  1.25 spaces per unit inclusive of visitor parking  = 213</p> <p><b>Retail (applies to both):</b></p>	220 spaces	215 spaces	<p>The proposal would require a total of 306 parking spaces within the existing Zoning By-law, and 234 spaces, plus 3 maintenance vehicle spaces, for the <i>City-Wide Parking Standards Review</i> recommendations.</p> <p>The proponent is proposing a total of 215 parking spaces which would be split between two levels of underground parking, at grade parking and second storey parking. Staff did not object to the amount of parking spaces proposed but were concerned with the location and layout of these spaces.</p> <p>In the previous proposal, separate garage doors were proposed to access various levels of parking and they were visible from Guelph Line. Additionally, the subject lands, being in a Neighbourhood Commercial designation, did not propose</p>

Regulation	Current CN1 Requirement	Original Proposal	Current Proposal	Staff Comment
	<p>3.5 spaces per 100 m<sup>2</sup> of retail floor area = 12</p> <p><b>Office (applies to both):</b></p> <p>3 spaces per 100 m<sup>2</sup> of office floor area = 5</p> <p><i>**Note: visitor parking spaces can be shared with residential and commercial spaces when applying City-Wide Parking Standards findings</i></p> <p><b>Maintenance Vehicles: 3</b></p>			<p>commercial uses, thereby contributing to an unattractive streetscape.</p> <p>Staff are of the opinion that the provision of commercial uses at grade, an improvement to the pedestrian realm and greater front yard setbacks in addition to improvements to the building design, are appropriate for the subject lands. Staff are in support of the proposed deduction of parking spaces.</p>

**Conclusion:**

Planning staff are of the opinion that while intensification can be supported in this location, the proposal must also respect the context of the surrounding area. The PPS and the Growth Plan require the municipality to develop and implement policies that direct the development of high-quality urban design and appropriate and compact built form. In the opinion of staff, the revised proposal is in keeping with the applicable policy framework.

The original development proposal was not supported by staff for reasons including a lack of greenspace, parking at the ground level, the lack of protection of the planned commercial function of the subject lands, compatibility and built form. Since the time of appeal of the application, the plans were revised to address many of these concerns as discussed in this report. Staff are now supportive of the revised proposal and recommend that a Settlement be reached with the proponent based on the plans provided.

Respectfully submitted,

Melissa Morgan, MCIP RPP  
Planner II – Development

## **Appendix**

### **A – Revised Detailed Development Concept**