Date Modified: 2023-12-08

[1450 KING ROAD, BURLINGTON] | COMMENTS & RESPONSE MATRIX

CITY FILE NO. 520/04-23
OUR FILE NO. 1743D

COMMENTS RECEIVED FROM THE FOLLOWING DEPARTMENTS/ AGENCIES:

NO.	MUNICIPALITY DEPARTMENTS AND EXTERNAL AGENCIES
1.0	City of Burlington | Benjamin Kissner - Benjamin.kissner@burlington.ca
2.0	Region of Halton | Amanda McNeish - amanda.mcneish@halton.ca
3.0	Conservation Halton | Emma DeFields – edefields@hrca.on.ca

NO.	COMMENTS	RESPONSE
1.0	City of Burlington – Planning	
	Benjamin Kissner | Benjamin.kissner@burlington.ca	
	General Comments	
1.1	Planning staff request that the applications be comprehensively revised as needed to address the technical comments raised in this letter as well as those provided by the above-referenced agencies and City departments, and any other technical matters that may be identified through ongoing review of the proposal.	Noted.
1.2	Please provide additional information as requested in these planning comments and in other technical comments.	Noted.
1.3	Please ensure consistency between information presented in all reports, plans, and drawings.	Noted.
1.4	Please provide a response table to address how each of the planning comments contained within this letter have been addressed in a resubmission.	Noted.
1.5	Planning staff are happy to assist in the arrangement of meetings with relevant staff and stakeholders, as needed to clarify comments or discuss next steps to address comments.	Noted.
	Environmental Impact Assessment	
1.6	This section has identified Monarch and Mottled Duskywing as having a high potential to occur within the subject property. Development and site alteration is not permitted within significant habitat of endangered and threatened species except in accordance with Provincial and Federal legislation in accordance with Section 118.2 a) of the ROP. Please consult with the Ministry of Environment, Conservation and Parks (MECP) to confirm if additional surveys or permitting is required with regards to Species at Risk (SAR). Please update the EIA to provide correspondence that the MECP is satisfied that the proposed development can proceed as presented without contravening the Endangered Species Act (ESA), or correspondence as to required steps to support a decision on permitting requirements.	In the Species at Risk Screening conducted for the EIS, Section 4.2.4, monarch and mottled Duskywing habitat was identified as, "the Study Area may provide habitat." Further assessment in concluded that "the density of observed milkweed was low on the site and as a result would not be considered an important habitat area for Monarch." For Duskywing the EIS found, "The host plants of New Jersey Tea and prairie redroot where not found on the Subject Property." It is unclear why the commentor is stating the EIS identified a high potential of occurrence as this is not the conclusion of the EIS. A screening report was submitted to the MECP. No comment has been received by the MECP. In addition, the MECP does not provide comments on whether a development proposal can proceed, compliance with the ESA is a proponent lead process, as a result the MECP will not provide clearance letters. MECP has provided GeoProcess with emails stating this. Due to the lack of habitat for monarch and Duskywing on the Subject Property, concern for impacting SAR habitat is low.

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1.7	The significant woodland assessment was completed in accordance with Section 277 of the ROP. It has determined that the woodland is significant based on Section 277 (4) given that it is wholly or partially within 50 m of a major creek (tributary of Indian Creek). However, the methodology should be clarified and additional information should be provided to determine the woodland size and the forest patch ages (i.e., what were the limits to disqualify it from being larger than 2 ha and how were the ages determined?). Please revise this section of the EIA to include this methodology/analysis.	Section 5.1.1 of the EIA has been updated with the requested information. A remeasurement of the woodland size determined that it has an area greater than 2 ha, therefore the woodland meets two of the criteria for a Significant Woodland.
1.8	This section advises that while the SWM pond will connect to the City's stormwater system, an emergency overflow spillway has been proposed to allow for the relief of flow of any storm event greater than a 100-year event, westerly towards the valleyland. Per Sections 117.1(12), 117.1(15) and 233 of the ROP, only "essential" utility facilities or watershed management and flood and erosion control projects either carried out or supervised by a public authority may be permitted in the RNHS. As such, the ROP does not support stormwater management facilities within the NHS or buffer areas. Stormwater management components such as ancillary pipes, outlets, headwalls and other associated infrastructure required to convey flow from facilities outside of the NHS to receiving water bodies may be supported in the NHS where deemed essential (as defined in Section 233 of the ROP), after all alternatives are explored and it is determined there are no negative impacts to the NHS through an appropriate environmental study. Appropriately designed Low Impact Development (LID) measures may also be essential to mitigate impacts on the features and function of the NHS provided they themselves will not negatively impact features and functions of the NHS through their construction and on-going maintenance.	The following discussion has been added to Section 6 of the EIA. The SWM pond is required to provide a spillway in the event of a Regional storm. Alternatives to determine the best approached were assessed in conjunction with the MTO and Conservation Halton. A spillway directing flow towards the valley was determined to be the most viable option to protect existing infrastructure such as roads (King Road, North Service Road and Highway 403 due to spill routes) and potential future development. The pond is not located within the RNHS or its setback. Grading within the setback has been proposed to help direct flow towards the valley and away from future development. It should be noted that flow spilling from the pond is water that would be directed to the valley in an undeveloped condition, i.e. the water is going where it is intended to flow. It is also important to remember that this spill would only occur during a Regional or large event, so on a very rare occurrence and when the spill is occurring the valley will be inundated with water. Sending spill water from the pond to the valley is the only safe option available.
1.9	The EIA has not sufficiently provided a policy conformity analysis and impact assessment with respect to the proposed SWM outlet (emergency spillway). Please update the EIA to include a detailed discussion in the context of Regional policies, including how it is deemed necessary to the public interest after all alternatives have been considered, and that there will be no negative impacts to the NHS. It should be clearly justified that there are no other viable alternatives.	Further text has been added to Section 8 to discuss conformance to the Regional policies.
1.10	It should be confirmed and clarified that "damage to retained natural heritage features" does not include the buffer of the significant woodland and that it is not part of the proposed construction zone, other than the proposed emergency spillway. While this section discusses mitigation measures including marking trees for preservation and tree hoarding, it should be confirmed that the "minimal residual effects" will occur outside of the Key Feature and required buffers, to protect the entirety of the Key Feature. It is further recommended that a permanent fence be erected at the 'outer' boundary of the 10m buffer (not the staked dripline) i.e., between the extent of the buffer and the remainder of the subject property, to ensure the long-term protection of the significant woodland and valleyland.	The recommendation for fencing text has been added to Section 7.5.1 of the EIA.
	Landscape Plans	

NO.	COMMENTS	RESPONSE
1.11	There are concerns regarding note # 5 and # 6 on the Landscape Plans that indicate potential grading within the 10 m significant woodland buffer, including the removal of detritus and deleterious materials, and grading for future terraseeding. Please provide a discussion/rationale as to why grading and alteration is proposed within the buffer and provide a discussion that this will result in no negative impacts on the ecological functions of the RNHS. In addition, it is also recommended that smaller tree stock be used for success in growth as larger tree stock may have establishment problems.	Proposed buffer planting has been adjusted to remain beyond the 10m setback from staked dripline. All proposed planting and seeding is within the developable area and located entirely beyond the 10m dripline buffer. Tree stock sizes have been reduced per recommendation.
1.12	General site-wide grading and earthworks requirements should be contained within the developable area and located entirely outside of the 10m dripline buffer.	Proposed buffer planting has been adjusted to remain beyond the 10m setback from staked dripline. All proposed planting and seeding is within the developable area and located entirely beyond the 10m dripline buffer.
	Draft Zoning By-law and Schedule A	
1.13	It is recommended that all lands identified as forming part to the RNHS (including required buffers) and as shown on the Site Plan, Landscape Plan and associated development drawings, be rezoned to O2 to ensure the long-term protection of Key Features. The 10m buffer from the staked dripline, for example, is currently depicted as retaining the existing BC2 zone. Required setbacks and buffers to the valleylands, as required by Conservation Halton (CH) should also be accommodated. This should be reflected on the Zoning By-law Amendment Schedule A – Zoning Map in this respect.	The Zoning By-law Amendment Schedule A has been amended to identify the lands forming part of the RNHS as O2.
	General Environmental Comments	
1.14	Please note that any future proposed development on the lands to the south, once the SWM pond is relocated, may warrant a scoped EIA/Environmental Implementation Report (EIR) in accordance with Section 118(3.1) of the ROP that provides an impact analysis based on the development proposed at the time, and to ensure the recommended mitigation measures, enhancements and monitoring have been implemented in accordance with the EIA. Further, Regional staff defer to the City of Burlington to determine who will complete this work.	Noted.
1.15	A portion of the subject lands fall within the regulated area of Conservation Halton (CH). It is recommended that CH staff be consulted and that any comments/concerns pertaining to natural hazards matters be addressed to their satisfaction in order to ensure conformity with CH Regulations and Provincial Policy Statement (PPS) policy direction.	Noted.
1.16	Tree protection fencing/erosion and siltation fencing should also be shown at the outer limit of the required 10m buffer to dripline (other than around the immediate spillway area, should it be satisfactorily justified and supportable).	Drawings have been revised to location tree protection fencing and erosion and siltation fencing outside of the 10m with the exception of the spillway area under interim conditions only (i.e. during construction). Under ultimate conditions the fencing will be outside of this limit.
1.17	Confirm Tree E can be removed with neighbouring property.	Permission from the neighbour for the tree removal will be addressed when the neighbour is engage regarding the construction of the overland flow route for the SWM pond.
1.18	The EIA specifically suggests the installation of "HydroTurf" as it will integrate better with the naturalized area when compared to traditional measures such as rip rap. There are minimal concerns from a natural	Noted.

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	heritage perspective with this solution so long as the mitigation, enhancement, and monitoring measures proposed by the EIA are implemented.	
1.19	It should be confirmed with City SWM Engineering Staff, and CH Staff that this solution to the 100-year event is an acceptable solution as it will discharge into a regulated feature.	Noted; this solution has been reviewed with City, CH and MTO staff and is confirmed as the preferred approach. Note that the overflow would occur only for storm in excess of a 1:100 year event, and that under current conditions spill flows would be directed to the same regulated feature (i.e. spill flows towards North Service Road and then westerly towards the subject regulated feature).
1.20	CH recommends the ZBA language and schedules be revised such that the full extent of the regulated area on the subject lands is zoned for protection (i.e., O2). To ensure the resulting BC2 zone appropriately reflects an area for future development, the regulated area that extends south of the proposed SWM facility should also be captured in the O2 zone. CH also recommends the regulated lands be placed into public ownership. If new lot lines are proposed, the boundaries should not fragment the regulated area.	The Zoning By-law Amendment Schedule A has been amended to identify the lands forming part of the RNHS as O2.
1.21	To ensure the O2 zone contains the full extent of regulated area, updates are required to ensure the erosion hazard is accurately delineated. The Geotechnical Investigation Report requires updates based on CH's Slope Stability Guidelines, including analysis of additional cross sections to accurately define the stable slope line and associated 7.5 metre regulatory allowances. The updated Report should include a figure delineating the physical top of bank as staked by CH, the long-term stable top of slope (LTSTOS) as determined by geotechnical assessment, and the 7.5 metre regulatory allowance that extends from the greater of those limits. These requested modifications were discussed in detail with the applicant's engineering consultants on August 10, 2023.	Noted, an updated analysis and summary has been prepared following the outcome of those discussions with CH, please refer to that document for results ("Supplementary Assessment of Regulatory Setbacks, 1450 King Road, WSP E&I Canada Limited"). The updated setback limit has been included on all drawings, note that there is only a very slight change from the previously presented setback limit.
1.22	All drawings showing works within or directly adjacent to the regulated area should include the abovementioned linework to confirm development is outside of the regulated area or can otherwise be permitted by CH policy. A CH Permit will be required for any development (e.g., spillway) within the regulated area.	Updated setback line work has been coordinated with revised plans.
1.23	CH has reviewed the application with the understanding that the full extent of regulated lands will be placed under public (City) ownership. The applicant and/or City should advise if this is not the case, as CH may have further regulatory comments and requirements. CH may provide additional comments once the above information is submitted.	The draft ZBA schedule has been update to rezoning the regulated lands to O2. A draft reference plan will be prepared upon confirmation of revised setback limit.
	Site Contamination	
1.24	Section 147(17) of the ROP requires the applicant of a development proposal to determine whether there is any potential contamination on the site they wish to develop, and if there is, to undertake the steps necessary to bring the site to a condition suitable for its intended use. The applicant is required to follow the processes outlined in O.Reg 153/04 in the preparation of all Environmental Site Assessment	Noted.

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	(ESA) reports and supporting documentation. As such, ESA reports must be no older than 18 months old and completed in accordance with part VII and VIII and Schedule D and E of the regulation.	
1.25	Regional Staff have reviewed the following documents circulated with this submission: a. Phase One Environmental Site Assessment, Vacant Property, 1450 King Road, Burlington, Ontario, WSP E&I Canada Limited, Project No. OESAR2210, May 1, 2023; and b. Environmental Site Screening Questionnaire, 1450 King Road, Burlington, December 16, 2022.	Noted
1.26	Regional Staff concur with the findings of the Phase One ESA report and agree with the Qualified Person (QP) that a Phase Two ESA is required to investigate the Areas of Potential Environmental Concern (APECs) on site.	Noted
1.27	Staff also request that the QP affix their professional seal on both Phase One and Two ESA reports and provide a letter of reliance that meet's Halton Region's Reliance Letter template, indicating that liability insurance coverage is no less than $2,000,000.	Completed
	Transportation and Parking	
1.28	Transportation Planning reviewed the Zoning By-law Amendment of the above-noted application, have no further concerns and/or comments.	Noted.
	Functional Servicing Report	
1.29	Policy 58 (1.1) of 2009 ROP permits development provided that "adequate supply of water and treatment of wastewater for the proposed use has been secured to the satisfaction of the Region".	Noted; no water/wastewater services are required or included as part of the current submission (stormwater management only).
1.30	Policy 89(3) of the 2009 ROP requires that all new development within the Urban Area be on the basis of connection to Halton's municipal water and wastewater system.	Noted.
1.31	There are Halton Region local watermains within King Road and North Service Road, adjacent to the development property. In addition, there are Halton Region local wastewater mains (sanitary sewers) within King Road and within North Service Road, adjacent to the proposed development.	Noted.
1.32	A review of the WSP's Servicing Plan drawing indicates there is no water/wastewater site servicing proposed for the property at this time.	Noted.
1.33	During the Site Plan application stage, the Owner will be required to apply for a Regional Services Permit. The Owner will need to contact the Regional Services Permit Section (Gary.Brown@halton.ca, 905-825-6000 extension 7879, with copy to PWPermits@halton.ca) for a more detailed review of the proposed water service connection lateral, domestic water meter, domestic water backflow prevention device, wastewater (sanitary) service connection lateral, property line sanitary inspection manhole, and to obtain a Regional Water and Wastewater Services Permit, and pay all necessary fees.	Noted.

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1.34	Any water or wastewater service connections that currently exist to the property, that will not be utilized, are duplicate or are deemed substandard, will be required to be disconnected at their respective mains by the Owner. \	Noted.
1.35	The Region has a watermain replacement project forecasted for North Service Road. It is unknown at this time whether this project will impact the property. An example of possible impacts to the property, may include but not be limited to the dedication of land or easements to the Region for infrastructure, site plan building and/or feature setbacks from Regional infrastructure, working easements for works projects, construction impacts, etc.	Noted.
1.36	The proposed development includes the construction of a stormwater main within King Road, from North Service Road northerly. Please note that one of the associated proposed stormwater manholes near the North Service Road frontage may be in close proximity to the Region's existing watermain. The proposed stormwater main/manhole drawing would benefit by showing the Region's existing watermains in the area as well.	Noted, drawing 14 has been updated accordingly.
1.37	Watermain and wastewater main (sanitary) servicing capacity is not guaranteed at the ZBA stage. Servicing of development in the Burlington area of Halton Region is currently on a first-come-first-serve basis. The Owner can pre-consult about servicing capacity with the Region at any time in the future going forward. Capacity for the development proposal will be reviewed closely and commented upon at the time of Planning Application receipt. Should a servicing capacity issue be identified at that time, then it will have to be dealt with, working through it with the Region.	Noted.
1.38	Servicing capacity is deemed to be in hand at the issuance of a Regional Servicing Agreement, Special Financial Agreement, and Regional Services Permit, which is reviewed and obtained toward the end of the City's Site Plan approval process.	Noted
1.39	Halton Region has initiated a Water and Wastewater Master Servicing Plan review exercise for the Region, together with, and in time, background studies and formal programs.	Noted
1.40	The developer's site servicing consultant can preconsult with the Region at any time regarding their proposed draft site servicing water design, wastewater design and identified utility conflicts (including stormwater).	Noted
1.41	Site Engineering staff have reviewed the application to amend the Zoning By-Law to permit the relocation of the City's stormwater management pond as part of the land exchange agreement between the landowner and the City and have no objections.	Noted
1.42	A fulsome review of all submitted materials will be completed during the Minor Modification Application (MM-001-22). Therefore, the applicant may expect detailed comments for any resubmissions to MM-001-22.	Noted
	Waste Management	

NO.	COMMENTS	RESPONSE
1.43	With respect to future proposed development, the applicant is advised that private waste collection must be provided for all Industrial, Commercial and Institutional locations. For waste diversion requirements for the Industrial, Commercial and Institutional sectors, refer to Environmental Protection Act, O. Reg. 102/94 "Waste Audits and Waste Reduction Work Plans" and Environmental Protection Act, O. Reg. 103/94 "Industrial, Commercial and Institutional Source Separation Programs" or legislation that supersedes those Regulations.	Noted.
1.44	Industrial developments and commercial developments must be designed to accommodate for containerized Waste collection specific to the development's operational Waste collection needs and should include Waste diversion.	Noted.
	SWM Engineering (MTO)	
1.45	It is noted in stormwater management report that existing 500mm CSP pipe is proposed to be replaced by 525mm PVC/HDPE pipe by the City/MTO. Capacity of 525mm PVC/HDPE pipe is greater than existing pipe and this could increase flows downstream.	There is no commercially available 500 mm diameter pipe size for storm sewers (i.e. for HDPE\PVC or concrete piping). 525 mm diameter piping has been proposed as the nearest available sizing under ultimate conditions (under interim conditions the 500 mm diameter outlet would remain as is). We would note that the proposed SWM facility is intended to provide primary quantity control upstream of the outlet and is largely independent of this pipe sizing. Notwithstanding, to address this specific concern, we would propose to install a 500 mm diameter orifice plate within DIMH #1. Note that an orifice tube cannot be implemented given that 500 mm diameter is not a commonly commercially available pipe size and could not be readily joined to a 525 mm storm sewer pipe.
1.46	Final SWM report should be signed and stamped by P.Eng.	Previous report was signed by a P.Eng. Updated report has been stamped as well as requested by MTO.
1.47	The 14m setback is labelled on the plan but it is not clear where it is measured from. As per our past comments, our 14 m setback is taken from the future property line in the event of a municipal road widening request.	No Road widening is anticipated for this site. The 14 m setback is provide from the property line abutting North Service Road and has been dimensioned accordingly.
1.48	The site is within the MTO's permit control area. Any future development will be subject to MTO review and permit requirements.	Noted
	Finance	
1.49	The Owner will be required to pay all applicable Regional Development Charges in accordance with the Region of Halton Development Charge By-law(s), as amended. Please visit our website at https://www.halton.ca/The-Region/Finance-and- Transparency/Financing-Growth/Development-	Noted.

NO.	COMMENTS	RESPONSE
	Charges-Front-ending-Recovery-Payment to obtain the most current Development Charge and Front-ending Recovery Payment information, which is subject to change.	
1.50	Taxes must be paid. This includes all outstanding balances plus current year taxes that have been billed but not yet due.	Noted.
	Burlington Hydro	
1.51	Burlington Hydro (BHI) has no comment regarding the zoning amendment of subject property, however, BHI has an existing 5.0m easement along east and south property line. If any infrastructure is planned to be installed in our easement, customer to contact Burlington Hydro by emailing at Engineering@burlingtonhydro.com for our review and approval. Customers and their agents planning and designing for electricity service must refer to all applicable Provincial and Canadian electrical codes, all applicable federal, provincial, municipal laws, regulations, codes, and by-laws to ensure compliance. All work, on the BHI distribution system, shall be conducted in accordance with the latest edition of the Ontario Occupational Health and Safety Act (OSHA), the Regulations for Construction Projects, the Regulations for Industrial Establishments and the Electrical Utility safety Rules published by the Infrastructure Health and Safety Association (IHSA).	Noted
2.0	Halton Region	
	Amanda McNeish | Amanda.mcneish@halton.ca	
2.1	**Matters of Provincial & Regional Interest:** From an Urban Area and Employment Area perspective, the proposed development and land swap supports many of the objectives and goals for these areas and generally conforms to Provincial and ROP policy in this regard.	Noted.
	EIA Comments	
2.2	Section 4.2.4 (Species at Risk Screening) This section has identified Monarch and Mottled Duskywing as having a high potential to occur within the subject property. Development and site alteration is not permitted within significant habitat of endangered and threatened species except in accordance with Provincial and Federal legislation in accordance with Section 118.2 a) of the ROP. Please consult with the Ministry of Environment, Conservation and Parks (MECP) to confirm if additional surveys or permitting is required with regards to Species at Risk (SAR). Please update the EIA to provide correspondence that the MECP is satisfied that the proposed development can proceed as presented without contravening the *Endangered Species Act* (ESA), or correspondence as to required steps to support a decision on permitting requirements.	In the Species at Risk Screening conducted for the EIS, Section 4.2.4, monarch and mottled Duskywing habitat was identified as, "the Study Area may provide habitat." Further assessment in concluded that "the density of the observed milkweed was low on the site and as a result would not be considered an important habitat area for Monarch." For Duskywing the EIS found, "The host plants of New Jersey Tea and prairie redroot where not found on the Subject Property." It is unclear why the commenter is stating the EIS identified a high potential of occurrence, as this is not the conclusion of the EIS. A screening report was submitted to the MECP. No comment has been received by the MECP. In addition, the MECP does not provide comments on whether a development proposal can proceed,

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		compliance with the ESA is a proponent lead process, as a result the MECP will not provide clearance letters. MECP has provided GeoProcess with emails stating this. Due to the lack of habitat for monarch and Duskywing on the Subject Property, concern for impacting SAR habitat is low.
2.3	Section 5.1.1 (Significant Woodland Assessment) The significant woodland assessment was completed in accordance with Section 277 of the ROP. It has determined that the woodland is significant based on Section 277 (4) given that it is wholly or partially within 50 m of a major creek (tributary of Indian Creek). However, the methodology should be clarified and additional information should be provided to determine the woodland size and the forest patch ages (i.e., what were the limits to disqualify it from being larger than 2 ha and how were the ages determined?). Please revise this section of the EIA to include this methodology/analysis.	Section 5.1.1 of the EIA has been updated with the requested information. A re-measurement of the woodland size determined that it has an area greater than 2 ha, therefore the woodland meets two of the criteria for a Significant Woodland.
2.4	Section 6.1 (Stormwater Management) This section advises that while the SWM pond will connect to the City's stormwater system, an emergency overflow spillway has been proposed to allow for the relief of flow of any storm event greater than a 100-year event, westerly towards the valleyland. Per Sections 117.1(12), 117.1(15) and 233 of the ROP, only "essential" utility facilities or watershed management and flood and erosion control projects either carried out or supervised by a public authority may be permitted in the RNHS. As such, the ROP does not support stormwater management facilities within the NHS or buffer areas. Stormwater management components such as ancillary pipes, outlets, headwalls and other associated infrastructure required to convey flow from facilities outside of the NHS to receiving water bodies may be supported in the NHS where deemed *essential* (as defined in Section 233 of the ROP), after all alternatives are explored and it is determined there are no negative impacts to the NHS through an appropriate environmental study. Appropriately designed Low Impact Development (LID) measures may also be *essential* to mitigate impacts on the features and function of the NHS provided they themselves will not negatively impact features and functions of the NHS through their construction and on-going maintenance. The EIA has not sufficiently provided a policy conformity analysis and impact assessment with respect to the proposed SWM outlet (emergency spillway). Please update the EIA to include a detailed discussion in the context of Regional policies, including how it is deemed necessary to the public interest after all alternatives have been considered, and that there will be no negative impacts to the NHS. It should be clearly justified that there are no other viable alternatives.	The following discussion has been added to Section 6 of the EIA. The SWM pond is required to provide a spillway in the event of a Regional storm. Alternatives to determine the best approached were assessed in conjunction with the MTO and Conservation Halton. A spillway directing flow towards the valley was determined to be the most viable option to protect existing infrastructure such as roads (King Road, North Service Road and Highway 403 due to spill routes) and potential future development. The pond is not located within the RNHS or its setback. Grading within the setback has been proposed to help direct flow towards the valley and away from future development. It should be noted that flow spilling from the pond is water that would be directed to the valley in an undeveloped condition, i.e. the water is going where it is intended to flow. It is also important to remember that this spill would only occur during a Regional or large event, so on a very rare occurrence and when the spill is occurring the valley will be inundated with water. Sending spill water from the pond to the valley is the only safe option available.

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2.5	Section 7 (Impact Assessment) It should be confirmed and clarified that "damage to retained natural heritage features" does not include the buffer of the significant woodland and that it is not part of the proposed construction zone, other than the proposed emergency spillway. While this section discusses mitigation measures including marking trees for preservation and tree hoarding, it should be confirmed that the "minimal residual effects" will occur outside of the Key Feature and required buffers, to protect the entirety of the Key Feature. It is further recommended that a permanent fence be erected at the 'outer' boundary of the 10 m buffer (not the staked dripline) i.e., between the extent of the buffer and the remainder of the subject property, to ensure the long-term protection of the significant woodland and valleyland.	Further text has been added to Section 8 to discuss conformance to the Regional policies.
	Landscape Plans	
2.6	Buffer Planting Plan There are concerns regarding note # 5 and # 6 on the Landscape Plans that indicate potential grading within the 10 m significant woodland buffer, including the removal of detritus and deleterious materials, and grading for future terraseeding. Please provide a discussion/rationale as to why grading and alteration is proposed within the buffer and provide a discussion that this will result in no negative impacts on the ecological functions of the RNHS. In addition, it is also recommended that smaller tree stock be used for success in growth as larger tree stock may have establishment problems. General site-wide grading and earthworks requirements should be contained within the developable area and located entirely outside of the 10m dripline buffer.	Proposed buffer planting has been adjusted to remain beyond the 10m setback from staked dripline. All proposed planting and seeding is within the developable area and located entirely beyond the 10m dripline buffer. Tree stock sizes have been reduced per recommendation.
	Draft Zoning By-law and Schedule A	
2.7	It is recommended that all lands identified as forming part to the RNHS (including required buffers) and as shown on the Site Plan, Landscape Plan and associated development drawings, be rezoned to O2 to ensure the long-term protection of Key Features. The 10 m buffer from the staked dripline, for example, is currently depicted as retaining the existing BC2 zone. Required setbacks and buffers to the valleylands, as required by Conservation Halton (CH) should also be accommodated. This should be reflected on the Zoning By-law Amendment Schedule A – Zoning Map in this respect.	The Zoning By-law Amendment Schedule A has been amended to identify the lands forming part of the RNHS as O2.
	General Environmental Comments	
2.8	Please note that any future proposed development on the lands to the south, once the SWM pond is relocated, may warrant a scoped EIA/Environmental Implementation Report (EIR) in accordance with Section 118(3.1) of the ROP that provides an impact analysis based on the development proposed at the time, and to ensure the recommended mitigation measures, enhancements and monitoring have been implemented in accordance with the EIA. Further, Regional staff defer to the City of Burlington to determine who will complete this work.	Noted.

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2.9	A portion of the subject lands fall within the regulated area of Conservation Halton (CH). It is recommended that CH staff be consulted and that any comments/concerns pertaining to natural hazards matters be addressed to their satisfaction in order to ensure conformity with CH Regulations and Provincial Policy Statement (PPS) policy direction.	Noted.
2.10	Tree protection fencing/erosion and siltation fencing should also be shown at the outer limit of the required 10m buffer to dripline (other than around the immediate spillway area, should it be satisfactorily justified and supportable).	Drawings have been revised to location tree protection fencing and erosion and siltation fencing outside of the 10m with the exception of the spillway area under interim conditions only (i.e. during construction). Under ultimate conditions the fencing will be outside of this limit.
2.11	Given the above comments, Regional Staff are currently not in a position to confirm that the proposed development will result in no negative impacts to the RNHS or its ecological functions. A revised submission is required to adequately identify and protect the Key Features and to confirm conformity with Provincial and Regional policy.	Noted.
	Site Contamination:	
2.12	Regional Staff concur with the findings of the Phase One ESA report and agree with the Qualified Person (QP) that a Phase Two ESA is required to investigate the Areas of Potential Environmental Concern (APECs) on site.	Noted
2.13	Staff also request that the QP affix their professional seal on both Phase One and Two ESA reports and provide a letter of reliance that meet's Halton Region's Reliance Letter template, indicating that liability insurance coverage is no less than $2,000,000.	Completed
	Municipal Services:	
2.14	During the Site Plan application stage, the Owner will be required to apply for a Regional Services Permit. The Owner will need to contact the Regional Services Permit Section (Gary.Brown@halton.ca, 905-825-6000 extension 7879, with copy to PWPermits@halton.ca) for a more detailed review of the proposed water service connection lateral, domestic water meter, domestic water backflow prevention device, wastewater (sanitary) service connection lateral, property line sanitary inspection manhole, and to obtain a Regional Water and Wastewater Services Permit, and pay all necessary fees.	Noted
2.15	Any water or wastewater service connections that currently exist to the property, that will not be utilized, are duplicate or are deemed substandard, will be required to be disconnected at their respective mains by the Owner.	Noted
2.16	The Region has a watermain replacement project forecasted for North Service Road. It is unknown at this time whether this project will impact the property. An example of possible impacts to the property, may include but not be limited to the dedication of land or easements to the Region for infrastructure, site plan building and/or feature setbacks from Regional infrastructure, working easements for works projects, construction impacts, etc.	Noted

NO.	COMMENTS	RESPONSE
2.17	The proposed development includes the construction of a stormwater main within King Road, from North Service Road northerly. Please note that one of the associated proposed stormwater manholes near the North Service Road frontage may be in close proximity to the Region's existing watermain. The proposed stormwater main/manhole drawing would benefit by showing the Region's existing watermains in the area as well.	Noted
2.18	Watermain and wastewater main (sanitary) servicing capacity is not guaranteed at the ZBA stage. Servicing of development in the Burlington area of Halton Region is currently on a first-come-first-serve basis. The Owner can pre-consult about servicing capacity with the Region at any time in the future going forward. Capacity for the development proposal will be reviewed closely and commented upon at the time of Planning Application receipt. Should a servicing capacity issue be identified at that time, then it will have to be dealt with, working through it with the Region. Servicing capacity is deemed to be in hand at the issuance of a Regional Servicing Agreement, Special Financial Agreement, and Regional Services Permit, which is reviewed and obtained toward the end of the City's Site Plan approval process.	Noted
2.19	Halton Region has initiated a Water and Wastewater Master Servicing Plan review exercise for the Region, together with, and in time, background studies and formal programs.	Noted
2.20	The developer's site servicing consultant can preconsult with the Region at any time regarding their proposed draft site servicing water design, wastewater design and identified utility conflicts (including stormwater).	Noted
2.21	Regional staff are satisfied from a servicing perspective, for the purposes of the ZBA.	Noted
	Waste Management:	
2.22	With respect to future proposed development, the applicant is advised that private waste collection must be provided for all Industrial, Commercial and Institutional locations. For waste diversion requirements for the Industrial, Commercial and Institutional sectors, refer to Environmental Protection Act, O. Reg. 102/94 "Waste Audits and Waste Reduction Work Plans" and Environmental Protection Act, O. Reg. 103/94 "Industrial, Commercial and Institutional Source Separation Programs" or legislation that supersedes those Regulations. Industrial developments and commercial developments must be designed to accommodate for containerized Waste collection specific to the development's operational Waste collection needs and should include Waste diversion.	Noted.
	Finance	

NO.	COMMENTS	RESPONSE
2.23	The Owner will be required to pay all applicable Regional Development Charges in accordance with the Region of Halton Development Charge By-law(s), as amended. Please visit our website at https://www.halton.ca/The-Region/Finance-and-Transparency/Financing-Growth/Development-Charges-Front-ending-Recovery-Payment to obtain the most current Development Charge and Front-ending Recovery Payment information, which is subject to change.	Noted.
	Conclusion	
2.24	Given the above, Regional Staff note that while the proposed Zoning By-law Amendment application supports many of the objectives of the ROP related to supporting development within the Urban Area and the efficient development of employment lands, there are matters related to site contamination and Regional Natural Heritage System that remain outstanding. Staff are therefore currently not in a position to support the proposed ZBA and recommend that a re-submission be made to address outstanding matters. The proponent is asked to kindly provide a Response Matrix with such a re-submission, outlining how each of the Region's comments were addressed in order to expedite review. However, should the City of Burlington be satisfied that these matters can be adequately addressed at the Site Plan Approval stage, Regional Staff would recommend that a Holding Symbol and implementing provision be added to the approval of the zoning to ensure that these matters are appropriately addressed. Regional Staff would be pleased to further discuss the above matters.	Noted.
3.0	Conservation Halton	
	Emma Defields | edefields@hrca.on.ca	
3.1	CH recommends the ZBA and schedules be revised such that the full extent of the regulated are on the subject lands is zoned for protection (i.e. O2). To ensure the resulting BC2 zone appropriately reflects an area for future development, the regulated area that extends south of the proposed SWM facility should also be captured in the O2 zone. CH also recommends the regulated lands be placed into public ownership. If new lot lines are proposed, the boundaries should not fragment the regulated area.	The Zoning By-law Amendment Schedule A has been amended to identify the lands forming part of the RNHS as O2.
3.2	To ensure the O2 zone contains the full extent of regulated area, updates are required to ensure the erosion hazard is accurately delineated. The Geotechnical Investigation Report requires updates based on CH's Slope Stability Guidelines, including analysis of additional cross sections to accurately define the stable slope line and associated 7.5 m regulatory allowances. The updated Report should include a figure delineating the physical top of bank as staked by CH, the long-term stable to of slope (LTSTOS) as determined by geotechnical assessment, and the	Agreed, an updated analysis and summary has been prepared following the outcome of those discussions with CH, please refer to that document for results ("Supplementary Assessment of Regulatory Setbacks, 1450 King Road, WSP E&I Canada Limited"). The updated setback limit has been included on all drawings, note that there is only a very slight change from the previously presented setback limit.

NO.	COMMENTS	RESPONSE
	7.5 m regulatory allowance that extends from the greater of those limits. These requested modifications were discussed in detail with the applicant's engineering consultant on August 10, 2023.	
3.3	All drawings showing works within or directly adjacent to the regulated area should include the above mentioned line work to confirm development is outside of the regulated area or can otherwise be permitted by CH policy. A CH permit will be required for any development (E.g. Spillway) within the regulated area.	Updated setback line work has been coordinated with revised plans.
3.4	CH has reviewed the application with the understanding that the extent of regulated lands will be placed under public (City) ownership. The application and/or City should advise if this is not the case, as CH may have further regulatory comments and requirements. CH may provide additional comments once the above information is submitted.	The draft ZBA schedule has been update to rezoning the regulated lands to O2. A draft reference plan will be prepared upon confirmation of revised setback limit.
3.5	Recommendations: Resubmission should include: 1. Consolidated response table (Word format preferred) addressing CH's comments 2. Cover letter listing documents submitted; and 3. Digital copy of all resubmission material is reduced file size format for fast loading and viewing (Digital Download preferred). Redline drawings and report with track changes are also appreciated.	Noted
3.6	A resubmission fee will apply on the third and subsequent resubmissions in accordance with CH's applicable fee schedule.	Noted.