Ontario Land Tribunal
Tribunal ontarien de l'aménagement du territoire

ISSUE DATE: May 06, 2024 **CASE NO(S).:** OLT-23-000116

PROCEEDING COMMENCED UNDER subsection 22(7) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant and Appellant:	Camarro Development Inc.
Subject:	Request to amend the Official Plan – Failure to adopt the requested amendment
Description:	To permit the development of a 31-storey mixed-use building
Reference Number:	505-07/22
Property Address:	789-795 Brant Street
Municipality/UT:	City of Burlington
OLT Case No.:	OLT-23-000116
OLT Lead Case No.:	OLT-23-000116
OLT Case Name:	Camarro Development Inc. v. Burlington (City)

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

Applicant and Appellant:	Camarro Development Inc.
Subject:	Application to amend the Zoning By-law – Refusal or neglect to make a decision
Description:	To rezone the property to permit the development
Reference Number:	520-08/22
Property Address:	789-795 Brant Street
Municipality/UT:	City of Burlington
OLT Case No.:	OLT-23-000117
OLT Lead Case No.:	OLT-23-000116

PROCEEDING COMMENCED UNDER subsection 29(11) of the *Ontario Heritage Act*, R.S.O. 1990, c.O.18, as amended

Applicant and Appellant:	Camarro Development Inc.
Subject:	By-law 03-2023
Reference Number:	Heritage BL 03-2023
Property Address:	795 Brant Street
Municipality/UT:	City of Burlington
OLT Case No.:	OLT-23-000168
OLT Lead Case No.:	OLT-23-000116

PROCEEDING COMMENCED UNDER section 34.1(1) of the Ontario Heritage Act, R.S.O. 1990, c.O.18, as amended

Applicant and Appellant:	Camarro Developments Inc.
Subject:	Refusal to Grant Demolition Permit
Reference Number:	Heritage BL 03-2023
Property Address:	795 Brant Street
Municipality/UT:	City of Burlington
OLT Case No.:	OLT-23-000623
OLT Lead Case No.:	OLT-23-000116

Heard: April 25, 2024 by Video Hearing

APPEARANCES:

Parties	**Counsel**
Camaro Development Inc. ("Applicant")	Chantal deSereville Denise Baker
City of Burlington ("City")	Andrea Peebles
Regional Municipality of Halton ("Region")	Kelly Yerxa

MEMORANDUM OF ORAL DECISION DELIVERED BY ERIC S. CROWE ON 25 APRIL 2024 AND INTERIM ORDER OF THE TRIBUNAL

Link to Order

INTRODUCTION

[1] The Tribunal convened a Settlement Hearing with respect to appeals brought by Camarro Development Inc. (“Applicant”) pursuant to section 22 (7) of the *Planning Act* (“Act”) for an Official Plan Amendment (“OPA”) and section 34 (11) for a Zoning By-law Amendment (“ZBLA”) of the Act, and section 29 (11) for a Heritage Designation and section 34.1(1), Refusal to Grant Demolition Permit, both of the *Ontario Heritage Act* (“OHA”).

[2] The Lands are Municipally known as 789-795 Brant Street (“Subject Land”). The Subject Property includes two parcels of land having a total area of 0.22 hectares (“ha”). The parcel at 795 Brant Street is approximately 0.13 ha with a frontage of approximately 28.35 metres (“m”) and a depth of approximately 76.7 m. The parcel at 789 Brant Street is approximately 0.089 ha with a frontage of approximately 22.2 m and a depth of approximately 43.1 m.

[3] The two-storey building located at 795 Brant Street was designated under Part IV of the OHA on February 2, 2023; the designation of this building was subsequently appealed to the Tribunal.

[4] The Applicant applied for a demolition permit March 8, 2023, for the two-storey building at 795 Brant Street, which was denied by City Council. This was subsequently appealed to the Tribunal, as well.

PROPOSED OFFICIAL PLAN AMENDMENT

[5] The proposed OPA provides for a site-specific exception to be added to s. 5.3.2 of the in-force City Official Plan (“OP”). The proposed OPA seeks to permit the development of the Subject Lands and a portion of the City’s right-of-way, with a 33-storey mixed-use building consisting of retail/service commercial uses at-grade and residential uses with a maximum permitted floor area ratio of 12.2:1 and a maximum density of 1408 units per net hectare.

PROPOSED ZONING BY-LAW AMENDMENT

[6] The proposed ZBLA seeks to rezone the Subject Lands and the portion of the City's right-of-way from Mixed Use General (MXG) to Mixed Use General Site Specific 541 (H-MXG-541) and add site specific ("site-specific") exceptions.

APPLICATIONS

[7] The initial application ("Initial Application") consisted of a 31-storey mixed use building with a seven-storey ("-storey") podium, with five levels of underground parking. The initial Application contained 485 square metres ("m^2") of retail at grade fronting Brant Street, and 356 residential apartment units.

[8] The Settlement Proposal provides for a 33-storey building, inclusive of the rooftop mechanical penthouse and rooftop outdoor amenity, and an 8-storey podium and 329 residential apartment units, 31 of those being 3-bedroom units.

[9] The heritage building located at 795 Brant Street is proposed to be relocated and a portion of the building to be incorporated into the proposed design, with accommodation for retail uses. There is a total of 480 square m^2 of retail floor area proposed with access from Brant Street. The site access drive aisle remains provided from the Prospect Street frontage which provides access to the loading area and underground parking.

PROPOSED SETTLEMENT

[10] The Applicant and the City (collectively, the "Parties") have agreed to a comprehensive resolution of the appeal and wish to reflect their agreement herein, before the Tribunal for approval.

[11] The Parties request that the Tribunal allow the appeals in part and approve in principle the OPA (attached as **SCHEDULE "A"**) and ZBLA (attached as **SCHEDULE "B"**), and withhold its Final Order pending confirmation by the City of receipt of a Heritage

Conservation Plan and a Heritage Permit application as well as confirmation that the Applicant has acquired title to the lands necessary for the relocation of the existing heritage dwelling and, in addition, that the appeals of the OHA be adjourned pending the Tribunal's issuance of the Final Order on the OPA and ZBA.

WITNESS

[12] Evidence in support of the proposed Application was provided by Melinda MacRory, a land use planner. Ms. MacRory, on consent, was qualified to provide expert land use planning opinion evidence.

[13] The Tribunal marked the following documents as Exhibits:

Exhibit 1: Affidavit of Melinda MacRory dated April 12, 2024;

Exhibit 2: Draft OPA; and

Exhibit 3: Draft ZBLA.

EVIDENCE

Section 2 of the Planning Act

[14] According to Ms. MacRory, the development as proposed would make efficient use of existing transportation, sewage, and water infrastructure through appropriate intensification of the Subject Lands and develop in an orderly manner to support a safe and healthy, barrier-free development. The Subject Lands are located close to existing active transportation infrastructure and community amenities.

[15] According to Ms. MacRory, the Subject Lands are located within a Primary Growth Area and the Burlington GO Major Transit Station Area (MTSA) and Downtown Burlington Urban Growth Centre ("UGC"), which constitutes an appropriate location for growth and development, where the highest forms of intensification are to be directed.

[16] Ms. MacRory testified that the proposed redevelopment represents intensification of a currently underutilized site and is compatible with the surrounding area without any adverse impact, and the new building along Brant Street would provide for a high quality, safe, accessible, and vibrant streetscape while conserving the existing cultural heritage building and integrating it into the proposed development.

[17] In Ms. MacRory's opinion, the Settlement Proposal and the implementing planning instruments have regard for matters of provincial interest.

Provincial Policy Statement (2020) (PPS)

[18] Ms. MacRory highlighted several sections of the PPS. She advised that, while her assessment relates to the Initial Application, the additional height and density provided with the revised design further optimize the redevelopment of the site in its context without adverse impacts, and the same justification applies to the revised plans as well as the implementing OP and ZBLA.

[19] Ms. MacRory testified that the proposed development is well-designed, at an appropriate height and density and with appropriate development standards, and in the built-up area served by existing infrastructure and transit. The proposed redevelopment makes efficient use of existing and planned infrastructure and public facilities and provides for a mix of uses – including new housing, contributing to more housing options.

[20] In Ms. MacRory's opinion, the proposed redevelopment and the implementing planning instruments are consistent with the PPS.

Growth Plan for the Greater Golden Horseshoe (2020) ("Growth Plan")

[21] Ms. MacRory testified that the Subject Lands are located within the City's built boundary and are within the UGC, where significant population and employment growth is to be directed. They are also in a Strategic Growth Area associated with a MTSA.

[22] According to Ms. MacRory, the proposed redevelopment meets the policies in s. 2.2 of the Growth Plan that address growth within settlement and built-up urban areas and are within MTSAs and the UGC.

[23] Ms. MacRory advised that the proposal addresses housing, cultural heritage resources, and integrates retail and service commercial uses, which provides for an appropriate density, height and massing in an area well-served by existing transit, amenities and services, and which optimizes the use of land and infrastructure.

[24] In Ms. MacRory's opinion, the Settlement Proposal and the implementing planning instruments conform to the applicable policies of the Growth Plan.

Region of Halton Official Plan (2022) (ROP)

[25] Ms. MacRory testified within the ROP that was in place at the time of the Initial Application and within the in-force ROP approved in November of 2022, the Subject Lands are in effect located within the Urban Area designation. The Subject Lands are also located within the boundary of the Downtown MTSA and UGC.

[26] Ms. MacRory highlighted several sections of the ROP in regard to UGC, MTSA, housing, and Cultural Heritage Resources. Ms. MacRory advised that all of these policies have been addressed through appropriate intensification, by increasing the supply of housing with 329 new residential dwelling units in a transit-supportive development area, and through the protection, preservation and relocation of cultural heritage resources.

[27] According to Ms. MacRory, the Settlement Proposal represents an intensification of the Subject Lands that supports sustainable, cost-effective and transit supportive growth within a MTSA/UGC. The mix of residential unit types and sizes will increase housing variety and support local employment and retail uses.

[28] In Ms. MacRory's opinion, the Settlement Proposal meets the applicable goals, objectives and policies and conforms to the ROP.

City of Burlington Official Plan 1997 (In-Force) (OP)

[29] Ms. MacRory advised that the Planning Justification Report assesses the vision and guiding principles of the OP and policies related to growth management, cultural heritage resources, transportation, and urban design.

[30] Ms. MacRory testified that the Settlement Proposal aligns with the City's land use, providing for an intensified form of development on an underutilized site within a mixed-use centre along Brant Street in the UGC.

[31] Ms. MacRory highlighted several policies of the OP Compatibility, Mixed-Use Corridor, Transportation, and Cultural Heritage Resources. Ms. MacRory advised that the proposed development addresses all of these polices in that it is transit-supportive, acknowledges long-term redevelopment vision for the area and will provide for an intensified, compact mixed-use development within the UGC.

[32] Additionally, in the opinion of Ms. MacRory, the Settlement Proposal implements transportation policies by providing for a transit-supportive environment and the Traffic Impact Study demonstrates that the proposed development will not result in negative traffic-related impacts. Further, the reduced parking rate and added bicycle parking incorporated into the proposal aligns with the transportation strategies encouraged by the City OP. The Cultural Heritage Resources preserve the existing heritage building located at 795 Brant Street into the proposed design.

[33] Ms. MacRory advised that the site-specific OPA required to facilitate the increase in permitted height and density is appropriate given the Subject Lands' location within the Downtown Burlington UGC.

[34] In Ms. MacRory's opinion, the Settlement Proposal through the proposed OPA and ZBLA conforms to the policies of the City OP.

New City of Burlington Official Plan (Under Appeal)

[35] Ms. MacRory informed the Tribunal that, in addition to the in-force OP, City Council approved Burlington's new Official Plan ("New OP") in October of 2020. The New OP was approved with modifications by the Region on November 30, 2020. The New OP was appealed by a number of landowners, including the Owner, and there is a site-specific appeal as it relates to the Subject Lands, and therefore it is not in force and effect as it relates to the Subject Lands.

[36] Ms. MacRory advised that, while the focus of her assessment of the proposed development is and was in the Planning Justification Report related to the in-effect OP, she has conducted the following assessment of the New OP as evolving informative policy.

[37] In summary, Ms. MacRory testified that, overall, the Settlement Proposal has regard for the approved but not in-force policies, as it directs a high-density, mixed-use development to the Downtown Burlington UGC. The Settlement Proposal is compact in design, pedestrian-friendly, and well-connected to public transportation. The proposed mixed-use development will support the provision of higher-density residential development while also including at-grade retail to provide an opportunity for a range of small-scale retail and service commercial uses to serve the proposed development and surrounding area.

City of Burlington Comprehensive Zoning By-law 2020 (ZBL)

[38] Within the ZBL, the Subject Lands are zoned Mixed-Use General (MXG). A site-specific exception to the existing Mixed-Use General zone is being sought for the Subject Lands.

[39] The MXG zone provisions permit mixed-use residential apartment dwellings to a maximum height of 6 storeys. As such, a MXG zone with special provisions is being sought to address a number of zoning provisions needed to implement the proposed redevelopment.

[40] The Table below outlines the site-specific provisions sought in the proposed Zoning By-law Amendment and justification for the site-specific provisions.

Zone Exception	**Rationale**
Land Uses – 329 residential units and 480 square metres of non-residential floor area	These provisions clearly set out the mix of uses permitted, which are in line with the intended direction for MTSAs.
Height 33 storeys and 108 metres inclusive of the mechanical penthouse and rooftop amenity	The Subject Lands are located within an UGC/MTSA where the highest intensity of development should occur in Burlington. The proposed height will allow for the optimization of the Subject Lands and provide for a variety of housing units and sizes.
Increased Floor Area Ratio 12.2:1 Maximum Density 1408 units/ha	The Subject Lands are located within an UGC/MTSA where the highest intensity of development should occur in Burlington. This increase in floor area ratio and maximum density will allow for the optimization of the Subject Lands and provide for a variety of house types and sizes with appropriate transition and design.

Yards Yard abutting Brant Street i) Floors 1-7: 4.6 m ii) Floors 8-33: 7.6 m iii) Heritage Building: 0.2 m Yard abutting Prospect Street i) Floors 1-7: 2 m ii) Floors 8-33: 3.2 m Yard Abutting a Residential Zone (east lot line) i) Floors 1-7: 1.2 m ii) Floors 8-33: 8.7 m Side Yard (south lot line) i) Floor 1: 0.5 m ii) Floors 2-7: 2.9 m iii) Floors 8-33: 12.5 m Yard Abutting a Hypotenuse of a Daylight Triangle	The setbacks and stepbacks proposed provide appropriate transition and buffer to surrounding properties and appropriate tower separation distances from surrounding properties.

i) Floor 1-7: 2 m ii) Floors 8-33: 4.6 m iii) Heritage Building: 1.8 m	
Parking Structure Setbacks 0.8 m to all lot lines	This provision is required to accommodate the underground parking structure. The setbacks still maintain an appropriate area for landscaping.
Minimum Number of 3-beroom units 31 units	This provision will ensure the family- sized units are implemented as per the Settlement Proposal.
Reduced Parking Combined Parking Ratio of 0.78 parking spaces/dwelling unit	The Subject Lands are located within an UGC/MTSA in an area that is evolving as a highly urbanized and connected to the public transportation system. The reduced parking with the Initial Application was justified through a Parking Justification Study prepared by C.F. Crozier and Associates and the parking ratio is maintained with the Settlement Proposal to encourage reduced automobile dependency and increased use of active transportation.

Reduced Parking Stall Sizes	This provision is required to address the reduced parking stall sizes needed to ensure efficiency of the underground parking design. The reduced parking stall sizes were justified through the Parking Justification Study prepared by C.F. Crozier and Associates.
Bicycle Parking Long-term bicycle parking: 170 bicycle spaces Short-term bicycle parking: 16 bicycle spaces	This provision will ensure the implementation of bicycle parking to promote active transportation.
Revisions to Bicycle Parking Size Standard	This provision will allow for stacked bicycle parking which is not currently identified in the City of Burlington Zoning By-law to allow for efficiency in the underground parking design.
Amenity Areas 13.3 sq. m./unit	A minimum of 13.3 square metres of amenity area per unit is provided through indoor and outdoor amenity space and balconies which is appropriate in the context of the Urban Growth Centre and in close proximity to area parks and other amenities and services.

Landscape Area	A reduced landscape area of 2 m is being sought along Prospect Street. This is a result of the reduced setback proposed from the edge of the building to the right-of-way at 2 metres to create a pedestrian-friendly and animated streetscape.
Landscape Buffer	A reduced landscape buffer of 1.2 m to the rear lot line is proposed which provides sufficient area for a fence and landscaping to provide a buffer to the existing high density residential property to the east.
Landscape Area Encroachments	This provision will permit a number of functional site and structural requirements as needed without impact to the overall landscape areas.
Minimum floor area for retail/service commercial use	A minimum of 480 square metres of retail/service commercial gross floor area will ensure adequate at grade retail and service commercial uses to serve the residents of the development and those in the surrounding community.

[41] In Ms. MacRory's opinion, the site-specific provisions in the proposed ZBLA are appropriate for the redevelopment of the Subject Lands and in conformity with the applicable policy framework and generally address the built-form design guidelines.

Urban Design Guidelines – Tall Building Design Guidelines (2017)

[42] Ms. MacRory highlighted the City's Tall Building Design Guidelines ("Guidelines"), which apply to the proposed mixed-use development and provide direction for podium design, site design, open space and streetscaping, tower design and rooftop design.

[43] Ms. MacRory highlighted several sections of the Guidelines in regard to podium design and placement and that the Guidelines provide for direction for the tower portion of the buildings, including tower separation distance, stepbacks and floor plate sizes.

[44] According to Ms. MacRory, all of these guidelines are addressed in the development proposal, in that the podium is located and oriented appropriately to frame the streets and provide for enhanced streetscapes and adequate landscaping along Brant Street and Prospect Street. The Settlement Proposal also provides a 750 m^2 floor plate size, and a step back of 3 m is proposed above the podium to the tower in accordance with the Guidelines.

[45] In Ms. MacRory's opinion, the Settlement Proposal incorporates appropriate massing allowing for built-form compatibility with the surrounding context, and promotes visual connectivity throughout the skyline. High-quality architectural design is proposed to ensure that the Settlement Proposal contributes to the physical characteristics of the community.

Implementation

[46] Ms. MacRory advised that, as part of the Settlement Proposal, the proposed OPA and ZBA currently include the portion of the City's right-of-way lands which has yet to be acquired by the Owner.

[47] Ms. MacRory recommended that the Tribunal withhold its Final Order subject to the completion of the required Municipal process to finalize the land conveyance.

Disposition

[48] In the absence of any planning evidence to the contrary, the Tribunal finds and accepts the land use planning evidence and expert opinion provided by Ms. MacRory, that the proposed OPA and ZBLA has regard for the matters of Provincial Interest under the Act, represents good planning and is in the Public Interest, is consistent with the policies of the PPS, conforms with the Growth Plan, conforms to the ROP and City OP, and meets the City's Urban Design Guidelines.

[49] The Tribunal acknowledges the cooperation between the Parties in having reached a Settlement.

INTERIM ORDER

[50] **THE TRIBUNAL ORDERS** that the appeals filed by Camarro Development Inc. are allowed in part;

THE TRIBUNAL FURTHER ORDERS that the amendment to the City of Burlington Official Plan as set out in **Schedule "A"** to this Order is approved in principle;

AND THE TRIBUNAL FURTHER ORDERS that the amendment to the City of Burlington Zoning By-law as set out in **Schedule "B"** to this Order is approved in principle;

AND THE TRIBUNAL FURTHER ORDERS that the final Order on the Official Plan Amendment and the Zoning By-law Amendment will be withheld until:

> (a) the City's confirms to the Tribunal that it is in receipt of a Heritage Conservation Plan and a heritage permit application under section 33 of the *Ontario Heritage Act*, R.S.O. 1990; and

(b) the City confirms that the Applicant has acquired title to the lands necessary for the relocation of the existing heritage dwelling on the property.

AND THE TRIBUNAL FURTHER ORDERS the appeal of Heritage Designation By-law No. 03-2023 under section 29 of the *Ontario Heritage Act R.S.O. 1990*, and the appeal of the City's refusal to grant the heritage demolition permit under section 34 of the *Ontario Heritage Act* R.*S.O. 1990* are hereby adjourned pending the Tribunal's issuance of the Final Order on the OPA and ZBA, and the submission by the City and the Applicant to the Tribunal of a revised Heritage Designation By-law;

AND THE TRIBUNAL FURTHER ORDERS that the Tribunal Member is seized and may be spoken to in the event matters arise in connection with the implementation of this Order.

"Eric S. Crowe"

ERIC S. CROWE
MEMBER

SCHEDULE A

OFFICIAL PLAN AMENDMENT

AMENDMENT NO. 147 TO THE OFFICIAL PLAN

OF THE BURLINGTON PLANNING AREA

CONSTITUTIONAL STATEMENT

The details of the Amendment, as contained in Part B of this text, constitute Amendment No. 147 to the Official Plan of the Burlington Planning Area, as amended.

PART A – PREAMBLE

1. PURPOSE OF THE AMENDMENT

The purpose of this Amendment is to introduce site-specific provisions to the Mixed Use Corridor – General land use designation on the Subject Lands. The site-specific policies will permit a maximum FAR of 12.2:1 and height of 33-storeys on the Subject Lands. The Amendment facilitates the development of a mixed-use building with ground floor retail on Brant Street with one residential tower at 33-storeys with an 8-storey podium. A private drive aisle is proposed from Prospect Street to provide access to the loading area and underground parking. The proposal includes a total of 329 units with a gross floor area of 26,282 square metres. Of the total gross floor area, 480 square metres is provided for retail/service commercial uses fronting Brant Street to be located within the proposed building and the existing building located on Brant Street which is designated under Part IV of the Ontario Heritage Act.

2. SITE AND LOCATION

The subject lands are municipally known as 789-795 Brant Street located at the southeast corner of Brant Street and Prospect Street (2,283.8 square metres) and a small portion of the Brant Street right-of-way (54 square metres) to be dedicated to the Applicant. The Subject Lands have a combined total area of 2,337 square metres (0.2337 hectares).

3. BASIS FOR THE AMENDMENT

a) The subject application proposes intensification that is consistent with the Provincial Policy Statement (PPS), 2020. The PPS promotes a range and mix of uses and housing that efficiently uses land, resources, infrastructure, and public service facilities and is supportive of public transit.

b) Intensification of land within built-up, serviced areas of the City makes more efficient use of existing developed lands and provides limited employment opportunities which generally meets the intent of the Growth Plan and the Region of Halton Official Plan.

c) The proposed development supports the City's objective to broaden the range of housing forms and supply to meet City needs in a manner that is compatible with surrounding properties and uses.

d) The proposed development is located on lands with adequate infrastructure and in close proximity to transit routes, commercial uses and community amenities so satisfies Official Plan policies to provide housing opportunities in locations that can reduce travel times and decrease dependence on the car.

e) The applicant submitted technical studies that provide adequate and appropriate information to support the development.

PART B – THE AMENDMENT

1. DETAILS OF THE AMENDMENT

Map Change:
No change.

Text Change:
The text of the Official Plan for the Burlington Urban Planning Area, as amended, is hereby amended as follows:

By adding the following site specific policy aa) at the end of Part III, Land Use Policies – Urban Planning Area, Mixed Use Corridors (General, Employment and Commercial Corridor) Section 5.3, Subsection 5.3.2 within the Site Specific Policies as follows:

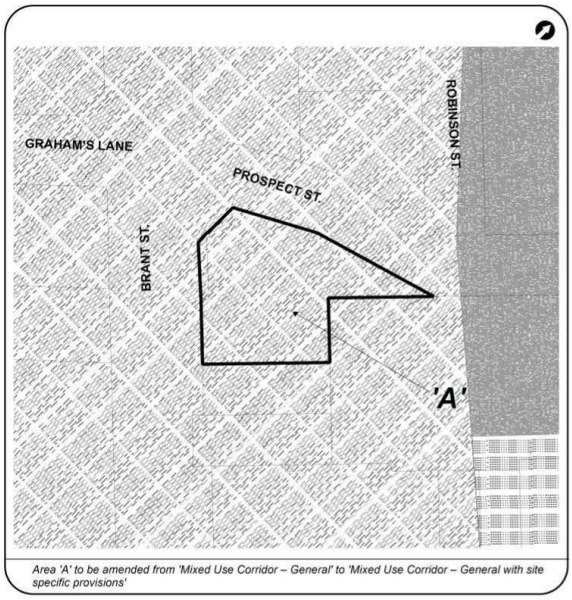
789-795 Brant Street	aa) Notwithstanding the policies of Part III, Subsection 5.3.2 a) ii), 5.3.2 d) i), and 5.3.2 d) ii), of this plan on the lands described as 789-795 Brant Street a mixed use building consisting of retail/*service commercial* uses at-grade and residential uses, with a maximum *Floor Area Ratio* of 12.2:1, a maximum density of 1408 units per *net* hectare and a maximum building height of 33-storeys shall be permitted.

2. INTERPRETATION

This Official Plan Amendment shall be interpreted in accordance with the "Interpretation" policies of Part VI, Implementation, Section 3.0, Interpretation, of the Official Plan of the Burlington Planning Area.

3. IMPLEMENTATION

This Official Plan Amendment will be implemented in accordance with the appropriate “Implementation” policies of Part VI of the Official Plan of the Burlington Planning Area.



Area 'A' to be amended from 'Mixed Use Corridor – General' to 'Mixed Use Corridor – General with site specific provisions'

AMENDMENT No. 147 TO THE OFFICIAL PLAN OF THE BURLINGTON PLANNING AREA

Schedule 'B'

File No. 505-07/22

Legend

- MUC - General
- Residential - High Density
- Residential - Medium Density

Date: April 11, 2024
Community Planning Department

City of Burlington

SCHEDULE B

THE CORPORATION OF THE CITY OF BURLINGTON

BY-LAW NUMBER 2020.475

A By-law to amend By-law 2020, as amended for 789-795 Brant Street to facilitate the development of a 33-storey mixed use building consisting of retail/service commercial uses at grade and residential uses.

File No.: 505-07/22 & 520-08/22

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

WHEREAS the Ontario Land Tribunal issued a decision on XXX, 2024, to amend the City's existing Zoning By-law 2020, as amended, to permit a 33-storey mixed use building consisting of retail/service commercial uses at grade and residential uses.

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

1. Zoning Map Number 9E, 10E and 14W of Part 15 to By-law 2020, as amended, is hereby amended as shown on Schedule "A" attached to this By-law.

2. The lands designated as "A" on Schedule "A" attached hereto are hereby rezoned from Mixed Use Corridor – General (MXG) to Mixed Use Corridor – General (MXG-541) with site specific policies.

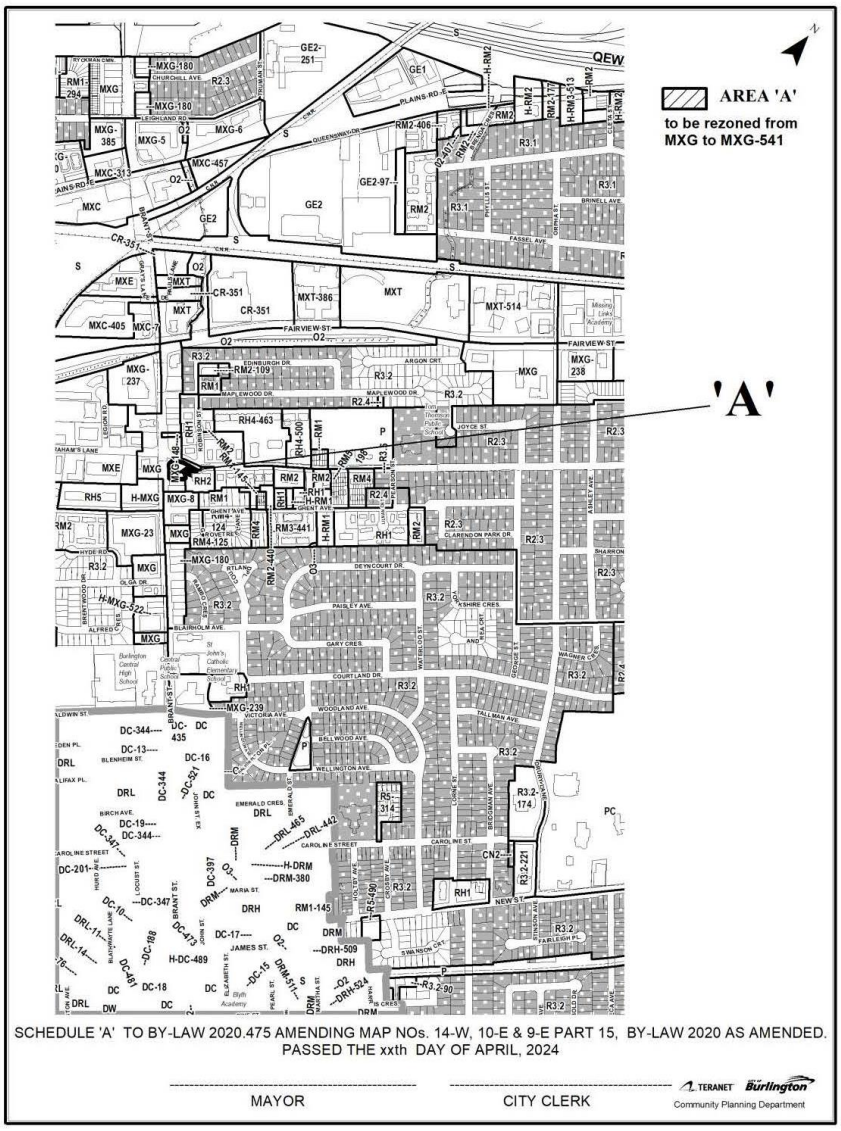
3. Part 14 of By-law 2020, as amended, Exceptions to Zone Designations, is amended by adding Exception 541 as follows:

Exception 541	Zone MXG	Map 9E, 10E and 14 W	Amendment 2020.475	Enacted XXX
1) <u>Prohibited Uses:</u> (a) Dwelling units on Storey 33				
2) <u>Regulations:</u>				
(a) Maximum Building Height (inclusive of mechanical penthouse and roof top amenity):				33-storeys and 108 m
(b) Maximum Podium Height				8-storeys and 26 m
(c) Maximum Floor Area Ratio:				12.2:1
(d) Maximum Density				1408 units/ha
(e) Floor Area for Retail/Service Commercial Use:				480 m²
(f) Yards: i) Yard Abutting Any Other Street (Brant Street): Floors 1-7: Floors 8-33: Below-grade Parking Structure: Heritage Building: ii) Yard Abutting Any Other Street (Prospect Street): Floors 1-7: Floors 8-33: Below-grade Parking Structure: iii) Yard Abutting a Residential Zone: Floors 1-7: Floors 8-33: Below-grade Parking Structure: iv) Side Yard: Floor 1: Floors 2-7: Floors 8-33: Below-grade Parking Structure: v) Yard Abutting a Hypotenuse of a Daylight Triangle: Floors 1-7: Floors 8-33:				 4.6 m 7.6 m 0.8 m 0.2 m 2 m 3.2 m 0.8 m 1.2 m 8.7 m 0.8 m 0.5 m 2.9 m 12.5 m 0.8 m 2 m 4.6 m

Below-grade Parking Structure: Heritage Building:	0.8 m 1.8 m
(g) Maximum Number of Residential Units:	329 units
(h) Minimum Number of 3-bedroom units:	31 units
(i) Parking: Occupant Shared Visitor and Non-Residential: Designated Accessible Spaces:	 0.73 parking spaces per unit 0.05 parking spaces per unit 9 designated accessible parking spaces
(j) Parking Space Size:	2.7 m width and area of 15.66 m²
(k) Designated Accessible Parking Space Size:	2.75 m width and area of 15.95 m² adjacent to a delineated "accessible parking pathway" with a minimum width of 2 m
(l) Bicycle Parking: Long term bicycle parking: Short-term bicycle parking:	 170 bicycle spaces 16 bicycle spaces
(m) For the purposes of the above regulation in (l): i) Long term bicycle parking spaces are bicycle parking spaces for use by the occupants, employees or tenants of a building, and must be located in a building. Required long term bicycle parking spaces in apartment buildings may not be in a dwelling unit, on a balcony or in a storage locker. ii) Short term bicycle parking spaces are bicycle parking spaces for use by visitors in a building.	
(n) Bicycle Parking space size: i) Horizontal space: 0.6 m wide x 1.8 m ii) Stackable space: 0.45 m wide x 1.9 m long x 1.2 m tall	

(o) Landscape Area Abutting a Street: i) Notwithstanding the definition of “Landscape Area”, the heritage building is permitted to be located in the landscape area abutting Brant Street.	2 m
(p) Permitted encroachments into Landscape Area up to a maximum of 50 % of the total area:	Hydro transformer and pad, exhaust and intake vents associated with a parking garage, covered and/or open staircase access, bicycle parking including concrete pads, gas meters including concrete pads, commercial patios, and residential porch.
(q) Landscape Buffer Abutting a Residential Zone:	1.2 m
(r) Amenity Area:	13.3 m²/unit
(s) Outdoor Patios shall be setback 35 m from a residential zone	
(t) Notwithstanding Part 2, Section 1 (i) (ii), Setbacks from Driveway or Parking Lot/Parking Spaces to Window of Habitable Room shall not apply	

Except as amended herein, all other provisions of this By-law, as amended, shall apply.


AREA 'A'
to be rezoned from
MXG to MXG-541
'A'
SCHEDULE 'A' TO BY-LAW 2020.475 AMENDING MAP NOs. 14-W, 10-E & 9-E PART 15, BY-LAW 2020 AS AMENDED.
PASSED THE xxth DAY OF APRIL, 2024
MAYOR
CITY CLERK
TERANET
Burlington
Community Planning Department