Date Modified: June 14, 2024

1450 and 000 King Road | ZBA COMMENTS & RESPONSE MATRIX

CITY FILE NO. 520-04/23

COMMENTS RECEIVED FROM THE FOLLOWING DEPARTMENTS/ AGENCIES:

NO.	MUNICIPALITY DEPARTMENTS AND EXTERNAL AGENCIES	NO.	MUNICIPALITY DEPARTMENTS AND EXTERNAL AGENCIES
1.0	City of Burlington – Planning Department	**4.0**	Halton Region
2.0	City of Burlington – Transportation Department	**5.0**	Conservation Halton
3.0	City of Burlington – Finance Department	**6.0**	Ontario Ministry of Transportation (MTO)

NO.	COMMENTS	RESPONSE
1.0	**Planning Department**	
	Benjamin Kissner | Benjamin.kissner@burlington.ca	
1.1	Confirm Tree E can be removed with neighbouring property.	The landowner is coordinating/consulting with the neighbour to the north regarding the removal of this tree.
1.2	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 heritage perspective with this solution so long as the mitigation, enhancement, and monitoring measures proposed by the EIA are implemented.	Acknowledged.
1.3	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.	The controlled 100-year flow will discharge to the culvert at the south-east corner of the site as will the 2-50 year storm events. The emergency overflow spillway is only intended for storm events above and beyond the 100-year event or in the event of unexpected conditions such as a debris blockage. The overflow spillway has been discussed extensively with CH, MTO and City engineering staff and all have indicated support for this approach. It was noted that under existing conditions overflow likely drains to the same feature via North Service Road.
1.4	**Functional Servicing Report –** 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.
1.5	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.
2.0	**Transportation Department**	
2.1	**Transportation and Parking** Transportation Planning reviewed the Zoning By-law Amendment of the above-noted application, have no further concerns and/or comments.	Noted.
3.0	**Finance Department**	

NO.	COMMENTS	RESPONSE
3.1	Taxes must be paid. This includes all outstanding balances plus current year taxes that have been billed but not yet due.	Noted.
4.0	**Halton Region**	
	Amanda McNeish | amanda.mcneish@halton.ca	
	Environmental Impact Assessment ***(Review in combination with "Region's Reply to Comment Response EIA")***	
4.1	Section 4.2.4 (Species at Risk Screening) – Noted. It is the Owner's responsibility to obtain the written approval of the Ministry of the Environment, Conservation and Parks (MECP) for any work within significant habitat of endangered and threatened species, as per the Endangered Species Act, where necessary. Any correspondence shall be provided to the Region.	Noted.
4.2	Section 6.1 (Stormwater Management) – **Partially Addressed.** Clarification in the response text and in Section 6 is necessary to confirm that the grading is limited to the construction of the spillway, not grading the entirety of the combined CH setback and 10m woodland buffer. (See highlighted text in yellow). Grading within the setback has been proposed to help direct flow towards the valley and away from future development.	Clarification has been added to Section 6 to address this.
4.3	Section 7 (Impact Assessment) – **Partially Addressed** Section 7 was updated to address this comment. Section 7 should be further updated that all construction access/grading/materials storage for the spillway shall be located outside of the dripline/root zones of the significant woodlands and that no tree removal within the significant woodlands will occur. Tree Preservation Fencing should be installed at the dripline of the significant woodlands. Please add this mitigation to Bullet 6, Section 7.2 Direct Impacts. The Mitigation Measures outlined in Table 10 and Section 7.5 must be implemented as part of detailed design/construction to ensure that NNI to the RNHS can be maintained during/post construction. If Site	Section 7 has been updated: • Construction access/grading/materials storage shall be located outside of the dripline/root zones, no tree removal shall occur in the significant woodland. • Tree preservation fencing should be installed along the dripline of the significant woodlands.

NO.	COMMENTS	RESPONSE
	Plan Control is required subsequent to the ZBA, a clause that requires that implementation of these mitigation measures, monitoring, invasive species management plan and buffer plantings should be included as a clause in the Site Plan Agreement.	
	Landscape Plans (Review in combination with "Region's Reply to Comment Response EIA")	
4.4	Buffer Planting Plan – **Partially Addressed.** Noting that an explanation has been provided that the site grading/earthworks are limited to the spillway. Section 6.3 Buffer Enhancement of the EIA (dated Oct 24, 2023) recommends that the combined CH setback area and 10m woodland buffer be planted with native trees and shrubs suitable for the Study Area. The Landscape Plan L-1 (dated November 15, 2023) should be updated to include native plantings along the entirety of the combined setback/buffer, rather than just the southern limit and outside of this area. Carrying forward the Region's previous comment that the tree sizes for planting are all caliper stock. Because of the insulated location, there is an opportunity to use a greater amount of smaller tree stock to avoid the establishment problems with large stock. Notes #5 and #6 on the Landscape Plans are also to be revised/removed as earthworks should only be limited to that associated with the spillway.	Native trees and shrubs are proposed along the entirety of the combined setback/buffer in the revised landscape plans. Proposed trees have been changed to smaller stock as requested. Notes #5&6 have been removed from landscape plans.
	General Environmental Comments *(Review in combination with "Region's Reply to Comment Response EIA")*	
4.6	Please address comments 4.2, 4.3 and provide updated Landscaping Plans to address Region's comments in comment 4.4 above.	Noted. Comments have been addressed per responses above.
	Site Contamination	
4.7	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 (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.	A Phase One ESA and Two ESA reports were prepared under the O.Reg.153/04 process. These reports will be <18 months old.

NO.	COMMENTS	RESPONSE
4.8	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.	Please see the Phase Two ESA provided with this resubmission.
4.9	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.	QP has sealed the Phase One ESA and Phase Two ESA. Letter of Reliance has been included with this resubmission.
	Municipal Services	
4.10	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.	Utility details (as per Drawing 2) including the Region's watermain have been shown in relation to the proposed ultimate storm sewer outlet on King Road on the updated Drawing 14, included with this submission. Note the alignment of the storm sewer has been shifted slightly based on additional utility information provided by City staff.
4.11	Regional staff are satisfied from a servicing perspective, for the purpose of the ZBA.	Noted.
	Waste Management	
4.13	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.
4.14	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	
4.15	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.

NO.	COMMENTS	RESPONSE
	Conclusion	
4.16	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.
5.0	**Conservation Halton**	
	Laura Schreiner | lschreiner@hrca.on.ca	
5.1	**Key Comments** All of CH's previous Key Comments on this ZBA application have been addressed. The applicant has demonstrated that CH's key thresholds have been met and there are no fundamental issues with the proposal. CH recommends that the full extend of regulated lands be placed under public ownership if feasible.	It is our understanding that based on new regulations this may not be able to occur because it potentially encumbers future City –owned pond. We will continue with CH and the City to appropriately resolve this item.
5.2	**Recommendation** CH has no objection to the approval of this application.	Noted.
5.3	As stated above, CH recommends that full extent of regulated lands be placed under public ownership if feasible.	It is our understanding that based on new regulations this may not be able to occur because it potentially encumbers future City –owned pond. We will continue with CH and the City to appropriately resolve this item.

NO.	COMMENTS	RESPONSE
5.4	Please see our separate letter regarding the concurrent Minor Modification application (MM-01/22, second submission) for details regarding that review and associated CH Permit requirements.	Noted.
6.0	**Ontario Ministry of Transportation**	
6.1	No objection, in principle, to the rezoning application.	Noted.
6.2	The site is within the MTO's permit control area. A MTO Building and Land Use permit is required prior to relocation of the stormwater management facility. Any future development of the site will be subject to MTO review and approval and will require a separate MTO Building and Land Use permit. All building, structures and essential site features should setback a minimum of 14m from the existing or future North Service Road right-of-way. As per the submission material, there is no road widening anticipated at this time on North Service Road.	MTO Building and Land Use Permit will be applied for shortly and is expected to be received prior to construction.
6.3	Any signs visible from the highway require a MTO sign permit.	Noted.
6.4	We have the following comment on the revised SWM report and response to our drainage comments: a. What is the next small size available for a smooth inside pipe if 500mm is not a market standard? Would a 475mm available and a smaller size have same capacity as 500mm CSP?	We note that the pipe is reported as 525 mm in some locations (i.e. legacy CCTV inspection included with Appendix A of the SWM report), the 500 mm diameter likely reflects the measurement on the upstream side which is affected by partial crushing of the CSP pipe. The nearest commercially available size for HDPE\PVC or concrete pipe would be 525 mm, which as noted likely matches the actual existing pipe diameter. We understand from discussions with City staff (May 16, 2024) that the preferred approach in this case will be to line the existing CSP culvert using cured-in place pipe technologies. This should maintain a similar capacity as the lining adds thickness to the pipe (reduces conveyance area) but results in a smoother more efficient surface as compared to the existing CSP roughness.
7.0	**Burlington Hydro**	

NO.	COMMENTS	RESPONSE
7.1	No additional comments, comments from first submission for reference: a. 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.