Supplemental Planning Justification Report

APPLICATION TO AMEND ZONING BY-LAW 2020

4063 Upper Middle Road

June 2020

GSP group

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4063 Upper Middle Road

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1.0 INTRODUCTION

The Subject Lands, 4063 Upper Middle Road are currently designated Residential – High Density in the Burlington Official Plan and zoned D Zone (Development) in Zoning By-law 2020. The Subject Lands once contained a single-detached dwelling on the lot which is approximately 0.55 hectares (approximately 1.36 acres) in size. The lot contains the forested slope associated with Shoreacres Creek (Significant Woodlands) as well as tableland for redevelopment.

In 2017, the owners of the Subject Lands applied to rezone the property from the D Zone to the RH5 Zone (High Density) and the O2 Zone (Open Space). The redevelopment proposal is for an eight (8) storey condominium apartment building with 32 units, one level of underground parking, one level of parking at grade and one level of parking above grade all within the proposed building.

The Shoreacres Creek valley and the associated Significant Woodlands are located on the east portion of the Subject Lands. The stable top-of-bank and tree dripline have been established and surveyed and a 7.5 metre building setback is required from whichever surveyed line is more restrictive. The Significant Woodlands and 7.5 metre buffer area are proposed to be rezoned Open Space (O2) and conveyed to the City of Burlington.

The area to be rezoned O2 is approximately 3,277.7 square metres and the area available for redevelopment purposes, to be rezoned RH3 is approximately 2,024.8 square metres, net of a strip of land 5.0 metres in width along the lot frontage to be dedicated to the Region of Halton for road widening purposes.

In late 2019, GSP Group was retained to co-ordinate the preparation of revised and new materials to support the rezoning application. GSP Group determined that a Supplemental Planning Justification Report was warranted to address a few matters.

2.0 PURPOSE OF SUPPLEMENTAL PLANNING JUSTIFICATION REPORT

In support of the rezoning application, Corbett Land Strategies Inc. prepared a Planning Justification Report dated March 2017, revised to October 2019 (2019 PJR). The report was updated in October 2019 to reflect the 2019 Growth Plan for the Greater Golden Horseshoe, A Place to Grow.

Figure 2 in the 2019 PJR shows a previous concept plan from August 2019. The set of drawings submitted herewith, include minor revisions, primarily related to the location of the parking ramp, the grade of the parking ramp and the re-location of the loading area to the west side of the parking ramp.

This Supplemental Planning Justification Report has been prepared to address the following matters.

1. This supplemental report provides a discussion on the Provincial Policy Statement 2020 (2020 PPS) which took effect on May 1, 2020.

2. The Environmental Impact Study (EIS) prepared by Environmental Liability Management Inc. (ELM) has been consolidated, as required, and is dated June 15, 2020. This supplemental report also provides an overview of the environmental work undertaken to date and discusses the EIS conclusions in the context of current planning policy, including the 2020 PPS and the Region of Halton Official Plan (RHOP).

3. The new City of Burlington Official Plan was adopted in April 2018 but is not yet approved and in effect. This supplemental report includes an overview of the new policies that pertain to the Subject Lands, for information purposes.

4. This supplemental report also contains a section on the Design Guidelines for Mixed-Use and Residential Mid-Rise Buildings dated March 2019 (approved after the rezoning application was submitted) and a section on the evaluation criteria in the Official Plan to be considered for intensification with established neighbourhoods.

5. During our review, it was determined that the RH3 Zone was more appropriate for the Subject Lands than the RH5 Zone. Justification for the change to the requested zone was provided to City staff and staff agreed with the revision to the requested zone. Therefore, this report also provides justification for the proposed modifications to the RH3 Zone provisions.

Appendix A to this report is the revised draft Zoning By-law Amendment.

Appendix B is a summary of the original application submitted in 2017 and the resubmissions made to the City since 2017.

Appendix C summarizes the purpose of the various revisions made to the Environmental Impact Study over the last few years.

Appendix D provides a response to public comments documented in Staff Report PB-41-17 – Statutory Public Meeting and Information Report for a Proposed Zoning By-law Amendment on 4063 Upper Middle Road (Committee date: November 6, 2017).

Quotes from various documents are referenced throughout this report and are indented within the body of a paragraph. Words in italics are defined in the relevant documents being quoted.

Following the September 2019 resubmission, detailed comments were received from Conservation Halton (CH) staff, Region of Halton, and the City of Burlington staff. Revisions to the Preliminary Site Plan drawings were made to address these comments. GSP Group has prepared a separate letter (Response Letter), which is part of this resubmission, and it provides responses to the comments received in correspondence received in October and November of 2019.

3.0 PROVINCIAL POLICY STATEMENT 2020 (2020 PPS)

Section 5.1 of the 2019 PJR includes an assessment of the 2014 PPS and references Policy 1.1.1 a) through h) pertaining to sustaining healthy, livable, and safe communities. The 2019 PJR states that the proposal supports objectives of Policy 1.1.1 of the PPS by:

- Locating development within an existing settlement area;
- Contributing to the development of a varied housing stock;
- Developing a high-density site effectively and efficiently in a manner that contributes to intensification without impacting the integrity of an existing community;
- Effectively utilizing municipal infrastructure along the Upper Middle Road corridor to support desirable development.

The 2020 PPS revises the language in Policy 1.1.1, including both additions and deletions. Policy 1.1.1 e) has been revised to read:

> e) promoting the integration of land use planning, growth management, transit-supportive development, intensification and infrastructure planning to achieve cost-effective development patterns, optimization of transit investments, and standards to minimize land consumption and servicing costs;

The proposed redevelopment represents the integration of various land use planning processes that results in the protection of Significant Woodlands within the urban environment while also providing for intensification that is transit supportive along an established Minor Arterial Road (Upper Middle Road – Regional Road 38). The proposed redevelopment is transit-supportive and is an example of smaller-scale intensification which adds to the range of housing options available in a community, in accordance with Policy 1.1.3.3 of the 2020 PPS.

The discussion below adds to the PPS section of the 2019 PJR. As stated in Policy 4.2 of the 2020 PPS, policies must be read in their entirety and all relevant policies are to be applied to each situation.

Within the 2020 PPS, Policy 1.4, titled Housing has been amended to read:

> To provide for an appropriate range and mix of *housing options* and densities required to meet projected requirements of current and future residents of the *regional market area*, planning authorities shall:
>
> a) maintain at all times the ability to accommodate residential growth for a minimum of 15 years through *residential intensification* and *redevelopment* and, if necessary, lands which are *designated and available* for residential development; and
>
> b) maintain at all times where new development is to occur, land with servicing capacity sufficient to provide at least a three-year supply of residential units available through lands suitably zoned to facilitate *residential intensification* and *redevelopment*, and land in draft approved and registered plans.
>
> Upper-tier and single-tier municipalities may choose to maintain land with servicing capacity sufficient to provide at least a five-year supply of residential units available through lands suitably zoned to facilitate *residential intensification* and *redevelopment*, and land in draft approved and registered plans.

Municipalities are now required to maintain the ability to accommodate residential growth for a minimum of fifteen (15) years (increased from 10 years) through residential intensification and redevelopment, and if necessary, lands designated and available for residential growth. Municipalities also have the option to choose to maintain serviced land to provide for a five (5) year supply of housing units (increased from 3 years) suitably zoned to facilitate residential intensification and redevelopment, and housing units in draft approved and registered plans.

Part 2 of the 2020 PPS is titled Wise Use and Management of Resources. As stated in Policy 2.1.5 b), development and site alteration are not permitted in Significant Woodlands unless it has been demonstrated that there will be no negative impacts on the natural features or their ecological function.

An important component of the subject application has been the delineation of the Significant Woodlands on the eastern portion of the Subject Lands, identifying an appropriate buffer area, and demonstrating that there will be no negative impacts on the natural heritage features.

An Environmental Impact Study (EIS) was prepared and reviewed and addendums have been provided to the City of Burlington, Region of Halton, and CH. The Final EIS has been submitted with this June 2020 resubmission.

Regarding woodlands, the 2020 PPS defines **significant** to mean:

> an area which is ecologically important in terms of features such as species composition, age of trees and stand history; functionally important due to its contribution to the broader landscape because of its location, size or due to the amount of forest cover in the planning area; or economically important due to site quality, species composition, or past management history. These are to be identified using criteria established by the Ontario Ministry of Natural Resources and Forestry;

The Region of Halton has identified the woodlands on the Subject Lands as significant.

Regarding Significant Woodlands, **negative impacts** mean:

> degradation that threatens the health and integrity of the natural features or *ecological functions* for which an area is identified due to single, multiple or successive *development* or *site alteration* activities.

The 2020 PPS defines **ecological function** as:

> the natural processes, products or services that living and non-living environments provide or perform within or between species, ecosystems and landscapes. These may include biological, physical and socio-economic interactions.

No redevelopment is proposed in the Significant Woodlands, which has been defined to include a 7.5 metre buffer area from the dripline. Development is proposed on lands adjacent to the Significant Woodlands and in accordance with the 2020 PPS (Policy 2.1.8) development and site alteration may be permitted if the ecological function of the adjacent lands has been evaluated and it has been demonstrated that there will be no negative impacts on the woodland or its ecological function.

Throughout the years, development has taken place in this area of the City adjacent to the woodlands associated with Shoreacres Creek, both north and south of Upper Middle Road. The EIS specifically addresses the woodland feature on the Subject Lands and discusses its ecological function and its relationship to the adjacent vegetation communities on the Subject Lands.

The overall conclusion of the EIS and related studies is that the proposed eight (8) storey condominium apartment building, to be located on the tablelands on the Subject Lands, is part of successive redevelopment in the Millcroft Community, and it will not threaten the health and integrity of the woodlands or its ecological function. Portions of the Significant Woodlands have been altered by past residential development on the site (single detached dwelling and accessory buildings and structures), cutting and landscaping. Through the approval of the rezoning application, the Significant Woodlands, as delineated through flagging and surveying the dripline, will be protected, zoned O2 (Open Space) and conveyed to the municipality.

Part 3.0 of the 2020 PPS is titled Protecting Public Health and Safety and the preamble has been amended to read:

> Development shall be directed away from areas of natural or human-made hazards where there is an unacceptable risk to public health or safety or of property damage, and not create new or aggravate existing hazards.
>
> Mitigating potential risk to public health or safety or of property damage from natural hazards, including the risks that may be associated with the impacts of a changing climate, will require the Province, planning authorities, and conservation authorities to work together.

The stability of the slope adjacent to Shoreacres Creek has been documented in the 2017 Slope Stability Assessment prepared by Soil-Mat Engineers & Consultants Ltd. (Soil-Mat). Soil-Mat also prepared a site-specific Geotechnical Investigation in 2013. The three (3) slope profiles identified by Soil-Mat show the stable top-of-bank coinciding with the physical crest (top-of-bank) at Slope Profile B-B; located approximately 2.5 metres from the crest at Slope Profile A-A and approximately 4.6 metres from the crest at Slope Profile C-C. These slope profiles are shown on all the drawings prepared to support this resubmission.

The stable top-of-bank and a 7.5 metre setback from the stable top-of-bank has also been shown on all the drawings. The surveyed dripline plus a 7.5-metre buffer therefrom, results in a more restrictive redevelopment area than applying 7.5 metres from the stable top-of-bank. The resulting redevelopment area is located beyond the hazardous area, as referenced in the 2020 PPS. The policies of Section 3.0 of the PPS regarding natural hazards have been addressed.

The application to amend Zoning By-law 2020 facilitates intensification, redevelopment and compact form while also avoiding risks to public health and safety, as per Policy 1.1.3.4 of the 2020 PPS.

4.0 ENVIRONMENTAL IMPACT STUDY OVERVIEW AND JUSTIFICATION FOR THE 7.5 METRE BUFFER AREA

The original Environmental Impact Study (EIS) and Tree Inventory and Preservation Study (TIPS) were prepared by Premier Environmental Services Inc. (Premier) in February 2017. CH provided detailed comments on the EIS and TIPS on June 30, 2017. The City requested that a response be provided for each comment. A document, identified as an addendum to the February 2017 EIS and TIPS and dated January 17, 2018 was prepared by Premier wherein 42 comments were listed and addressed.

The information contained within the January 17, 2018 addendum has been incorporated into the Final Consolidated EIS dated June 15, 2020.

The author of the Premier 2017 EIS and TIPS, Mr. Dean Fitzgerald, M.Sc., Ph.D., now Senior Ecologist and Director of Environmental Services with Environmental Liability Management Inc. (ELM), also prepared an Environmental Impact Summary dated December 20, 2018, subsequently revised to July 15, 2019 and February 12, 2020. This document includes mitigation measures, in a table format, and is included in Appendix 1 to the consolidated EIS dated June 15, 2020.

4.1 Compliance with Halton Environmental Impact Assessment Guidelines, 2014

The Halton Environmental Impact Assessment (EIA) Guidelines were prepared in accordance with Section 192 of the Halton Region Official Plan, referred to as Regional Official Plan Amendment 38 (ROPA 38) and were approved by the Inter-Municipal Liaison Committee on June 18, 2014. Section 3.0 of the Guidelines provides direction on the recommended content of a typical EIA, noting that the information required in each EIA will be determined on a case by case basis through scoping and approval of the Terms of Reference.

Typically, following the delineation and refinement of the Regional Natural Heritage System (RNHS) boundary, a draft EIA is prepared. The recommended content of EIAs includes: Introduction; Approach; Biophysical Inventory; Biophysical Analysis; Development Proposal Description; Impact Assessment; Mitigation Strategies; Monitoring Plan and Conclusions. Halton staff then review the draft EIA and if acceptable, the application is considered complete. Following circulation of the draft EIA, the proponent prepares a final EIA which may include addenda.

To the best of our knowledge, and that of Halton staff, a Terms of Reference was not prepared for the subject EIS. The 2017 EIS was submitted with the rezoning application with subsequent addenda submitted and circulated for comment. In 2019, Halton staff requested a final, consolidated EIS and it is included with this June 2020 resubmission.

We acknowledge that the completion and review of the EIS has not followed the typical procedures outlined in the Halton EIA Guidelines. However, in our opinion, the appropriate ecological and biological data was gathered and the Final 2020 EIS provides the required biophysical inventory and biophysical analysis.

In consultation with Halton and CH staff, the boundary of the Significant Woodlands was established, a woodland dripline was staked and surveyed, and the dripline is now shown on all drawings submitted with the rezoning application. The stable top-of-bank was also established through a Stable Slope Assessment prepared by Soil-Mat, dated 2017 and the stable top-of-bank is also shown on all the drawings.

The Final 2020 EIS provides an impact assessment and mitigation strategies, as required.

4.2 Significant Woodland Analysis and the RNHS Policies

Section 3.4 c) of the Halton EIA Guidelines states: “For any *Woodland* 0.5 ha or larger, determine if the woodland meets one of more of the criteria for designation as a *Significant Woodland* as defined in the ROPA 38.”

ROPA 38 defines Woodland as:

> **WOODLAND** means land with at least: 1000 trees of any size per ha, or 750 trees over 5 cm in diameter per ha, or 500 trees over 12 cm in diameter per ha, or 250 trees over 20 cm in diameter per ha but does not include an active cultivated fruit or nut orchard, a Christmas tree plantation, a plantation certified by the Region, a tree nursery, or a narrow linear strip of trees that define a laneway or a boundary between fields. For the purpose of this definition, all measurements of the trees are to be taken at 1.37 metres from the ground and trees in regenerating fields must have achieved that height to be counted.

Section 277 of ROPA 38 defines Significant Woodland as:

> **SIGNIFICANT WOODLAND** means a Woodland 0.5 ha or larger determined through a Watershed Management Plan, a Subwatershed Study or a site-specific Environmental Impact Assessment to meet one or more of the four following criteria:
>
> (1) The Woodland contains forest patches over 99 years old,
>
> (2) The patch size of the Woodland is 2 ha or larger if it is located in the Urban Area, or 4 ha or larger if it is located outside the Urban Area but below the Escarpment Brow, or 10 ha or larger if it is located outside the Urban Area but above the Escarpment Brow,
>
> (3) The Woodland has an interior core area of 4 ha or larger, measured 100m from the edge, or
>
> (4) The Woodland is wholly or partially within 50m of a major creek or certain headwater creek or within 150m of the escarpment brow.

Section 256.2 of ROPA 38 defines major creek or certain headwater creek as:

> **MAJOR CREEK OR CERTAIN HEADWATER CREEK** means, as it applies to Section 277(4) of this Plan, all *watercourses* within a *Conservation Authority* Regulation Limit as of the date of the adoption of this Plan and those portions of a *watercourse* that extend beyond the limit of the *Conservation Authority* Regulation Limit to connect a *woodland* considered *significant* based on criteria under Section 277(1), 277(2) or 277(3) and/or

wetland feature within the Regional Natural Heritage System. The extent and location of *major creeks or certain headwater creeks* will be updated from time to time by the appropriate *Conservation Authority* and as a result may lead to refinements to the boundaries of *significant woodlands*.

Based on the foregoing definitions, the woodland being assessed must be 0.5 hectares or larger to be considered significant and must meet one (1) of the four (4) criteria listed above in the definition of Significant Woodlands.

The woodland located on the Subject Lands is less than 0.5 hectares. However, the woodland is considered part of the larger Shoreacres Creek woodland that exists north of Upper Middle Road. Given this, the patch size is greater than 2 hectares (Urban Area patch). Given that the woodland is associated with Shoreacres Creek and development has taken place on both sides of the creek, north of Upper Middle Road, the woodland is linear in nature and does not have an interior core area of 4 hectares or larger, measured 100 metres from the edge. Shoreacres Creek is a minor creek system, as defined by CH.

Given that the woodland has been defined as a Significant, it is considered a Key Feature as defined in and discussed in ROPA 38.

Section 115.3 of ROPA 38 states that the RNHS is structured based on:

(1) *Key Features*, which include:

a) *significant* habitat of endangered and threatened species,
b) *significant wetlands*,
c) *significant* coastal wetlands,
d) significant woodlands,
e) *significant* valleylands,
f) *significant* wildlife habitat,
g) *significant* areas of natural and scientific interest,
h) fish habitat,

Key Features that have been identified are shown on Map 1G.

(2) *enhancements to the Key Features* including *Centres for Biodiversity*,
(3) *linkages*,
(4) *buffers*,
(5) *watercourses* that are within a *Conservation Authority* Regulation Limit or that provide a *linkage* to a *wetland* or a *significant woodland*, and
(6) *wetlands* other than those considered *significant* under Section 115.3(1)b).

Section 115.4 of ROPA 38 states that regulated Flood Plains as determined, mapped, and refined from time to time by the appropriate Conservation Authority are part of the RNHS. As such, the two Key Features on the Subject Lands are the Shoreacres Creek regulated floodplain (Section 115.3 (5) of ROPA 38) and a portion of the Significant Woodlands associated with the Shoreacres Creek minor valley system (Section 115.3 1d) of ROPA 38).

The purpose of identifying Key Features within the RNHS (as shown on Map 1G of ROPA 38) is to assist in the implementation of permitted use policies in the RNHS and the requirement for an EIA, as well as to assist the area municipalities in developing detailed implementation policies for the Key Features in accordance with policies of ROPA 38.

Map 1G to ROPA 38 shows certain areas in the Region designated Enhancement Areas, Linkages and Buffers (see **Figure 1** below). These designations do not apply to the Subject Lands.

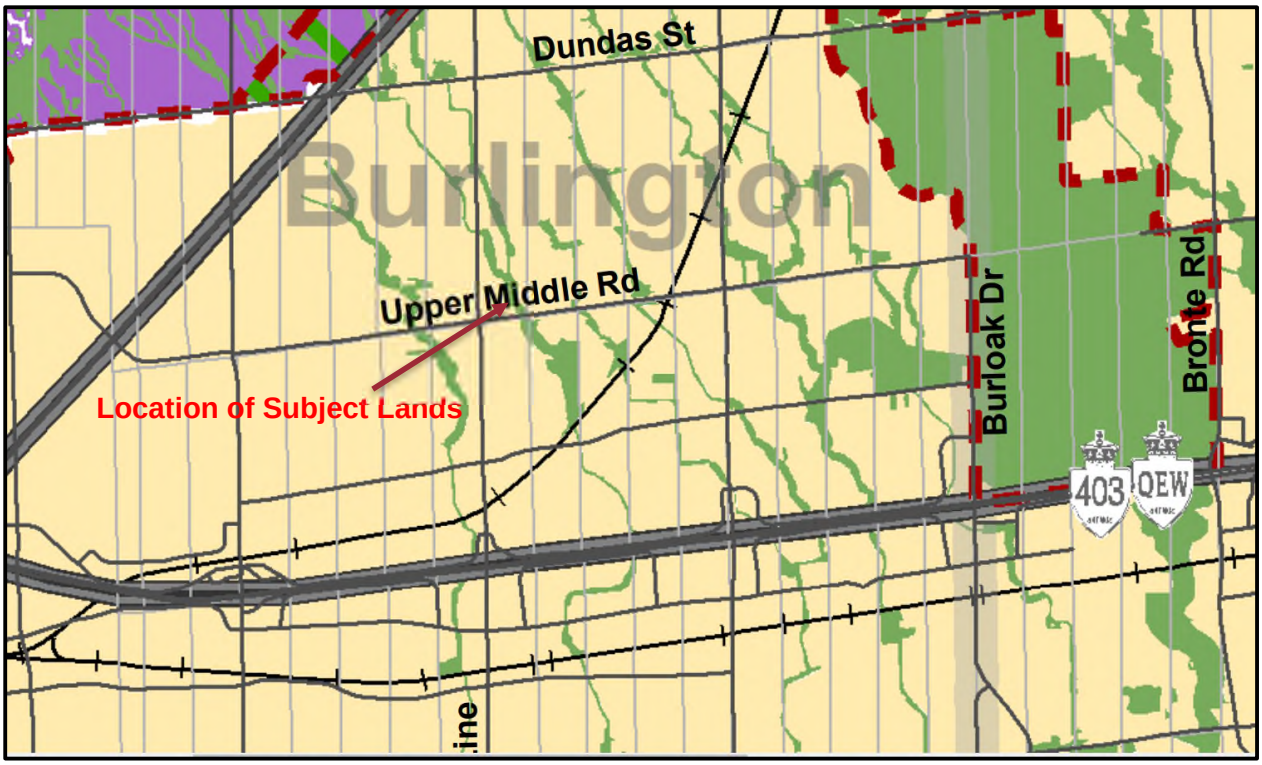


Figure 1: Map 1G to ROPA 38 – Key Features within the Greenbelt and Regional Natural Heritage Systems (June 19, 2018) – Dark Green = Key Features and Light Green = Enhancement Areas, Linkage and Buffers (not shown in Map Extract above)

Section 220.1.1 of ROPA 38 defines Buffer as:

> **BUFFER** means an area of land located adjacent to *Key Features* or *watercourses* and usually bordering lands that are subject to *development* or *site alteration*. The purpose of the *buffer* is to protect the features and *ecological functions* of the Regional Natural Heritage System by mitigating impacts of the proposed *development* or *site alteration*. The extent of the *buffer* and activities that may be permitted within it shall be based on the sensitivity and significance of the *Key Features* and *watercourses* and their contribution to the long term *ecological functions* of the Regional Natural Heritage System as determined through a Sub-watershed Study, an Environmental Impact Assessment or similar studies that examine a sufficiently large area.

Section 201 of ROPA 38 states: "The *Region* will, in conjunction with the Local Municipalities, ensure that consideration be given to the acquisition of the critical parts of the Regional Natural Heritage System through the *development* approval process as permitted by legislation."

Part III, Land Use Designations, Section 114.1 of ROPA 38 contains twenty (20) objectives pertaining to the Natural Heritage System, which includes both the Greenbelt Natural Heritage System and the RNHS. Many of the RNHS objectives relate to maintaining Escarpment features, significant landforms, cultural heritage resources, agriculture, and the protection of rare, threatened or endangered species.

In our opinion, the following three (3) RNHS objectives have been met based given the environmental work undertaken to determine a suitable, safe building area:

(5) To direct *developments* to locations outside *hazard lands.*

(9) To contribute to a continuous natural open space system to provide visual separation of communities and to provide continuous corridors and inter-connections between the *Key Features* and their *ecological functions.*

(17) To preserve the aesthetic character of *natural features*.

Section 116.1 of ROPA 38 states that the boundaries of the RNHS may be refined, with additions, deletions and/or boundary adjustments, through:

a) a Sub-watershed Study accepted by the *Region* and undertaken in the context of an *Area-Specific Plan*;

b) an individual Environmental Impact Assessment accepted by the *Region*, as required by this Plan; or

c) similar studies based on terms of reference accepted by the Region.

Once approved through an approval process under the Planning Act, these refinements are in effect on the date of such approval. The *Region* will maintain mapping showing such refinements and incorporate them as part of the *Region's* statutory review of its Official Plan.

The delineation of the Significant Woodlands located on the Subject Lands will inform any future review of the Halton and City of Burlington Official Plans.

4.3 Signficiant Woodlands and the City's Natural Heritage System

The City of Burlington adopted a new Official Plan in April 2018 which has not yet been approved by the Region of Halton. In the 2018 adopted Official Plan, the City has established new land use designations which include: "City-Wide Green System" (Schedule A); "Natural Heritage System, Major Parks and Open Space" (Schedule B) and "City's Natural Heritage System" (Schedule C). None of these designations are shown on the Subject Lands.

Figure 2 below is an extract from Schedule C to the 2018 adopted Official Plan. The Subject Lands are designated "Residential – High Density", including the woodlands and Shoreacres Creek valley.

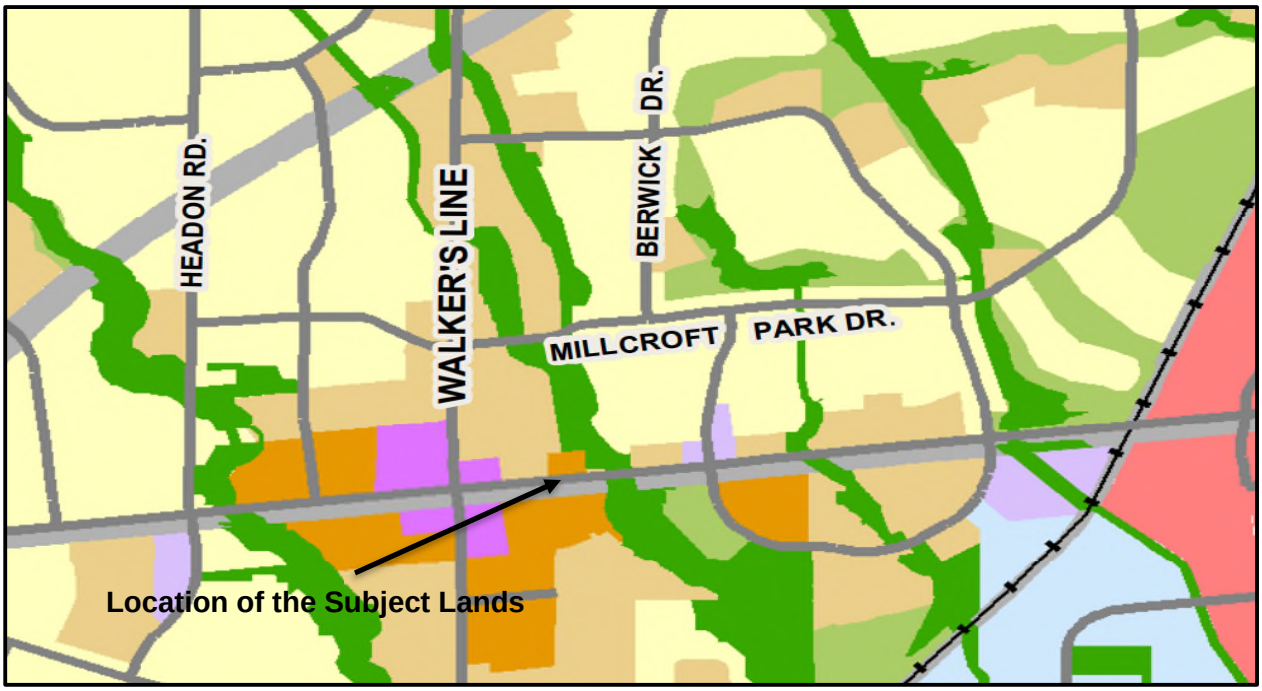


Figure 2: Adopted (not in effect) Burlington Official Plan (April 26, 2018) Schedule C – Land Use – Urban Area – Orange = Residential – High Density; Dark Green = City's Natural Heritage System; Purple = Neighbourhood Centre; Beige = Residential - Medium Density Mixed Use Nodes and Intensification Corridors; Light Grey = Infrastructure and Transportation Corridors (Upper Middle Road)

On Schedule B2 to the adopted 2018 Official Plan, Upper Middle Road is shown as a Candidate Frequent Transit Corridor.

The newly adopted City Official Plan contains the following defintions:

> **Urban Forest** – All trees and associated woody vegetation (e.g. shrubs), within the city. This includes trees in natural areas, as well as trees in more manicured settings such as parks, yards and boulevards. In the City of Burlington, the urban forest encompasses trees in the Urban and Rural Areas and in North Aldershot but is called the "urban" forest because this is the convention that has developed.
>
> **Woodlan**d – Land with at least: one thousand (1000) trees of any size per ha, or seven hundred and fifty (750) trees over five (5) cm in diameter per ha, or five hundred (500) trees over twelve (12) cm in diameter per ha, or two hundred and fifty (250) trees over twenty (20) cm in diameter per ha, but does not include an active cultivated fruit or nut orchard, a Christmas tree plantation, a plantation certified by the Region of Halton, a tree nursery, or a narrow linear strip of trees that defines a laneway or a boundary between fields. For the purposes of this definition, all measurements of the trees are to be taken at 1.37 m from the ground and trees in regenerating fields must have achieved that height to be counted.

The completed EIS for the Subject Lands will inform the completion of the new Burlington Official Plan. The delineated Significant Woodlands should be appropriately designated in the Official Plan to coincide with the Open Space Zone to be approved through the subject rezoning application.

4.4 Significant Woodlands and Conservation Halton Policies

CH has prepared *Policies and Guidelines for the Administration of Ontario Regulation 162/06 and Land Use Planning Policy Document April 27, 2006, updated to February 26, 2015.* Section 4 of this document is titled Conservation Halton Land Use Planning Policies. Subsection 4.6.4, quoted below, references Significant Woodlands policies in the PPS and the Ministry of Natural Resources and Forestry Natural Heritage Reference Manual, which has now been updated to 2010 (2nd Edition).

> 4.6.4 Significant Woodlands
>
> Policies 2.1.4 (b) and 2.1.6 of the Provincial Policy Statement state that development and site alteration shall not be permitted within or adjacent to significant woodlands south and east of the Canadian Shield unless it has been demonstrated that there will be no negative impacts on the natural features or their ecological functions. The Ministry of Natural Resources Natural Heritage Reference Manual (1999) provides parameters for identifying significant woodlands and considers adjacent lands to be within 50 metres. As such, an

> Environmental Impact Study will be required for planning applications within or adjacent to significant woodlands. In keeping with the Provincial Policy Statement, staff will work with watershed municipalities to ensure significant woodlands are identified in Official Plans and zoning by-laws and designated in appropriate Greenlands and Conservation Management zones. In the absence of an up-to-date subwatershed study (approved by Conservation Halton), a minimum 10 metre development and site alteration setback from dripline, to be confirmed through an Environmental Impact Study, will be recommended outside of the Greenbelt Plan Area and the Niagara Escarpment Plan Area. Within the Greenbelt Plan Area and Niagara Escarpment Plan Area a minimum 30 metre vegetated protection zone will be recommended as per the policies of the Greenbelt Plan.

Given that the Subject Lands are located within the Urban Area, based on the policy quoted above, the recommended setback from the dripline is 10 metres. The EIS has recommended that 7.5 metres from the dripline is an appropriate buffer area in the subject location.

4.5 Justification for 7.5 Metre Buffer from Dripline of the Significant Woodland

Based on CH's Policies and Guidelines, a minimum 10 metre setback from the Significant Woodlands dripline is recommended, to be confirmed through an EIS.

ROPA 38 defines 'buffer' as an area of land adjacent to a key feature, typically bordering lands subject to development/redevelopment. The intent of the buffer is to protect the key feature, that is part of the RNHS by mitigating impact. The definition also states that the buffer, and what may be permitted within it, shall be based on the sensitivity and significance of the key feature.

The Ministry of Natural Resources and Forestry Natural Heritage Reference Manual (NHRM) (Second Edition dated March 18, 2010) contains a section on Approaches to Mitigation (13.5.4) with a subsection on buffers. The term buffer is defined in the NHRM as:

> **buffer**: an area or band of permanent vegetation, preferably consisting of native species, located adjacent to a natural heritage feature and usually bordering lands that are subject to development or site alteration. The purpose of the buffer is to protect the feature and its functions by mitigating impacts of the proposed land use and allowing an area for edge phenomena to continue (e.g., allowing space for edge trees and limbs to fall without damaging personal property, area for roots of edge trees to persist, area for cats to hunt without intruding into the feature). The buffer may also provide area for recreational trails and provides a physical separation from new development that will discourage encroachment. (Adapted from a definition in Fisher and Fischenich, 2000, citing Castelle et al., 1994)

The Significant Woodlands on the Subject Lands has been defined by the surveyed tree dripline and a 7.5 metre buffer therefrom. Region of Halton staff has commented that they require justification for the 7.5 metre buffer when a 10-metre setback is recommended.

The NHRM states that the function and benefits of buffers vary with the feature and the proposed adjacent use and that buffers must be determined and rationalized based on their ability to protect natural features.

The Significant Woodlands dripline was established based on the edge trees generally located beyond the physical crest of the slope (top-of-bank). Within the established 7.5 metre buffer there are six (6) trees to be protected (Tree Nos. 1, 2, 47, 49, 50 and 53 shown on the Tree Inventory + Preservation Plan prepared by Reynolds + Associates Landscape Architects).

Trees 1 and 2 are within the area of land to be dedicated for road widening purposes and are Black Pines (native) with crowns of approximately 6.0 metres and 4.5 metres. At the front lot line to be established by the 5 metre-wide road dedication, the proposed fence will be located 7.5 metres from the stable top-of-bank (more restrictive than the dripline in this location), approximately 15.0 metres from the top-of-bank and approximately 11.0 metres from the staked dripline.

At approximately 12.0 metres from the newly established front lot line the surveyed dripline becomes more restrictive than the surveyed stable top-of-bank. At a depth of approximately 5.0 metres, the 7.5 metre offset from the surveyed dripline becomes more restrictive than the 7.5 metre offset from the stable top-of-bank.

The 20-metre wall length facing the proposed Open Space block will lie, at one pinch point a minimum of 0.3 metres from the 7.5 metre dripline buffer (north-east corner of the 20-metre wall) and at the south-east corner of the building, the building wall is 18.5 metres from the 7.5 metre dripline buffer.

The 20-metre building wall is located 10 metres or more from the staked dripline for all but 4 metres of the 20-metre wall. The proposed walkway immediately east of the 20-metre building wall is located 10 metres or more from the staked dripline for all but 8 metres of the wall. The ramp to the parking structure (east side of the tableland) is located between the building wall and the Open Space block and is approximately 1.0 metre from the 7.5 metre dripline buffer and approximately 1.5 metres from the 7.5 metre buffer from the stable top-of-bank.

The 14.0-metre portion of the east building wall is setback 7.5 metres from the north-east corner of the 20-metre wall and will lie between 0.3 metres and 7.5 metres from the 7.5 metre dripline buffer. Therefore, while the vegetated buffer from the dripline remains at a width of 7.5 metres and is fenced, the distance from the building wall to the dripline is greater than 7.5 metres and varies in width. Approximately 7.0 metres of the remainder of the east wall is setback 0.3 metres from the 7.5 metre dripline buffer. The last 4 metre portion of the east wall is setback approximately 9.5 metres from the dripline.

In order to achieve a full 10-metre setback from the “pinch point” of the building to the tree dripline, the building would need to be shifted 2.5 metres to the west, reducing the west internal side yard below 6.0 metres. The developer wishes to maintain the 6.0 metre west side yard given their discussions with the residents of the townhouse dwellings to the west.

The redevelopment project must balance the need to provide a buffer to the Significant Woodlands to the east, and the existing medium-density townhouse development to the west. The 7.5 metre vegetated buffer is sufficient to protect the Significant Woodlands in this urban location. Most of the existing mature trees within the Significant Woodlands are located below the top-of-bank which is located a minimum of 10.0 metres from the building.

Tree 53 is the largest tree inventoried in proximity to the top-of-bank and the intent is to protect the tree and retain it in the 7.5 metre dripline buffer. This Paper Birch is located immediately east of the proposed parking ramp, has a crown of approximately 9.0 metres and is listed in fair condition. Tree 47, to the north of Tree 53, is an American Beech in good condition with a crown of approximately 7.5 metres. Trees 49 and 50 are White Pines, located to the rear of the proposed building envelope, with crowns of approximately 7.5 metres and listed in poor condition but proposed to be protected.

Other mitigation measures proposed, that justify a reduction in the proposed buffer from 10 metres to 7.5 metres, are the proposed fencing, removal of invasive and non native species, the proposed seed mix and plantings within the 7.5 metre buffer (above the top-of-bank and along the stable top-of-bank) and below the top-of-bank, within the woodlands. The invasive species to be removed include buckthorn, Manitoba Maple, periwinkle, and garlic mustard.

As stated in the NHRM, using vegetated protection areas or vegetation protection zones is one of the most widely used mechanisms for buffering any impacts of land use change on adjacent natural features. In some instances, the buffer to be provided is already vegetated and maintained as such. For the Subject Lands, a significant number of additional plantings are proposed in the vicinity of the stable top-of-bank and surveyed dripline to provide a vegetated band adjacent to the Significant Woodlands.

In addition to providing a 7.5 metre buffer from the surveyed tree dripline, the buffer area and the Significant Woodlands will be fenced to prevent access to the woodlands. Given the past disturbances associated with the tableland and urban development surrounding the Shoreacres Creek woodlands, it is reasonable to provide a 7.5 metre vegetated buffer to protect the woodlands which is greater than the 7.5 metre buffer from the stable top-of-bank.

5.0 APRIL 2018 ADOPTED NEW BURLINGTON OFFICIAL PLAN

Burlington's current Official Plan was approved by Halton Region in 2008. On April 26, 2018 Burlington City Council adopted Burlington's new Official Plan. On February 7, 2019 City Council agreed to re-examine the Official Plan policies with the downtown policies being the focus of the re-examination.

The proposed new Official Plan includes:

1. New natural heritage and agricultural systems mapping;

2. A revised urban structure and employment policies to conform to Halton Region's Area of Employment;

3. Modifications to the Downtown Precinct Plan including changes to the Upper Brant Precinct; site specific policies within the Brant Main Street and Downtown Core precincts; the Downtown urban design section and other various minor technical modifications;

4. Revisions throughout the plan to improve clarity, to address Council motions and to address conformity to provincial and regional plans.

Chapter 8 is titled Land Use Policies – Urban Area and Section 8.3 is titled Residential Neighbourhood Areas. Section 8.4 is titled Natural Heritage System, Parks and Open Space.

Subsection 2.4.2 (3) b) of the new Official Plan states:

c) The following opportunities for intensification may be permitted:

(i) development in accordance with the maximum density and/or intensity permitted under the applicable land use designation;

(ii) consents;

(iii) plans of subdivision;

(iv) lands designated Residential-High Density, in accordance with Subsection 8.3.5(1) c); and/or

(v) secondary dwelling units.

Section 8.3.5, Residential-High Density, Subsection 8.3.5(1), Policies states:

a) On lands designated Residential – High Density, ground and non-ground-oriented dwellings including townhouses, street townhouses, stacked townhouses, back-to-back townhouses, stacked back-to-back

townhouses, attached housing and apartments, but excluding single-detached and semi-detached dwellings, may be permitted.

b) On lands designated Residential – High Density, ground or non-ground-oriented dwellings, as specified in Subsection 8.3.5(1) a) of this Plan, may be permitted, with a density ranging between seventy-six (76) and one hundred and eighty-five (185) units per net hectare.

c) Notwithstanding the density range identified in Subsection 8.3.5(1) b) of this Plan, development with a proposed density in excess of one hundred and eighty-five (185) units per net hectare, may be considered by the City through a site-specific Zoning By-law Amendment, without the need for an amendment to this Plan, subject to the fulfillment of the following criteria:

(i) a significant reduction of parking at grade;

(ii) the development should be located within four hundred (400) m of a frequent transit corridor; and

(iii) the development shall conform with all applicable minimum and maximum height requirements as stated in the Zoning By-Law.

d) On lands designated Residential – High Density, the maximum height of development shall be established through the implementing Zoning By-Law.

e) Development on lands designated Residential – High Density should provide a functional outdoor common amenity area at grade level for use by residents.

In the new Official Plan, the Residential – High Density designation is retained on the Subject Lands. This designation is key to meeting the city's intensification objectives. The minimum density for this designation has been increased from 50 units per net hectare to 76 units per net hectare, with the maximum being maintained at 185 units per net hectare. At 160 units per net hectare, the proposed redevelopment is approximately 30 units per net hectare over the mid point between 76 and 185 units per net hectare.

The proposed height of the new building is eight (8) storeys (30 metres). The current high-density zones in the Zoning By-law (RH1 – RH5) permit buildings at six (6) storeys, twelve (12) storeys, eighteen (18) storeys and within the RH5 Zone, no height limitation is stated.

At eight (8) storeys and 160 units per net hectare, the proposed redevelopment effectively implements the current and newly adopted Official Plan (Residential – High Density designation)

with the height being established through the subject rezoning application. The building is stepped to provide increased setbacks from the townhouses to the west. All parking is provided underground and there are a few functional indoor and outdoor amenity areas for use by the residents. The amenity area required by the Zoning By-law is exceeded. Currently, the area of the proposed green roofs has not been included in the amenity area calculation.

While not yet approved, there are no policies within the 2018 adopted Official Plan that affect the high-density use of the Subject Lands.

6.0 DESIGN GUIDELINES FOR MIXED-USE AND RESIDENTIAL MID-RISE BUILDINGS, MARCH 2019

The Mixed-Use and Residential Mid-Rise Building Design Guidelines were approved by City Council on March 25, 2019 and provide guidance for developers and architects designing mid-rise buildings.

The Guidelines were neither in place when the rezoning application was submitted in 2017 nor when the building design was being discussed with city staff throughout 2017, 2018 and the early part of 2019. Comments received from City staff in late 2019 did not refer to the Guidelines.

Mid-rise buildings are those proposed between five (5) and eleven (11) storeys. The objective of the Guidelines is to provide best practices related to building height, massing, transitions, and building articulation to promote and encourage high quality mid-rise buildings. The Guidelines do not determine where mid-rise buildings can be located as this is determined by the Official Plan and Zoning By-law.

The Guidelines discuss the recommended design features of the Lower building and the Upper building. The Lower building represents the first few storeys of a mid-rise building, including the ground floor and any additional floors with a direct relationship to the street and public realm. Generally, the Lower building forms the street wall, sometimes referred to as a podium. The Upper building is designed to fit with and achieve an appropriate relationship with the Lower building, the public realm, and neighbouring properties. The Guidelines also address building facades (bottom, middle and top) which should be designed to ensure a harmonious proportion with the surrounding street wall.

The Subject Lands are not located along a street where there is a continuous street wall which primarily exists in downtown and uptown areas. The main floor and second floor form the bottom portion of the building and contain two (2) levels of parking and the lobby of the building. The Lower building does not contain a mix of uses. The proposed building is a stand-alone residential building with no commercial or residential uses at grade.

The proposed building is located parallel to Upper Middle Road with a major open space area (Significant Woodlands) along the eastern portion of the site. The Significant Woodlands must be retained and are being enhanced to protect the health of the woodlands and to provide an asset to the site, as referenced in the Guidelines.

As stated in the Guidelines, the potential shadowing impacts on neighbouring property and adjacent public spaces has been considered. A revised Sun/Shadow analysis is submitted with this recent resubmission.

The Guidelines also state that in general, a building's form should reflect the existing and planned context in terms of street character (including the planned street function and right-of-way width), land use, and built form.

A few guidelines are quoted below (indented), pertaining to both the Lower building and Upper building, followed by a comment pertaining to the proposed building.

> Where a streetwall is not established, the streetwall for new mid-rise buildings should be limited to a height of 80% of the street width (up to a maximum of 6-storeys) with additional storeys stepping-back a minimum of 3 metres above the streetwall to maintain a human scale and minimize shadowing. On streets with a planned right-of-way width of 26 metres or more, new mid-rise buildings up to 6-storeys do not require an upper building step-back.

In accordance with the Halton Official Plan, the right-of-way width of Upper Middle Road is 35 metres and 80% is 28 metres. For that portion of the front façade up to six (6) storeys, a step back is not required. The maximum height of the building is proposed at 30 metres and does not contain a front wall step back. Given this, the building complies with the intent of the Guidelines.

> In general, the building should not exceed a length of 60.0 metres apart from L-shaped building forms. Longer buildings, approaching and exceeding 60.0 metres, should either be broken up physically or visually using architectural and design elements that sufficiently differentiate the building mass to appear as separate building forms. This should include step-backs, colour and material variations, and unique building articulation.

The proposed building has a width along Upper Middle Road of approximately 27 metres and a maximum building length of 47 metres. The building does include step backs, colour and material variations and unique articulation.

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

Balconies are integrated into the building design and massing and are inset. There are no projecting balconies along the streetwall.

> Stepping back upper level building volumes is encouraged to assist with transitions between neighbouring buildings with lower heights.

Step backs have been incorporated into the building design utilizing an angled wall providing for two (2) green roof features.

> When adjacent to a public space such as a park, the height and massing of the building should ensure a minimum of five consecutive hours of sunlight over more than 60 per cent of the public space at the spring and fall equinoxes (approximately March 21 and September 21, respectively).

The Subject Lands will be adjacent to open space but not accessible to the public. The Sun-Shadow Study prepared, and updated to June 2020, illustrates that there will be a minimum of five (5) consecutive hours of light over more than 60% of the Significant Woodlands at the spring and fall equinoxes.

> Most on-site parking should be provided underground. In general underground or structured parking is encouraged before surface parking.

The on-site parking is provided within a structure (below, at and above grade). Only one (1) loading area is provided outdoors at grade.

> Recess and screen garage doors and service openings from public view. When they face public streets and public or private open spaces design them using high quality doors and finishes that complement the architecture of the building.

The garage doors (two along the front elevation and one along the east elevation) will be of a high quality to complement the architecture of the building.

> The roof of a lower building can be landscaped and used as common and private outdoor amenity area for the residents of a development. Where possible utilize building rooftops as green roofs and/or usable private and shared outdoor amenity areas such as gardens.

The roof of the second storey will be a green roof/private outdoor amenity area. The roof of the seventh floor will also be a green roof.

> Above the streetwall, or the sixth storey for taller buildings, a minimum building separation distance of 20.0 metres should be provided to reduce impacts such as overlook and shadowing.

The minimum distance between the townhouse building to the west and the lower building wall is approximately 13.0 metres and the distance increases to a maximum of 26 metres given the angled building wall.

> Design the upper building to clearly distinguish it from the lower building and to further reduce the upper level building massing. This should include step-backs, colour and material variations, and unique articulation.

The upper building is distinguished from the lower building through a step back and using varied materials.

> The design and placement of upper storeys should be carefully considered to minimize the size of shadows on neighbouring properties. A shadow study should be provided with mid-rise building applications to demonstrate the impacts at the spring and fall equinoxes (approximately March 21 and September 21, respectively).

A shadow study has been provided to demonstrate the length and duration of shadows cast by the building during various times of the day. On March 21st, a shadow is cast on the lands to the north partially impacting the rear yard of one (1) to two (2) townhouse units to the north. However, by 12:30 pm the shadow is cast entirely upon the woodlands to the east. By 3:30 pm the shadow moves towards the front of the building and is cast on the woodlands and a portion of the sidewalk on Upper Middle Road. On June 21st, shadowing does not impact the townhouse dwellings to the north or west and there is minimal shadowing of the woodlands to the east.

The site elements shown on Drawing A2 – Site Plan can be expanded upon at the Site Plan approval stage. The preliminary site plan drawings, including detailed landscape plans are being submitted at the rezoning stage to illustrate how all building elements and landscape treatments have been addressed.

Section 3.1 of the Guidelines address built form transitions. Section 3.1 3) states:

> Where the building is on a site that is transitioning to a low-rise residential neighbourhood area (including properties designated Residential – Low Density and – Medium Density, Natural Heritage System, Parks and Open Space) a 45-degree angular plane should be applied from the shared property line.

During processing of the subject rezoning application, the building was re-designed to incorporate step backs and buffers to mitigate, as much as possible the issues of, shadowing, overlook and privacy, prior to the Guidelines being approved by City Council. We also note that the word “should” is used in the guidelines and not “shall” and that the Guidelines are to be applied on a site-by-site basis.

7.0 OFFICIAL PLAN CRITERIA TO BE CONSIDERED FOR INTENSIFICATION - ESTABLISHED NEIGHBOURHOODS

Part III of the Burlington Official Plan, Land Use Policies, Section 2.0, Residential Areas, Policy 2.2.2 e) states:

> In Residential – High Density areas, either *ground or non-ground-oriented housing units* with a density ranging between 51 and 185 units per *net* hectare *shall* be permitted."

Built form permitted includes street townhouses, stacked townhouses, back to back townhouses, attached housing and apartments.

Objectives of the Official Plan encourage the integration of a wide range of housing types and tenure and discourage large concentrations of higher density residential blocks. There is currently not a large concentration of high-density residential blocks on the north side of Upper Middle Road, east of Walkers Line.

The Official Plan also encourages the re-development of under-utilized residential lands where appropriate at the periphery of existing residential neighbourhoods for non-ground-oriented housing purposes. The Subject Lands are located at the periphery of the Millcroft Community/Neighbourhood, adjacent to a Regional Minor Arterial Road (Upper Middle Road).

As per Part III, Section 2.5, Housing Intensification, when evaluating proposals for housing intensification within established neighbourhoods, the following criteria must be considered. Each criterion is quoted below (indented) followed by a response.

(i) adequate municipal services to accommodate the increased demands are provided, including such services as water, wastewater and storm sewers, school accommodation and parkland;

There are adequate municipal services to accommodate 32 residential units, including water, wastewater, storm sewers, schools, and parkland. Servicing has been addressed in the Functional Servicing Report, including stormwater management and school and parks are available within the subject area.

(ii) off-street parking is adequate;

Off-street parking is, in our opinion, adequate. The Zoning By-law requires 59 parking spaces whereas 57 spaces can be provided.

(iii) the capacity of the municipal transportation system can accommodate any increased traffic flows, and the orientation of ingress and egress and potential increased traffic volumes to multi-purpose, minor and major arterial roads, and collector streets rather than local residential streets;

The municipal transportation system (Upper Middle Road, Walker's Line and Appleby Line) can accommodate increased traffic, as indicated in the Transportation Impact Study prepared by Paradigm Transportation Solutions Limited, updated to December 2018. Upper Middle Road is a Minor Arterial Road and 5.0 metres of road widening will be dedicated to the Region of Halton for future road widening.

(iv) the proposal is in proximity to existing or future transit facilities;

Burlington Transit Route 12 travels between the Burlington GO Station and the Burlington North Smart Centre, with stops at Upper Middle Road and Walkers Line and Upper Middle Road and Appleby Line every half hour. The 2018 adopted Burlington Official Plan has identified this portion of Upper Middle Road as a Candidate Frequent Transit Corridor.

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

The Subject Lands are part of, but at the periphery of the Millcroft Community. Except for the Subject Lands, the lands currently designated Residential – High Density contain townhouses and stacked townhouses and have been shown as Residential – Medium Density in the 2018 adopted Official Plan. To the east of Shoreacres Creek are single-detached dwellings located on Waterbridge Drive.

The design of the building has evolved over time and the proposed eight (8) storey building is located 6.0 metres from the shared property line to the west. The massing and scale of the proposed building are different from the townhouse blocks and stacked townhouses in the immediate area, but in our opinion are compatible therewith. The proposed minimum distance between the townhouse block to the west and the west wall of the proposed building is approximately 13.0 metres.

The north wall of the proposed building is located a maximum of 6.7 metres from the north property line and a minimum of approximately 3.1 metres based on the portion of the building required to accommodate functional components of the building. The wall setback a minimum of 3.1 metres from the north property line does not contain any windows or balconies. Immediately to the north of the north property line there is the drive aisle and parking area associated with the townhouse development.

The transition between the existing townhouses and the proposed new eight (8) storey building has been established through the provisions of green roofs, allowing for building step backs and the reduction of balconies on the west elevation of the building to eliminate overlook and privacy issues to the greatest extent possible.

(vi) effects on existing vegetation are minimized, and appropriate compensation is provided for significant loss of vegetation, if necessary, to assist in maintaining neighbourhood character.

The proposed building will be located adjacent to the woodlands, which includes a buffer area of 7.5 metres which will be planted. The rear yards of single-detached dwellings on the opposite side of the creek back directly on the Shoreacres Creek ravine.

No trees will be removed from the Significant Woodlands, other than non-native species that are affecting the health of the native woodland. Additional plantings will occur within the 7.5 metre buffer from the dripline of the woodlands (vegetation protection zone) and along the upper slope of the ravine. Trees will be removed to accommodate the building envelope. A tree compensation plan is proposed which will enhance the character of the area.

(vii) significant sun-shadowing for extended periods on adjacent properties, particularly outdoor amenity areas, is at an acceptable level;

(viii) accessibility exists to community services and other neighbourhood conveniences such as community centres, neighbourhood shopping centres and health care;

The townhouse dwellings to west are not impacted by shadows. Any shadows cast on the townhouse block to the north is limited for the outdoor amenity areas and not for extended periods of time.

There are numerous service commercial and retail commercial uses in the vicinity of the intersection of Upper Middle Road and Walkers Line. The Tansley Woods Community Centre and park is near the Subject Lands. Accessibility exists to community services and other neighbourhood conveniences.

(ix) capability exists to provide adequate buffering and other measures to minimize any identified impacts;

The capability exists to provide adequate buffering to minimize identified impacts. The preparation of an EIS and consultation with both the Region of Halton and CH has ensured that the proposed building is located outside of the hazard area associated with Shoreacres Creek. Sufficient land area, outside of identified hazards is available to accommodate the modest, 32-unit building which represents both intensification and infill.

To increase the setback of the proposed building from the townhouse blocks to the west, a minimum 0 metre setback is proposed from the proposed Open Space (O2) Zone. The setback, however, varies along the established zone boundary and is not 0 metre along the entire length of the east building wall (as discussed above in subsection 4.5 of this report).

(x) where intensification potential exists on more than one adjacent property, any re-development proposals on an individual property shall demonstrate that future re-development on adjacent properties will not be compromised, and this may require the submission of a tertiary plan, where appropriate;

Intensification potential does not exist on adjacent properties.

(xi) natural and cultural heritage features and areas of natural hazard are protected;

The preparation of an EIS and addendums thereto, have provided the necessary information to ensure that the building is appropriately located away from the natural hazards associated with Shoreacres Creek.

(xii) where applicable, there is consideration of the policies of Part II, Subsection 2.11.3, g) and m); and

Subsection 2.11 of the Official Plan pertains to Storm Water Management and Subsection 2.11.3 g) pertains to the dedication of regulatory floodplain, which is being provided. Subsection 2.11.3 m) applies to lands in South Aldershot and not the Subject Lands.

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

The Subject Lands are located at the periphery of the existing neighbourhood and along a Minor Arterial Road. In our opinion, the built form, scale, and profile of the proposed building respects the existing development and provides an appropriate transition. The massing of the eight (8) storey height has been modified, particularly along the west boundary to take into consideration the height and layout of the townhouse blocks to the west and north.

8.0 JUSTIFICATION FOR SITE-SPECIFIC MODIFICATIONS TO THE RH3 ZONE REGULATIONS

Below is Table 2.14.1 taken from Zoning By-law 2020, as revised.

Table 2.14.1

Regulation	Apartment Building, Stacked Townhouse, Retirement Home				
	RH1	**RH2**	**RH3**	**RH4**	**RH5**
Lot Width	30 m	45 m	30 m	45 m	45 m
Lot Area	0.2 ha	0.2 ha	0.1 ha	0.2 ha	0.2 ha
Front Yard and Street Side Yard	7.5 m	(a)	6 m maximum	(a)	(a)
Rear Yard	9 m	(b)	7.5 m	(b)	(b)
Side Yard	4.5 m	(b)	3 m	(b)	(b)
Yard abutting R1, R2, R3 zone	15 m	(c)	* * *	(c)	(c)
Density (excluding Retirement Home)	(d)	(e)	50 u/ha minimum 185 u/ha maximum	(f)	50 u/ha minimum 185 u/ha maximum
Floor Area Ratio (Retirement Home)	1.25:1 maximum	1.25:1 maximum	1.25:1 maximum	1.25:1 maximum	1.25:1 maximum
Building Height (maximum)	6 storeys (g)	18 storeys (g)	24 m (g)	12 storeys (g)	no maximum (g)
Amenity Area	25 m^2 per bedroom; 15 m^2 per efficiency	25 %	25 m^2 per unit 100 m^2 minimum	25 m^2 per bedroom; 15 m^2 per efficiency	25 m^2 per bedroom; 15 m^2 per efficiency **(Table continued)**

Yard Abutting **Pipeline Easement:** **Railway right-of-way:** **Building setback abutting a creek block:**	7 m 30 m 7.5 m, 4.5 m if block includes a 3 m buffer

Footnotes to Table 2.14.1

a) 7.5 m plus 1 m for each storey above 6 storeys to a maximum of 15 m
Abutting North Shore Boulevard the minimum yard shall be 15 m

b)

Yard	Building wall 30 m or less in length	Building wall exceeding 30 m in length
Buildings Up to 6 Storeys	7.5 m	7.5 m plus 1 m for each 5 m wall length exceeds 30 m
Buildings Over 6 Storeys	1/2 the height of the building	1/2 the height of the building plus 1 m for each 5 m wall length exceeds 30 m

Source: Zoning By-law 2020, City of Burlington

The proposed zone category selected for the proposed redevelopment is the RH3 Zone. The RH3 Zone permits six (6) storeys with a density of up to a maximum of 185 units per net hectare.

The proposed modifications to the standard RH3 Zone provisions are shown in the Table below.

Regulations for Apartment Building Use in a RH3 Zone, from Table 2.14.1, Part 2 – Residential Zones of Zoning By-law 2020, As Amended

RH3 Zone

	Required	Provided	Compliance
Regulation			
Lot Width	30 metres	56.04 metres	Yes
Lot Area	0.1 ha	0.204 ha	Yes
Front Yard	6.0 metre maximum	Minimum 6.4 metres Maximum 8.0 metres	**No** – exceeds maximum
Rear Yard	7.5 metres	Minimum – 3.17 metres Maximum 5.83 metres	**No**
Side Yard	3.0 metres	6.0 metres (west side yard for Floors 1 and 2) increasing to 13.0 metres for Floors 3-7 and to13.0 metres for 8th Floor 0 metres (east side yard abutting proposed O2 Zone)	Yes **No**
Yard abutting R1, R2, R3 Zone	N/A	N/A	N/A
Density	Minimum – 50 units per ha Maximum 185 units/ha	Density is 160 units per hectare	Yes
Maximum Building Height	24 metres	8 storeys - 30 metres	**No** – 2 additional storeys and 6 additional metres
Amenity Area	25 m^2 per unit 100 m^2 minimum	25 sq. m. per unit = 800 sq. m. required. 876.12 m2 provided (not including 279.6 m2 of green roof)	Yes
Building Setback Abutting a Creek Block	7.5 metres; 4.5 metres if the block includes a 3 metre buffer	0 metres	**No** – Creek Block to be rezoned O2 Zone includes a 7.5 metre buffer
Landscape Area	6 metres abutting a street having a deemed width greater than 26 metres	0 metres	**No** - given 5 metre road widening dedication, 6.0 metre front yard is paved for access to parking and the building.
Landscape Buffer	3 metres abutting RM1 to RM5 Zones (Lands to the north	3 metre Landscape Buffer along the north lot line and west lot line	Yes

	and west are zoned RM3-192)		
Parking	1.5 spaces per 2-bedroom unit - 32 x 1.5 = 48 0.35 visitor parking spaces x 32 units = 11.2 parking spaces Total - 59	Total – 57 Nine (9) parking spaces may be 2.75 m x 5.5 m	**No** – total of 57 parking spaces to be provided - 2 parking space deficit
Setback of Parking Ramp from Street Line	7.5 metres	Minimum of 0 metres for ramp to Lower Level Parking; 6.0 metres to ramp to Main Level and Second Level Parking	**No**
Enclosed Occupant Parking	75% of all required occupant parking	100% of all required occupant parking	Yes – required occupant parking for 32 units is 48 spaces
Outside Storage	Waste stored outside shall be kept within a solid screen enclosure	Waste to be stored inside the building	Yes
Designated Accessible Parking Spaces for Required Parking between 51-90 spaces	2 designated accessible parking spaces Each designated accessible parking space shall meet the minimum width and area requirements of subsection (1) (a) (2.75 m in width and 16.5 sq. m. in area) and shall be located adjacent to a delineated “accessible parking pathway” with a minimum width of 2.0 metres	2 designated accessible parking spaces as per the Zoning By-law	Yes
Bicycle Parking	Not required for Residential	4 outdoor bicycle parking spaces (short term) 12 indoor bicycle racks (long term)	Yes

Landscape Area and Landscape Buffer are defined in Zoning By-law 2020 as:

> **Landscape Area** - An area of land within a lot dedicated to the planting of trees, shrubs, flower beds, or a combination thereof and which may include other decorative landscape features. A Landscape Area may be crossed by a driveway or walkway provided it is substantially perpendicular to the Landscape Area. A ground sign may be located within a Landscape Area. A Landscape Buffer may be included in the calculation of Landscape Area.
>
> **Landscape Buffer** - The area of a lot which serves to provide separation and to partially obstruct the view of adjacent land uses by means of a dense landscape screen consisting of evergreen trees or a combination of solid screen fencing with evergreen or deciduous trees, shrubs, or berms.

Initially, the proposed zone category for the planned high-density redevelopment was the Residential – High Density (RH5) Zone which permits a maximum density of 185 units per hectare, with no height limitation.

Given the requirement to delineate the adjacent Significant Woodlands and to establish an appropriate buffer from the tree dripline, the area remaining for redevelopment is approximately 0.2 hectares, which is the minimum lot area requirement for the RH5 Zone. The RH5 Zone requires side yards and a rear yard based on the length of the perpendicular building wall and the height of the building. Based on this formula, the required side yard would be approximately 17 metres and the required rear yard would be approximately 15 metres. These yards cannot be achieved on the Subject Lands, and are, in our opinion, excessive for a 32-unit apartment building, eight (8) storey building. Also, there are currently few properties in the City zoned RH5, and in our opinion, this category should be reserved for larger and taller buildings with significant outdoor amenity areas that can be accommodated in the required yards.

The RH3 Zone requires a 3.0 metre side yard, whereas the proposed redevelopment will have a minimum west side yard of 6.0 metres.

The 0 metre east side yard (in fact 0.3 metres to account for the proposed shoring) is a minimum located at a pinch point along the east building wall adjacent to the 7.5 metre buffer. Mitigation measures associated with the buffer and the location of the shoring and building wall are discussed in the EIS and in pertinent documentation provided herein and prepared by Soil-Mat. The context of the 0 metre setback from the buffer area is also discussed in subsection 4.5 of this report.

As an added justification for the 0 metre setback, GSP Group requested that Soil-Mat advise in writing that they had no concerns with the location of the building in relation to the stable top-of-bank. In correspondence dated February 18, 2020, Soil-Mat advised:

> It is understood that the proposed development will include the construction of an eight storey apartment building with one underground level. Our slope stability assessment report indicated a top of stable slope location up to approximately 2.5 to 4.6 metres from the physical crest at the north and south ends of the site, respectively, and approximately coincident with the physical crest of the slope in the middle portion. The site plan provided to our office indicates the building will be located 7.5 metres or more from the top of stable slope location to accommodate the O2 setback. It is our opinion that construction at or 'uphill' of the top of stable slope line would have no negative impact on the stability of the slope. As such, with the proposed building 7.5 metres or more 'uphill' of the top of stable slope [it] would not be expected to have a negative impact on the stability of the subject slope.
>
> [Extract from letter dated February 18, 2020 signed and stamped by Kyle Richardson, P. Eng., Soil-Mat Engineers & Consultants Ltd.] The full letter is provided with the June 2020 resubmission.

All development, grading, structures, pavement, etc. and related disturbance will be located outside of the CH regulated area and the O2 Zone boundary. The 0 metre building setback can be feasibly achieved and construction can and will be completed without causing disturbance to the regulated area, the vegetated buffer, or the Significant Woodlands. The Erosion and Sediment Control fencing, shown on the drawings, is located outside of both the regulated area and the limit of the proposed O2 Zone.

The required rear yard is 7.5 metres. The main rear building wall, containing windows and balconies is setback 5.8 metres and 6.7 metres from the rear lot line and is separated from the townhouse dwellings by a drive aisle. Most of the rear building wall faces woodlands and a parking area associated with the townhouse units. One (1) or two (2) townhouse units, currently with a view to Upper Middle Road, will have a direct view of a portion of the rear yard and rear building wall. The minimum rear yard setback is approximately 3.0 metres to accommodate a required feature of the parking structure (hammerhead-type feature).

Planting and fencing are proposed along the rear lot line to mitigate the reduction in the rear yard. The Landscape Master Plan (Drawing No. L.2) shows a generous planting plan along the west side lot line and the rear lot line to provide for privacy and screening. The two blocks of townhouses to the west will be located approximately 13.0 metres from the first two (2) floors of the proposed building.

Access to future garage doors and the proposed loading area are located at the front of the proposed building. Vehicle noise and lights will not impact the townhouses to the west or to the north.

A 0 metre landscape area is proposed along the front property line. The landscaped area on the Subject Lands cannot be accommodated primarily given the requirement to convey 5.0 metres of

land for road widening purposes. Hard surfaces (pedestrian and vehicle entrances) occupy much of the front yard preventing the ability to provide landscaping. The future Site Plan can address other types of landscaping (greening) that may be appropriate within large pots or containers.

1.85 parking spaces per unit are required which equates to 59 parking spaces. 57 parking spaces are located within the parking structure. Recent revisions to the building design, to accommodate the shoring has resulted in a revision to the building footprint such that nine (9) of the 57 parking spaces are less than 16.5 square metres at 15.125 square metres (2.75 metres x 5.5 metres). These smaller parking spaces will be reserved for those residents with compact or small cars.

We note that other municipalities define a standard vehicle parking space at 2.5 metres x 5.5 metres, with an increase in width to 2.7 metres adjacent to a wall or column. A small car space is 2.3 metres x 4.6 metres and increased to a width of 2.6 metres if adjacent to a wall or column.

In our opinion, it is preferable to provide nine (9) smaller parking spaces, at 2.75 metres x 5.5 metres than potentially reducing the aisle width or further reducing the number of parking spaces provided. It is the length of the parking spaces that has been reduced from 6.0 metres to 5.5 metres to accommodate smaller vehicles.

9.0 SUMMARY AND CONCLUSIONS

As noted above, this Supplemental Planning Justification has been prepared to address changes to policy or changes to the building design that have occurred since the October 2019 Planning Justification Report, prepared by Corbett Land Strategies Inc., was submitted to the City. This report provides further discussion regarding provincial policies and environmental policies, including a reference to the 2018 adopted Burlington Official Plan.

The 2020 PPS took effect on May 1, 2020 and revisions to the PPS, as they pertain to the proposed redevelopment are discussed in this report.

The ‘parent’ EIS was submitted to the City in 2017 and since that time a few addenda and documentation, responding to circulation comments, have been prepared. This report provides an overview of the EIS process to date and references the Final 2020 EIS that has been consolidated for this June 2020 resubmission. This report contains further discussion and justification for the 7.5 metre buffer from the Significant Woodlands dripline along the east portion of the Subject Lands. If there are any remaining discrepancies between the tree inventory in the 2020 EIS (originally prepared in 2015) and the 2020 Tree Inventory and Preservation Plan (TIPP) prepared by Reynolds and Associates Landscape Architects, the TIPP takes precedence.

While the newly adopted Burlington Official Plan is not in effect, this report outlines the new policies pertaining to the Residential – High Density land use designation and the new Natural

Heritage designations. The Regional Natural Heritage System designation and policies in the Halton Official plan are approved and are the policies that guide the proposed rezoning.

As our review of the proposed redevelopment proceeded, it was apparent that the proposed RH5 Zone (highest of the high-density zones in the Zoning By-law) was not the most appropriate zone for the proposed mid-rise building with 32 units. After corresponding with City staff, it was agreed that the RH3 category was a better fit and the application is therefore revised to request the RH3 Zone, with site-specific modifications. Justification for the 0-metre setback for a small portion of the east wall of the proposed building and justification for other proposed modifications to the standard RH3 Zone provisions is also contained in this report.

A revised Draft Zoning By-law Amendment replaces the draft contained in Appendix A to the 2019 PJR prepared by Corbett Land Strategies Inc. and is attached to this report as Appendix A. Appendices B, C and D contain a summary of the process to date, the reasons for certain addenda to the EIS and responses to public comments received in 2017.

We concur with the findings of the 2019 PJR prepared by Corbett Land Strategies Inc., revised to October 2019. The proposal to redevelop the Subject Lands with an eight (8) storey condominium apartment building, 32 units and all parking within a parking structure represents good planning and should be approved for the following reasons.

1. The proposed Zoning By-law Amendment is consistent with the relevant policies of the 2020 Provincial Policy Statement.

2. The proposed Zoning By-law Amendment conforms to the relevant policies of the Growth Plan for the Greater Golden Horseshoe, A Place to Grow 2019.

3. The proposed Zoning By-law Amendment conforms to the policies within the Region of Halton Official Plan (ROPA 38).

4. The proposed Zoning By-law Amendment conforms to the Residential – High Density land use designation policies in the Burlington Official Plan.

5. The proposed development adds to the availability of housing choice within an existing neighbourhood and is effectively served by existing transit and community services.

6. The proposed scale and height of the new residential building located on a Minor Arterial Road (Upper Middle Road) has been planned to effectively integrate with surrounding development at the periphery of the neighbourhood.

7. The proposed development will result in increased protections to the Significant Woodlands associated with the Shoreacres Creek minor valley system through the provision of a well vegetated buffer, fencing and a woodlot planting plan to remove non-native species and augment the woodlands with native species.

Respectively,
GSP Group Inc.



Nancy Frieday, MCIP, RPP
Senior Planner

APPENDIX A

DRAFT

BY-LAW NUMBER 2020.XXX, SCHEDULE 'A' AND 'B' AND EXPLANATORY NOTE

THE CORPORATION OF THE CITY OF BURLINGTON

BY-LAW NUMBER 2020.XXX

A By-law to amend By-law 2020, as amended

4063 Upper Middle Road

File No.: 520-03/17

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 Council of the Corporation of the City of Burlington approved Recommendation PB-xx-20 on_____2020, to amend the City's existing Zoning By-law 2020, as amended, to permit an eight (8) storey apartment building at 4063 Upper Middle Road, east of Walker's Line.

THE COUNCIL OF THE CORPORATION OF THE CITY OF BURLINGTON HEREBY ENACTS AS FOLLOWS:

1. Zoning Map Number ___ of PART __ to By-law 2020, as amended, is hereby amended as shown on Schedule 'A' and Schedule 'B' attached to this By-law.

2. The lands designated as Area 'A' on Schedule 'A' and Schedule 'B' attached hereto are hereby rezoned from D to O2.

3. The land designated as Area 'B' on Schedule 'A' and Schedule 'B' attached hereto are hereby rezoned from D to RH3 xxx.

4. PART 14 of By-law 2020, as amended, Exceptions to Zone Classifications, is amended by adding Exception xxx as follows:

Exception No. ____	**Zone Provisions**
Lot Width	56 metres
Lot Area	0.20 ha
Front Yard	Minimum 6.0 metres Maximum 8.0 metres
Rear Yard	Minimum 3.0 metres Maximum 6.7 metres
Side Yard	West Side Yard: 6.0 metres - Floors 1 and 2 6.0 – 13.0 metres Floors 3-7 and 13.0 metres Floor 8 East Side Yard: 0 metres
Density	Density is 160 units per hectare
Maximum Building Height	8 storeys - 30 metres
Amenity Area	876 sq. m. (not including 279 sq. m. of green roof)
Building Setback Abutting a Creek Block	Minimum 0 metres
Landscape Area	0 metres
Landscape Buffer	North Lot Line - 3 metres West Lot Line – 3 metres
Parking	Total – 57 vehicle spaces and one (1) loading space Nine (9) parking spaces may be 2.75 m x 5.5 m
Setback of Parking Ramp from Street Line	Minimum of 0 metres for ramp to Lower Level Parking; 6.0 metres to ramp to Main Level and Second Level Parking
Enclosed Occupant Parking	100% of all required occupant parking
Outside Storage	Waste to be stored inside the building
Designated Accessible Parking Spaces	Two (2) designated accessible parking spaces
Bicycle Parking	12 indoor bicycle racks (long term) 4 outdoor bicycle parking spaces (short term)

RH3 Zone – Exception No. ____

5. When no notice of appeal is filed pursuant to the provisions of the Planning Act, R.S.O. 1990, c.P.13, as amended, this By-law shall be deemed to have come into force on the day it was passed.

6. If one or more appeals are filed pursuant to the provisions of the Planning Act, as amended, this By-law does not come into force until all appeals have been finally disposed of, and except for such parts as are repealed or amended in accordance with an order of the Local Planning Appeal Tribunal this By-law shall be deemed to have come into force on the day it was passed.

ENACTED AND PASSED this …….. day of …… 2020.

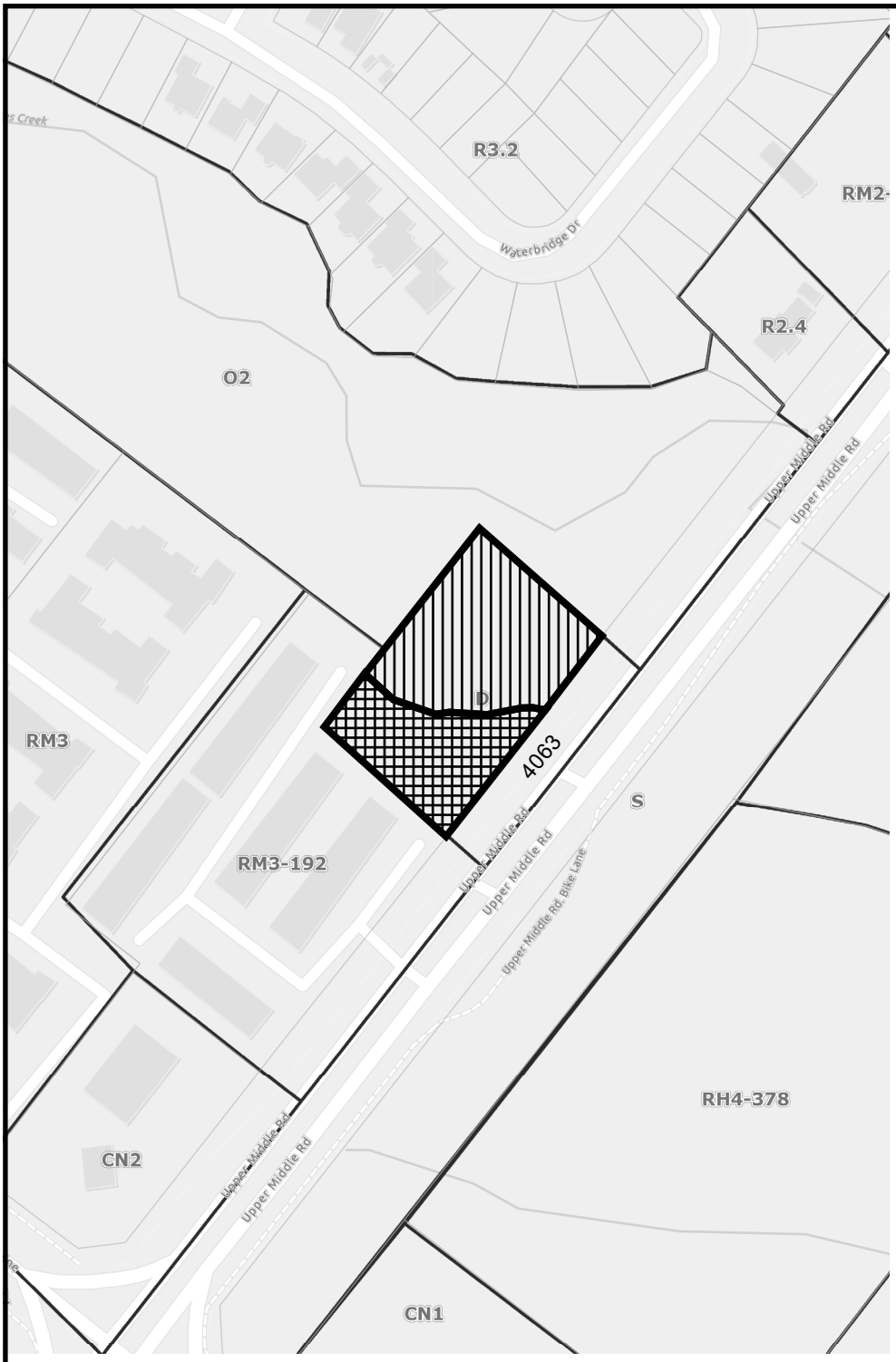
_____ **MAYOR**

_____ **CITY CLERK**

EXPLANATION OF PURPOSE AND EFFECT OF BY-LAW 2020.XXX

By-law 2020.XXX rezones 4063 Upper Middle Road from the D Development Zone to the O2 Open Space Zone and the Residential High Density RH3 Zone to permit an eight (8) storey, 32-unit residential apartment building (condominium).

SCHEDULE ‘A’ to ZONING BY-LAW 2020



AREA ‘A’
to be rezoned from D to O2

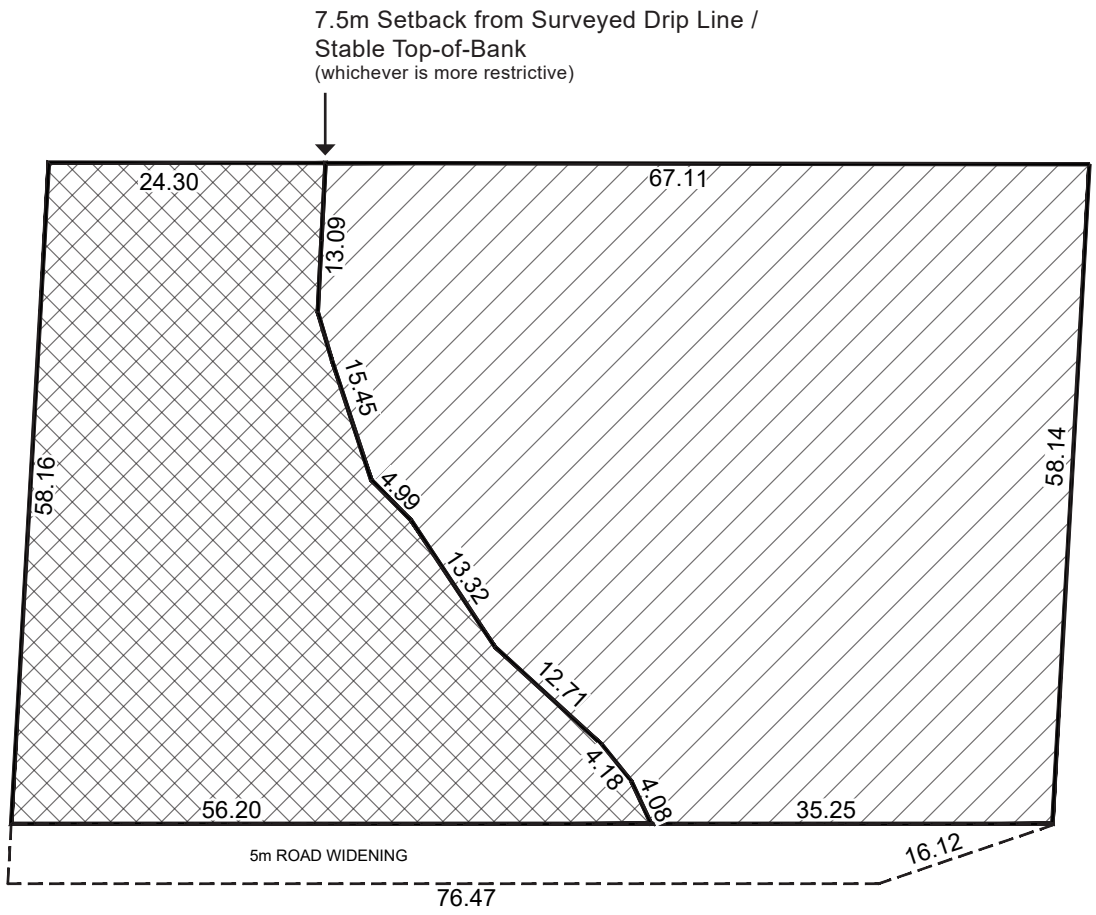
AREA ‘B’
to be rezoned from D to RH3

SCHEDULE ‘A’ TO BY-LAW 2020-___
AMENDING MAP NO. ____ BY-LAW 2020 AS AMENDED
PASSED THE DAY OF

MAYOR

CITY CLERK

SCHEDULE ‘B’ to ZONING BY-LAW 2020



AREA ‘A’ (3277.7m^2)
to be rezoned from
D to O2

AREA ‘B’ (2024.8m^2)
to be rezoned from
D to RH3

SCHEDULE ‘B’ TO BY-LAW 2020-___
AMENDING MAP NO. ____ BY-LAW 2020 AS AMENDED
PASSED THE DAY OF

MAYOR

CITY CLERK

APPENDIX B

SUMMARY OF 2017 REZONING APPLICATION AND SUBSEQUENT RESUBMISSIONS

March 2017 - Initial Application

The Zoning By-law Amendment application was initially submitted in March 2017 and assigned City File Number 520-03/17. The proposal included a seven (7) storey building with 32 units and 58 parking spaces. The supporting materials submitted with the application included:

1. Planning Justification Report (PJR) dated March 2017 and prepared by Corbett Land Strategies.

2. Functional Servicing Report (FSR) dated January 2017 prepared by S. Llewellyn & Associates Limited, Consulting Engineers.

3. Preliminary Site Servicing Plan and Preliminary Grading & Erosion Control Plan dated January 3, 2017 and prepared by S. Llewellyn & Associates Limited, Consulting Engineers.

4. Traffic Impact Study (TIS) dated December 2016 prepared by Paradigm Transportation Solutions Limited.

5. Environmental Noise Impact Study (ENIS) dated February 2017 prepared by dBA Acoustical Consultants Inc.

6. Geotechnical Investigation dated May 16, 2013 prepared by Soil-Mat Engineers & Consultants Ltd.

7. Sun Shadow Study dated February 2017 prepared by KME Geospatial Consulting.

8. Environmental Impact Study (EIS) and Tree Inventory and Preservation Study (TIPS) dated September 30, 2016 prepared by Premier Environmental Services Inc.

9. Preliminary Site Plan Drawing A1 dated March 8, 2017 prepared by think Giraffe, Environmental Design.

The rezoning application was circulated by the City with all comments received forwarded to the applicants.

A Neighbourhood Meeting was held on June 17, 2017 at the Tansley Woods Community Centre. A Statutory Public Meeting was held on November 6, 2017 and City staff prepared a Statutory Public Meeting and Information Report (PB-41-17) for the meeting. Public Comments were included in Appendix II to the staff report.

On February 15 2018 the City hosted an Open House at the Tansley Woods Community Centre and invited the submission of written comments by March 1, 2018.

June 2018 - Second Submission

In June 2018 the applicants submitted revised documents to support an eight (8) storey residential building, still with 32 units. The west side yard was increased from 4.5 metres to 6.0 metres in response to comments made by the abutting residents to the west. Revisions to the design of the building were discussed with City staff to further increase the compatibility of the building with the surrounding development.

Both the Environmental Impact Study (EIS) and the Sun Shadow Study were updated to reflect a proposed eight (8) storey building (previously seven (7) storeys).

There were a number of comments made by Conservation Halton (CH) on the EIS and TIPS. Further, comments from City staff resulted in the preparation and submission of a Preliminary Conceptual Landscape Master Plan dated March 2018 and prepared by Reynolds + Associates Landscape Architects.

Prior to the initial submission in 2017, CH provided technical review comments on the 2016 EIS and TIPS and the document was updated to February 2017 and formally submitted with the rezoning application.

On June 17, 2017, CH provided additional comments on the 2017 EIS and TIPS and Premier Environmental Services (Premier) was requested to prepare a response to each comment. A response letter dated January 17, 2018 (41 pages in length) was prepared and submitted to the City Region and CH. The January 17, 2018 letter was considered by Premier as the first addendum to the February 2017 EIS and TIPS.

The June 2018 resubmission also included a Slope Stability Assessment dated September 27, 2017 prepared by Soil-Mat Engineers & Consultants Ltd.

Historically, the top-of-bank was originally established by CH staff on October 12, 2012 and April 26, 2013. The tree dripline was established on July 16, 2015 with Region of Halton staff. On July 18, 2017 Halton staff established the dripline of the woodlands (Significant Woodlands) and it was subsequently surveyed. On August 31, 2017 CH re-confirmed the top-of-bank (marked with orange flags and later surveyed).

Following the re-confirmation of the top-of-bank (physical top-of-bank) the Slope Stability Assessment was undertaken by Soil-Mat. The report concludes:

> Applying the erosion allowance and stable slope inclination from the 'toe' of the slope provides for a conservation long term top of stable slope location coincidental with the physical crest at Profile B-B, and approximately 2.5 and 4.6 metres 'uphill' from the physical crest, at profile A-A and C-C, respectively. The top of stable slope line across the property should be interpolated by these 3 points, linearly approaching the physical crest at B-B from both A-A and C-C.

The slope profile locations are now shown on all drawings. The boundary of the lands to be rezoned Open Space (O2), to recognize and protect the Significant Woodlands, is based on a distance of 7.5 metres from the stable top-of-bank or the dripline, whichever provides the greatest protection. For the majority of the Subject Lands, particularly adjacent to the building envelope, the more restrictive line is 7.5 metres from the dripline, which becomes known as the 'buffer area' yet still considered part of the Significant Woodlands natural heritage feature.

January 2019 – Third Submission

The previous single detached dwelling had a semi-circular driveway with two (2) access points to/from Upper Middle Road. These accesses were retained on the Preliminary Site Plan drawing until January 2019. The Region of Halton advised that only one access to Upper Middle Road (Minor Arterial Regional Road) was permitted and the one driveway access became the most easterly driveway.

Following circulation comments received from the June 2018 resubmission, the Functional Servicing Report (FSR) was revised to August 2018, the PJR was updated to January 2019 and the TIS was updated to December 2018 to reflect the eight (8) storey building.

In additional to the Landscape Master Plan, Reynolds + Associates Landscape Architects prepared a Tree Inventory and Preservation Plan and a Woodlot Planting Plan dated December 2018. These plans provided details on the plant species proposed to vegetate the buffer associated with the Significant Woodlands as well as the planting plan proposed along the top-of-bank and below the top-of-bank.

The third submission also included a Supplemental Hydrogeological Consideration letter dated November 28, 2018, to be read in conjunction with the 2013 Geotechnical Investigation and 2017 Slope Stability Assessment, all prepared by Soil-Mat.

The Supplemental Hydrogeological Consideration letter advised that the basement floor elevation of 135.60 metres, is approximately 2 to 3.5 metres below the existing ground surface and above the creek level established at approximately 135.0 metres. The letter concluded:

> Given the anticipated depths of construction and estimate water level noted above, as well as the proximity of the proposed structure from the existing creek and the low permeability of the clayey silt overburden soils and Queenston shale bedrock encountered at the borehole locations, the static groundwater table is not anticipated to have a notable effect on the proposed excavations.

One of the authors of the February 2017 EIS joined the firm of Environmental Liability Management Inc. (ELM) and prepared a further addendum to the EIS dated December 20, 2018. The addendum identified potential threats to the Significant Woodlands and mitigation measures in a table format.

August 2019 – Fourth Submission

Witzel Dyce Engineering Inc. prepared a Partial Foundation Plan and a Foundation Section dated August 2019. Think Giraffe prepared Drawing A7, being a Construction & Mobility Management Plan (August 2019). Think Giraffe also prepared Drawing A5 a Building and Slope Section showing the proposed building location in relation to the top of bank and Significant Woodlands. These additional drawings were prepared to illustrate no negative impact on either the stability of the slope or the Significant Woodlands to the east of the proposed building foundation.

As a result of the circulation of the revised drawings and supporting materials, comments were received from CH, the Region of Halton and the City of Burlington highlighting matters to be addressed before the rezoning application could be supported. The matters to be addressed, as outlined in the letters dated October and November 2019 include:

Conservation Halton

- Show stable top-of-bank on all drawings;
- Update Planning Justification Report (PJR);
- Ensure all construction activities (fencing, grading, staging, shoring) are shown outside of the buffer associated with the Significant Woodlands; and,
- Demonstrate that the 0 metre setback can be achieved.

Region of Halton

- Provide Final Consolidated Environmental Impact Study (EIS);
- Remove all references to 15 metre tree buffer zone in the EIS;
- Address matters in Conservation Halton’s October 21, 2019 letter;

- Remove the swale from the buffer area
- Confirm the Draft Zoning By-law Amendment Schedules implement the greater of the constraints (Natural Hazard and Regional Natural Heritage System constraints)

City of Burlington

- Accurately show OS Zone boundary on Zoning By-law Amendment Schedule(s) with dimensions;
- Provide details on Parking Ramp Grades and Transitions;
- Provide Truck Turning Movements Plan;
- Provide an updated Geotechnical Investigation and/or Supplemental Hydrogeological Consideration letter; and,
- If necessary, update the FSR, SWM and pre-and-post development drainage area plans.

This June 2020 resubmission includes a Response Letter that itemizes all the fall 2019 comments and provides a response to each comment.

APPENDIX C

SUMMARY OF ADDENDA TO THE FEBRUARY 2017

ENVIRONMENTAL IMPACT STUDY (EIS)

January 17, 2018 - Addendum

In June 2017, Conservation Halton (CH) provided several comments on the February 2017 EIS prepared by Premier Environmental Services Inc. (Premier).

First and foremost, CH required the submission of an assessment to determine the long-term stable top of bank. The Slope Stability Assessment dated September 27, 2017 and prepared by Soil-Mat was subsequently submitted.

Premier also prepared a response letter dated January 17, 2018 and within this letter put forth the position that the Significant Woodlands primarily included Bitternut Hickory, Shagbark Hickory and Eastern White Pine found in proximity to Shoreacres Creek. It was argued that beyond the native trees in close proximity to the creek there was an area, approximately 20 to 25 metres in width, that was heavily disturbed, cut by the previous landowner, dominated by non-native herbaceous and woody species and thus could be ecologically classified as Cultural Woodland.

Based on the foregoing position, Premier stated that the Significant Woodlands would in fact be buffered by the less significant Cultural Woodland as well as a 7.5 metre setback from the established drip line. The removal of non-native species was proposed as well as planting of species native to Halton (reforestation plan). Ultimately, the Region of Halton disagreed with the Cultural Woodland classification and required the applicant to identify all the woodlands as Significant.

Premier advised that the 7.5 metre setback from the tree dripline includes non-native herbaceous and woody vegetation to be removed such as Common Periwinkle, Garlic Mustard, wild Carrot and Common Buckthorn. It was stated that the removal of these non-native plants will result in immediate benefits to the native species in the 7.5 metre setback and tree drip line area. It was also stated that the retention of natural drainage to the Significant Woodlands and creek will result in long-term benefits to these natural heritage features.

The January 2018 response letter prepared by Premier also included, based on a recommendation made by CH, a standard chain link fence to divide the area to be rezoned Open Space (O2) and the area for re-development. It was indicated that given the variable distribution of trees in the proposed buffer area, fence posts could be placed in locations that will avoid disturbance to tree roots.

CH staff recommended that the buffer be planted to serve as a vegetation protection zone and that CH's Landscaping and Tree Preservation document be referenced.

December 20, 2018 – Addendum

CH staff recommended that a table be included in the EIS noting possible impacts to the Significant Woodlands and existing or proposed measures to minimize and mitigate possible impacts. On December 2018 Premier submitted a table identifying natural or planned mitigation measures to minimize impacts. Premier also concluded that the proposed re-development would not have a negative impact on the Significant Woodlands or their ecological function.

July 15, 2019 – Addendum

Based on feedback from the Region of Halton and CH, the December 20, 2018 table was revised on July 15, 2019 and included four (4) additional potential impacts that were addressed.

February 12, 2020 – Addendum

The table was revised on February 12, 2020 to include references to updated plans etc. as part of the consolidation of the 2017 EIS.

June 15, 2020 – FINAL Consolidated EIS, including Appendix 1

Included with the June 2020 resubmission.

APPENDIX D

RESPONSES TO PUBLIC COMMENTS (AS OUTLINED IN APPENDIX II TO CITY STAFF REPORT PB-41-17)

Transfer of Density (Not Applied)

The Significant Woodlands, including a buffer area, will be zoned Open Space (O2) Zone and will be dedicated to the City of Burlington. A concern was expressed that the density that could be permitted on the lands to be zoned Open Space may have been transferred to the tableland to permit a higher density.

The land area available for development is approximately 0.2 hectares and the land area to be rezoned Open Space is approximately 0.33 hectares. The proposed thirty-two (32) units on 0.2 hectares translates to a density of 160 units per net hectare and the density permitted is a maximum of 185 units per net hectare. In theory, approximately 61 units could be accommodated on 0.33 hectares and result in a density of 185 units per net hectare. There has been no transfer of density for any of the lands to be rezoned Open Space (O2).

Potential Damage to Shoreacres Creek and the Ravine

The public raised concerns that the ravine and creek will be damaged as a result of the proposed redevelopment, in close proximity to the ravine and creek.

The forested slope surrounding the creek has been compromised by past human activities such as the planting of non-native species and cutting a portion of the slope. A fence will be installed between the proposed redevelopment and the lands to be rezoned Open Space (O2) without a gate, to prevent access to the protected area. As part of the approval process, the owners will remove non-native species that compromise the Significant Woodlands and plant native species within the proposed buffer and within the forested area itself, at and just below the physical crest of the slope (top-of-bank). These measures will enhance and provide a greater level of protection for the Significant Woodlands.

Potential Impacts on the Environment and Wildlife

A concern was raised about the impact on the environment and wildlife as a result of the proposed redevelopment and as a result of the implementation of recommendations from the Municipal Class Environmental Assessment (MCEA) for the Shoreacres Creek Erosion Control Project (September 18, 2015).

The MCEA addressed the problem of ongoing excessive erosion in Shoreacres Creek between Millcroft Park Drive and the CN Rail. Erosion presents a risk to private property and municipal infrastructure due to failing valley slopes.

The MCEA stated:

> This project presents an opportunity to provide environmental and social benefits within the study area. It can help to mitigate excessive erosion along Shoreacres Creek and improve the water quality of the creek. Opportunities are present to provide additional terrestrial and aquatic habitat, and improve fish passage by removing debris from the Creek. The improvement to the Creek may provide an enhanced aesthetic environment for surrounding landowners and reduce the risk to private property caused by bank erosion.

The MCEA process identified erosion and debris sites (as shown in Figure 1 below) defined as problem areas. Figure 1 is an extract from Drawing EC, Existing Conditions in the MCEA report prepared by Cole Engineering and five (5) of the six (6) erosion sites (A-E) are shown between Millcroft Park Drive and Upper Middle Road. Site F, not shown in Figure 1 below) is located directly north of CN Rail.

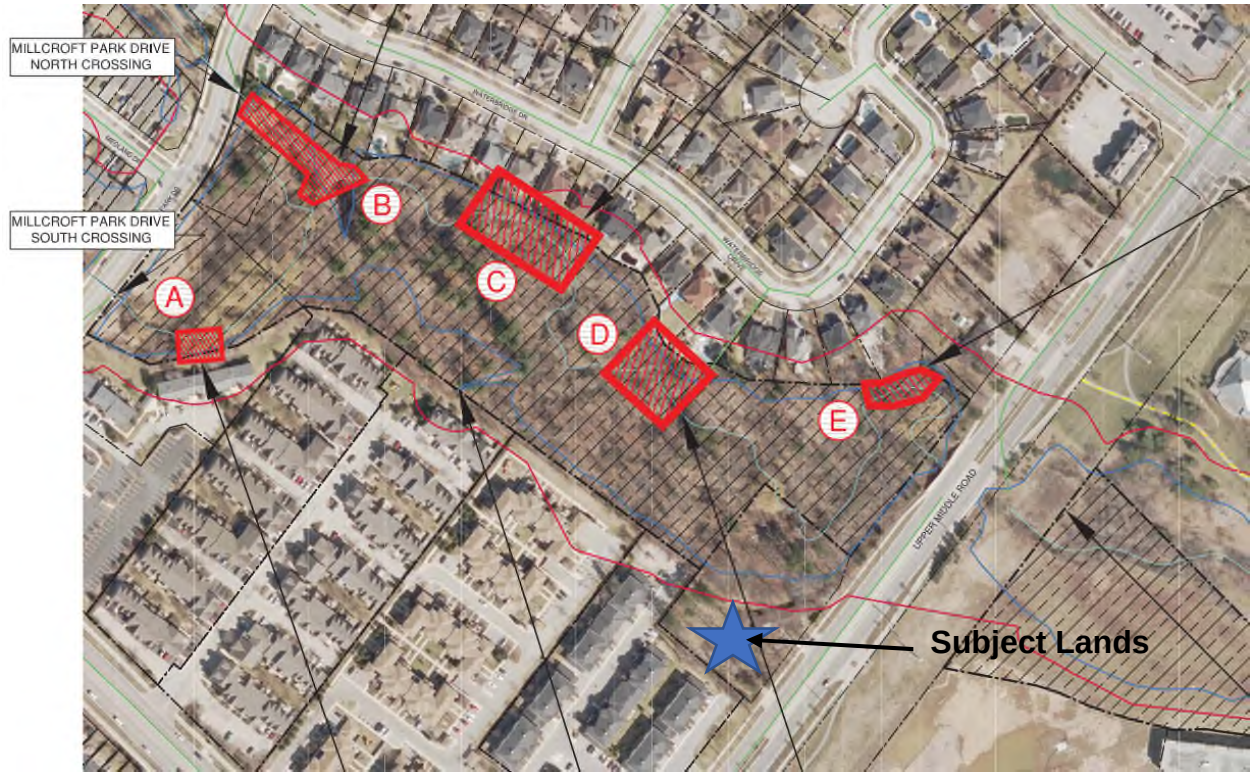


Figure 1: Extract from Drawing EC, Existing Conditions in the MCEA report for the Shoreacres Creek Erosion Control Project (September 18, 2015), prepared by Cole Engineering

There are no existing erosion sites adjacent to the Subject Lands and the sites located north of Upper Middle Road are primarily located on the east side of the creek.

Wildlife will continue to utilize the Significant Woodlands between Millcroft Park Drive and Upper Middle Road. Initially there may be some disturbance during construction and until

the vegetated protection zone (buffer) matures and the health of the remainder of the Significant Woodlands improves with the removal of non-native species.

The Slope Stability Assessment prepared in 2017 for the Subject Lands by Soil-Mat identifies the location of the stable top-of-bank and states that the slope is stable, with no signs of slope instability or past failure on the west side of the creek. The buffer to the Significant Woodlands will be vegetated to protect and support the Significant Woodlands. The proposed planting plan for the buffer and the slope is not a mitigation measure for slope instability.

Concerns Regarding Increased Traffic

Some residents in the area expressed concerns about increased traffic and gridlock at the intersection of William O'Connell Blvd. and Upper Middle Road.

A Traffic Impact Study (TIS) was prepared by Paradigm Transportation Solutions Limited (Paradigm) dated December 2016 and updated to December 2018. The recommendations of the TIS are:

- signal timing plans for signalized intersections be optimized in order to reduce delays;
- the centre lane along Upper Middle Road be painted to designate it as a left turn lane into the Subject Lands; and
- the City of Burlington and Halton Region consider implementing westbound and northbound dual left-turn lanes at the intersection of Upper Middle Road and Walker's Line.

At the driveway access to the proposed redevelopment Paradigm advises there are no sight distance safety concerns.

Privacy and Overlook

Some residents had concerns regarding privacy and overlook commented that residents in the future condominium apartment building would be able to look out over the townhouse complex from the rooftop patio.

In order to create a greater separation distance from the townhouse units to the west, the building is stepped back at the third storey such that the distance from the property line increases from 6.0 metres to 13.0 metres.

The angular proposed green roof on the third floor and 8th floor will be accessed by the residents of only three (3) units, two (2) units on the third floor and one unit on the eighth floor. The green roofs are not common amenity areas. There is no rooftop patio/amenity area. The design has limited the number of balconies on the west building elevation facing the amenity areas of the townhouse units directly to the west. Balconies along the rear

elevation of the proposed building will not have a view into the rear yard amenity areas of the townhouse units to the north.



Figure 2: Rendering of Front and West Building Elevations (think Giraffe)

Height

The public also expressed a concern about the height of the building and that it was out of character with the existing scale of buildings within the neighbourhood.

The lower portion of the proposed mid-rise building is primarily a two (2) storey parking structure and does not contain any units. There are six (6) storeys above the parking structure which contain a total of 32 units.

The proposed RH3 Zone permits a six (6) storey building at 24 metres and a maximum of 185 units per net hectare. The proposal is to permit two (2) additional storeys in height (approximately 6 metres) in order to accommodate the 32 units. The density is below the maximum permitted at 160 units per net hectare.

One (1) level of underground parking will be provided and further levels of underground parking are not feasible given the location of the bedrock. The required parking can be provided underground and within the above-grade parking structure.

The additional height can be accommodated and does not result in unacceptable shadows or unacceptable overlook given the step backs and other building features that provide for compatibility between the townhouse units to the north and west and the proposed new building.

The required 7.5 metre buffer from the drip line associated with the Significant Woodlands to the east, the required 5-metre road widening dedication for the widening of Upper Middle Road and the additional west side yard depth required to provide a greater distance between the townhouses to the west have reduced the area remaining for a building envelope. In order to achieve a density that implements the Official Plan, an additional two (2) storeys in height are being requested. The height will increase from 24 metres permitted in a RH3 Zone to 30 metres.

In our opinion, given that the lands are designated Residential – High Density in the Burlington Official Plan, it is appropriate to permit a mid-rise building of eight (8) storeys on the Subject Lands given that the density is below the maximum permitted in the Official Plan and given the design features incorporated to achieve compatibility with the surrounding land uses.

Parkland/Green Space Required

Some area residents commented that they would prefer to see more parkland and trails in this area of the City.

City staff commented, in 2017 when the application was first circulated that:

> Adequate parkland is available to accommodate this development as The Tansley Woods Community Center and Tansley Woods Community Park is located within the 0.8km – 2.4km distance for a city park. As such we recommend cash-in-lieu of parkland dedication be applied for this development. We also support the required setback and buffer zone from Shoreacres Creek to a public agency.

The Significant Woodlands will be protected and maintained as valuable green space, but will not be available for use by the public.