WEBB
PLANNING CONSULTANTS

August 15, 2024

City of Burlington
Community Planning Division
426 Brant Street
Burlington ON K1P 1J1

Attention: Kyle Plas, RPP, MCIP
Manager of Development & Design

Dear Mr. Plas,

**Re:** Planning Justification Report – Addendum
Applications for Draft Plan of Subdivision & Draft Plan of Common Element Condo.
5209 Stonehaven Drive, City of Burlington

WEBB Planning Consultants are retained by Basingstoke Enterprises Ltd., the owner of the subject lands and developer, to provide land use planning services to facilitate the planned residential development of this property.

## 1.0 PROPOSED DEVELOPMENT & PLANNING APPLICATIONS

As City staff will be aware, the City of Burlington has previously processed planning approvals for these lands to permit their development for low density residential uses in the form of single detached dwellings and street townhouses. Pursuant to a Draft Approved Plan of Subdivision, the development included the completion of the local street network via a minor extension of Bird Boulevard and the installation of full urban municipal services.

Unfortunately, the developer was unable to complete the Registration of the previously submitted Draft Plan and the approval has since lapsed. While the owner was able to satisfy the majority of the Conditions of Approval, City Legal Staff raised issues with the final configuration of the municipal street and existing easements which could not be resolved within the statutory time limits to Register the Subdivision.

The developer is now resubmitting the planning applications with modifications to ensure the previously approved form of development can be achieved. The Planning Applications include an Application for Draft Plan of Subdivision to create the lot fabric for the detached dwellings and a Block for the street townhouses. The extension of the street will now be established by an Application for a Common Element Condominium that will provide street frontage and servicing for the dwellings. The Street Townhouses will be the subject of a future application for Part-Lot-Control to create the individual units.

It is noted that the prior planning approvals included an amendment to the City's Zoning By-law to establish the appropriate Regulations to implement the planned development. The

updated development complies in all regards with the approved Zoning, no modifications are necessary as the development is essentially a mirror of the previously approved project.

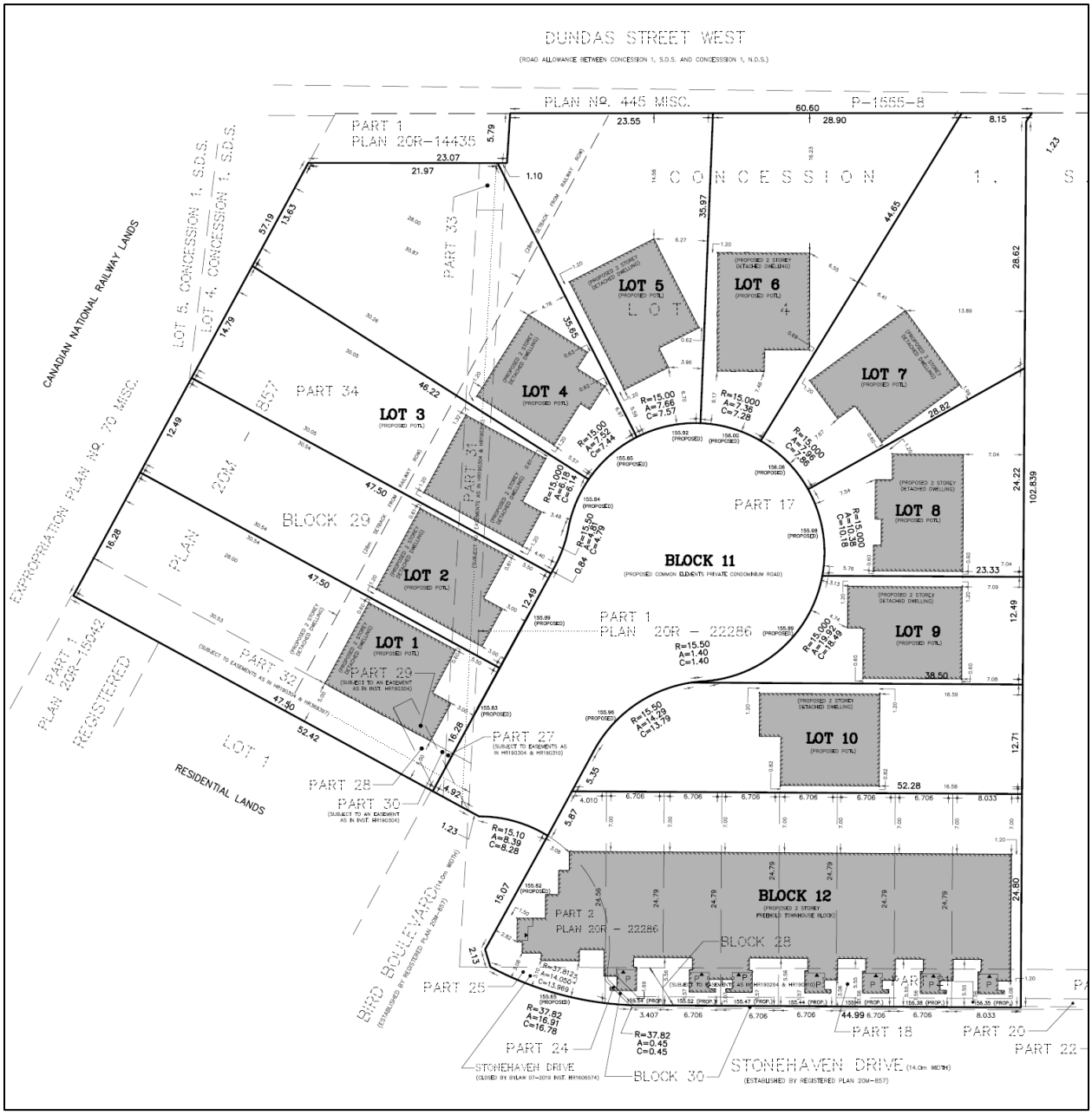



FIGURE 1: PROPOSED DEVELOPMENT

## 2.0 PROPERTY DESCRIPTION

The lands subject to the development application are generally located in the north-west quadrant of the Orchards community of the City of Burlington, immediately to the south of

Dundas Street and abutting the CN Rail mainline corridor along the west boundary. The property has retained the municipal address of 5209 Stonehaven Drive, subject to change upon approval of the individual dwelling units.

As illustrated by preceding Figure, the development parcel has been enlarged with the acquisition and assembly of additional lands as necessary to complete the development. A segment of the surplus road allowance for Bird Boulevard has been acquired and merged with the development parcel, establishing the configuration for the extension of the street and lot fabric for the street townhouses.

The City of Burlington has retained a one-foot reserve across the Stonehaven Drive frontage. There are no specific requirements for the lifting of the reserve, its removal will be subject to a request from the developer and the City being satisfied the appropriate service connections can be established and clearance for the issuance of Building Permits.

## 3.0 PLANNING APPLICATIONS

As noted, two separate planning applications are proposed to implement the updated development, a brief overview of each is provided below.

### 3.1 DRAFT PLAN OF SUBDIVISION

The Draft Plan of Subdivision encompasses the entire property and is comprised of 10 lots for single detached dwellings, Block 12 to accommodate the 8 street townhouses and Block 11 as the future street that will be established as a Common Element via the Application for Draft Plan of Condominium.

The updated Draft Plan is identical to the previously approved Draft Plan. Notwithstanding that the road extension will have tenure under a Condominium, the size of the Block for the street and the proposed design are the same as the prior approval. The road is deigned to a full municipal standard, sidewalks are provided for the full extent as well as standard design for streetlighting, catch basins and boulevards.

The 10 lots for single detached dwellings match the prior fabric with lot frontages ranging from 12.0 metres to 19.7 metres and lot areas of 339 square metres to 844 square metres, all in accordance with the Site Specific RO3-482 Zoning of the lands.

As the development abuts the CN Rail corridor, the Draft Plan illustrates the previously approved setback from the limit of the corridor. The setback was previously approved with a minor reduction to 28.0 metres, the reduction accepted by CN Rail on the basis of the developer agreement to a minor increase in the height of the adjoining safety berm.

## 3.2 DRAFT PLAN OF COMMON ELEMENT CONDOMINIUM

The extent of the Draft Plan is limited to the lands necessary to establish the proposed public street, Block 11. It is noted that the configuration of the Block is an exact replica of the prior Draft Plan which had proposed the extension of Bird Boulevard as a public street, terminating in a cul-de-sac. Notwithstanding that the current proposal is for the road to be held as a private street, the road retains the prior design as a municipal street.

The extent of the Common Element Condominium is shown on the Draft Plan of subdivision as Block 11. A Draft Plan of Condominium is being prepared and will be submitted to the City as soon as available to facilitate the processing of the Application.

The intent is for the two planning applications to be processed concurrently. The Registration of the Condominium Plan will occur immediately following the Registration of the Plan of Subdivision and subject to clearing the applicable Conditions of Draft Plan Approval.

## 4.0 PLANNING FRAMEWORK

The Planning Framework for consideration of the development applications includes the Provincial Policy Statement, the Growth Plan for the Greater Golden Horseshoe, the Region of Halton Official Plan and the City of Burlington Official Plan and Zoning By-law.

### 4.1 Provincial Policy Statement

Having regard for the Settlement Area Policies, Section 1.1.3, the development is located within a designated settlement area, such locations shall be the focus of growth and development. The density of development is an efficient use of underutilized land and has been confirmed to be an appropriate and efficient use of the available and planned infrastructure. The proposal is transit supportive given a location in proximity to existing bus routes and regional transit and supports active transportation based on the existing and planned network of walking and cycling infrastructure.

In keeping with Policy 1.1.3.3, the proposed is an appropriate example of intensification, facilitating the redevelopment of a property where suitable municipal infrastructure exists. The proposal is contiguous to existing development, situated with proximity to collector and arterial roads, and municipal services planned and or available.

Policy 1.2 – Co-ordination, outlines planning matters that should be used by municipalities to ensure a coordinated, integrated and comprehensive approach. These matters include managing and/or promoting growth and development that is integrated with infrastructure planning, economic development strategies, and management of natural, cultural and heritage resources. The City's Policy framework encourages development that complements the existing built form and benefits from proximity to significant investment in infrastructure upgrades including parks, open space and municipal services and transit.

Policy 1.2.2 calls for Planning authorities to engage with Indigenous communities and coordinate on land use planning matters. The City of Burlington has a consultation strategy in place to ensure that Indigenous communities are involved in planning matters.

The lands are located within the potential influence area of the CN Rail Corridor. To address Policy 1.2.6, an Acoustical Assessment has been completed in support of the development proposal, all recommendations for mitigation measures will be implemented by way of Conditions of final Approval.

The proposal to add dwelling units supports the Housing Policies of Policy 1.4 of the PPS, contributing to the appropriate range of housing types and densities to meet projected requirements of current and future residents. The development will contribute to the supply of serviced residential units at a location where appropriate levels of infrastructure and public service facilities are available, the combination of detached dwellings and street townhouses contributes to the choice of housing options.

With respect to Infrastructure and Public Service Facilities – Policy 1.6, development within settlement areas having existing municipal sewage services and municipal water services, intensification and redevelopment shall be promoted wherever feasible to optimize the use of existing infrastructure and public service facilities. The updated FSR and SWM Reports completed in support of the development proposal address Policy 1.6 – Infrastructure, confirming the development can be efficiently serviced by existing infrastructure. The proposal promotes a land use pattern, density and mix of uses to support current and future use of transit and active transportation.

The site does not contain any natural heritage features or natural hazards.

Policies for Cultural Heritage Resources are satisfied as there are on features on the site.

A record of Site Condition has been issued by the MOECP confirming the lands are suitable for their intended residential use.

On the basis of the above comments, the proposed development is consistent with the applicable Policies of the PPS.

## 4.2 Growth Plan for the Greater Golden Horseshoe - Places to Grow

The Growth Plan builds upon the policy foundation provided by the PPS and provides additional and more specific land use planning policies that focus on key planning issues facing specific geographic areas in Ontario and provide strategic guidance and direction for addressing those issues. The City of Burlington is located within the Inner Ring of municipalities as identified in the Growth Plan and the subject lands are within the built-up area of the City.

The proposal conforms with Part 2 of the Plan - Policies for Where and How to Grow, and specifically, the general policies for Managing Growth in Section 2.2.1.

The property is part of a Settlement Area having a delineated built boundary, the location where the vast majority of forecasted growth is to be accommodated based on the availability of existing and planned municipal water and wastewater systems. The area can support the achievement of complete communities at a location with existing and planned transit.

The development of a property located within an established neighbourhood implements a primary intent of the policies in Section 2.2.1.4, namely, to support the achievement of complete communities by adding to the diverse range and mix of housing options, creation of jobs, shops and services in close proximity to each other. This includes the provision of a diverse range of housing options, providing convenient access to a range of transportation options, public service facilities and publicly accessible open space and recreational facilities.

The subject lands are within the delineated built-up area for the City of Burlington and as such, Policy 2.2.2 applies. This policy is intended to direct development to urban areas with an emphasis on intensification throughout the built-up area. The planned redevelopment of the underutilized property represents an appropriate form of intensification within the built-up area, the proposed dwelling units will contribute to the City achieving the residential intensification target. For Burlington the target increases to a minimum of 50 per cent of all residential development occurring annually to occur within the delineated built-up area. In the interim period, the targets of the in-force Official Plans continue to apply.

The property is located in proximity to existing public transit – Route No. 11 – Sutton/Alton, is located within convenient walking distance. The property will benefit from close proximity to higher order transit and will contribute to land uses and built form that are transit supportive and promote active transportation.

Policies for Infrastructure to support growth are outlined in Part 3 of the Growth Plan. It is noted that the proposed redevelopment can be accommodated by the existing municipal services including wastewater, water, and stormwater systems. This approach supports the Growth Plan principle that significant cost savings can and should be achieved by ensuring that existing infrastructure, including municipal services and transit, are optimized.

Part Four of the Growth Plan outlines Policies for the protection of Valuable Resources including natural heritage features and cultural heritage resources. As noted in the PPS discussion above, a number of studies were completed in support of the initial planning applications and confirmed no natural heritage resources and cultural heritage resources are present on the site.

Based on the above considerations, it is our opinion that the proposed development conforms with the relevant policies of the Growth Plan and with the Growth Plan as a whole.

## 4.3 Region of Halton Official Plan

The Regional Official Plan is a long-range community planning document that is intended to guide the physical, economic and social development of the Region. The Plan implements the Regions approach to managing growth, growing the economy, protecting the natural environment, resources and agricultural land, and providing infrastructure. Local Official Plan's such as the City of Burlington provide detailed land use policies and shall be prepared in conformity with the Regional Official Plan. It is noted that effective July 1st, 2024, the Halton Region Official Plan is no longer a Regional Plan, it is now a Local Plan of the four Local Municipalities in Halton including the City of Burlington.

According to the Urban Structure Plan for the Region, the subject lands are located within City of Burlington "Urban Area" and within the Built-Up Area Boundary. The various Urban Areas are to be planned to accommodate the distribution of population and employment for the Region and the four Local Municipalities as well as the intensification and density targets and the targets for Strategic Growth Areas.

The general objectives for the urban area include ensuring that growth takes place commensurately both within and outside of the built boundary, to support the development of intensification areas and to facilitate and promote intensification and increased densities. Specific to the Built-up Area, the Plans sets a target of 45% for the number of new housing units occurring within this area during the planning period of the Plan.

To achieve goals for housing supply, ensuring an adequate mix and variety of housing to satisfy differing physical, social and economic needs, the Plan sets housing targets. The percent of new housing units produced annually across the Region in the form of townhouses or multi-storey buildings shall be at least 65 per cent to 2031 and at least 75 per cent each year thereafter. This can be accommodated by Policies of the Local Official Plan which permit intensification of land use for residential purposes such as infill, redevelopment, and conversion of existing structures provided that the physical character of existing neighbourhoods can be maintained.

The subject proposal implements the Urban Structure and Housing Policies of the Regional Plan by a balanced form of housing that combines detached dwellings and townhouses. Given a location within an established neighbourhood, the mix of housing units appropriately integrates with the physical character of the neighbourhood while achieving moderate intensification.

The civil engineering studies completed in support of the development proposal confirm that the development can be efficiently serviced with municipal water supply and wastewater treatment Services. The proposal aligns with Regional Goals for urban services, ensuring the adequate provision of an economic level of urban services to achieve Regional development objectives while conscious of the need to protect the environment.

On the basis that the Regional Plan states that permitted uses shall be in accordance with local Official Plans and general conformity with other Policies of the Regional Plan, it is our opinion that the development conforms to the Urban Area Policies of the Plan.

## 4.4 City of Burlington Official Plan (2020)

According to the Schedules of the Official Plan, the property is designated as a Residential Neighbourhood Area by Schedule "B" – Urban Structure Plan, and more particularly, within an Established Neighbourhood Area according to Schedule "B-1" - Growth Framework Plan. According to the Land Use Plan for the Urban Area, the property is designated as Residential - Low Density.

Policies for the City's Growth Framework are outlined in Section 2.4 of the Plan. The framework sets out a growth management strategy that differentiates areas within the Urban Area for the purpose of communicating clear direction about where the City will and will not be planning to direct growth and intensification. The four Growth Framework areas are the Primary Growth Areas; Secondary Growth Areas; Employment Growth Areas; and Established Neighbourhood Areas, the later applying to the subject property and adjoining neighbourhood.

Policies state that Established Neighbourhood Areas shall be recognized as a distinct area within the city's Urban Area where intensification is generally discouraged, generally comprising selected lands designated Local Centres, and lands designated Residential-Low Density, Residential – Medium Density, and Residential – High Density. Development shall be in accordance with the permissions and densities established in the underlying land use designation, in this example, the Residential Low Density designation. Where intensification is proposed, it may be permitted provided the development is in accordance with the maximum density and/or intensity permitted under the applicable land use designation and may include plans of subdivision.

Policies for the Residential – Low Density designation are set out in Section 8.3.3 of the Plan. The permitted dwelling types include single and semi detached dwellings, townhouses may be permitted subject to a site specific Zoning By-law Amendment. Generally, the density of Low Density development shall not exceed 25 units per net hectare.

However, as the subject lands are located in the Orchard Community, the Site Specific Policies of Section 8.3.3.(2)(a) apply. Notwithstanding the Low Density Policies, the maximum density is increased to 30 units per net hectare. The permitted housing forms in the low and medium density areas shall include predominantly single-detached and semi-detached units, townhouses and street townhouses.

The proposed development conforms with the applicable Policies of the Official Plan. The proposed mix of dwelling types to include both single detached and street townhouses are the intended form of housing in Low Density Areas, the number of dwelling units equates to a density of approximately 25 units per net hectare, marginally below the maximum permitted.

Further, the scale and form of development aligns with the accepted key planning principle of compatible development. The proposal is an example of infilling within an established neighbourhood characterized by lower density, ground related housing. The proposal will provide a mix of housing forms that are in keeping with the established scale and character of the neighbourhood with no potential adverse impacts.

## 4.5 City of Burlington Zoning By-law

The subject lands were the subject of an Application for Zoning By-law amendment as a concurrent process with the prior application for Draft Plan of Subdivision.
The lands previously had dual zoning – "RO3" – Residential Orchard Community Zone, and "D" – Development Zone. The Application for Zone Change sought to rezone the entirety of the property to the RO3 Zone with a series of Site Specific Exceptions including lot widths, specified side yard relief, and a minor reduction in the development setbacks from the adjoining CN Rail Corridor for two of the single detached dwellings.

The Application for Zone Change was adopted by City Council in June 2018 pursuant to By-law Number 2020-396, the lands Rezoned to the "RO3 – 482" - Residential Orchard Community Zone, Exception 482.

The current Draft Plan and lot fabric for the detached dwellings and street townhouses is essentially the same as the development plan implemented by the prior Rezoning. The proposed dwelling types are the same, the lot widths and lot areas are unchanged and comply with the in-force Zoning Regulations.

It is noted that the lots for the single detached dwellings will now front onto a common element condominium road rather than the prior proposal of a public street. However, there is no conflict with the Zoning By-law as the definition of the "Lot" does recognize and permit the creation of lots as parcels of tied land fronting on a common element condominium road, the specific definition for the By-law as below:

> ***Lot:*** *A parcel of land under one ownership which is established as a separate parcel of land in accordance with the provisions of the lot creation sections of the Planning Act, including a parcel acquired from Her Majesty in right of Canada, Her Majesty in right of Ontario, the Regional Municipality of Halton, or the Corporation of the City of Burlington, appropriated for the exclusive use of a building or a group of buildings comprising one undertaking or enterprise, and which abuts a public street, except if it has been created as a parcel of tied land, in which case, it may abut a common element condominium road.*

The modified planning approvals do however raise the potential of a conflict with the Zoning By-law as the General Conditions and Provisions of the By-law include alternative Regulations for Parcels-of-tied-land. Regulation 2.33 states that development on a POTL shall comply with both the applicable regulations of the underlying Zone and additional regulations specific to

the POTL. However, it is our opinion that Regulation 2.33 does not apply as the intent is to regulate development in any zone other than a Low Density Residential Zone.

Based on our review of the By-law, we interpret the intent of the Regulation to apply only in circumstances where more intensive development may be facilitated by way of a POTL. In this circumstance, the Regulations of the RO3 Zone are as restrictive as the other Low Density Residential Zones of the By-law. In comparing the additional performance Regulations of Regulation 2.33 to Regulations of the RO3 Zone, it is our opinion that the RO3 Regulations provide for the appropriate development of the subject lands as intended by the in-force Site Specific Zone Regulations.

Should the above interpretation not be accepted by Staff, the alternative is to submit an Application to the Committee of Adjustment to request a notwithstanding provision from Regulation 2.33.

## SUMMARY AND CONCLUSION

Applications for Draft Plan of Subdivision and Zoning By-law amendment to facilitate this infill project within an established neighbourhood were previously granted by the City of Burlington.

The Draft Plan provided for the minor extension of Bird Boulevard terminating in a cul-de-sac with 10 abutting lots for single detached dwellings, the balance of the Stonehaven frontage to develop as street townhouses. The rezoning established consistent RO3 Zoning across the lands with Site Specific Exceptions to implement the Draft Plan and proposed housing form.

The lands were subsequently acquired by Basingstoke Enterprises who proceeded to satisfy the Conditions of Approval to implement the development as proposed. Unfortunately, all Conditions of Approval could not be completed within the statutory time frame and the Draft Approval has lapsed.

Basingstoke are now proceeding to secure the necessary planning approvals that will enable the development to procced as initially proposed. The substantive modification is that the extension of Bird Boulevard will be established as a Common Element Condominium Road rather than a public street. This approach resolves a conflict raised by City Legal Staff with respect to the City's acceptance of previously existing encumbrances.

The form and scale of the proposed residential development is an exact replica of the previously approved development. Lot creation for the single detached dwellings will be facilitated by Registration of the Subdivision Plan. As the extension of Bird Boulevard is now to established as a Common Element Condominium Road, the lots are now categorized as Parcels of Tied Land (POTL) and will be subject to a Condominium Agreement that addresses matters of ownership, maintenance and operation of the private (Condominium) street.

The proposed street townhouses are intended to be freehold units. The creation of the individual lots will be facilitated by an Application for Part-Lot-Control, the Application will be

initiated upon Registration of the Subdivision Plan and establishment of Block 12 as a Block on a Registered Plan.

On the basis of the evaluation contained in this Planning Justification Report, informed by the findings of the supporting technical and design studies, it is our opinion that the proposed development conforms with and implements the Policies of the Regional and Local Official Plans. Matters of sustainability, protection of natural and cultural heritage resources, and the efficient delivery of municipal infrastructure are realized by the design of the Draft Plan and will be implemented through Conditions of Draft Plan Approval.

The proposal has been considered in the context of Provincial Policy including the Provincial Policy Statement and the Growth Plan and matters of Provincial Interest identified in the Planning Act. Having regard for the discussion contained in this PJR it is our opinion that the proposal is consistent with the PPS, conforms to the Growth Plan and facilitates the implementation of Provincial Interests in an efficient, effective and contextually appropriate manner.

In conclusion, it is our opinion that the requested planning approvals are appropriate for the orderly development of the property and represent good land use planning.

Yours truly,

WEBB Planning Consultants Inc.

James Webb, MCIP, RPP

cc: Basingstoke Enterprises