



Community Planning, Regulation and Mobility Committee Meeting Agenda

Date: April 12, 2022
Time: 1:00 p.m. and reconvening at 6:30 p.m. (if required)
Location: Council Chambers - members participating remotely

Pages

1. Declarations of Interest:

2. Statutory Public Meetings:

Statutory public meetings are held to present planning applications in a public forum as required by the Planning Act.

3. Delegation(s):

Due to COVID-19, this meeting will be conducted as a virtual meeting. Only the chair of the meeting, along with a clerk and audio/visual technician, will be in council chambers, with all other staff, members of council and delegations participating in the meeting by calling in remotely. The meeting will be live webcasted, as usual, and archived on the city website.

Requests to delegate to this virtual meeting can be made by completing the online delegation registration form at www.burlington.ca/delegate or by submitting a written request by email to the Office of the City Clerk at clerks@burlington.ca by noon the day before the meeting is to be held. It is recommended that delegates include their intended remarks, which will be circulated to all members of the standing committee in advance, as a backup to any disruptions in technology that may occur.

If you do not wish to delegate, but would like to submit feedback, please email your comments to clerks@burlington.ca. Your comments will be circulated to committee members in advance of the meeting and will be attached to the minutes, forming part of the public record.

4. Consent Items:

Reports of a routine nature, which are not expected to require discussion and/or debate. Staff may not be in attendance to respond to queries on items contained in the Consent Agenda.

5. Regular Items:

- 5.1. Official Plan and Zoning By-law Amendment applications for 2020
Lakeshore Road (PL-24-22)

1 - 128

Note: This item will be the subject of a Special Council meeting immediately following the April 12, 2022 Community Planning, Regulation and Mobility Committee meeting.

6. Confidential Items:

Confidential reports may require a closed meeting in accordance with the Municipal Act, 2001. Meeting attendees may be required to leave during the discussion.

7. Procedural Motions:

8. Information Items:

9. Staff Remarks:

10. Committee Remarks:

11. Adjournment:



SUBJECT: Official Plan and Zoning By-law Amendment applications for 2020 Lakeshore Road

TO: Community Planning, Regulation & Mobility Cttee.

FROM: Community Planning Department

Report Number: PL-24-22

Wards Affected: 2

File Numbers: 505-10/21, 520-11/21

Date to Committee: April 12, 2022

Date to Council: April 12, 2022

Recommendation:

Refuse the applications for Official Plan Amendment and Zoning By-law Amendment submitted by Burlington 2020 Lakeshore Inc. proposing a mixed-use development comprising two tall buildings of 35 and 30 storeys at 2020 Lakeshore Road.

PURPOSE:

The purpose of this report is to provide the recommendation to refuse the subject development applications and to provide the planning rationale for the recommendation.

Vision to Focus Alignment:

- Increase economic prosperity and community responsive city growth management

Executive Summary:

RECOMMENDATION:		Refuse the applications	Ward:	2
Applicati on	APPLICANT:	Bousfields Inc.		
	OWNER:	Burlington 2020 Lakeshore Inc.		

	FILE NUMBERS: TYPE OF APPLICATION: PROPOSED USE:	505-10/21, 520-11/21 Official Plan Amendment, Zoning By-law Amendment Mixed-use development consisting of residential, hotel, office, and retail/commercial uses within two tall buildings (35 and 30 storeys) with 5-storey podiums
Property Details	PROPERTY LOCATION: MUNICIPAL ADDRESSES: PROPERTY AREA: EXISTING USE:	South side of Lakeshore Road between Brant Street and Elizabeth Street 2020 Lakeshore Road 0.76 hectares Six-storey hotel with restaurant and surface parking lot
Documents	1997 OFFICIAL PLAN Existing: 1997 OFFICIAL PLAN Proposed: 2020 OFFICIAL PLAN Existing: ZONING Existing: ZONING Proposed:	Downtown Mixed-Use Centre: Wellington Square Mixed-Use Precinct Downtown Mixed-Use Centre: Wellington Square Mixed-Use Precinct (with site-specific policy) Downtown Urban Centre: Downtown Waterfront Hotel Planning Study DW (Downtown Wellington Square Mixed-Use Zone) DW-XXX (DW with site-specific regulations)
Processing Details	APPLICATION MADE AND COMPLETE AS OF: STATUTORY DEADLINE: PRE-APPLICATION COMMUNITY MEETING: PUBLIC COMMENTS:	December 17, 2021 April 16, 2022 September 8, 2021 Planning staff have received comments on the subject application via email from 14 residents. At the Statutory Public Meeting on

		Feb. 22, 2022, 5 residents delegated and an additional 5 residents submitted written correspondence (including some duplicates of letters received by Planning staff).
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Background and Discussion:

On April 28, 2021, City and agency staff attended a preconsultation meeting with representatives of Burlington 2020 Lakeshore Inc., owners of the subject property, 2020 Lakeshore Road, regarding redevelopment of the subject property. The result of this meeting was the creation of a preconsultation package that set out the types of applications needed (Official Plan Amendment and Zoning By-law Amendment), application fees, and required information and materials for a complete application.

In accordance with the requirements set out in the preconsultation package, the applicant consulted the Burlington Urban Design Panel regarding their proposed development on August 19, 2021 and held a virtual Pre-Application Consultation Meeting via Zoom on September 8, 2021. The latter meeting was attended by the Mayor, Councillor Kearns, City staff, and members of the public. The City created a Development Pre-Application webpage, www.burlington.ca/2020lakeshore, to provide information to the public about the development proposal and the Pre-Application Consultation Meeting.

The applicant submitted application forms, City and Regional fees, and supporting materials for the subject applications to the City of Burlington on October 26, 2021. On November 23, 2021, the City notified the applicant that the subject applications had been deemed incomplete on the basis that not all of the information and materials required by the City's Official Plan and the Planning Act had been submitted in accordance with the preconsultation package.

Subsequently the applicant filed a motion to the Ontario Land Tribunal (OLT) to determine the application complete. However, on December 17, 2021, the applicant provided the City with the information and materials that had been identified as missing from the earlier submission.

On January 18, 2022, City Council approved the recommendations of staff report PL-13-22 and deemed that the subject applications for Official Plan Amendment and Zoning By-law Amendment are made and complete as of December 17, 2022, in accordance with sections 22.1, 22(5), and 34(10.2) of the Planning Act.

On February 16, 2022, the applicant withdrew their motion to the OLT regarding completeness of the applications. No date for the hearing of the motion had been scheduled by the OLT prior to the motion being withdrawn.

The City held a virtual Statutory Public Meeting to consider the applications at the February 22, 2022 meeting of Community Planning, Regulation, and Mobility Committee.

The purpose of this report is to provide Committee and Council with Planning staff's evaluation and analysis of the subject applications, including a recommendation to refuse the applications. This report also provides a summary of technical and public comments received to date.

Site Description & Surrounding Land Uses

The subject property, known as 2020 Lakeshore Road, is located on the south side of Lakeshore Road, between Brant Street and Elizabeth Street. The subject property has an area of 0.76 hectares, with approximately 105 metres of frontage on Lakeshore Road and approximately 50 metres of frontage on Elizabeth Street (excluding daylight triangles). A map of the subject property's location within Downtown Burlington is contained in Appendix A of this report. The site is currently occupied by an existing 6-storey hotel with a restaurant and a surface parking lot.

Surrounding uses are as follows:

- North: Lakeshore Road, across which are existing low-rise (1-4 storey) commercial storefront buildings, some of which contain residential uses on the upper floors. The buildings on the north side of Lakeshore Road between Brant Street and John Street have been identified as part of a potential cultural heritage landscape which will be the subject of future study in accordance with section 8.1.1(3.23)(d) of the City's new Official Plan (2020).
- East: Elizabeth Street, across which is the recently constructed Bridgewater development comprising a 7-storey hotel and 8-storey mixed-use building on Elizabeth Street, with a 22-storey mixed-use building located behind them on Pearl Street. Driveway and loading accesses to the Bridgewater development are on Elizabeth Street opposite the subject property. Further to the east, there is an approved but not yet constructed 29-storey mixed-use building at 2069 Lakeshore Road; a 26-storey residential building that is currently under construction at 374 Martha Street; and two properties on Old Lakeshore Road where 27-storey mixed-use buildings have been proposed through development applications that are the subjects of appeals to the OLT.
- South and West: Spencer Smith Park. The Brant Street entrance to Spencer Smith Park is immediately adjacent to the northwest corner of the subject property. An existing driveway for the subject property is integrated with this park entrance in line with the intersection of Brant Street and Lakeshore Road. The Brant Street Pier is located 100 metres south of the southwest corner of the subject property.

There are eastbound and westbound bus stops located at the intersection of Lakeshore Road and Brant Street, within 30 metres of the subject property. These bus stops are serviced by Burlington Transit routes 4 and 10, and Hamilton Street Railway route 11. The John Street Bus Terminal is located 160 metres to the north of the subject property. The John Street Bus Terminal is an intercity bus transfer point served by Burlington Transit routes 2, 3, 4, and 10, and Hamilton Street Railway route 11.

Description of Applications

The subject applications request amendments to the City's Official Plan (1997, as amended) and Zoning By-law to permit a mixed-use development consisting of residential, hotel, office, and retail/service commercial uses within two tall buildings of 35 storeys (west tower) and 30 storeys (east tower) with 5-storey podiums connected at the 5th storey. The 5th-storey connection contains shared indoor amenity space for the hotel and residential units including a swimming pool and gym. This 5th-storey connection spans over an open breezeway that aligns with John Street.

The proposed development includes 4,445 square metres of commercial space, 4,348 square metres of office space, 557 residential apartment units, and a hotel with 122 guest suites. The proposed residential apartment units consist of 23 studio units, 212 one-bedroom units, 166 one-bedroom + den units, 138 two-bedroom units, and 18 three-bedroom units.

The application proposes to provide 598 parking spaces in four underground levels. Driveway access for parking and loading will be provided from Elizabeth Street. The existing driveways from Lakeshore Road will be removed.

Due to a lower grade at the rear of the property, level P1 is below grade at the front (Lakeshore Road frontage) of the property, and at grade at the rear (lake-facing side) of the property. The portion of Level P1 that is exposed consists of retail space that opens at grade onto the park, and the balance of Level P1 consists of underground parking.

The application proposes an outdoor mid-block connection from Lakeshore Road to Spencer Smith Park, in line with John Street. This privately owned, publicly accessible connection would pass beneath the fifth-floor connection between the two podiums.

Supporting Documents

The applicant has submitted the following materials in support of the applications:

1. [Cover Letter](#) (Oct. 22, 2021)
2. [Planning and Urban Design Rationale Report](#) (Oct. 2021)
3. [Site Plan & Architectural Plans](#) (Oct. 15, 2021)
4. [Site Survey](#) (rev. July 13, 2021)
5. [Functional Servicing Report](#) (Oct. 2021) (includes Stormwater Management)

6. [Tree Protection Plan](#) (Oct. 14, 2021)
7. [Tree Inventory and Preservation Plan Report](#) (Sept. 21, 2021)
8. [Landscape Concept Plan](#) (Oct. 14, 2021)
9. [Transportation, Parking, & Transportation Demand Management Study](#) (Oct. 2021)
10. [Environmental Noise Impact Study](#) (Oct. 2021)
11. [Shadow Study](#)
12. [Pedestrian Wind Study](#) (Oct. 20, 2021)
13. [Environmental Site Screening Checklist](#) (Oct. 20, 2021)
14. [Phase One Environmental Site Assessment](#) (Sept. 21, 2021)
15. [Letter, re: status of Phase Two Environmental Site Assessment](#) (Oct. 1, 2021)
16. [Phase Two Environmental Site Assessment](#) (Dec. 17, 2021)
17. [Height Survey of Adjacent Buildings](#) (“Sketch Illustrating Building Elevations”) (rev. Oct. 4, 2021)
18. [Urban Design Advisory Panel Meeting Minutes](#) (Aug. 19, 2021)
19. [Hydrogeological Dewatering Assessment](#) (Oct. 18, 2021)
20. [Grading & Servicing Plans](#) (Oct. 18, 2021)
21. [Geotechnical Investigation](#) (Aug. 27, 2021)
22. [Draft Zoning By-law Amendment](#)
23. [Draft Official Plan Amendment](#)
24. 3-D Model of Proposed Buildings
25. [Construction Management & Mobility Plan](#) (Oct. 18, 2021)
26. [Pre-Application Public Consultation Meeting Minutes](#) (Sept. 2021)
27. PIN Report (March 11, 2021)
28. [Waste Management Plan](#) (Oct. 13, 2021)
29. [Fiscal Impact Study](#) (Oct. 15, 2021)
30. [Housing Impact Statement](#)
31. [Draft Reference Plan](#) (Oct. 2021)
32. Letters of Reliance (various)
33. [Park Concept Plan](#) (Dec. 1, 2021)
34. [Angular Plane Study](#) (Dec. 17, 2021)

Application materials are posted online at www.burlington.ca/2020lakeshore.

Strategy/process

Policy Framework

The proposed development is subject to a hierarchy of provincial, Regional, and City policies, regulations, and guidelines. The subject applications have been evaluated by staff in accordance with this framework. The Strategy/Process section of this report contains discussion of this analysis that is organized as follows:

- 1.0 Provincial Policy Statement
- 2.0 A Place to Grow: Growth Plan for the Greater Golden Horseshoe
- 3.0 Halton Region Official Plan
 - 3.1 The Regional Urban Structure
 - 3.2 Regarding Urban Growth Centres
 - 3.3 Regarding Major Transit Station Areas
 - 3.4 The Role of Local Official Plans
 - 3.5 Other Regional Official Plan Matters
 - 3.6 Regional Official Plan Analysis Summary
- 4.0 City of Burlington Official Plan (1997, as amended)
 - 4.1 Official Plan Analysis
 - 4.2 Intensification Criteria
 - 4.3 Official Plan Amendment 119
- 5.0 City of Burlington New Official Plan (2020)
 - 5.1 New OP Analysis
 - 5.2 Official Plan Amendment Criteria
 - 5.3 Development Criteria
- 6.0 Waterfront Hotel Planning Study
 - 6.1 Key Policy Directions
 - 6.2 Emerging Preferred Concept
- 7.0 Zoning By-law
- 8.0 Urban Design Guidelines
 - 8.1 Pedestrian-Level Wind Study Guidelines and Terms of Reference
 - 8.2 Shadow Study Guidelines and Terms of Reference
 - 8.3 Tall Building Guidelines
 - 8.4 Downtown Streetscape Guidelines
 - 8.5 Sustainable Building and Development Guidelines
 - 8.6 Downtown Urban Design Guidelines
 - 8.7 Keeping Place: Heritage-Based Design Guidelines
 - 8.8 Draft Downtown Burlington Placemaking and Urban Design Guidelines
- 9.0 Technical Comments
- 10.0 Public Comments

1.0 Provincial Policy Statement (2020)

The Provincial Policy Statement (PPS) provides broad policy direction on land use planning and development matters of provincial interest. All planning decisions must be consistent with the PPS.

The Official Plan is the most important vehicle for implementation of the PPS. Evaluation of the proposed development in accordance with the policies of applicable Official Plans is informative in understanding how a site-specific development application achieves or does not achieve consistency with the policies of the PPS.

The subject applications have been reviewed against all policies of the PPS. Relevant sections are discussed below. As stated in Part III of the PPS, “a decision-maker should consider all of the relevant policies to understand how they work together”.

1.1 Managing and Directing Land Use to Achieve Efficient and Resilient Development and Land Use Patterns

1.1.1 Healthy, liveable, and safe communities are sustained by:

- a) promoting efficient development and land use patterns which sustain the financial well-being of the Province and municipalities over the long term;
- b) accommodating an appropriate affordable and market-based range and mix of residential types (including single-detached, additional residential units, multi-unit housing, affordable housing and housing for older persons), employment (including industrial and commercial), institutional (including places of worship and long-term care homes), recreation, park and open space, and other uses to meet long-term needs;
- e) promoting the integration of land use planning, growth management, transit-supportive development, intensification and infrastructure planning to achieve cost-efficient development patterns, optimization of transit investments, and standards to minimize land consumption and servicing costs;
- f) improving accessibility for persons with disabilities and older persons by addressing land use barriers which restrict their full participation in society;
- g) ensuring that necessary infrastructure and public service facilities are or will be available to meet current and projected needs;
- i) preparing for the regional and local impacts of a changing climate.

1.1.3.2 Land use patterns within settlement areas shall be based on densities and a mix of land uses which:

- a) efficiently use land and resources;
- b) are appropriate for, and efficiently use, the infrastructure and public service facilities which are planned or available, and avoid the need for their unjustified or uneconomical expansion;

- c) minimize negative impacts to air quality and climate change, and promote energy efficiency;

- d) prepare for the impacts of a changing climate;

- e) support active transportation;

- f) are transit-supportive, where transit is planned, exists or may be developed

Land use patterns within settlement areas shall also be based on a range of uses and opportunities for intensification and redevelopment in accordance with the criteria in policy 1.1.3.3 where this can be accommodated.

1.1.3.3 Planning authorities shall identify appropriate locations and promote opportunities for transit-supportive development, accommodating a significant supply and range of housing options through intensification and redevelopment where this can be accommodated taking into account existing building stock or areas, including brownfield sites, and the availability of suitable existing or planned infrastructure and public service facilities required to accommodate projected needs.

1.1.3.4 Appropriate development standards should be promoted which facilitate intensification, redevelopment, and compact form, while avoiding or mitigating risks to public health and safety.

1.1.3.5 Planning authorities shall establish and implement minimum targets for intensification and redevelopment within built-up areas, based on local conditions. However, where provincial targets are established through provincial plans, the provincial target shall represent the minimum target for affected areas.

Staff Analysis:

The Regional Official Plan (ROP) and City's Official Plans (OPs) (both the 1997 Official Plan, as amended, and the 2020 new Official Plan) are consistent with the PPS, as they promote efficient and sustainable land use patterns that accommodate an appropriate range and mix of uses and support transit and active transportation. The ROP and OPs also identify appropriate locations for intensification at contextually appropriate levels of intensity, and establish appropriate development standards to ensure development avoids or mitigates risks to public health and safety. Additionally, the ROP establishes minimum targets for relevant areas, based on local conditions, in accordance with provincial targets.

The subject applications are not consistent with the PPS as they propose development at an intensity that exceeds what is considered to be an appropriate level for its local context within the land use patterns of the ROP and OP. As discussed in later sections of this report, the proposed development also does not conform to the City's development standards, such as policies and guidelines to protect public health, safety, and comfort by avoiding and mitigating shadow impacts and wind impacts.

The City's OP establishes a planned context for the Downtown that provides for intensification and efficient use of infrastructure and resources, and supports transit and active transportation, while also establishing development standards that facilitate the creation and/or preservation of a healthy, liveable, and safe community. To achieve consistency with the PPS, a development proposal for the subject lands should be in keeping with this planned context, and conform to locally appropriate development standards. To that end, staff is of the opinion that the proposed intensity of this proposal is not needed to achieve consistency with these policy directions of the PPS.

1.3 Employment

1.3.1 Planning authorities shall promote economic development and competitiveness by:

- a) providing for an appropriate mix and range of employment, institutional, and broader mixed uses to meet long-term needs;
- d) encouraging compact, mixed-use development that incorporates compatible employment uses to support liveable and resilient communities, with consideration of housing policy 1.4

Staff Analysis: The subject applications are consistent with section 1.3 of the PPS as they propose a compatible mix of land uses that includes office space in a compact built form.

1.4 Housing

1.4.3 Planning authorities shall provide for an appropriate range and mix of housing options and densities to meet projected market-based and affordable housing needs of current and future residents of the regional market area by:

- b) permitting and facilitating:
 - 2. all types of residential intensification, including additional residential units, and redevelopment in accordance with policy 1.1.3.3;
- c) directing the development of new housing towards locations where appropriate levels of infrastructure and public service facilities are or will be available to support current and projected needs;
- d) promoting densities for new housing which efficiently use land, resources, infrastructure and public service facilities, and support the use of active transportation and transit in areas where it exists or is to be developed;
- e) requiring transit-supportive development and prioritizing intensification, including potential air rights development, in proximity to transit, including corridors and stations; and
- f) establishing development standards for residential intensification, redevelopment and new residential development which minimize the cost of

housing and facilitate compact form, while maintaining appropriate levels of public health and safety.

Staff Analysis:

The ROP and City's OPs currently permit and facilitate all forms of housing and residential intensification, with development of new housing directed to appropriate locations and at densities that efficiently use land, resources, infrastructure and public service facilities, and support the use of active transportation and transit. The ROP and OPs prioritize intensification in proximity to transit, with the highest priority being placed on intensification in proximity to Urban Growth Centres and Major Transit Station Areas located on Priority Transit Corridors. The subject property is not located within one of these areas.

The City has established development standards for residential intensification that minimize the cost of housing, facilitate compact built form, and maintain appropriate levels of public health and safety, in accordance with policy 1.4.3(f) of the PPS. As discussed in subsequent sections of this report, the proposed development does not conform to these development standards.

The level of intensity of development that is proposed by the subject applications is not required in order to be consistent with the housing policies of the PPS. Consistency with the PPS would be achieved through a development that conforms to the City's development standards while intensifying the subject property at a level of intensity that is in keeping with the planned context of the local municipality, as outlined in the ROP and local OPs.

1.5 Public Spaces, Recreation, Parks, Trails, and Open Space

1.5.1 Healthy, active communities should be promoted by:

- a) planning public streets, spaces, and facilities to be safe, meet the needs of pedestrians, foster social interaction and facilitate active transportation and community connectivity;
- b) planning and providing for a full range and equitable distribution of publicly-accessible built and natural settings for recreation, including facilities, parklands, public spaces, open space areas, rails and linkages, and, where practical, water-based resources;
- c) providing opportunities for public access to shorelines.

Staff analysis: The subject property is adjacent to Spencer Smith Park. As discussed later in this report, the City has identified the need for additional parkland to be provided through the redevelopment of the subject property, in part to provide a publicly-accessible access to this Regionally significant park, which is not currently available in this area of the existing park in a form that is accessible for people of all ages and

abilities. The subject applications have not provided for this parkland dedication, and accordingly are contrary to the City achieving consistency with section 1.5.1(b).

1.6 Infrastructure and Public Service Facilities

1.6.1 Infrastructure and public service facilities shall be provided in an efficient manner that prepares for the impacts of a changing climate while accommodating projected needs. Planning for infrastructure and public service facilities shall be co-ordinated and integrated with land use planning and growth management so that they are:

- a) financially viable over their life cycle, which may be demonstrated through asset management planning; and
- b) available to meet current and projected needs.

1.6.2 Planning authorities should promote green infrastructure to complement infrastructure.

Staff analysis: The subject applications are not consistent with this policy as they are not supported by the provision of parkland that is needed as identified by the City, nor do they provide adequate green infrastructure such as street trees.

1.6.6 Sewage, Water and Stormwater

1.6.6.1 Planning for sewage and water services shall:

- d) integrate servicing and land use considerations at all stages of the planning process.

1.6.6.2 ...Within settlement areas with existing municipal sewage services and municipal water services, intensification and redevelopment shall be promoted wherever feasible to optimize the use of the services.

1.6.6.7 Planning for stormwater management shall:

- a) be integrated with planning for sewage and water services and ensure that systems are optimized, feasible and financially viable over the long term;
- b) minimize, or, where possible, prevent increases in contaminant loads;
- c) minimize erosion and changes in water balance, and prepare for the impacts of a changing climate through the effective management of stormwater, including the use of green infrastructure;
- d) mitigate risks to human health, safety, property, and the environment;
- e) maximize the extent and function of vegetative and pervious surfaces; and
- f) promote stormwater management best practices, including stormwater attenuation and re-use, water conservation and efficiency, and low-impact development.

Staff analysis: The subject applications have not demonstrated consistency with this policy as required information has not been provided, particularly in relation to stormwater management, as described in subsequent sections of this report.

1.6.7 Transportation Systems

1.6.7.2 Efficient use should be made of existing and planned infrastructure, including through the use of transportation demand management strategies, where feasible.

1.6.7.4 A land use pattern, density, and mix of uses should be promoted that minimize the length and number of vehicle trips and support current and future use of transit and active transportation.

Staff analysis:

The City's OPs have achieved consistency with this policy of the PPS by making efficient use of existing and planned infrastructure, and by promoting a land use pattern, density, and mix of uses in Downtown Burlington that minimize the length and number of vehicle trips and support current and future use of transit and active transportation. The subject applications propose development at an intensity that is not commensurate with the level of existing and planned transit service, and is not in keeping with the land use pattern of the OPs. The level of intensity of development proposed by the subject of applications is not needed to achieve consistency with policy 1.6.7 of the PPS.

1.7 Long-Term Economic Prosperity

1.7.1 Long-term economic prosperity should supported by:

- b) encouraging residential uses to respond to dynamic market-based needs and provide necessary housing supply and range of housing options for a diverse workforce;
- c) optimizing the long-term availability and use of land, resources, infrastructure and public service facilities;
- d) maintaining and, where possible, enhancing the vitality and viability of downtowns and mainstreets;
- e) encouraging a sense of place, by promoting well-designed built form and cultural planning, and by conserving features that help define character, including built heritage resources and cultural heritage landscapes;
- h) providing opportunities for sustainable tourism development.

Staff analysis:

While the proposed development does promote additional housing supply and contribute to a range of housing options, the same would be true of a less intense proposal that is more appropriate for its context, and which would contribute to preserving character-defining features and maintaining the vitality of Downtown Burlington as expressed through the City's approved vision for the Downtown, which is

consistent with the PPS. As such, the level of intensification proposed by the subject applications is beyond what is needed in order to meet the long-term economic prosperity policies of the PPS.

1.8 Energy Conservation, Air Quality, and Climate Change

1.8.1 Planning authorities shall support energy conservation and efficiency, improved air quality, reduced greenhouse gas emissions, and preparing for the impacts of a changing climate through land use and development patterns which:

- a) promote compact form and a structure of nodes and corridors;
- b) promote the use of active transportation and transit in and between residential, employment (including commercial and industrial) and institutional uses and other areas;
- c) focus major employment, commercial, and other travel-intensive land uses on sites which are well served by transit where this exists or is to be developed, or designing these to facilitate the establishment of transit in the future;
- e) encourage transit-supportive development and intensification to improve the mix of employment and housing uses to shorten commute journeys and decrease transportation congestion;
- g) maximize vegetation within settlement areas, where feasible.

Staff analysis: The subject applications are not consistent with this policy as they do not maximize the preservation of existing vegetation or the provision of adequate replacement plantings. While the proposed development does provide intensification with a mix of employment and housing, the level of intensity proposed is disproportionate to the level of transit service that is existing or planned in proximity to it.

2.0 Wise Management and Use of Resources

2.1 Natural Heritage

2.1.1 Natural features and areas shall be protected for the long term.

Staff analysis: The subject applications are consistent with this policy.

2.2 Water

2.2.1 Planning authorities shall protect, improve, or restore the quality and quantity of water by:

- d) identifying water resource systems consisting of ground water features, hydrologic functions, natural heritage features and areas, and surface water features including shoreline areas, which are necessary for the ecological and hydrological integrity of the watershed.
- i) ensuring stormwater management practices minimize stormwater volumes and contaminant loads, and maintain or increase the extent of vegetative and pervious surfaces.

Staff analysis: The subject applications have not demonstrated consistency with this policy as required information has not been provided, particularly in relation to stormwater management, as described in subsequent sections of this report.

3.0 Protecting Public Health and Safety

3.1 Natural Hazards

3.1.1 Development shall generally be directed, in accordance with guidance developed by the Province (as amended from time to time) to areas outside of:

- a) hazardous lands adjacent to the shorelines of the Great Lakes – St Lawrence River System and large inland lakes which are impact by flooding hazards, erosion hazards, and/or dynamic beach hazards.

3.1.3 Planning authorities shall prepare for the impacts of a changing climate that ay increase the risk associated with natural hazards.

Staff analysis: The subject applications are consistent with this policy as they direct development away from natural hazards and propose to dedicate into public ownership the portion of the subject property that is subject to such hazards.

3.2 Human-made Hazards

3.2.2 Sites with contaminants in land or water shall be assessed and remediated as necessary prior to any activity on the site associated with the proposed use such that there will be no adverse effect.

Staff analysis: The subject applications have not demonstrated consistency with this policy as discussed in subsequent sections of this report.

4.0 Implementation and Interpretation

4.6 The official plan is the most important vehicle for implementation of this Provincial Policy Statement. Comprehensive, integrated, and long-term planning is best achieved through official plans.

Staff comment: Staff have evaluated the subject applications in accordance with the applicable framework of provincial, regional, and local policies, with consideration for the role of the local Official Plan in determining whether the proposed development is not appropriate for its context as required by provincial and regional policies.

The City and Region have developed Official Plans that are consistent with the PPS and in conformity with provincial plans. As discussed in detail throughout this report, the proposed development does not conform to the policies of the ROP or local OPs. In particular the proposed development is at a scale and intensity that is not appropriate for its context as set out in the Regional Urban Structure and does not conform to local policies for built form, urban design, or parkland dedication, among others.

Policy 4.6 clearly states that the Official Plan is the most important vehicle for implementation of the PPS, while other policies of the PPS emphasize the importance of local Official Plans establishing development standards to ensure appropriate

development. As the proposed development does not conform to the Official Plan and does not meet the City's development standards, the subject applications are not consistent with these policies of the PPS.

Summary of staff analysis: For the reasons stated above, the subject applications cannot be said to be consistent with the Provincial Policy Statement.

2.0 A Place to Grow: Growth Plan for the Greater Golden Horseshoe (2020)

A Place to Grow: Growth Plan for the Greater Golden Horseshoe ("the Growth Plan") provides a policy framework for managing growth in the Greater Golden Horseshoe (GGH), an area of Ontario that includes the City of Burlington. All planning decisions within the GGH must conform to the Growth Plan.

The subject applications have been reviewed against all relevant policies of the Growth Plan. Relevant policies are discussed below.

1 Introduction

1.2.1 Guiding Principles

The policies of this Plan regarding how land is developed, resources are managed and protected, and public dollars are invested are based on the following principles:

- Support the achievement of complete communities that are designed to support healthy and active living and meet people's needs for daily living throughout an entire lifetime.
- Prioritize intensification and higher densities in strategic growth areas to make efficient use of land and infrastructure and support transit viability.
- Provide flexibility to capitalize on new economic and employment opportunities as they emerge, while providing certainty for traditional industries, including resource-based sectors.
- Support a range and mix of housing options, including additional residential units and affordable housing, to serve all sizes, incomes, and ages of households.
- Provide for different approaches to manage growth that recognize the diversity of communities in the GGH.
- Integrate climate change considerations into planning and managing growth such as planning for more resilient communities and infrastructure – that are adaptive to the impacts of a changing climate – and moving towards environmentally sustainable communities by incorporating approaches to reduce greenhouse gas emissions.

Staff Analysis: While the proposed development generally represents intensification within a Strategic Growth Area that makes efficient use of land and infrastructure, a development proposal with reduced scale and intensity would also conform to these guiding principles and would more suitably reflect the

existing and planned context of Downtown Burlington. The subject applications propose a development that is of a scale and intensity that are inappropriate for the context of the subject property, and do not recognize the diversity of communities in the GGH as required by the Guiding Principles.

2 Where and How to Grow

2.2.1 Managing Growth

2. c) Within settlement areas, growth will be focused in:
 - i. delineated built-up areas;
 - ii. strategic growth areas;
 - iii. locations with existing or planned transit, with a priority on higher order transit where it exists or is planned; and
 - iv. areas with existing or planned public service facilities.
2. e) Development will be generally directed away from hazardous lands.
4. Applying the policies of this Plan will support the achievement of complete communities that:
 - a) feature a diverse mix of land uses, including residential and employment uses, and convenient access to local stores, services, and public service facilities;
 - b) improve social equity and overall quality of life, including human health, for people of all ages, abilities, and incomes;
 - c) provide a diverse range and mix of housing options, including additional residential units and affordable housing, to accommodate people at all stages of life, and to accommodate the needs of all household sizes and incomes;
 - d) expand convenient access to:
 - i. a range of transportation options, including options for the safe, comfortable and convenient use of active transportation;
 - ii. public service facilities, co-located and integrated in community hubs;
 - iii. an appropriate supply of safe, publicly-accessible open spaces, parks, trails, and other recreational facilities;
 - e) provide for a more compact built form and a vibrant public realm, including public open spaces;
 - f) mitigate and adapt to the impacts of a changing climate, improve resilience and reduce greenhouse gas emissions, and contribute to environmental sustainability;
 - g) integrate green infrastructure and appropriate low-impact development.

Staff analysis: Policy 2c)iii) focuses growth to locations with existing or planned transit, with a priority on higher-order transit where it exists or is planned. The subject property is located in Downtown Burlington which does not have existing

higher-order transit and is not planned to have higher-order transit. As such, the level of intensity proposed by the subject applications is not warranted for this location.

The Regional Official Plan (ROP) and City's Official Plans (OPs) have been developed to conform to the Growth Plan. Both the ROP and OPs contain policies that direct the most intense forms of development to locations with existing or planned higher-order transit. In accordance with these policies, the intensity of development that is proposed by the subject applications would be better suited to a location with higher-order transit such as the Urban Growth Centre and/or Major Transit Station Area located on a Priority Transit Corridor.

2.2.2 Delineated Built-Up Areas

3. All municipalities will develop a strategy to achieve the minimum intensification target and intensification through delineated built-up areas, which will:
 - a) identify strategic growth areas to support achievement of the intensification target and recognize them as a key focus for development;
 - b) identify the appropriate type and scale of development in strategic growth areas and transition of built form to adjacent areas;
 - c) encourage intensification generally throughout the delineated built-up area;
 - d) ensure lands are zoned and development is designed in a manner that supports the achievement of complete communities;
 - e) prioritize planning and investment in infrastructure and public service facilities that will support intensification; and
 - f) be implemented through official plan policies and designations, updated zoning and other supporting documents.

Staff analysis: The ROP identifies a hierarchy of strategic growth areas and identifies the appropriate type and scale of development in each type of strategic growth area, in conformity with the Growth Plan. The hierarchy emphasizes the level of transit service in assigning priority to different types of strategic growth area. As discussed in detail in the Regional Official Plan section of this report, the hierarchy is as follows:

1. Urban Growth Centre/Major Transit Station Area on a Priority Transit Corridor;
2. Urban Growth Centre/Major Transit Station on a Commuter Rail Corridor;
3. Major Transit Station Area on a Priority Transit Corridor;
4. Major Transit Station Area on a Commuter Rail Corridor;
5. Primary Regional Node;
6. Secondary Regional Node;

7. Regional Corridor.

The subject property is located within a Strategic Growth Area, and specifically within a Secondary Regional Node as identified in the ROP. As listed above, Secondary Regional Nodes are at the sixth level of the hierarchy of Strategic Growth Areas in the ROP, behind other types of strategic growth area that have higher levels of transit service.

The subject applications propose a development of a scale and intensity that is inappropriate for its context in a Secondary Regional Node and does not conform to the Official Plan policies and designations that implement policy 2.2.2.3 of the Growth Plan. Accordingly the proposed development does not conform to this policy of the Growth Plan.

2.2.3 Urban Growth Centres

1. Urban growth centres will be planned:
 - a) as focal areas for investment in regional public service facilities, as well as commercial, recreational, cultural, and entertainment uses;
 - b) to accommodate and support the transit network at the regional scale and provide connection points for inter- and intra-regional transit;
 - c) to serve as high-density major employment centres that will attract provincially, nationally, or internationally significant employment uses; and
 - d) to accommodate significant population and employment growth.
2. Urban growth centres will be planned to achieve, by 2031, or earlier, a minimum density target of:
 - b) 200 residents and jobs combined per hectare.

Staff analysis: These policies do not apply to the subject applications, as the subject property is not located within an Urban Growth Centre (UGC); however, staff have considered the applications in the context of these policies nonetheless. It is staff's opinion that Downtown Burlington is well positioned to achieve the minimum growth targets of a UGC without the level of intensity proposed on the subject property by the subject applications. Detailed discussion of growth targets is provided in the Regional Official Plan section of this report. It is acknowledged that the targets in the Growth Plan are minimums and that municipalities are encouraged to go beyond these minimum targets, where appropriate. It is staff's opinion that the proposed level of intensity would not be appropriate in this context given that it would conflict with other policies of the PPS and Growth Plan, and would not conform to local development standards set out in the ROP and local OPs.

In planning to achieve the minimum intensification and density targets, municipalities are required to develop and implement urban design and site

design policies and other supporting documents that direct the development of a high-quality public realm and compact built form. As such, the expectation is that achieving or exceeding the intensification targets is not done at the expense of high-quality urban design, which is further explored in subsequent sections of this report.

2.2.4 Transit Corridors and Station Areas

3. Major transit station areas on priority transit corridors or subway lines will be planned for a minimum density target of:
 - c) 150 residents and jobs combined per hectare for those that are served by the GO Transit rail network.
9. Within all major transit station areas, development will be supported, where appropriate, by:
 - a) planning for a diverse mix of uses, including additional residential units and affordable housing, to support existing and planned transit service levels;
 - c) providing alternative development standards, such as reduced parking standards;
 - d) prohibiting land uses and built form that would adversely affect the achievement of transit-supportive densities.
10. Lands adjacent to or near to existing and planned frequent transit should be planned to be transit-supportive and supportive of active transportation and a range and mix of uses and activities.

Staff analysis: These policies do not apply as the subject property is not located within a Major Transit Station Area (MTSA); however, staff have considered the applications in the context of the MTSA policies nonetheless.

As Downtown Burlington has never been located on a Priority Transit Corridor, the minimum density target of 150 residents and jobs combined per hectare does not apply. However, staff note that Downtown Burlington already exceeds this minimum density (as discussed in detail in the Regional Official Plan section of this report).

An appropriate level of intensification for the subject property would contribute to the provision of a diverse mix of uses to support existing and planned transit service levels, and would also be supportive of active transportation, without conflicting with other policies of the Growth Plan.

2.2.5 Employment

3. Retail and office uses will be directed to locations that support active transportation and have existing or planned transit.

4. In planning for employment, surface parking will be minimized and the development of active transportation networks and transit-supportive built form will be facilitated.
15. The retail sector will be supported by promoting compact built form and intensification of retail and service uses and areas and encouraging the integration of those uses with other land uses to support the achievement of complete communities.

Staff Analysis: The subject applications conform to these policies as they provide office and retail uses in a location that supports active transportation and has existing local transit, do not include surface parking, and constitute compact built form and intensification.

2.2.6 Housing

1. Upper-and single-tier municipalities, in consultation with lower-tier municipalities, the Province, and other appropriate stakeholders, will:
 - a) support housing choice through the achievement of the minimum intensification and density targets in this Plan, as well as the other policies of this Plan by: (i) identifying a diverse range and mix of housing options and densities, including additional residential units and affordable housing to meet projected needs of current and future residents;
3. To support the achievement of complete communities, municipalities will consider the use of available tools to require that multi-unit residential developments incorporate a mix of unit sizes to accommodate a diverse range of household sizes and incomes.

Staff analysis: The subject applications would provide a range and mix of housing unit sizes, including studio, one-bedroom, one-bedroom plus den, two-bedroom, and three-bedroom units. However, as noted elsewhere in this report, staff are of the opinion that the level of intensity of development proposed by the subject applications is not appropriate for its context and this level of intensity is not needed to achieve conformity with the Growth Plan.

5 Implementation and Interpretation

- 5.2.5.6 In planning to achieve the minimum intensification and density targets in this Plan, municipalities will develop and implement urban design and site design official plan policies and other supporting documents that direct the development of a high-quality public realm and compact built form.
- 5.2.5.8 The identification of strategic growth areas, delineated built-up areas, and designated greenfield areas are not land use designations and their delineation does not confer any new land use designations, nor alter existing land use designations. Any development on lands within the boundary of these

identified areas is still subject to the relevant provincial and municipal land use planning policies and approval processes.

Staff comment: These policies guide the implementation and interpretation of Growth Plan policies, and confirm that the land use designations of the Regional Official Plan and City's Official Plan continue to apply to strategic growth areas. As discussed in subsequent sections of this report, the proposed development does not conform to the land use designation policies of the Regional Official Plan and City's Official Plan.

Summary of staff analysis: Staff are of the opinion that the subject applications do not conform to the policies of the Growth Plan, as the proposed development would not appropriately reflect the planned context of Downtown Burlington and would represent a level of intensity that is not required on the subject property in order for the City to satisfy the intensification objectives of the Growth Plan. While some form of intensification is considered appropriate for this site, the scale and intensity of the proposed development is not considered to be appropriate within the context of the community in which it is located, as required by the Growth Plan's guiding principle, "provide for different approaches to manage growth that recognize the diversity of communities in the GGH".

3.0 Halton Region Official Plan

The Halton Region Official Plan (ROP) outlines a long-term vision for Halton's physical form and community character, and policies to achieve that vision. All planning decisions in Halton Region, which includes the City of Burlington, must conform to the ROP.

On November 10, 2021, the Minister of Municipal Affairs and Housing approved Regional Official Plan Amendment No. 48 (ROPA 48) with modifications. The amendment is the first change to the ROP that has been approved as part of the Region's current Municipal Comprehensive Review. These amendments are made under Section 26 of the *Planning Act*, R.S.O. 1990, and are in full force and effect as they are not subject to appeal.

3.1 The Regional Urban Structure

Map 1, Regional Structure, of the ROP shows that the subject property is located within the Urban Area near a Waterfront Park. ROP Map 1H, as amended by ROPA 48, shows the Regional Urban Structure and reflects that the subject property is located within a Secondary Regional Node. The goal of the Urban Area and Regional Urban Structure is to manage growth in a manner that fosters complete communities, enhances mobility across Halton, addresses climate change, and improves housing affordability, sustainability, and economic prosperity. The Regional Urban Structure is intended to

provide a structure and hierarchy in which to direct population and employment growth within the Urban Area. The Regional Urban Structure also focuses a significant proportion of population and certain types of employment growth within Strategic Growth Areas through mixed-use intensification supportive of the local role and function and reflective of its place in the hierarchy of Strategic Growth Areas identified in the ROP.

The objectives of Strategic Growth Areas include providing an urban form that promotes the development of complete communities, providing a diverse mix of land uses, creating a vibrant, diverse, and pedestrian-oriented urban environment, supporting transit and active transportation for everyday activities, and providing high-quality public parks and open spaces. The ROP identifies different types of Strategic Growth Areas, including Urban Growth Centres, Major Transit Station Areas, Primary and Secondary Regional Nodes, Regional Corridors, and Local Nodes.

The subject property is located within Burlington's Downtown Urban Centre, which is a Secondary Regional Node. Regional Nodes are recognized as an integral component of the Regional Urban Structure that are historic downtown areas or contain a concentration of public service facilities and/or transit-supportive, high-density uses. They are intended to provide a range and mix of transit-supportive uses that support the area in a pedestrian-oriented urban environment. It is also an objective of the ROP for Regional Nodes to reflect and reinforce Local Urban Structures such as the Urban Structure of the Burlington Official Plan. Secondary Regional Nodes, including Burlington's Downtown Urban Centre, are specifically recognized by the ROP as historic downtown areas or villages, and/or are intended to be a focus for growth through mixed-use intensification at a scale appropriate for their context.

The ROP requires local municipalities to prepare detailed Official Plan policies or an Area-Specific Plan for the development of Strategic Growth Areas, including policies for a multi-modal transportation network and urban design guidelines to promote active transportation and transit-supportive land uses. Staff note that the City's New Official Plan (2020) includes detailed policies for Downtown Burlington, where the subject property is located. While the new Official Plan does not assign a land use designation to the subject property, it establishes a land use vision and policies for the surrounding area, as well as general policies for built form and urban design that apply throughout the downtown, including on the subject property. The New Official Plan was approved by Halton Region on November 30, 2020 and deemed to conform to the ROP, although it is currently subject to appeals as discussed later in this report.

The Regional Urban Structure directs development with higher intensities and mixed uses to the different types of Strategic Growth Area in accordance with the following hierarchy:

1. Urban Growth Centre/Major Transit Station Area on a Priority Transit Corridor;
2. Urban Growth Centre/Major Transit Station on a Commuter Rail Corridor;
3. Major Transit Station Area on a Priority Transit Corridor;
4. Major Transit Station Area on a Commuter Rail Corridor;
5. Primary Regional Node;
6. Secondary Regional Node;
7. Regional Corridor.

The subject property is located within the Downtown Urban Centre, which is a Secondary Regional Node and therefore subject to the sixth level of the hierarchy.

Table 2b of the ROP establishes targets that apply to Strategic Growth Areas, including specific minimum density targets and general targets for an overall proportion of residents and jobs planned to be achieved over the long term. Table 2b does not assign any such targets to Secondary Regional Nodes.

Through the hierarchy of Strategic Growth Areas and the growth targets of Table 2b, both described above, the ROP sets expectations for the priority and intensity of growth to be directed to each of the different types of Strategic Growth Area. While all Strategic Growth Areas are intended to accommodate higher-density, mixed use development over the planning horizon of the ROP, the Regional Urban Structure prioritizes directing the highest densities of development to the Urban Growth Centres, Major Transit Station Areas, and Primary Regional Nodes, ahead of the Secondary Regional Nodes. Secondary Regional Nodes are not located on Priority Transit Corridors or Commuter Rail Corridors. The Secondary Regional Nodes are intended to accommodate an intensity of growth that is appropriate for their context, commensurate with the level of existing and planned transit service in the area, and in accordance with the detailed policies of the Official Plans of the local municipalities.

The subject applications have been reviewed by Halton Region staff. With respect to growth management, Halton Region staff provided comments noting that Secondary Regional Node policies “advance and support local plans and priorities that are of strategic importance, provide an urban form that is complementary to existing developed areas, and provide a concentration of residential and employment uses with development density patterns supportive of active transportation and public transit”. Comments from Halton Region conclude that “additional information is required to better

understand how the proposal addresses and conforms with the Regional Urban Structure, the growth targets provided within the ROP, and the Secondary Regional Nodes policies of the ROP".

3.2 Regarding Urban Growth Centres

The Planning and Urban Design Rationale submitted with the subject applications refers to the subject property as being located within an Urban Growth Centre and an MTSA. However, the ROP as amended by ROPA 48 confirms that the subject property is not located within either of these areas. The boundary of Burlington's Urban Growth Centre (UGC) was adjusted by ROPA 48. Section 80.3 of the ROP states that, for lands that were within the UGC prior to the approval of ROPA 48, the ROP policies for UGCs continue to apply to development applications that were made prior to the approval of ROPA 48 by the Minister of Municipal Affairs on Housing on November 10, 2021. The subject property was located within the UGC prior to ROPA 48; however, the complete applications for the subject lands were made on December 17, 2021, after the approval of ROPA 48 by the Minister. Accordingly, the UGC policies of the ROP do not apply to the subject applications. Nonetheless, staff have considered the UGC policies as they relate to the subject applications.

If the subject property were located within the UGC boundary, it would be part of one of "the primary Strategic Growth Areas of the Regional Urban Structure hierarchy where a significant share of population and employment growth will be accommodated" (ROP 80.4). The UGC has been assigned a minimum density target of 200 people and jobs per hectare by Table 2b of the ROP. UGCs are intended to accommodate and support the transit network at a regional scale and serve as high-density major employment centres that attract provincially, nationally, or internationally significant employment uses. UGCs are also focal areas for investment in institutional and region-wide public services, as well as commercial, recreational, cultural, and entertainment uses. Section 80.1 of the ROP also states explicitly that UGCs are subject to the objectives and policies of the Urban Area and Strategic Growth Areas. Development proposals in UGCs also continue to be subject to other relevant policies of the ROP including the Healthy Communities policies in Part IV and the Development Criteria in Part III of the ROP. As set out in policy 58(2) of the ROP, development must meet "all applicable statutory requirements, including regulations, Official Plan policies, zoning by-laws, and municipal by-laws".

An Urban Growth Centre Density Analysis was completed by the City in August 2020, and conveyed to Community Planning, Regulation, and Mobility Committee through [Appendix 21 of report PL-16-20](#) on September 30, 2020. This analysis assessed population and job density within the UGC boundary that was in effect at the time, which included the subject property. The analysis found that as of 2016, the then-UGC had a

density of 157 people and jobs per hectare. By August 2020, additional developments had been approved for lands within the then-UGC, with the effect that UGC density was projected to increase to 189 people and jobs per hectare upon completion of these developments. Additional development applications were also being considered at the time that would, if approved and constructed, result in the UGC achieving a density of 217 people and jobs per hectare.

This UGC density analysis has not been updated since August 2020 because much of the area that was assessed is no longer within the UGC due to the boundary changes that occurred through ROPA 48. However, the August 2020 analysis indicates that the area within which the subject property is located was projected to achieve the minimum density target of 200 people and jobs per hectare in advance of the 2031 planning horizon. If the subject property were still in a UGC today, the intensification of the subject property would contribute to the UGC achieving the minimum density target by 2031, but the site would not necessarily need to intensify at the scale proposed by the subject applications in order for the UGC to meet this target, particularly where the scale of the proposed development does not conform with other provincial, regional, and local policies. The applications would still be evaluated with consideration for whether the proposed development is appropriate for its context and in conformity with all applicable policies, regulations, and guidelines.

3.3 Regarding Major Transit Station Areas

The Planning and Urban Design Rationale submitted with the subject applications refers to the subject property as being located within a Major Transit Station Area (MTSA). The subject property is not located within an MTSA, as reflected in Map 1H and Table 2b of the ROP. The subject property and the subject applications are therefore not subject to the ROP policies for MTSA's. However, similar to the discussion of UGC policies above, staff have considered the MTSA policies of the ROP as they relate to the subject applications. These policies direct development with higher densities and mixed uses to MTSA's in accordance with the hierarchy of Strategic Growth Areas described above. ROPA 48 established that all identified MTSA's must be planned to achieve minimum density targets of 120-150 people and jobs per hectare, and target proportions of residents and jobs, as set out in Table 2b. The ROP requires local municipalities to develop Area-Specific Plans or detailed Official Plan policies for MTSA's, and staff note that the City is currently developing Area-Specific Plans for the City's three MTSA's, which are located around the GO stations and do not include the subject property. The City's MTSA policies are discussed in the sections of this report that address Official Plan Amendment 119 and the New Official Plan.

As with the consideration of UGC policies above, staff note that development proposals within MTSA's continue to be subject to all applicable statutory requirements, including

regulations, Official Plan policies, zoning by-laws, and municipal by-laws. The August 2020 UGC Density Analysis indicates that the area within which the subject property is located already had a density of 157 people and jobs per hectare in 2016, which exceeds the minimum density targets that apply to MTSA located on Priority Transit Corridors or Commuter Rail Corridors. The subject property is not located on a Priority Transit Corridor as identified in the ROP and Growth Plan, or on a Commuter Rail Corridor, as shown on Map 1H of the ROP.

If the subject property were located within an MTSA today, intensification of the subject property would contribute to achieving the intent to direct higher-density, mixed-use developments to MTSA, but the scale of development proposed in the subject applications would not be needed for the MTSA to achieve the minimum density targets identified for any of the MTSA types currently listed in Table 2b of the ROP. The City would still evaluate the applications with consideration for whether the proposed development is appropriate for its context and in conformity with all applicable policies, regulations, and guidelines.

3.4 The Role of Local Official Plans

Throughout the Regional Urban Structure policies, including the general policies for Strategic Growth Areas and the policies for UGCs, MTSA, and Regional Nodes, the ROP makes reference to the role of local municipalities, such as the City of Burlington, in developing detailed local Official Plan policies and/or Area-Specific Plan policies that will achieve conformity with and implement the Regional Urban Structure objectives and policies of the ROP. The City of Burlington has developed detailed Official Plan policies for the Downtown Urban Centre, within which the subject property is located. These policies reflect the local context and provide more specific direction to guide the review of development applications to confirm whether they have achieved conformity with the ROP and Official Plan. For example, it is by reviewing the subject applications in the context of both the ROP and the local Official Plan policies that it can be determined whether the proposed development represents intensification that is “at a scale appropriate for its context” as required by the applicable ROP policies for Secondary Regional Nodes. The context of the subject property and the evaluation of the subject applications in accordance with applicable local Official Plan policies, regulations, and guidelines, are discussed in detail in later sections of this report.

It should be noted that the detailed policies for the Downtown Urban Centre in the City’s new Official Plan were designed to conform with the UGC and MTSA requirements that applied to the Downtown Urban Centre at the time. These policies were approved by Halton Region on November 30, 2020, reflecting that these local policies conform with provincial and regional policies for UGCs and MTSA. The land use vision, built form policies, and urban design policies for Downtown Burlington in the new Official Plan

would therefore be applicable and implementable even if the subject property were located within a UGC or MTSA.

3.5 Other Regional Official Plan Matters

Map 2 of the ROP shows the Burlington Beach Regional Waterfront Park, which includes Spencer Smith Park directly adjacent to the subject property. Sections 133-136 and 196 of the ROP contain objectives and policies for Regional Waterfront Parks, which are intended to maximize public accessibility to the waterfront by increasing the amount of well-distributed public open space. Halton Region staff provided comments on the subject applications which note that a Master Plan for the Burlington Beach Waterfront Park was developed in consultation with the City and approved by Regional Council. With this in mind, Regional comments indicate that “given the direction of the Regional Waterfront Parks policies, the careful consideration of how the proposed development is integrated with, and supports the planned function of this waterfront park should be undertaken”. Further discussion of the need to integrate the proposed development with the adjacent waterfront park is contained in later sections of this report.

The subject property is located in close proximity to the Lake Ontario Shoreline, which forms part of the Regional Natural Heritage System (RNHS). The ROP contains policies for the protection of the RNHS. Comments from Halton Region staff defer to Conservation Halton staff with respect to the Lake Ontario Shoreline as a component of the RNHS. As discussed below under Intensification Criterion (xi), Conservation Halton staff have not raised any concerns with respect to impacts of the proposed development on the Lake Ontario Shoreline.

Sections 84-86 of the ROP contain objectives and policies intended to supply the people of Halton with an adequate mix and variety of housing to satisfy differing physical, social, and economic needs. These include policy 86(11) which permits residential intensification “provided that the physical character of existing neighbourhoods can be maintained”. A Housing Impact Statement was submitted with the subject applications and is discussed below in the section of this report concerning the City’s Official Plan.

Sections 87-89 of the ROP contain objectives and policies to ensure the adequate provision of an economic level of urban (water and wastewater) services to achieve Regional development objectives while conscious of the need to protect the environment. A Functional Servicing Report, prepared by S. Llewellyn & Associates Ltd., dated Oct. 2021, was submitted with the subject applications and has been reviewed by staff at Halton Region and the City. Regional and City comments on this report are discussed below under Intensification Criterion (i).

Part IV of the ROP contains Healthy Community policies, which address site contamination and waste management, among other matters. Comments from Halton Region staff related to site contamination matters are discussed below under the Official Plan section of this report.

A Waste Management Plan, prepared by GHD Limited, dated Oct. 13, 2021, was submitted with the subject applications and has been reviewed by Halton Region staff. Comments from Regional staff identified numerous concerns with the submitted Waste Management Plan, including that it had not shown sufficient space for the required number of waste storage bins and that it is missing important information about how waste can be stored and collected from the site. As indicated in the Halton Region comments, the subject applications have not demonstrated that efficient and safe collection of solid waste from this site can be accommodated for the proposed development in accordance with the Regional Official Plan and relevant guidelines.

3.6 Regional Official Plan Analysis Summary

The subject applications have not demonstrated that the proposed development conforms to the Halton Region Official Plan, including with respect to growth management, regional waterfront parks, servicing, site contamination, and waste management. In particular, the subject applications have not demonstrated that the proposed development represents growth at a scale appropriate for its context as required by the Secondary Regional Node policies, or that the proposed development supports the local role and function of, and is reflective of, its place in the hierarchy of Strategic Growth Areas identified in the Regional Urban Structure policies of the ROP.

Staff are of the opinion that the scale of the proposed development is too large for its context, and that it does not support the local role and function of, or reflect, the place of the subject property in the hierarchy of Strategic Growth Areas identified in the Regional Urban Structure policies of the ROP.

Although the subject property is not located within an Urban Growth Centre or Major Transit Station Area, it is also the opinion of staff that the proposed development would be too large for its context even if the property were located within an Urban Growth Centre and/or Major Transit Station Area.

4.0 City of Burlington Official Plan (1997, as amended)

The City's Official Plan (1997, as amended) (the OP) outlines a long-term vision of the community and quality of life for Burlington residents and provides policy direction to the public and private sectors on land use, development and resource management matters

to guide the future planning and development of the City towards the desired community vision.

The OP identifies the subject property as being located within the Downtown Mixed-Use Centre, as shown on Schedule B, “Comprehensive Land Use Plan – Urban Planning Area”. Schedule E, “Downtown Mixed Use Centre – Land Use Plan” of the Official Plan identifies the subject property as being designated “Wellington Square Mixed Use Precinct” and located within the boundary of an Urban Growth Centre. However, Burlington’s OP, and any proposed amendments to it, must conform to provincial land use plans and regulations and to the Region of Halton Official Plan (ROP), and must also be consistent with Provincial Policy Statements and Guidelines. In cases where there is a conflict between the policies of the OP, the applicable Provincial Land Use Plan, or the ROP, any application to amend the OP must be in conformity with those higher-level Regional and Provincial policies. Accordingly, the subject property is no longer located within an Urban Growth Centre for the purposes of evaluating the proposed Official Plan amendments and Zoning By-law amendments.

The applicant has requested amendments to the Official Plan (1997 as amended) to change the text of the OP by removing the site-specific policy that requires completion of a master plan and adding a new site-specific policy that permits a maximum building height of 35 storeys and 119.3 metres, and a maximum Floor Area Ratio of 7.8:1. The proposed new site-specific policy would also require retail, service commercial, office, live/work, hotel lobby, and residential lobby uses at grade along public streets in residential, mixed-use, or office buildings.

4.1 Official Plan Analysis:

The Guiding Principles in Part I, section 3.0 of the Official Plan include principle (h), “Promote the efficient use of land through intensification within appropriate areas of the City, in accordance with Provincial growth management objectives, while recognizing the need for balancing this objective with other planning considerations”. This section of the report provides discussion of the subject applications in accordance with policies of the Official Plan that concern this balancing of intensification objectives with other planning considerations.

The Land Use Vision contained in Part I, section 4.0 of the Official Plan states that “Burlington’s historic Downtown is to maintain its role as the city centre. Special attention will be focused on this area to revitalize it as a traditional “people place” Downtown. This will involve encouraging retail and office development along the core streets, particularly Brant Street, basing government activities in this area, maintaining good quality housing stock, encouraging residential development, redevelopment and

intensification in areas where appropriate, and providing a stronger link to the waterfront”.

The subject applications have been evaluated in accordance with the Official Plan, which contains objectives and policies to achieve the land use vision and adhere to the guiding principles.

Part II of the Official Plan contains functional policies that apply throughout the City. Part II section 2.0 relates to sustainability and the environment. These include policies encouraging development that provides choice in housing, shopping, employment, and transportation, while requiring development to be designed to be compatible with and enhance the waterfront (2.7.3 d and e).

Part II section 2.8 contains policies related to contaminated and potentially contaminated sites, to ensure that the development and redevelopment of land avoids adverse effects on human and ecological health. A Phase One Environmental Site Assessment and Phase Two Environmental Site Assessment were submitted as part of the subject applications and reviewed by Site Engineering staff and Halton Region. Comments from both of these reviewers stated that a Record of Site Condition is a mandatory requirement for the proposed development, which proposes a change to a more sensitive land use. Site Engineering comments noted that based on the Phase Two ESA, a Record of Site Condition cannot be filed for the Phase Two property without undertaking additional soil and groundwater delineation and a soil and groundwater remediation programme or some level of risk assessment activities, or a combination of both. Accordingly, Site Engineering staff identified the need for a Risk Assessment to be conducted to confirm the risks (if any) to human health and the environment, and what Risk Management Measures are needed (if any) to manage the risks. Halton Region staff and Site Engineering staff both recommended that if the subject applications were to be approved, a Holding Symbol should be applied to the property until the Record of Site Condition and Risk Assessment are filed with and accepted by the Ministry of Environment, Conservation, and Parks (MECP), and any related contamination concerns are addressed.

Staff analysis: The subject applications have not demonstrated conformity with Part II, section 2.8 of the Official Plan as the Phase Two Environmental Site Assessment indicates that additional study is required.

Part II, section 2.11 contains policies related to storm water management, flooding, erosion, and hydrogeology. Storm water management is discussed below under Intensification Criterion (i), and flooding and erosion hazards are addressed under Intensification Criterion (xi). With respect to hydrogeology, a Hydrogeological Dewatering Assessment, prepared by Terra-Dynamics Consulting Inc., dated Oct. 18,

2021, was submitted with the subject applications and reviewed by Site Engineering staff. Comments from Site Engineering staff indicate that the subject applications must identify a definitive approach to how long-term (post-construction) dewatering is proposed to be managed on the subject property and demonstrate that this is feasible. This is necessary as it has implications for the design and zoning of the site, as it may require a designated area for storage (quantity control) and a treatment facility (quality control) within the limits of the site.

Staff analysis: The subject applications have not demonstrated conformity with Part II, section 2.11 of the Official Plan with respect to stormwater management and hydrogeology.

Part II, section 3 of the Official Plan contains policies related to transportation, including policies related to parking, traffic impacts, transportation demand management, and transit. These matters are discussed below under Intensification Criteria (ii), (iii), and (iv). Section 3 also contains policies to protect adequate public road rights-of-way (ROW) to meet future needs, including by taking road widenings and daylight triangles through development. The Official Plan identifies that Lakeshore Road has a deemed width of 30 metres. The subject applications propose to amend the Zoning By-law to reduce the deemed width of this street from 30 metres to 24 metres, thereby reducing the amount of road widening needed. Staff do not support the proposed amendment to reduce the deemed width of Lakeshore Road. Comments from Site Engineering and Transportation staff reflect that despite the proposed amendment to deemed width, the submitted Site Plan shows the needed road widening of 2.2 to 2.78 metres. However, staff note that the proposed development appears to encroach into the road widening, which is not supported.

Staff analysis: The subject applications have not demonstrated conformity with Part II, section 3 of the Official Plan with respect to parking, transportation demand management, and transit.

Part II, section 5 contains policies to promote co-ordinated public and private utility planning and infrastructure design. The subject applications were circulated to various utility providers including Burlington Hydro, telecommunications providers, Union Gas, and pipelines. Union Gas/Enbridge responded to indicate that they have an existing gas main in front of the subject property on Lakeshore Road and the proposed development does appear to provide limited space between the property line and edge of the parking garage for meter/regulating stations. TransNorthern Pipeline responded that they had no comments as they have no infrastructure in this area. Rogers telecommunications responded that they have no objection to the proposed development, and provide standard comments. Burlington Hydro also provided standard

comments, which include a provision that “relocation, modification, or removal of existing hydro facilities, if required, shall be at the customer’s expense”. Comments from Parks Design & Construction staff noted that the proposed development appears to require the relocation of existing hydro transformers at the northwest corner of the subject property, which provide power to Spencer Smith Park; relocation of this infrastructure must be co-ordinated at the owner’s expense to avoid disruption to Spencer Smith Park’s power supply.

Staff analysis: The subject applications generally conform with Part II, section 5 of the Official Plan, although a potential concern has been raised by Union Gas/Enbridge about whether the proposed development provides adequate space for utility equipment.

Part II, section 6 contains policies for urban design, to ensure the design of the built environment strengthens and enhances the character of existing distinctive locations, and that proposals for intensification within existing neighbourhoods are designed to be compatible with and sympathetic to existing neighbourhood character. These include a policy that allows Council to identify certain locations as having landmark significance and to require that these are retained through design measures. The subject property is a landmark location as identified in site-specific policy (Part III, 5.5.9.2.I) which requires a master plan to be completed for design and other matters.

The design policies of Part II, sections 6.3-6.5 promote compact, pedestrian-oriented and transit-supportive development, while also requiring the density, form, bulk, height, setbacks, spacing and materials of development to be compatible with the surrounding area. They also emphasize the need for high-quality design of the public realm, including encouraging opportunities to introduce or improve links between important public areas, such as the Downtown and the waterfront. Policy 6.6(c) requires the implementation of Council-approved design guidelines, which are to be treated as policy. Detailed analysis of the urban design elements of the subject applications, in accordance with applicable design guidelines, is provided below in the sections of this report that address Intensification Criteria and Urban Design Guidelines.

Staff analysis: The subject applications have not demonstrated conformity with Part II, section 6 of the Official Plan, as discussed in subsequent sections of this report.

Part II, section 7 contains policies encouraging the inclusion of public art in all significant private sector development across the City. The subject property has been identified as an appropriate location for public art, through comments from the Burlington Urban Design (BUD) Panel and through the Waterfront Hotel Planning Study.

Part II, section 8 identifies the City's objective "to ensure that redevelopment and/or new development in an historic area does not detract from the overall heritage character of the area". Potential impacts of the proposed development on nearby cultural heritage resources are discussed below under Intensification Criterion (xi).

Staff analysis: The subject applications do not conflict with Part II, sections 7 and 8 of the Official Plan, as discussed in subsequent sections of this report.

Part II, section 12 of the Official Plan contains policies to investigate the impact of new land use development on the City's and Region's current and capital budgets, to ensure that new development pays for itself and that the City's and Region's finances are responsibly managed. To that end, the City may require the submission of a financial impact analysis as part of a complete development application. A Fiscal Impact Study, prepared by WSP, dated Oct. 15, 2021, was submitted with the subject applications.

Finance staff engaged Watson & Associates Economist Ltd. (Watson) to peer review the WSP Fiscal Impact Study (WSP Study). A detail review of the WSP Study was prepared entitled 2020 Lakeshore Road Redevelopment Fiscal Impact Study -Peer Review, March 2022.

The WSP Study estimates an annual fiscal surplus of close to \$1M from the redevelopment of 2020 Lakeshore Road. This is their estimate at full redevelopment and not the incremental impact accounting for the current fiscal impact. By comparison and summarized in the Watson Peer Review, analysis indicates the redevelopment is significantly less optimistic than WSP Study with a potential annual fiscal surplus of approximately \$153,000. While this would indicate that the redevelopment may provide a slight benefit to the City from a fiscal perspective, it is important to recognize the fiscal impact study is a tool to be used, along with other policy documents and not in isolation of other factors of importance that this study does not consider such as the physical, social, economic and cultural elements of the city. A fiscal review is only one of many useful tools that are utilized in the process.

Staff analysis: The subject applications conform with Part II, section 12 of the Official Plan, as they demonstrate that the proposed development, if approved, would pay for itself and would not negatively impact City finances.

Part III, section 2 of the Official Plan contains policies that are applicable in all land use designations where residential uses are permitted. These include objectives and policies to ensure that housing needs are met including adequate supply of housing, and to encourage the development of rental housing, affordable housing, and accessible housing. A Housing Impact Statement, prepared by WSP Canada, was submitted with the subject applications. This report was required to demonstrate how

the proposed development addresses the housing policies of the City and Region. The report outlines that 317 residential units are proposed in the west building and 240 in the east building. No affordable or assisted housing units are proposed.

Part III, section 2.5 of the Official Plan contains policies that establish criteria for housing intensification; these are discussed in detail below.

Staff analysis: The subject applications have not demonstrated conformity with Part III, section 2 of the Official Plan, with respect to satisfying Intensification Criteria for development that includes residential uses.

Part III, section 5.0 of the Official Plan contains policies and objectives for Mixed Use Activity Areas, and section 5.4 specifically address Mixed Use Centres. As described above, the subject property is located within the Downtown Mixed Use Centre. Mixed Use Centres are intended to accommodate higher-intensity, transit-supportive, pedestrian-oriented, mixed-use developments while retaining compatibility with nearby land uses. Development shall be permitted in a range of intensities and heights, subject to a high quality of urban design and ensuring compatibility and integration with adjacent uses. Open space and parkland shall be provided and should integrate the Mixed Use Centre with the surrounding area. Policy 5.4.2(l) states that the City will monitor development in Mixed Use Centres “to ensure that an appropriate amount of open space is provided taking into account the size and scale of each lot and the proposed development, and recognizing the amount of open space to be provided on public lands”. Reduced parking standards may be permitted in Mixed Use Centres to reflect the increased intensity of development and accessibility by transit and other modes of travel.

Part III, section 5.5 contains principles, objectives and policies specific to the Downtown Mixed Use Centre. Protecting and enhancing public access to the waterfront and waterfront facilities is identified as “a primary focus, which must be recognized in the consideration of development... Reasonable protection of views to the lake from public areas such as streets and trails shall also be provided in the consideration of development”. Objectives that are particularly relevant to the subject applications include, but are not limited to:

- to increase the resident population and provide a variety of housing types, mainly at medium and high densities;
- to ensure that buildings in the downtown are offset by a range of open space areas that may allow for both passive and active recreational and social activities;

- to create a strong link between the Downtown and the waterfront, and to create a unique waterfront area to accommodate recreational, cultural, and leisure pursuits;
- to establish the concept of design excellence in the Downtown;
- to establish planning precincts within the Downtown, each with their own distinct character and specific planning policies;
- to create a continuous, harmonious, safe and attractive environment through streetscape and the design of new buildings;
- to ensure that the density, form, bulk, height, and spacing of development is compatible with the surrounding area;
- to provide adequate and safe parking in the Downtown.

Policies for the Downtown Mixed Use Centre require the provision of retail, service commercial, and other pedestrian-oriented uses at street level in the Wellington Square Mixed Use Precinct, and require protection and enhancement of public access to the waterfront as well as reasonable protection of views to the lake from public areas such as streets and trails. Land uses such as hotels, theatres, cafes, rooftop terraces, sidewalk patios, restaurants, cultural and recreational facilities, and tourist attractions and services are specifically directed to locate in the Wellington Square Mixed Use Precinct.

The subject property is located within the Wellington Square Mixed Use Precinct. As described in section 5.5.9, this precinct is intended to be “a limited, concentrated area within the Downtown for taller, high-density development in order to help meet Provincial Growth objectives and to support greater transit use, but to prevent unlimited spread of higher density throughout the Downtown”, and “to require a high standard of design for new buildings in order to provide a sense of place, compatibility with existing development, and a sense of pedestrian scale and comfort”. The policies for this precinct permit a mix of uses including the proposed high-density residential, office, retail and service commercial, and hospitality uses.

The Wellington Square Mixed-Use Precinct permits development with a maximum height of 8 storeys (29m) and a maximum Floor Area Ratio of 5.0:1, but may permit a higher Floor Area Ratio and heights of up to 14 storeys for development proposals that “provide compatibility with surrounding land uses and a sense of pedestrian scale by the use of terracing above the second floor, and subject to the community benefits provisions” of the Official Plan. The subject applications propose an Official Plan amendment to permit a development with a maximum height of 35 storeys (119m) and a maximum Floor Area Ratio of 7.76:1, representing a substantial departure from the maximum development permissions of the Official Plan, including both the base permission of 8 storeys and the maximum permission of 14 storeys, and without

addressing the considerations that are identified in policy as relevant to consider height in excess of 8 storeys. These proposed amendments are assessed in detail throughout this report.

Developments on the south side of Lakeshore Road, such as the subject property, are required “to maintain a certain amount of their road frontage to remain unoccupied by buildings” in order “to maintain as many public view corridors to the lake as possible”. The subject applications have proposed a four-storey open-air breezeway at the southern terminus of John Street which partially preserves views to the lake, although a proposed fifth-storey building connection above this breezeway partially obscures this view corridor. The proposed development does not encroach into the Elizabeth Street or Brant Street rights-of-way. However, as discussed in later sections of this report, additional setbacks from both of these streets would be beneficial to improve streetscaping and park integration; such setbacks would also assist in enhancing views to the lake down these two streets. Removal of the fifth-storey building connection above the breezeway would also improve the proposed view corridor to the lake.

In accordance with policy 5.5.9.2(j), an angular plane study is required to identify visual, shadow, and wind impacts, and demonstrate mitigation of impacts to acceptable levels. An Angular Plane Study was submitted by the applicant and has been reviewed by Planning staff. This study demonstrates that the proposed development fits within a 45-degree angular plane measured from the nearest part of the St. Luke’s Neighbourhood Precinct area (on Burlington Ave), but does not address impacts on the immediate vicinity of the property. Visual, shadow, and wind impacts of the proposed development are considered elsewhere in this report on the basis of other information that was provided with the subject applications.

Staff analysis: The subject applications have not demonstrated conformity with the Wellington Square Mixed-Use Precinct policies in section 5.5.9.2(a-k) of the Official Plan, as the proposed development is not compatible with the surrounding area, is not at an appropriate scale for its context, and will cause adverse impacts on the surrounding area that have not been addressed.

Section 5.5.9.2(l) contains a site-specific policy that is applicable to the subject property:

“Notwithstanding the above policies, the lands along the Lake Ontario shoreline, at the foot of Brant Street, (known as the Travelodge lands), represent a significant opportunity for mixed use development linking the Downtown with the waterfront. Any further development on these lands shall provide a high quality of urban design reflecting the landmark nature of this site and shall be contingent upon the completion of a master plan to the satisfaction of City Council. This master plan shall address the integration of these lands with the publicly owned

lands to the south and west and the private development to the east, and shall address other matters such as preservation of lake views and enhancements to the public realm”.

This policy places an emphasis on achieving high-quality urban design, a link between the Downtown and waterfront, integration of the development on the subject property with the surrounding park land and existing developments, preservation of lake views and enhancements to the public realm. The subject applications propose to amend the Official Plan by deleting this site-specific policy, which is not supported by staff. The master plan process, known as the Waterfront Hotel Planning Study, is currently underway and will be completed in April 2022. Further discussion of the Waterfront Hotel Planning Study is provided later in this report.

Staff analysis: The subject applications have not demonstrated conformity with the site-specific policy 5.5.9.2(l) that applies to the subject property, as the required master plan has not been completed and the subject applications have not adequately addressed the integration of the proposed development with adjacent lands, the preservation of lake views, and enhancements to the public realm.

The Official Plan contains extensive objectives and policies related to the Waterfront and in particular the integration of the Waterfront with the Downtown. These policies can be found in Part II, section 9, which applies City-wide, and Part III, section 5.5.13, which applies in the Downtown only.

Part II, section 9 of the OP contains policies that require development to be set back from the stable top of bank at a distance acceptable to the City and Conservation Halton, which has been addressed through this development as discussed under Intensification Criterion (xi) below.

Section 9.3 specifically addresses public access and use of the waterfront. It identifies the City’s objectives to improve access to the waterfront by all means of transportation while maintaining a pedestrian-oriented atmosphere, and to establish, in a sustainable manner, more areas of publicly accessible waterfront through the acquisition of key access points and the development of waterfront parks. Policy 9.3.2(h) encourages the connection of transit routes and north-south transportation routes such as pedestrian/cyclist trails with waterfront public open space, parks, and the Waterfront Trail.

Section 9.4 identifies objectives for development on the waterfront, including objectives to: encourage a balanced mix of land uses, parks, facilities and open spaces; “to ensure that development is compatible with the waterfront in terms of land use, intensity and

scale, and is carried out in a manner that protects and enhances historic and natural heritage environments, and ensures pedestrian friendliness and user accessibility”, and “to enhance public accessibility to the waterfront by obtaining waterfront open space, parkland, and trails when considering development applications along the waterfront”. This section includes policies that require development proposals along the waterfront to:

- provide for public open space and Waterfront Trail use, where feasible;
- preserve or complement views of Lake Ontario from public streets and trails;
- identify opportunities to integrate public art or other cultural elements;
- dedicate to the City the lands below the stable top of bank (not to be counted as part of parkland dedication);
- dedicate to the City, as part of parkland dedication, land above the stable top of bank, as well as links to adjacent public open space, roadways, and other properties;
- minimize any adverse effect the development will have on on-shore lake breezes (wind impacts).

Part III, section 5.5.13 reinforces the above waterfront policies with Downtown-specific considerations. These expand on the requirement to provide public access to the lake where feasible and to preserve public views to the lake by requiring waterfront development to be terraced (stepped back) to preserve and frame public views of the lake. These policies also make reference to the role of the master plans for Spencer Smith Park and Beachway Park in considering opportunities for establishing links between the waterfront and Downtown.

The objective to “integrate and provide linkages” between the waterfront and adjacent lands is further emphasized in Part III, section 5.5.6, which contains policies for the “Waterfront West/Public Lands Precinct” that includes Spencer Smith Park, adjacent to the subject property to the south and east.

A Park Concept Plan was submitted as part of the subject applications and has been reviewed by staff. The submitted Park Concept Plan is intended to show how the proposed development will be integrated with the adjacent Spencer Smith Park, in accordance with the waterfront and parks policies of the Official Plan. This concept plan shows the proposed development being built to the limits of the subject property, and integrated with the park by way of two walkways that connect to existing pathways in Spencer Smith Park. It also reflects the potential provision of a public washroom within the west side of the proposed development, accessed from the existing pathway that connects the Brant Street park entrance to the boardwalk and pier. The provision of public washrooms within the proposed development is a desirable feature as set out in

the Council-endorsed key policy directions of the Waterfront Hotel Planning Study (discussed in greater detail later in this report). Notwithstanding the reference to potential public washrooms within the development, the Park Concept Plan does not reflect sufficient integration of the proposed development with Spencer Smith Park.

Comments from Parks Design & Construction (Parks) staff reflect that parkland dedication will be a requirement of the proposed development, in the form of new parkland as an extension of Spencer Smith Park, which “is the most popular and iconic park in the City”, “is a destination for area residents as well as visitors from all over”, and “historically reaches full capacity several times a year given it is a venue for major festivals and events”. Parks comments reflect that recent development approvals in the vicinity of the subject property have increased demands for parkland in this area, and that other proposed developments in the area will also increase demands on the park system if approved.

As stated in Parks staff comments, “The addition of parkland through this development application is intended to be used to rebuild the main entrance and pathway (from Lakeshore Road to the Pier) so that there is a gradual slope to ensure an accessible route by people of all ages and abilities. The addition of parkland will provide improved access not just for pedestrians but for emergency vehicles, maintenance equipment, and large event trucks. The current configuration is very constricted. The addition of parkland will support public views to the Lake, create a better relationship between the streetscape and the park and ultimately an improved interface between the park and proposed new building”.

The comments from Parks staff further state that the park cannot be used as access for construction of the proposed development, and all existing trees in Spencer Smith Park must be protected and that no encroachments or grading from the proposed development will be permitted within the park, including below-grade footings/foundations.

These comments are consistent with the objectives and policies of the Official Plan, which, as described above, emphasize the need to create an inclusive and accessible Downtown, provide links between the Downtown and the waterfront, protect public views to the lake, ensure an appropriate amount of open space is provided in Mixed Use Centres, and integrate proposed developments with their surroundings and in particular with the waterfront.

Additional discussion of integration of the proposed development with its surroundings is provided below in the sections on Intensification Criteria and Urban Design Guidelines.

Staff analysis: The subject applications have not demonstrated conformity with the policies of Part II, section 9, and Part III, sections 5.5.6 and 5.5.13 of the Official Plan. The submitted applications do not reflect the provision of the parkland dedication as required by the Parks comments. Additionally, the two narrow walkway connections shown in the submitted Park Concept Plan do not reflect an appropriate integration of the proposed development with “the most iconic and popular park in the City” and the waterfront in accordance with the policies and objectives of the Official Plan.

Section 5.5.12 contains policies for urban design in the Downtown, which place an emphasis on creating a human-scale, pedestrian-oriented environment with active uses at grade in developments. The policies also require the preservation of public views to the lake, where feasible, and compatibility of new developments with their surroundings. This includes compatibility with nearby cultural heritage resources to blend new development with existing streetscapes and add to the area’s character. Urban design is discussed in detail in later sections of this report including sections on Intensification Criteria and Urban Design Guidelines.

Staff analysis: The subject applications have not demonstrated conformity with Part III, section 5.5.12 of the Official Plan, as discussed in subsequent sections of this report.

Sections 5.5.14 and 5.5.15 contain policies specific to Transportation and Transit in the Downtown. These policies place an emphasis on supporting transit and active transportation. The policies also allow for reduced parking rates in combination with cash in lieu of parking and/or the establishment of a Transportation Demand Management (TDM) plan, but also state that “sufficient parking shall be provided to serve the needs of public and private uses in the downtown, while considering the desire to increase transit modal split as well as other transportation alternatives to the car”. Transportation and Transit matters are discussed below under Intensification Criteria (ii), (iii), and (iv).

Staff analysis: The subject applications have not demonstrated conformity with Part III, sections 5.5.13 and 5.5.14 of the Official Plan, as discussed in subsequent sections of this report.

4.2 Intensification Criteria

Part III, section 2.5.2(a) of the OP provides criteria that shall be considered when evaluating proposals for housing intensification in established neighbourhoods. In accordance with Part III, 2.2.2(f) and Part III, section 5.4.2(k), these criteria are also applicable to housing intensification proposals in other land use designations including

Mixed-Use Centres, such as the Downtown Mixed-Use Centre where the subject property is located. The following is an evaluation of the subject applications using these criteria.

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

A Functional Servicing Report was submitted that addresses how the site is proposed to be serviced with water and wastewater services, and how stormwater will be managed. This study has been reviewed by City and Region staff.

Comments from Regional staff indicate that the proposed water and wastewater servicing is generally acceptable but identify technical issues that must be addressed before the proposed servicing can be deemed satisfactory for the purpose of supporting the subject applications. These comments identify issues related to fire hydrants and the slope of proposed sanitary sewer connection laterals that do not meet Regional standards and require revision, and/or require the provision of additional information.

With respect to storm sewers, Site Engineering staff provided comments indicating that the submitted Functional Servicing Report must be revised to reflect that groundwater cannot be discharged to sanitary sewer, and to provide details about how groundwater will be treated to meet quality criteria for discharge to storm municipal sewers. Site Engineering staff accept in principle the proposal to allow uncontrolled discharge of stormwater from the site to the two existing storm sewers adjacent to the building, subject to various technical and design criteria being satisfied. Site Engineering staff request additional information about the on-site storm sewer network, and also identified inconsistent information about propose catchment areas.

Comments from both Halton District School Board (HDSB) and Halton Catholic District School Board (HCDSB) indicated no objections to the proposed development, and provided standard technical comments. HDSB advised that students from the proposed development would be accommodated at Lakeshore Public School and Burlington Central High School, both of which are projected to be at or under building capacity. Tom Thomson Public School is projected to be over building and portable capacity so attendance at this school is not guaranteed. HCDSB advised that if development were to proceed today, students would be accommodated at St John Catholic Elementary School and Assumption Catholic Secondary School.

Comments from Parks Design & Construction (Parks) staff reflect that parkland dedication will be a requirement of the proposed development, in the form of new parkland as an extension of Spencer Smith Park, as described above. The submitted

applications do not reflect the provision of the parkland dedication as required by the Parks comments.

Staff Analysis: the subject applications have not satisfied Intensification Criterion (i) as they have not demonstrated that the proposed development will be adequately served with water, wastewater, and stormwater servicing to the satisfaction of Regional and City staff, and have not provided parkland dedication as required to ensure the provision of adequate parkland for the proposed development.

(ii) Off-street parking is adequate.

A Transportation, Parking, and TDM (Transportation Demand Management) Study, prepared by Paradigm Transportation Solutions Limited, dated October 2021, was submitted with the subject applications and has been reviewed by Transportation staff.

The subject applications propose 598 off-street (i.e.: on-site) parking spaces, comprising 557 parking spaces for residents of the proposed development and 41 parking spaces to be shared between residential visitors and users of the proposed non-residential uses. Combined, this represents a rate of 1.07 parking spaces per residential unit.

The Zoning By-law requires the provision of 1.25 parking spaces per residential unit on the subject property, which would amount to 697 parking spaces for the proposed development (including both resident and visitor spaces). Comments from Transportation staff indicate that the rate of 1.25 parking spaces per residential unit established in the Zoning By-law is an interim parking rate for Primary Growth Areas such as Downtown, subject to a parking study that Transportation staff are currently undertaking. Based on data collected by Transportation staff, an appropriate minimum parking rate for residential uses in the proposed development would be 1.04 parking spaces per unit for residents and 0.03 parking spaces per unit for residential visitors. On this basis, Transportation staff are comfortable supporting the proposed combined rate of 1.07 spaces per unit (597 spaces total) for the proposed residential uses, subject to the composition of these spaces being allocated appropriately between residents and visitors.

Because the subject property is located within the Downtown Parking Exemption Area, the Zoning By-law does not require the proposed development to include off-street parking for non-residential uses. However, comments from Transportation staff indicate that there is a need for off-street (on-site) parking to be provided for employees and guests of the proposed hotel, at a rate of 1 parking space per hotel room. This amounts

to 122 parking spaces for the hotel. The subject applications do not propose any parking spaces for the hotel.

The subject applications propose to provide 165 bicycle parking spaces on the site. This exceeds the minimum of 19 bicycle parking spaces required by the Zoning By-law for the proposed development; however, comments from Transportation staff reflect that there is a need for a combination of long-term bicycle parking, located in a secure area on the ground floor or first parking level, and short-term bicycle parking spaces located near the building in a weather-protected area. The City's Parking Standards Review requires 0.5 long-term bicycle parking spaces per residential unit and 0.05 short-term bicycle parking spaces per residential unit. For the proposed development, this amounts to a total of 307 bicycle parking spaces being required. The proposed total of 165 bicycle parking spaces is therefore inadequate.

Required vehicle and bicycle parking rates are summarized in Table 1 below.

Comments from Zoning staff reflect that the submitted Site Plan and Architectural Drawings do not show measurements for proposed parking spaces, so it is not possible to confirm whether the proposed parking spaces satisfy the size and dimension requirements of the Zoning By-law. Transportation staff also highlighted the need to provide dimensions on the plans to confirm whether the proposed development meets the City's design standards for parking structures related to dimensions of drive aisles, parking spaces, column spacing, and parking ramps.

In summary, the subject applications propose to provide a total of 598 vehicle parking spaces and 165 bicycle parking spaces for the proposed development, inclusive of all uses and users. The Zoning By-law requires the provision of 697 vehicle parking spaces and 19 bicycle parking spaces for the proposed development. Transportation comments indicate that the proposed development must provide a total of 719 vehicle parking spaces and 307 bicycle parking spaces. The subject applications are therefore deficient, with a shortfall of 121 vehicle parking spaces and 142 bicycle parking spaces in accordance with the comments from Transportation staff. The subject applications also have not provided information necessary to demonstrate that the proposed parking spaces, aisles, ramps, and parking structure satisfy the requirements of the City's Zoning By-law and design standards.

Table 1: Required and Proposed Parking Rates

	Required by Zoning By- law	Required as per Transportation staff comments	Proposed by subject applications	Difference relative to Zoning By-law (ZBL) and

				Transportation comments (T)
Parking spaces for residential uses	697 spaces (1.25 per residential unit)	597 spaces (1.04 occupant + 0.03 visitor = 1.07 per residential unit)	598 spaces (1.07 per residential unit)	Shortfall of 99 spaces (ZBL) Surplus of 1 space (T)
Parking spaces for office, retail, and service commercial uses	0 spaces	0 spaces	0 spaces	No difference
Parking spaces for hotel use	0 spaces	122 spaces (1 per hotel suite)	0 spaces	No difference (ZBL) Shortfall of 122 spaces (T)
Total vehicle parking spaces	697 spaces	719 spaces	598 spaces	Shortfall of 99 spaces (ZBL) Shortfall of 121 spaces (T)
Bicycle parking spaces	19 spaces (2 spaces plus 1 per 1000m ² of non-residential gross floor area)	307 spaces (0.5 long-term spaces per residential unit + 0.05 short-term spaces per residential unit)	165 spaces	Surplus of 146 spaces (ZBL) Shortfall of 142 spaces (T)
Accessible Parking spaces	21 accessible spaces (3% of 697 total)	22 accessible spaces (3% of 719 total)	20 accessible spaces	Shortfall of 1 space (ZBL) Shortfall of 2 spaces (T)

Staff analysis: the subject applications do not satisfy Intensification Criterion (ii) as the proposed development does not provide adequate off-street (i.e.: on-site) parking.

(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 collectors streets rather than local residential streets.

As mentioned above, the subject applications included a “Transportation, Parking, and TDM (Transportation Demand Management) Study”, prepared by Paradigm Transportation Solutions Limited, dated October 2021, which has been reviewed by Transportation staff. This study indicates that the proposed development is expected to generate a total of 302 trips during the AM peak hour and 333 during the PM peak hour.

As part of their review, Transportation staff compared the findings of the submitted transportation study to the findings of the “Downtown Burlington Micro-Level Traffic Operations – Review of the Preferred Land Use Scenario” report that was completed in 2019 by CIMA+ for the City of Burlington as part of the Scoped Re-examination of the Adopted Official Plan.

Transportation staff agree with the findings of the submitted transportation study that the additional traffic generated by the proposed development will be accommodated by the surrounding road network.

With respect to the orientation of site ingress and egress, the subject applications propose a single vehicular access for the proposed development on Elizabeth Street, approximately 40m south of Lakeshore Road. Transportation staff have no concerns with the proposed site access in this location.

Transportation staff acknowledge that the submitted transportation study includes proposed Transportation Demand Management (TDM) measures to reduce vehicle demand. These are identified as including pedestrian-friendly site design, proximity to transit service, provision of transit information within a welcome packet for new residents, provision of on-site bicycle parking and connections to the existing cycling network, and reduced parking supply along with consideration of unbundling of parking spaces from residential unit costs. Staff note that the number of bicycle parking spaces provided is inadequate as described under Criterion (ii) above.

Ministry of Transportation (MTO) staff were also circulated on the subject applications and responded that they have no comments on the subject applications, as the subject property is not located within the MTO’s Permit Control area.

Staff analysis: The subject applications satisfy Intensification Criterion (iii).

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

As noted under “Site Description and Surrounding Land Uses” above, the John Street Bus Terminal is located 160 metres to the north of the subject property. The John Street Bus Terminal is an intercity bus transfer point served by Burlington Transit routes 2, 3, 4, and 10, and Hamilton Street Railway route 11.

There are also eastbound and westbound bus stops located at the intersection of Lakeshore Road and Brant Street, within 30 metres of the subject property. These bus stops are serviced by Burlington Transit routes 4 and 10, and Hamilton Street Railway route 11.

Burlington Transit intends to relocate the eastbound transit stop at Lakeshore Road and Brant Street from the current location at the west side of the intersection to the east side of the intersection, in front of the subject property. Burlington Transit's comments on the subject applications therefore request that the proposed on-street layby parking spaces on Lakeshore Road be removed to avoid conflict with the future transit stop.

The proposed development "is in proximity to existing or future transit facilities" as required by Intensification Criterion (iv). However, staff note that the level of transit service provided at the nearby transit facilities is lower than that provided in other locations in the City, and the level of intensity of the proposed development is disproportional to the level of transit service provided in the vicinity of the subject site in the context of the Regional Official Plan's hierarchy of Strategic Growth Areas.

While the transit routes that serve the subject property provide connections to the Burlington GO (routes 2, 3, and 10), Aldershot GO (route 4), and Appleby GO (routes 4 and 10) major transit stations, at the time of writing this report, none of these routes provides a level of service that satisfies the definition of frequent transit. Frequent transit is defined in the Regional Official Plan as "a public transit service that runs at least every 15 minutes in both directions throughout the day and into the evening every day of the week". The subject property is located on streets that are planned to accommodate frequent transit in accordance with the City's new Official Plan (as shown on Schedule B-2 which identifies frequent transit corridors in proximity to the subject property); however, it is not planned to be served by higher-order transit.

As noted in section 8.1.1(3) of the City's new Official Plan:

"the Downtown Burlington [John Street] bus terminal functions as an intercity bus transfer point. Because it is a bus depot in an urban core or downtown, it was classified as a major transit station. However, it currently does not function as a major bus depot and this is likely to continue in the future, unless improvements and/or enhancements are undertaken to strengthen its function as a major bus depot. The Downtown Burlington bus terminal is not located on a Priority Transit Corridor as defined by the Provincial Growth Plan nor is it supported by higher order transit, nor by frequent transit within a dedicated right of way... Given the limited function of the Downtown Bus Terminal, the major transit station area is not expected to be a significant driver for intensification beyond that which is required by the Downtown UGC [Urban Growth Centre]."

As discussed under "Halton Region Official Plan" above, the Region's Official Plan (ROP) was amended by ROPA 48 and accordingly the Downtown Bus Terminal is no

longer considered to be a Major Transit Station and the subject property is no longer considered to be located within a Major Transit Station Area. The ROP, as amended by ROPA 48, directs development with higher densities to Strategic Growth Areas in accordance with a hierarchy of Strategic Growth Area types that is based on level of transit service. The subject property is located within a Secondary Regional Node, and Secondary Regional Nodes are ranked as number 6 on the hierarchy, after other types of Strategic Growth Area that have higher levels of transit service, including Urban Growth Centres and Major Transit Station Areas on Priority Transit Corridors or Commuter Rail Corridors (ROP 79.2-79.3).

Staff analysis: The subject applications do not comply with the intent of Intensification Criterion (iv). Staff acknowledge that the subject property is located in proximity to existing or planned transit services, which is a supportive factor for intensification as reflected in Intensification Criterion (iv). However, staff are of the opinion that the level of intensity of the proposed development is excessive relative to the level of transit service provided in the vicinity and based on the subject property's context within a Secondary Regional Node in accordance with the hierarchy of Strategic Growth Areas established in the ROP.

(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 Official Plan defines compatible development as development “that is capable of co-existing in harmony with, and that will not have an undue physical (including form) or functional adverse impact on, existing or proposed development in the area or pose an unacceptable risk to environmental and/or human health. Compatibility should be evaluated in accordance with measurable/objective standards where they exist, based on criteria such as aesthetics, noise, vibration, dust, odours, traffic, safety, and sun-shadowing, and the potential for serious adverse health impacts on humans or animals.”

Compatibility of the proposed development has been assessed in accordance with the factors outlined in criterion (v) and referenced in the definition of compatible development:

1. Scale, massing, height, and transition

The subject applications propose a development comprising two towers of 35 and 30 storeys with 5-storey podiums and a Floor Area Ratio of 7.76:1. The scale of the proposed development far exceeds any existing or planned developments in the surrounding area, and in particular the immediate vicinity of the subject property.

In August 2021, the applicant consulted the Burlington Urban Design (BUD) Panel for design advice regarding their proposed development. Staff agree with the comments of the BUD Panel, which indicate that although the subject property is an appropriate location for intensification in the form of tall buildings with a mix of uses, the overall scale and massing of the proposed development is too large for its context. BUD recommended that the height, massing, proportions and scales of the podium and towers should be re-evaluated. Planning staff agree with these comments.

The proposed building podium is 5 storeys (19 metres) tall at the street frontage. This podium height is out of character with the established streetwall of the surrounding area, which consists of podiums and low-rise buildings that range from one to three storeys (with the exception of one existing eight-storey building element with no podium at the southeast corner of Lakeshore Road and Elizabeth Street, within a building that otherwise has a 2-3 storey podium). The planned context for the surrounding properties is a three-storey streetwall as set out in the New Official Plan policies for the Brant Main Street Precinct and Lakeshore Precinct (discussed in greater detail in later sections of this report). The planned context may also be expected to retain some or all of the existing low-rise buildings on the north side of Lakeshore Road, in accordance with policies of the Official Plan and new Official Plan which promote the conservation of cultural heritage resources and the integration of these resources into new developments.

In response to comments from BUD and the public, the applicant removed the enclosed 5-storey atrium connecting the two podiums that was originally proposed at the pre-application stage, and replaced it with an open area beneath a 5th-storey bridge connecting the two podiums, as shown on the submitted Site Plan. Staff acknowledge that this is a positive change that helps break up the massing of the podium and reduce the overall perception of massiveness of the proposed development. However, the proposed podiums continue to appear bulky to an extent incompatible with their surroundings. The design should be revised to reduce podium height to three storeys to reflect the existing and planned context of the opposite streetwall, as well as providing additional podium articulation to visually break up the mass of the podium. Removing the bridge that connects the two buildings at the fifth storey would also significantly reduce the massiveness of the proposed podiums, while also improving sky views, opening up the view corridor toward the lake from

John Street, and improving pedestrian comfort by eliminating the perception of a large building element looming overhead.

At the southerly park frontage of the subject property, the podium has a height of 6 storeys (approximately 22 metres) due to the slope of the park down towards the lake. This is similar to the height of the existing Waterfront Hotel but much more massive, as that height is extended along the full frontage of two buildings, each of which is wider than the approximately 25 metre width of the one existing hotel building. The height and massing of the podiums in this location create an abrupt division between the proposed private building and the adjacent public open space, and do not allow for an appropriate and compatible transition from the buildings down towards the park and lake. The podium should be revised in this location to provide a more human-scaled podium and a more gradual transition from the maximum building height to the adjacent open space.

The two proposed towers are substantially taller than any existing or planned development in Downtown Burlington, particularly in the immediate vicinity of the subject property. At 35 and 30 storeys, they are more than double the height of the existing 15-storey building to the northwest, and approximately triple the height of the existing 12-storey building to the northeast and the recently constructed 8- and 7-storey buildings to the east. The existing context to the north is low-rise ranging from one to 3.5 storeys, with zoning permission to develop up to 8 storeys. The Official Plan contemplates a maximum of 14 storeys for the subject site and the lands to the north, while the new Official Plan sets a maximum height of 11 storeys for the lands to the north between Brant Street and John Street, and 15 storeys to the north between John Street and Elizabeth Street. The proposed 35- and 30-storey towers on the subject property are in stark contrast to this existing and planned context and do not allow for a transition in built form between adjacent properties. The proposed development constitutes a built form that will overwhelm the surroundings rather than co-exist in harmony as set out in the definition of “compatible” development.

Staff also agree with the comments of the BUD Panel that consideration must be given to achieving a proportional balance between the narrower and broader sides of the towers, noting that the towers may look slender from some angles but bulky from others. Given that the subject property has prominent interfaces with the public realm on all four sides, it is

important to assess the massing of the proposed development from all angles. This should include consideration of how the towers will appear from multiple different distances, particularly to the west where Spencer Smith Park stretches out as a well-used open space for over 700 metres.

Staff analysis: the proposed development does not achieve compatibility of scale, massing, height, or transition with the character of the surrounding area. Additional discussion of these matters is contained in the Tall Building Guidelines analysis section later in this report.

2. Siting and setbacks

The siting of the proposed podiums (i.e.: their distribution on the site) is generally consistent with the Official Plan policies that promote the maintenance of a view corridor and mid-block connection from Downtown to the waterfront in line with John Street – although as discussed above, the view corridor could be improved by removing the fifth-storey bridge that passes over the mid-block connection.

The east tower is set back 7.8 metres from Elizabeth Street and 14 metres from Lakeshore Road (5.7 metres from the daylight triangle at the corner of Lakeshore Road and Elizabeth Street). The minimum setback of the east tower from the edge of the east podium is not clearly delineated on the Site Plan.

The west tower is set back 7.5 metres from Lakeshore Road, 11.5 metres from the western property line, and 12.5 metres from the southern property line. The minimum setback of the west tower from the edge of the west podium is not clearly delineated on the Site Plan.

The siting of the two proposed towers achieves a tower separation distance within the site of approximately 42 metres, which exceeds the minimum tower separation distance of 30 metres set out in the new Official Plan. The Elizabeth Street and Lakeshore Road rights-of-way ensure adequate separation between the proposed towers and any existing or potential future buildings across the street.

With respect to the building podiums, the proposed development provides an appropriate podium setback from the Lakeshore Road frontage at ground level, which establishes a generous boulevard width between the curb and building face that has been proposed to accommodate streetscaping including patio seating and three parallel rows of street

trees. This setback varies from 3.2 metres to 5.3 metres, measured from the property line abutting Lakeshore Road after the required road widening is taken. Staff note that storeys 2-3 of the podium project approximately 1.1 metres closer to Lakeshore Road than the ground floor, and this could potentially have impacts on the growth potential of the nearest row of trees, which is proposed to be planted in close proximity to the building wall.

The proposed building setback from Elizabeth Street appears to allow for an approximately 6 metre boulevard from curb to building face, in accordance with the Downtown Streetscape Guidelines; however, it may be appropriate to increase this setback to accommodate the proposed layby parking spaces while also allowing room for other streetscaping features such as street trees.

The building setbacks from the south property line abutting Spencer Smith Park are minimal and do not allow for an appropriate transition to, or integration with, the park. Staff note that the east building podium has a zero-metre setback along the southern lot line that will be newly created after the required dedication to public ownership of the lands regulated by Conservation Halton.

The BUD Panel advised that the west building should be further set back from the west property line to improve the transition to, and integration with, the Spencer Smith Park entrance, and potentially to mitigate shadow impacts on Brant Street. In response to this feedback, and similar public feedback received at the Sept. 8, 2021 pre-application public meeting, the applicant increased the setback of the west tower from the edge of the podium by shifting this tower approximately 5 metres to the east, to the location where it is currently shown on the Site Plan submitted with the subject applications. Staff acknowledge that this is a positive change in the siting of the west tower and is an improvement over the previous design. However, the podium of the west building continues to be set back only 2 metres from the western property line, unchanged from the pre-application submission to the BUD Panel. This proposed setback does not allow space for the needed park entrance improvements identified in the comments from Parks Design & Construction staff, discussed in an earlier section of this report. Staff believe the west podium remains too close to the park entrance and should be moved further east through an appropriate combination of setbacks, setbacks, and parkland dedication,

to allow an appropriate transition from the proposed development to the park.

Proposed underground setbacks are inadequate and in some locations the underground parking garage appears to encroach over the property line into the street right-of-way and Spencer Smith Park.

Staff analysis: the proposed development does not achieve compatibility with respect to siting and setbacks. The proposed underground and aboveground building setbacks from property lines abutting Spencer Smith Park to the west and south do not achieve compatibility as they do not allow for appropriate transition to, and integration with, the park. Staff acknowledge that the setbacks from Lakeshore Road are a positive element of the proposal and allow for appropriate streetscaping for this landmark location on a retail street. The setbacks from Elizabeth Street appear to meet minimum guidelines but could be improved by increasing the podium setback to allow more flexibility to achieve the streetscaping and access objectives for this street segment. The siting of the two towers appears to be generally consistent with applicable guidelines and policies but consideration should be given to any potential tower siting adjustments that could improve integration with Spencer Smith Park and/or mitigate shadow and wind impacts.

3. Coverage

The proposed development is located in an urban setting within the Wellington Square Precinct of the Downtown Mixed-Use Centre. The policies for this precinct promote development that is close to the street and achieves a compact built form. The submitted Site Plan indicates that the proposed lot coverage is 66.8%, which represents an increase from the 24.8% coverage of the existing Waterfront Hotel. Staff understand that these measurements refer to the above-grade building footprints. The proposed lot coverage above grade is more appropriate for, and more compatible with, the existing and planned urban context of the subject property.

Staff have concerns with the proposal for the below-grade parking structure to cover the entire site and be built out to the lot lines, in some cases appearing to encroach beyond them into adjacent lands. This degree of lot coverage is not compatible with the surrounding area as it adversely impacts the ability to appropriately integrate the property with the adjacent park and streets, may interfere with below-grade

infrastructure, and may not allow sufficient soil volumes for the growth of healthy trees on site or in the street right-of-way.

Staff analysis: the proposed development does not achieve compatibility with respect to coverage.

4. Parking:

As discussed under Intensification Criterion (ii) above, the subject applications do not provide adequate parking for vehicles or bicycles. The on-site parking that has been proposed is provided within an underground parking structure that is accessed from Elizabeth Street, which contributes to achieving compatibility by screening parking areas from view of the public realm, in accordance with the Design and Transportation policies of the Official Plan. However, comments from various technical reviewers have identified concerns with the design of the proposed underground parking structure. These include that the proposed underground parking structure walls and associated shoring appear to encroach into neighbouring City property (street rights-of-way and Spencer Smith Park); these permanent encroachments would have an adverse impact on the City's ability to operate and potentially alter the design of its park and streets in future. The Zoning By-law requires below-grade parking structures to be set back 3 metres from all property lines and street lines.

Transportation and Zoning comments reflect that the proposed ramp to the underground parking structure is too close to the street, meaning that it does not provide the minimum 7.5m setback required by the Zoning By-law and it does not allow for a flat landing pad at the top of the ramp. This poses an unacceptable safety risk as it means that drivers exiting the ramp will not have adequate visibility to look for pedestrians, cyclists, and other vehicles to ensure that it is safe for them to drive across the sidewalk and into the street.

The subject applications also propose lay-by parking in the public street right-of-way on Lakeshore Road and Elizabeth Street; comments from Transportation and Transit staff reflect that the layby spaces on Lakeshore Road are not supported as they conflict with the planned transit stop and bike lanes for this street.

Staff analysis: The proposed development does not achieve compatibility with respect to parking as the proposed parking and garage access creates conflict with adjacent lands and unacceptable safety risks.

5. Amenity Area:

The Zoning By-law requires the provision of 20m² of amenity area for each proposed apartment unit. Amenity area is space situated within the boundaries of a development that is intended for recreational purposes, and may include open spaces, patios, balconies, communal play areas, lounges, and roofdecks. The subject applications propose 557 apartment units, which accordingly require 11,140m² of amenity area.

The submitted plans indicate that 22,134m² of combined indoor and outdoor amenity area is provided on site for all uses. Of this, 422m² are dedicated to the office component in the form of a rooftop deck on the podium of the west building. The submitted plans reflect that a combined 10,047m² of indoor and outdoor amenity area is allocated to residential uses, comprising 480m² indoor space, 1,342m² outdoor common space, and 8,225m² of outdoor private balconies. Additionally, the submitted plans reflect that a combined 11,665m² of combined indoor and outdoor amenity area is allocated to be shared by the residential and hotel uses on the site – this consists of 1,060m² indoor space (including a pool and gym), 2,030m² of outdoor common space, and 8,575m² of outdoor private balconies.

It is unclear how the shared residential and hotel amenity space will function and whether it will satisfy the intent of the requirement to provide amenity space for the use of residents. Comments provided by Zoning staff also require additional information to clarify how amenity space has been calculated for the site – specifically, Zoning staff request the provision of an amenity plan that delineates the proposed amenity areas to confirm what spaces are being counted and whether they meet the definition of amenity area. This information is also needed for Planning staff to confirm whether the objectives and policies of the Official Plan with respect to amenity area are being satisfied.

Staff analysis: the subject applications have not demonstrated that the proposed development provides adequate and compatible amenity space.

6. Aesthetics

Staff generally agree with the comments of the Burlington Urban Design (BUD) Panel that, aesthetically, “the buildings are beautifully designed and achieve the goal for an iconic design” for this landmark location, and that the curvature of the proposed building “works well with the shape and

curve of the pier”. The proposed architectural design is distinctive and, if approved, would contribute to creating a sense of place.

Staff note that there are opportunities to improve the aesthetics of the proposed development and make the development more aesthetically compatible with its surroundings, particularly at the podium level, for example by increasing the level of articulation of the podium to reflect a human scale and the scale of surrounding streetwalls. Consideration could also be given to the use of different materials in the podium to improve aesthetic compatibility with the physical character of the surrounding area.

Staff analysis: Staff are generally satisfied that the aesthetics of the proposed development are compatible with their surroundings, when the building’s aesthetics are considered in isolation from the matters of scale, massing, height, etc., that are discussed above. The aesthetics of the proposed development are discussed in additional detail in the Urban Design Guidelines section of this report.

7. Noise and vibration

An Environmental Noise Impact Study by dBA Acoustical Consultants Inc., dated Oct. 2021, was submitted with the subject applications and reviewed by Site Engineering staff. Site Engineering staff identified concerns with this study that require revisions and additional information to confirm stationary noise impacts on the proposed development from surrounding properties. If any at-source noise mitigation is needed on neighbouring properties, it will be necessary to confirm whether the owners of the neighbouring properties agree to permit those mitigation measures on their site or if the proposed development needs to be redesigned, with implications for zoning.

Staff analysis: The subject applications have not demonstrated that the proposed development can achieve compatibility with surrounding developments with respect to noise.

8. Dust and odours

A Construction and Mobility Management Plan (CMMP) by Lanhack Consultants Inc., dated Oct. 18, 2021, was submitted with the subject applications and reviewed by Site Engineering and Transportation staff.

Staff analysis: Site Engineering and Transportation staff requested additional information and revisions to the CMMP but have not specifically identified concerns with dust and odour management at this time. If the subject applications were approved, dust and odour impacts would be considered in greater detail at the Site Plan review stage.

9. Traffic

Staff analysis: As discussed under Intensification Criterion (iii) above, staff are satisfied that traffic generated by the proposed development can be accommodated by the surrounding transportation network and that the subject applications demonstrate compatibility with respect to traffic.

10. Sun-shadowing

Staff's review of sun-shadowing impacts on compatibility are discussed under Intensification Criterion (vii) below.

Staff analysis: the subject applications have not demonstrated that the proposed development is compatible with respect to sun-shadowing.

11. Safety and the potential for serious adverse health impacts on humans or animals

The subject applications were reviewed by the Fire Department and Halton Regional Police Service, both of whom responded that they have no concerns with the proposed development.

As discussed under the parking section of Criterion (v) above, the subject applications do not provide an adequate setback for the parking garage ramp, which does not allow for a flat landing pad at the top of the ramp. This reduces visibility for drivers exiting the ramp and driving across the sidewalk onto Elizabeth Street, which poses an unacceptable safety risk for pedestrians, cyclists, and other road users.

As discussed below under the analysis of the Pedestrian Level Wind Study Guidelines and terms of Reference, the wind study submitted with the subject applications identifies wind impacts of the proposed development including the creation of uncomfortable and/or unsafe wind conditions at grade on and around the subject property. The study recommends mitigation measures but has not demonstrated that these mitigation measures are feasible or effective at mitigating these impacts in the affected locations.

The subject applications make reference to the use of bird-friendly window designs on the building podiums. Conservation Halton comments recommend that bird-friendly design measures, including lighting mitigation, be incorporated on all levels. If the subject applications were approved, lighting and window treatments would be evaluated in greater detail at the Site Plan stage, with consideration for ensuring bird-friendly design to minimize the risk of birdstrike.

Staff analysis: The subject applications have not demonstrated that the proposed development is compatible with its surroundings from a safety and health impacts perspective.

Staff analysis: As outlined above, it is staff's opinion that the subject applications do not demonstrate that the proposed development achieves compatibility in accordance with Intensification Criterion (v) and the Official Plan's definition of "compatible".

(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 arborist report and the Tree Protection Plan submitted with the subject applications identify 53 trees located on the subject property and within 5 metres of the subject property. 49 of these trees are proposed to be removed, including all on-site trees, all street trees in front of the property on the Lakeshore Road and Elizabeth Street rights-of-way, and some trees within Spencer Smith Park. Four of the six honey locust trees located within Spencer Smith Park to the immediate west of the development are proposed to be retained and protected during construction by tree protection fencing.

The submitted Landscape Plan indicates that the applications propose to plant three parallel rows of street trees within soil cells on the Lakeshore Road frontage (two rows in City right-of-way and one row on subject property), as well as one new tree on the Elizabeth Street frontage and in the proposed central Privately Owned Publicly Accessible Space (POPS). The Plan also reflects other proposed landscaped spaces such as perennial beds and planters around the site.

Comments from Landscape & Forestry staff request additional information to confirm details of the studied trees including exact location and ownership (e.g.: public, private, boundary). Staff note that in accordance with the Public Tree By-law, removal of public trees will require City Council approval. Landscape & Forestry staff encourage the applicant to revise the applications to require fewer tree removals and preserve as many healthy existing trees as possible.

Landscape & Forestry staff request additional information to ascertain the viability of the proposed plantings such as drainage information and how the proposed soil cells will be integrated with existing and proposed underground utilities within the right-of-way. Landscape & Forestry staff also request clarifications and revisions to ensure consistent information is shown on the various submitted studies and plans such as the arborist report, Tree Protection Plan, Landscape Plan, Construction Management & Mobility Plan, and Wind Study.

Planning staff acknowledge that the proposed triple-row of street trees on Lakeshore Road would appear to contribute to establishing a desirable streetscape on this portion of Lakeshore Road, if it can be demonstrated that the proposed plantings are viable. However, Planning staff support the comments of Landscape & Forestry which encourage the preservation of as many existing healthy trees as possible prior to contemplating replacement plantings. As set out in section 4.3.2(d) of the City's new Official Plan, the preservation of existing healthy trees is a top priority and "shall be considered when establishing the location and building envelope of a proposed development".

Planning staff also note that the subject applications propose to remove nine recently planted street trees from the Elizabeth Street right-of-way and to provide no replacement street trees on Elizabeth Street. The submitted Landscape Plan appears to indicate that the only proposed tree on Elizabeth Street is one "small tree in raised planter" located on private property. This does not satisfy the intent of the Downtown Streetscape Guidelines which in section 3.3.5 emphasize the "incredibly important and measurable benefits that are vital to the overall health of our community" of street trees, which form the majority of the municipally owned urban forest. This is also inconsistent with section 4.3.2(i) of the new Official Plan, which requires the incorporation of appropriate tree planting during design of streetscapes, including the provision of adequate minimum soil volumes and soil composition.

Staff analysis: the subject applications have not demonstrated that effects of the proposed development on vegetation have been minimized and/or that appropriate compensation is provided for significant loss of vegetation.

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

Staff analysis: As discussed in detail below under discussion of the Shadow Study Guidelines and Terms of Reference, the subject applications have not demonstrated that shadow impacts of the proposed development are at an acceptable level as required by Intensification Criterion (vii).

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

The subject property is located within the Downtown Urban Centre which is planned as a complete community with walkable access to a range of land uses including public service facilities. The subject property is adjacent to Spencer Smith Park and is located within a short walking distance of a Canada Post office, Burlington City Hall, the Burlington Performing Arts Centre, the Lions Club and Lions Park, the Elgin Promenade and Centennial Trail, and numerous restaurants, shops, and places of worship.

Within a walking distance of more than 500 metres, the site has pedestrian access to Burlington Beach, Joseph Brant Hospital, Joseph Brant Museum, a shopping plaza on Brant Street that includes a pharmacy and grocery store, Burlington Central High School, Burlington Central School, St John's Catholic Elementary School, and Lakeshore Public School.

Staff analysis: Staff are satisfied that the proposed development meets Intensification Criterion (viii).

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

Staff analysis: As discussed below under discussion of the Pedestrian Level Wind Study Guidelines and Terms of Reference, the subject applications have not demonstrated that adequate buffering and setbacks are provided in the proposed development to minimize any identified impacts such as wind impacts.

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

With respect to development potential of the lands to the north, the deemed width of Lakeshore Road is 30 metres, which provides sufficient separation to avoid impacts on the potential for future mid-rise or tall building developments on the lands to the north across Lakeshore Road between Brant Street and Elizabeth Street. Specifically, this separation allows for the provision of minimum tower separation distances of 30 metres, as required by section 8.1.1(3.19.3)(c) of the new Official Plan. In this regard, the subject applications satisfy Intensification Criterion (x) for the purpose of the lands to the north.

The subject property is located adjacent to Spencer Smith Park to the south and west. While Spencer Smith Park is not identified as a site with intensification potential, the Official Plan requires that a master plan be completed specifically for the subject property to address, in part, integration of the proposed development with the adjacent park. This should include consideration of any needed developments or site alteration on the park site to accommodate intensification within the surrounding area and ensure that such potential park improvements are not compromised by the proposed development. The required master plan for the subject property is also intended to address integration of the proposed development with the existing development to the east across Elizabeth Street.

Staff have reviewed the submitted Park Concept Plan, which does not address the requirement for parkland dedication identified in comments from Parks Design & Construction staff, as discussed above. Staff also note that the proposed development proposes to amend the Official Plan by removing the requirement for a master plan for the subject property.

Staff analysis: Based on the above, staff are of the opinion that the subject applications do not satisfy the intent of Intensification Criterion (x).

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

The subject property is located in proximity to the Lake Ontario shoreline, which forms part of the Regional Natural Heritage System. Comments from Halton Region defer to Conservation Halton to address protection of the Lake Ontario shoreline.

Comments from Conservation Halton (CH) identify that the subject property is regulated by CH as it contains lands within the shoreline erosion hazard associated with Lake Ontario. The limit of the regulated area on the property was determined through previous technical review and comprises a small portion of the property at its southerly edge. As no significant (building) construction is proposed within the erosion hazard limit, CH does not object to the development proposed by the subject applications. CH recommends that the lands within the erosion hazard be zoned as Open Space and be dedicated to public ownership.

Staff note that the buildings on the north side of Lakeshore Road between Brant Street and John Street, directly opposite the subject property, have been identified as part of a potential cultural heritage landscape which will be the subject of future study in accordance with section 8.1.1(3.23)(d) of the City's new Official Plan. This includes one property, known as 2015-2017 Lakeshore Road, that is currently listed on the City's Heritage Register. None of these properties are "protected heritage property" as defined

in the Provincial Policy Statement, and the applicant was not required to provide a Heritage Impact Study with the subject applications. Nonetheless, the above-mentioned built heritage resource and potential cultural heritage landscape should be considered in accordance with Part III, section 5.5.3(g), which states “any development close to cultural heritage resources shall be sensitive to the historic context of the street and not just of the immediately adjacent buildings, to maintain the character of established areas”. For this reason, the subject applications were circulated to the City’s Heritage Planning staff and the Heritage Burlington municipal heritage advisory committee. Heritage Planning staff advised that they had no comments for the subject applications; no response was received from Heritage Burlington.

Staff analysis: Staff are satisfied that the subject applications meet Intensification Criterion (xi), as natural and cultural heritage features and areas of natural hazard are protected. However, if the application were to be approved, consideration should be given at the Site Plan stage to ensuring the proposed development is as sensitive as possible to the nearby built heritage resource and potential cultural heritage landscape.

(xii) where applicable, there is consideration of Part II, Subsection 2.11.3 (g) and (m) of the Official Plan.

Part II, Subsection 2.11.3 of the Official Plan contains policies for storm water management and related matters. Policy (g) states that the City will normally require the dedication of hazardous lands to the City through development applications, and that this dedication will not count towards parkland dedication requirements. If the subject applications were approved, the City would require dedication of the portion of the subject property that is located within the regulated erosion hazard, as recommended in Conservation Halton comments described above under (xi).

The submitted plans show a zero-metre setback from the limit of the hazard lands. Site Engineering comments reflect that the subject application may need to be revised to ensure that such hazard lands can be dedicated to the City free of encroachments and with appropriate setbacks.

Policy (m) is specific to the Aldershot Community and does not apply to the subject property.

Staff analysis: As noted in the Site Engineering comments described above, additional information and/or revisions are needed to confirm that the subject applications satisfy Intensification Criterion (xii).

(xiii) proposals for non-ground oriented housing intensification shall be permitted only 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 application proposes non-ground oriented housing intensification in the form of apartments within two tall buildings. The policy reference to locating at the periphery of existing residential neighbourhoods is not applicable as the subject property is located within the Downtown Mixed-Use Centre. The subject property is located on a minor arterial road (Lakeshore Road) and Transportation staff have confirmed that the proposal to provide site access via Elizabeth Street is appropriate.

Staff analysis: The subject applications partially satisfy the component of Intensification Criterion (xiii) that relates to appropriate locations for non-ground-oriented housing intensification. Matters of built form, scale, profile, and transition have been addressed in detail within the discussion of Intensification Criterion (v) above. With respect to these matters, the subject applications do not satisfy Intensification Criteria (v) or (xiii).

Intensification Criteria Summary of Staff Analysis: As described above, the subject applications do not demonstrate that the proposed development satisfies all of the applicable Intensification Criteria of the Official Plan.

4.3 Official Plan Amendment 119

On January 30, 2020, City Council adopted Official Plan Amendment 119 (OPA 119) which amended the Official Plan (1997, as amended) by introducing new policies, including policies for transit-supportive development, urban design and compact built form, and Major Transit Station Areas (MTSAs). OPA 119 is subject to appeals, including by the owner of the subject property, and has not yet taken effect. For more information, visit www.burlington.ca/icbl.

OPA 119 introduced policies for transit-supportive development and Major Transit Station Areas (MTSAs). These new policies include the identification of a typology of MTSAs in the City of Burlington. This MTSA typology identified Downtown Burlington (including the subject property) as an MTSA not located on Regional Express Rail (RER), and recognizes that it is anchored by the Downtown Bus Terminal, which “functions as an intercity bus transfer point” and “does not function as a major bus depot”. The typology states that “given the limited function of the Downtown Bus Terminal, the MTSA is not expected to be a significant driver for intensification beyond that which is required by the Downtown UGC”. OPA 119 introduces a new policy (Part

III, section 7.2.2a) that requires development applications to be consistent with the overall role and function of the MTSA that they are located within, in accordance with the MTSA typology.

As discussed in the Regional Official Plan (ROP) section of this report, Downtown Burlington is no longer an MTSA or a UGC. The City's Official Plan, including OPA 119, will need to be updated accordingly to conform to the ROP. However, the MTSA typology characterizes the role and function of Downtown Burlington in a manner consistent with the Regional Urban Structure and hierarchy of Strategic Growth Areas that were introduced into the ROP by ROPA 48. Both OPA 119 and the ROP contemplate a network of growth areas throughout the municipality, and plan for growth to be allocated to each of these areas to an appropriate degree based on the role and function of that growth area within the network. In both cases, the role and function of the area is substantially informed by the level of existing and planned transit service in the area.

Staff analysis: The subject applications do not comply with the policies of OPA 119, as the scale and intensity of the proposed development are not consistent with the role and function of Downtown Burlington within either the MTSA typology established by OPA 119 or the Regional Urban Structure and hierarchy of Strategic Growth Areas established by the ROP.

5.0 City of Burlington New Official Plan (2020)

On November 30, 2020, Halton Region issued a Notice of Decision approving a new City of Burlington Official Plan (2020) ("the new OP"). The new OP is subject to appeals, including an appeal by the owner of the subject property. Appeals are currently before the Ontario Land Tribunal (OLT). For up-to-date information on the status of the new OP and relevant appeals, visit www.burlington.ca/newop.

The new OP outlines a long-term vision of the community and quality of life for Burlington residents through statements of objectives and policies. The new OP provides policy direction to both the public and private sectors on land use, development, and resource management to guide the future planning and development of the City towards the desired community vision.

Schedule B, "Urban Structure" of the new OP, as approved by the Region, identifies the subject property as being located within the Downtown Urban Centre and within the Urban Growth Centre Boundary, and in proximity to a Major Transit Station. However, the Minister's approval of ROPA 48, including the adjustment to the boundaries of the Urban Growth Centre and the identification of Major Transit Station Areas, will result in modifications to the new OP being required through the Tribunal's consideration of the appealed policies of the new OP, as the new OP must conform to provincial land use

plans and regulations and to the Region of Halton Official Plan (ROP), and must also be consistent with Provincial Policy Statements and Guidelines. In the event of any conflict between the policies of the new OP and the provisions of the ROP or any applicable Provincial Plan, the provisions of the ROP or the applicable Provincial Plan must be conformed with in the Tribunal's consideration of the appeals.

Schedule B-1, "Growth Framework" of the new OP identifies the subject property as being located within a Primary Growth Area. As set out in section 2.4 of the new OP, Primary Growth Areas "shall be recognized as a distinct area within the City's Urban Area accommodating the majority of the City's forecasted growth over the planning horizon of this Plan and beyond, and consequently will experience the greatest degree of change;" and "shall be regarded as the most appropriate and predominant location for new tall buildings in accordance with the underlying land use designations, or the land use policies of an area-specific plan", and "shall support the frequent transit corridors and accommodate development that is compact, mixed use, and pedestrian-oriented in nature". Primary Growth Areas are also "priority locations for City-initiated area-specific planning and for investments in transit as well as other types of infrastructure and public service facilities, including parks to support population and employment growth".

Schedule B-2, "Growth Framework and Long Term Frequent Transit Corridors" of the new OP identifies the property as being located on/near a Frequent Transit Corridor and an MTSA Secondary Connector.

Schedule C, "Land Use – Urban Area" of the new OP identifies the subject property as being located within the Downtown Urban Centre and within the Urban Growth Centre Boundary. As noted above, the new OP must conform to the ROP. The ROP identifies that the subject property is no longer located within an Urban Growth Centre, and in this respect the ROP prevails over the new OP.

5.1 New OP Analysis

Sections 3-7 of the new OP contain objectives and policies that apply City-wide. These include the following sections of the new OP that are relevant to the evaluation of the subject applications:

- **3.1 Housing**

The policies of section 3.1 of the new OP state that the City encourages a mix of housing forms. The city also encourages the construction of rental housing with a full mix and range of unit types and sizes.

The proposed development provides 557 apartment dwelling units, including 23 studio units, 212 one-bedroom units, 166 one-bedroom + den units, 138 two-bedroom units, and 18 three-bedroom units. 317 residential units are proposed in the west building and 240 in the east building.

The applicant was required to submit a Housing Impact Statement with the subject applications in accordance with 3.1.1(2) of the new OP. As discussed above under Part III, section 2 of the OP (1997), the submitted Housing Impact Statement reflects that no affordable or assisted housing units are proposed.

Staff analysis: Although the subject applications do not propose rental, affordable, or assisted housing units, the proposed development is generally consistent with the New OP objective to provide a mix of housing forms.

- 3.4 Cultural Resources

The City will encourage the provision of public art in all significant private sector development, in accordance with policies 3.4.3(d) and 8.1.1(3.18.4) of the new OP. Development of the subject property has been identified as appropriate for the provision of new public art, in both the Downtown Urban Design Guidelines (2006) and the Waterfront Hotel Planning Study, and supported by comments from the Burlington Urban Design (BUD) Panel. If the proposed development were approved, the City would encourage the provision of public art in an appropriate location on or in proximity to the site.

Staff analysis: The subject applications do not conflict with the policies of sections 3.4 Cultural Resources and 8.1.1(3.18.4) Public Art.

- 4.5 Waterfront

Section 4.5 of the new OP identifies objectives and policies to ensure that development is compatible with the waterfront in terms of land use, intensity, and scale, and to enhance public accessibility to the waterfront by obtaining publicly owned waterfront open space, parkland, and trails when considering development applications along the waterfront.

Staff analysis: As discussed above under relevant sections of the Official Plan (1997 as amended), the subject applications are not consistent with

the City's objectives and policy intent for waterfront development, including as set out in section 4.5 of the new OP.

- 6.3 Utilities

Staff analysis: As discussed above under Part II, section 5 of the Official Plan (1997 as amended), the proposed development generally conforms with utilities policies, although a potential concern has been raised about whether the proposed development provides adequate space for utility equipment.

Additional relevant policies from chapter 3-7 of the new OP are discussed below under the Official Plan Amendment Criteria and Development Criteria of the new OP.

Chapter 8 of the New OP contains objectives and policies that apply to specific land use designations within the Urban Area. The subject property is located within the Downtown Urban Centre. As set out in section 8.1.1 of the new OP, in Urban Centres the City encourages higher-intensity, transit-supportive and pedestrian-oriented development that is compatible with its surrounding area.

Objectives and policies specific to the Downtown Urban Centre are found in section 8.1.1(3) of the new OP. Consistent with the MTSA typology described under Official Plan Amendment 119 above, this section of the new OP acknowledges the role and function of the Downtown Bus Terminal as an intercity transfer point that does not function as a major bus depot, is not located on a Priority Transit Corridor or supported by higher-order transit or frequent transit within a dedicated right-of-way, and is not expected to be a significant driver of intensification beyond the requirements of the Urban Growth Centre as it existed at the time of approval of the new OP.

General objectives for the Downtown include the following that are particularly relevant to the proposed development:

- establishing a precinct system that recognizes areas with distinct character and sets policies for differences in land use, height and built form, informed by historical development patterns and the planned function of each precinct;
- ensuring development incorporates effective transitions with adjacent development and surrounding areas;
- maintaining and where possible enhancing view corridors along public streets to Lake Ontario and the Brant Street Pier;
- ensuring that residents, employees, and visitors to the Downtown have access to a range of public parks and open spaces that allow for both passive and active recreational and social activities;

- recognizing the Lake Ontario waterfront as a major asset and local regional destination within the Downtown;
- expanding public access to parks, open spaces, and the Lake Ontario waterfront within the Downtown, where possible;
- enhancing downtown streetscapes with street trees and other greenery/landscaping where appropriate;
- achieving urban design and architectural excellence in new developments;
- requiring a mix of uses that reinforces Downtown as a complete community;
- concentrating the tallest development in those parts of the Urban Growth Centre that have the greatest proximity to higher-order transit.

Policies for development in the Downtown are intended to achieve the general objectives as well as the objectives for each precinct and land use designation. The general policies require development to support and enhance the Downtown as a lively, vibrant and people-oriented place; to respect and be compatible with the existing built form character of adjacent development and provide appropriate built form transition; and to support the achievement of the vision and function of the precinct within which it is located.

Schedule D, “Land Use – Downtown Urban Centre” of the new OP designates the subject property as “Downtown Waterfront Hotel Planning Study”. Section 12.1.4(2) contains site-specific policies for the subject property, including:

- b) A planning study will consider the existing and planned context and will guide the development of this site, which represents a significant opportunity for mixed use development linking the downtown with the waterfront. Located next to Spencer Smith Park and the Brant Street Pier, any further development shall provide a high quality of urban design reflecting the landmark nature of this site. Input from residents will be required to ensure the new development reflects a high quality of urban design that enhances the community’s access to the waterfront and downtown.
- c) Until the study is completed and approved, only the uses existing as of the date of approval of this Plan are permitted.

Staff analysis: The subject applications have not demonstrated conformity with the site-specific policy 12.1.4(2) that applies to the subject property, as the required planning study has not been completed and the subject applications have not addressed the study’s objectives: as discussed in other sections of this report, the proposed development does not achieve a sufficient quality of urban

design or adequately enhance the community's access to the waterfront and downtown.

Schedule D also identifies Elizabeth Street as a "Green Connector Street". Per section 8.1.1(3.14.1)(m) of the new OP, Green Connector Streets are public streets that incorporate enhanced pedestrian and/or cycling facilities within the street right-of-way and contribute to achieving an inter-connected network of parks, promenades, and open spaces in the Downtown. Enhanced landscaping within the public right-of-way, limitations on driveways, and differing setbacks may be considered along Green Connector Streets.

The streetscape policies of section 8.1.1(3.18.2) are also applicable to the review of the proposed development with regard to the proposed public realm on both Elizabeth Street and Lakeshore Road. These policies emphasize the importance of pedestrian comfort and safety, activity on the street, pedestrian and cycling amenities, traffic calming and on-street parking, the preservation of street trees, and planting and landscaping. The policies also require the provision of wide boulevards to accommodate pedestrians, street trees, and at-grade uses.

As discussed below under Downtown Streetscape Guidelines, the subject applications allow for a pedestrian-friendly streetscape on Lakeshore Road with space for patio seating and street trees, but propose a streetscape design for Elizabeth Street that does not adequately address landscaping and the pedestrian experience in accordance with the Green Connector Street policies.

Staff analysis: The subject applications do not comply with, or satisfy the intent of, the Green Connector Street policies of 8.1.1(3.14.1)(m) or the Streetscaping policies of 8.1.1(3.18.2) of the new OP.

Schedule D-1, "Downtown Urban Centre Retail Streets" of the new OP identifies the segment of Lakeshore Road on which this property fronts as "Retail Main Street". Policies for Retail Main Streets are provided in section 8.1.1(3.21.1) of the new OP. These policies require retail or service commercial uses continuously at grade in buildings having frontage on a Retail Main Street. The policies also outline requirements for the design of retail and service commercial units at grade, and direct servicing, loading, and parking access to public or private lanes away from the Retail Main Street frontage.

As discussed below under Tall Building Guidelines, the proposed development does not satisfy all of the design requirements of the Retail Main Street policies, such as the requirement for a continuous retail or service commercial frontage on the Retail Main

Street or a maximum width of 7-10 metres for individual retail and service commercial units.

Staff analysis: The subject applications do not conform to the Retail Main Street policies of 8.1.1(3.21.1) of the new OP.

The subject property is adjacent to Spencer Smith Park, which is designated as Downtown Parks and Promenades as shown on Schedule D of the new OP. Policies for the Downtown Parks and Promenades Designation are found in sections 8.1.1(3.14) and 8.1.1(3.18.3) of the new OP and are considered in combination with the City-wide policies for Parks, Recreation, and Open Space found in section 3.3 of the new OP, and the Parkland Dedication policies found in Section 12.1.16 of the new OP.

As discussed under the Official Plan (1997 as amended) above, parkland dedication is a requirement of the proposed development, in the form of new parkland as an extension of Spencer Smith Park.

Section 3.3 of the new OP states that the majority of new parkland will be acquired by the City as parkland dedication through the development approval process. A high priority will be placed on environmental protection, accessibility for all ages and abilities, public safety, public access, and increased visibility along the street during the detailed design and development of parks; the required parkland dedication from the subject applications will support improvements to the accessibility and public access of Spencer Smith Park. Section 8.1.1(3.18.3)(b) reinforces the need for parks and open spaces in Downtown to be well-designed, connected, and publicly accessible.

As stated in 12.1.16 (e and f) Lands dedicated for other purposes, such as the road widening and hazardous lands dedications of the subject applications, do not count toward parkland dedication.

The proposed development includes the provision of a POPS in the centre of the property in line with John Street that provides a mid-block connection to give public access from Lakeshore Road to Spencer Smith Park. This POPS is a positive feature of the proposed development supported by policy 8.1.1(3.14.1)(n) which states that opportunities for creating additional open space and new connections along the waterfront will be assessed as part of any development proposal. However, the proposed POPS does not replace the need for parkland dedication, as stated in section 8.1.1(3.14.1)(f) which indicates that the provision of Privately Owned, Publicly accessible Space (POPS) may be used to augment public space but shall not be used as a replacement to public parkland dedication. Section 8.1.1(3.18.3) provides guidance for the design of POPS, which should include connections and through routes such as courtyards and urban squares, reinforce a strong public open space character, provide

for year-round use, and provide for a maintenance and management regime that is covered by the owner of the POPS.

The importance of parkland dedication in the Downtown are further emphasized by policy 8.1.1(3.14.1) (t), which states that public access shall be provided to the Lake Ontario waterfront within the Downtown, where feasible, and (o), which states that in addition to the lands identified as Downtown Parks and Promenades on Schedule D of the new OP, new parks and open spaces shall be provided within the Downtown, which may include, but are not limited to, dedication of parkland and/or POPS to the satisfaction of the City.

Staff analysis: The subject applications do not comply with the policies of sections 3.3 Parks, Recreation, and Open Space; 8.1.1(3.14) Downtown Parks and Promenades Designation; 8.1.1(3.18.3) Parks and Open Spaces; and 12.1.16 Parkland Dedication, of the new OP, as they do not reflect the provision of parkland dedication as an extension of Spencer Smith Park as required by the City.

Section 8.1.1(3.18.5) of the new OP requires any development on the south side of Lakeshore Road to maintain a public view corridor to Lake Ontario. The proposed development does not encroach (above grade) into the Brant Street or Elizabeth Street rights-of-way, and also provides a four-storey open space between the two proposed podiums that allows for views to the lake from John Street. However, the view corridor from John Street would be better maintained by removing the fifth-storey building connection above the four-storey open space, and the view corridors down Brant Street and Elizabeth Street would be enhanced by pulling the proposed buildings further back from the west and east through an appropriate combination of setbacks, stepbacks, and parkland dedication.

Staff analysis: The subject applications do not satisfy the policy intent of section 8.1.1(3.18.5), particularly with respect to maintaining a view corridor to Lake Ontario from John Street.

As stated in policy 8.1.1(3.2)(a) of the new OP, development in the Downtown is also subject to the Major Transit Station Area (MTSA) policies of section 8.1.2 of the new OP. This policy reflects that the Downtown bus terminal was considered be a Major Transit Station at the time the new OP was approved, in accordance with the ROP that was in effect at the time. As described in various sections of this report, the Regional Official Plan as amended by ROPA 48 confirms that the Downtown bus terminal is not a Major Transit Station and the Downtown Urban Centre is not an MTSA. Nonetheless, staff have considered the MTSA policies of section 8.1.2 of the new OP as they relate to the subject applications.

Section 8.1.2 of the new OP identifies a typology of MTSA's consistent with that described above in Official Plan Amendment 119. This typology, described in detail in the Official Plan Amendment 119 section of this report, emphasizes that the Downtown is not located on a Priority Transit Corridor, is not supported by higher-order transit, and is not served by frequent transit within a dedicated right-of-way. Given this level of transit service, the Downtown MTSA was not expected to be a significant driver for intensification beyond what was required within the Downtown Urban Growth Centre boundary that was in effect at the time the new OP was approved.

Objectives for MTSA's set out in 8.1.2(1) include (t) "to direct an appropriate scale and intensity of transit-supportive development at each MTSA consistent with the MTSA typology" and in accordance with the Province's Transit Supportive Guidelines and Mobility Hub Guidelines; (u) "to encourage transit-supportive, pedestrian-oriented and cycling-friendly development in a compact built form, while ensuring compatibility with the surrounding area is achieved"; and (v) "to ensure development establishes a high-quality public realm featuring a network of new and existing public squares, parks and open space that incorporate street trees, landscaping and vegetation".

Relevant policies for MTSA's set out in 8.1.2(2) include:

(c) "Development applications shall be consistent with the overall role and function of the MTSA in which they are located, in accordance with the typology identified in section 8.1.2";

(e) "Development in MTSA's should be planned to achieve transit-supportive densities in accordance with the Province's Transit Supportive Guidelines and the existing and planned level and type of transit service. The full extent of maximum development permissions on lands located in each MTSA may not be achievable on every site, due to site-specific factors including, but not limited to, compatibility, environmental impacts, hazard lands, transportation issues, cultural heritage resources, and/or infrastructure capacity."

(g) "Development shall contain a mix of land uses and transit supportive development that supports the achievement of complete communities through a more compact built form, while ensuring compatibility with surrounding areas is achieved"

(l) "New green spaces such as trees and landscape areas, parks and open spaces shall be provided as part of development applications, which may include, but are not limited to, dedication of parkland, Privately-Owned Publicly Accessible Spaces (POPS) and/or trees and landscape areas located between a public right-of-way and a building, to be provided to the satisfaction of the City";

(m) “Privately-Owned Publicly Accessible Spaces (POPS) may be used to augment public space but shall not be used as a replacement to public parkland dedication”

(q) “Development patterns shall have regard for optimization of land, resources, and public investment in infrastructure and public services. For clarity, the concept of optimization shall be applied to development patterns over the entirety of the MTSA”

(r) “In addition to the development criteria in Subsection 12.1.2(2.2)(c), the following development criterion shall be satisfied when evaluating all development applications within each MTSA: (i) the development shall be consistent with the vision and intent of the MTSA typology and policies contained in Subsection 8.1.2, Major Transit Station Areas, and maintain the land use vision established in the land use designations of this Plan”.

Staff Analysis: The subject applications do not conform to the MTSA policies of section 8.1.2 of the new OP with regard to built form compatibility, parkland dedication, and in particular, with respect to maintaining consistency with the vision and intent of the MTSA typology. The proposed development is at a scope and intensity that is not appropriate for the context of the subject property, is not commensurate with the existing and planned level of transit service, and does not reflect the role and function of the Downtown Urban Centre as characterized in either the MTSA typology of the new OP and Official Plan Amendment 119, or the hierarchy of Strategic Growth Areas in the Regional Official Plan.

5.2 Official Plan Amendment Criteria

Section 12.1.1(3)(i) contains criteria that shall be used to assess any privately or City-initiated Official Plan Amendment. These criteria are as follows:

- i. consistency with the intent of the Urban Structure as outlined in Section 2.3, The Urban Structure, of this Plan;

Schedule B, “Urban Structure” of the new OP, as approved by the Region, the subject property is located within the Downtown Urban Centre, which is intended to accommodate “a broad range and mix of uses in areas of higher, yet appropriate, intensity in relation to the surrounding neighbourhoods, designed in a compact built form, oriented to support transit and facilitate active transportation” (2.3.1d). Schedule B also shows the subject property as being located within the Urban Growth Centre Boundary and in proximity to a Major Transit Station. As discussed above,

the new OP must be updated to reflect that the subject property is no longer within the Urban Growth Centre Boundary or in proximity to a Major Transit Station, due to ROPA 48.

Staff analysis: The subject applications are not consistent with the Urban Structure as the proposed development is not of an appropriate intensity in relation to its surroundings.

- ii. in the case of a site-specific Official Plan Amendment, consideration of the relevant principles, objectives, and policies of this Plan, including the Growth Framework as outlined in section 2.4, the Development Criteria included in Subsection 12.1.2(2.2)c) of this Plan, and, where applicable, the land use designation established on the site;

Schedule B-1, “Growth Framework” of the new OP identifies the subject property as being located within a Primary Growth Area. As set out in section 2.4 of the new OP, Primary Growth Areas “shall be recognized as a distinct area within the City’s Urban Area accommodating the majority of the City’s forecasted growth over the planning horizon of this Plan and beyond, and consequently will experience the greatest degree of change;” and “shall be regarded as the most appropriate and predominant location for new tall buildings in accordance with the underlying land use designations, or the land use policies of an area-specific plan”, and “shall support the frequent transit corridors and accommodate development that is compact, mixed use, and pedestrian-oriented in nature”.

The subject applications propose tall buildings that are not in accordance with the applicable land use policies of the new OP, which require the completion of a planning study to guide the appropriate form of development on the site. The subject applications propose to amend the Official Plan by eliminating the policy that requires this study; this proposed amendment is not consistent with the intent of the Growth Framework or of the site-specific land-use policy for the subject property.

Evaluation of the subject applications in accordance with the Development Criteria of Subsection 12.1.2(2.2)c) is provided below.

Staff analysis: the subject applications do not satisfy Official Plan Amendment Criterion (ii), as it does not satisfy the intent of the applicable land-use policies and does not satisfy the Development Criteria of 12.1.2(2.2)c) as discussed below.

- iii. Conformity or lack of conflict with Provincial and Regional Plans, policies, and legislation;

Staff analysis: The proposed development does not conform with the Growth Plan for the Greater Golden Horseshoe or the Halton Region Official Plan, as discussed in earlier sections of this report.

- iv. Consistency with the Provincial Policy Statement;

Staff analysis: The subject applications are not consistent with the Provincial Policy Statement, as discussed in an earlier section of this report.

- v. Compatibility with the surrounding area and proper integration with the surrounding neighbourhood or approved area-specific plan;

Staff analysis: The proposed development is not compatible with the surrounding area, as discussed above under Official Plan (1997 as amended) Intensification Criterion (v) and below under new OP Development Criterion (ii).

- vi. In the case of a site-specific Official Plan Amendment, existing infrastructure and public service facilities such as parks, are available and can accommodate the proposed use without costly expansion, upgrading or public investment that would require the deferral of other planned improvements to infrastructure and public service facilities, to the satisfaction of both the City and the Region of Halton;

Staff analysis: The subject applications do not satisfy this Official Plan Amendment Criterion. As discussed above under Official Plan (1997 as amended) Intensification Criterion (i), the subject applications have not demonstrated that the proposed development will be adequately served with water, wastewater, and stormwater servicing to the satisfaction of Regional and City staff, and have not provided parkland dedication as required to ensure the provision of adequate parkland for the proposed development.

- vii. In the case of a site-specific Official Plan Amendment, consideration of the relationship of the subject site to the multi-modal transportation system;

Staff analysis: The subject applications do not satisfy this Official Plan Amendment Criterion. As discussed above under Official Plan (1997 as amended) Intensification Criteria (ii), (iii) and (iv): the traffic impacts of the

proposed development can be accommodated by the existing transportation network but the proposed development has not provided sufficient bicycle parking to support the promotion of cycling. The subject property is served by local transit but the scale and intensity of the proposed development does not reflect the level of existing and planned transit service or the role and function of the Downtown Urban Centre within the hierarchy of Strategic Growth Areas in the ROP.

- viii. whether the amendment, if approved, would establish an undesirable precedent;

The scale and intensity of the proposed development is not appropriate for its context or compatible with its surroundings and does not reflect the level of existing and planned transit service or the role and function of the Downtown Urban Centre within the hierarchy of Strategic Growth Areas in the ROP. If approved, the proposed development would establish an undesirable precedent that may undermine the land use vision of the New Official Plan for the Downtown Urban Centre and the Regional Urban Structure policies of the Regional Official Plan.

Staff analysis: The subject applications do not satisfy this Official Plan Amendment Criterion, as they may be expected to set an undesirable precedent.

- ix. whether the amendment, if approved, would remove a significant barrier to development that would otherwise render the site undevelopable and/or underutilized;

As discussed above under Part II, section 2.8 of the Official Plan (1997 as amended), remediation and mitigation of site contamination would be required. This would be a requirement for any proposed development of the subject property. While the site is currently underutilized, the specific amendments requested by the subject applications are not needed to facilitate development or intensification of the site at an appropriate scale and intensity.

Staff analysis: The subject applications do not satisfy this Official Plan Amendment Criterion, as they are not necessary to remove any barriers to development of the subject property.

- x. financial sustainability, in accordance with section 6.5, Financial Sustainability, of this Plan:

Section 6.5 of the new OP recognizes the need to consider the net financial impact of all decisions on the City, particularly with respect to major development applications. In accordance with section 6.5.2(i), the applicant was required to submit a Fiscal Impact Study as part of the subject applications. As discussed above under Part II, section 12 of the Official Plan (1997 as amended), Finance Department staff retained Watson & Associates Economist Ltd. (Watson) to peer review the submitted WSP Fiscal Impact Study (WSP Study). Watson's report concludes that the proposed development, if approved, would have a potential annual fiscal surplus for the City of approximately \$153,000, whereas the WSP Study estimated an annual fiscal surplus of close to \$1M from the proposed development. While this would indicate that the redevelopment may provide a slight benefit to the City from a fiscal perspective, it is important to recognize the fiscal impact study is a tool to be used, along with other policy documents and not in isolation of other factors of importance that this study does not consider such as the physical, social, economic and cultural elements of the city. A fiscal review is only one of many useful tools that are utilized in the process.

Staff analysis: The subject applications satisfy Official Plan Amendment Criterion x.

- xi. in the case of an Official Plan Amendment proposing residential uses in the Primary Growth Area where an area-specific plan has not been completed as identified on Schedule B-1: Growth Framework, of the new OP, shall consider city-building objectives, consistent with the City's Strategic Plan. The City, in consultation with the proponent, shall determine how subsection a., and which of one or more of subsections b. through e., shall be delivered as part of the proposed development. The city-building objectives shall be delivered to the satisfaction of the City with any required agreements, and appropriate phasing in the case of a major comprehensive development, and shall be exclusive of section 37 benefits:
 - a. additional sustainable building design measures that contribute significantly towards the Environmental and Energy Leadership section goals of the City's Strategic Plan and/or the goals of the Community Energy Plan;
 - i. As discussed in section 8.5 of this report, the proposed development does not satisfy relevant sections of the Sustainable Building and Development Guidelines, including required and

voluntary guidelines. The subject applications have not demonstrated how subsection a. can be delivered as part of the proposed development.

- b. affordable, rental housing with rents equal to or less than the Local Municipal Average Market Rent (AMR) as per the CMHC annual rental report;

The Housing Impact Statement submitted with the subject applications does not reflect the provision of any rental housing units.

- c. deliver a portion of units with three or more bedrooms;

The subject applications propose 18 three-bedroom units out of a total of 557 residential units.

- d. the co-location of community space, or public service facilities which includes parks;

The subject applications do not reflect the required parkland dedication.

- e. residential units provided in partnership with a municipal housing provider or a charitable not-for-profit organization, including but not limited to, affordable, assisted, or special needs housing.

The Housing Impact Statement submitted with the subject applications indicates that no affordable, assisted, or special needs housing is proposed.

Staff Analysis: The subject property is located within the Downtown Urban Centre, which is a Primary Growth Area. Although an Area-Specific Plan has not been developed for Downtown, the new Official Plan does include detailed policies for this area. Nonetheless, staff have evaluated the subject applications with consideration for Official Plan Amendment Criterion xi. Although the subject applications do provide a portion of units (3%) with three bedrooms in accordance with subsection c, the subject applications have not demonstrated how subsection a. can be delivered, and accordingly have not satisfied Official Plan Amendment Criterion xi.

Summary of Staff Analysis: As described above, the subject applications do not satisfy all of the Official Plan Amendment Criteria of section 12.1.1(3)(i) of the new Official Plan.

5.3 Development Criteria

Section 12.1.2(2.2)(c) of the new OP identifies the following criteria that shall be satisfied when evaluating all development applications, where applicable.

(i) the development shall be consistent with the land use compatibility policies contained in Section 4.6, Land Use Compatibility, of this Plan;

Staff analysis: the subject applications have not demonstrated that they satisfy this Development Criterion. As described above under Intensification Criterion (v) of the Official Plan (1997 as amended), the subject applications have not demonstrated that the proposed development can achieve land use compatibility with surrounding developments with respect to noise, in accordance with the policies of the Official Plan (1997 as amended) or the new OP section 4.6, Land Use Compatibility.

(ii) the development achieves built form compatibility;

As described above under Intensification Criterion (v) of the Official Plan (1997 as amended), the proposed development does not achieve built form compatibility with its surroundings.

In addition to the above-referenced discussion, staff have considered the policies of the new OP that establish the planned context of the surrounding private properties to the north and east and guide the achievement of compatibility with the surrounding area.

The lands opposite the subject property on the north side of Lakeshore Road, between Brant Street and John Street, are designated Brant Main Street Precinct, as shown on Schedule D of the New OP. The policies of this precinct, found in section 8.1.1(3.3) of the new OP, emphasize the protection of the existing traditional, low-rise, main-street physical character along Brant Street. Accordingly, the policies require a maximum streetwall (podium/lower building) height of three storeys, with building height above the third storey (to a maximum of 11 storeys) being set back a minimum of 20 metres from Brant Street.

The lands opposite the subject property on the north side of Lakeshore Road, east of John Street, and on the south side of Lakeshore Road, east of Elizabeth Street, are designated Lakeshore Precinct, as shown on Schedule D of the new

OP. The policies of this precinct, found in section 8.1.1(3.5) of the new OP, also require a maximum streetwall (podium) height of three storeys, with building height above the third storey (to a maximum of 15 storeys) being set back a minimum of 20 metres from Brant Street. The Lakeshore Precinct policies also require new development to protect and enhance public views to Lake Ontario from the north-south streets and to enhance public access to the waterfront through open space corridors and appropriate design considerations.

The objectives and policies of the Brant Main Street Precinct and Lakeshore Precinct are informative to the understanding of the context of the proposed development. In order to achieve built form compatibility, development of the subject property should incorporate substantial setbacks from both the existing western property line (in alignment with the street line of Brant Street to the north) and Lakeshore Road in order to ensure consistency and compatibility with the surrounding planned context. However, the proposed development comprises a five-storey streetwall (podium) along Lakeshore Road, with tower setbacks of 10 metres from the existing western property line and 7.5 to 14 metres from Lakeshore Road, and tower heights that are approximately triple the maximum permitted height of the Brant Main Street Precinct and approximately double the maximum permitted height of the Lakeshore Precinct.

Section 8.1.1(3.19) of the new OP contains Built Form policies that provide Downtown-specific guidance for new development to ensure that it fits into the existing physical character and planned context of a precinct, is compatible with adjacent built form, and makes a positive contribution to the Downtown.

Policy 8.1.1(3.19.1)(a) requires new buildings to “be designed and placed on a site to be compatible with adjacent development, cultural heritage resources, parks and open spaces, and abutting streetscapes” and provide for transitions in height and massing; adequate setbacks between buildings, the public realm, and adjacent or abutting development; comfortable microclimatic conditions including sunlight access and pedestrian-level wind conditions; public safety and adequate privacy conditions for residential buildings and their outdoor amenity areas; and safe connections to pedestrian and cycling routes and convenient access to public transit. Policy (b) of the same section also requires the provision of design elements and treatments to minimize bird strikes.

The policies in section 8.1.1(3.19.3)(c-d) require tall buildings to:

- i. provide a minimum separation distance of 30 metres from another tall building (measured above the podium and excluding balconies),
- ii. have a maximum tower floor plate of 750 m² (excluding balconies),

- iii. provide outdoor amenity space on the site,
- iv. articulate towers with high-quality, sustainable building materials and finishes,
- v. provide a minimum tower stepback of 3 metres from the podium edge facing all street, park and open space frontages (tower stepbacks of greater than 3 metres are encouraged and may be required for a tall building to fit harmoniously within the surrounding physical character),
- vi. provide a podium no higher than 3 storeys.
- vii. avoid balcony placements that significantly increase the physical and apparent massing of the building.

The proposed development provides a tower separation of 42 metres, which exceeds the minimum separation distance of 30 metres. The proposed tower floor plates range from 730m² to 763 m², with the floor plates exceeding the maximum of 750 m² on the majority of the proposed tower levels. The development provides outdoor amenity space and tower articulation as required (although details of building finish would be considered in more detail at the Site Plan application stage). The tower stepbacks vary and are not clearly delineated on the plans, but appear to be less than 3 metres in some locations. The proposed development provides a podium of five storeys at the front of the property and six storeys at the rear of the property, exceeding the maximum podium height of three storeys permitted by the policy. Proposed balconies are used as sculptural elements to articulate the tower; they therefore contribute to the physical massing of the building but as articulation elements their impact on the apparent (perceived) massing of the building is uncertain. The proposed development therefore does not conform to the built form policies of 8.1.1(3.19.3)(c-d).

Section 8.1.1(3.19.4) contains policies to guide the design of tall buildings to achieve an appropriate transition to surrounding built form, as required by 8.1.1(3.19.1)(a) and 8.1.1(3.19.4)(d). Appropriate transitions between built forms may take the form of setbacks, stepbacks, reduced overall building heights, intervening built form, smaller building and tower floorplates, separation distance, placement and orientation on a lot, or through varying building heights and terracing. As described above, the subject applications propose building podiums and towers that are dramatically taller and more massive than the surrounding existing and planned context. The proposed development does not make use of intervening built form to provide a gradual transition down in height from its peak to the neighbouring building heights, and does not provide adequate setbacks or

terracing to provide a transition to the adjacent park and surrounding development.

Staff analysis: The subject applications do not achieve built form compatibility with the existing or planned context of the surrounding lands as required by Development Criterion (ii), and do not conform to the Built Form and Transition policies of section 8.1.1(3.19) of the new OP. Furthermore, the incompatibility of the proposed development with its planned context contributes to staff's determination that the scale and intensity of the proposed development is not appropriate for its context as required by the Secondary Regional Node policies of the Regional Official Plan.

(iii) the development shall be consistent with the intent of the Urban Structure as outlined in Section 2.3, Urban Structure of this Plan and maintains the land use vision established in the land use designations of this Plan;

Staff analysis: the subject applications have not demonstrated that they satisfy this Development Criterion. As discussed above under the Official Plan Amendment Criterion (i) of the new OP, the proposed development does not satisfy the Urban Structure's intent that development be of an appropriate intensity in relation to its surroundings.

(iv) the development achieves high quality urban design and is consistent with the policies contained in Chapter 7: Design Excellence, of this Plan;

Detailed discussion of urban design considerations is provided in various sections of this report, including the Official Plan (1997 as amended) section above, and the Urban Design Guidelines section below.

In the evaluation of the subject properties, the urban design policies of chapter 7, which apply City-wide, are supported and elaborated on by the Downtown-specific urban design policies of section 8.1.1(3.17).

Staff analysis: As discussed in various other sections of this report, the proposed development is not consistent with the City's urban design objectives, policies, and guidelines, including those found in chapter 7 and section 8.1.1(3.17) of the new OP.

(v) the development, where located outside the Established Neighbourhood Areas as identified on Schedule B-1: Growth Framework, constitutes intensification;

Staff analysis: Development Criterion (v) is satisfied, as the proposed development is located outside of the Established Neighbourhood Area and constitutes intensification.

(vi) the development can be supported by available infrastructure and public service facilities;

As discussed above under Intensification Criterion (i) of the Official Plan (1997 as amended) and under Official Plan Amendment Criterion (vi) of the new OP: the subject applications have not demonstrated that the proposed development will be adequately served with water, wastewater, and stormwater servicing to the satisfaction of Regional and City staff, and have not provided parkland dedication as required to ensure the provision of adequate parkland for the proposed development.

Staff analysis: The subject applications do not satisfy Development Criterion (vi).

(vii) the development preserves and protects trees, consistent with the policies contained in Section 4.3, Urban Forestry, of this Plan;

As discussed above under Intensification Criterion (vi), the subject applications propose the removal of 49 trees, including all on-site trees, all street trees in front of the property on the Lakeshore Road and Elizabeth Street rights-of-way, and some trees within Spencer Smith Park. No replacement trees are proposed within the Elizabeth Street right-of-way. The subject applications are not consistent with section 4.3 of the new OP, which prioritizes the preservation of existing healthy trees and the incorporation of appropriate tree planting during design of streetscapes.

Staff analysis: The subject applications do not satisfy Development Criterion (vii).

(viii) the development provides buffering, setbacks, and amenity area so that an appropriate transition between existing and proposed buildings are provided;

As discussed above under Intensification Criteria (v) and (ix) of the Official Plan (1997 as amended), the proposed development does not provide adequate setbacks, and has not demonstrated the provision of adequate amenity areas and buffering, to ensure an appropriate transition between existing and proposed buildings.

Staff analysis: The subject applications do not satisfy Development Criterion (viii).

(ix) the development shall:

- a. demonstrate that future development on the adjacent property(ies) will not be compromised by the proposal;**

As discussed above under Intensification Criterion (x) of the Official Plan (1997 as amended), the subject applications will not compromise development potential of properties to the north, but has not satisfied the intent of this policy as it may compromise the City's ability to maintain or alter the design of the adjacent street rights-of-way and Spencer Smith Park.

Staff analysis: The subject applications do not satisfy the intent of Development Criterion (ix)(a).

- b. be designed to facilitate future pedestrian, cycling, and/or private street connections across one or more adjacent properties, where such opportunities exist, as determined by the City;**

The proposed development provides a mid-block pedestrian connection between Lakeshore Road and Spencer Smith Park as a Privately Owned, Publicly accessible Space (POPS).

Staff analysis: The subject applications satisfy the intent of Development Criterion (ix)(b).

- c. demonstrate, to the satisfaction of the City, the appropriate phasing of development where existing retail and service commercial uses are being re-developed, to minimize adverse impacts on the provision of goods and services to support the surrounding areas;**

Staff analysis: This criterion is not applicable to the subject applications.

(x) the development maintains, enhances, and restores the City's Natural Heritage System in accordance with the policies in Section 4.2, Natural Heritage System, of this Plan;

As described above under Criterion (xi) of the Official Plan (1997 as amended), the proposed development maintains the City's Natural Heritage System as required by section 4.2 of the new OP.

Staff analysis: The subject applications satisfy Development Criterion (x).

(xi) the development, where residential uses are proposed, demonstrate the degree to which public service facilities and other neighbourhood conveniences, such as community centres, recreation, neighbourhood shopping centres and healthcare are located within walking distance or accessible by transit;

As described above under Intensification Criterion (viii) of the Official Plan (1997 as amended), the proposed development is well-served by public service facilities and other neighbourhood conveniences within walking distance or accessible by transit.

Staff analysis: The subject applications satisfy Development Criterion (xi).

(xii) the development addresses multi-modal transportation considerations and is consistent with the policies in Section 6.2: Multi-modal Transportation, of this Plan, including but not limited to:

- a. the development shall mitigate potential impacts on the municipal transportation system to an acceptable level with regard to transportation flow and capacity;**

As discussed above under Intensification Criterion (iii) of the Official Plan (1997 as amended), the traffic impacts of the proposed development can be acceptably accommodated by the existing transportation network.

Staff analysis: The subject applications satisfy Development Criterion (xii)(a).

- b. the development accommodates sufficient off-street parking and transportation demand management measures in accordance with the policies in Subsection 6.2.10 of this Plan;**

As discussed above under Intensification Criterion (ii) of the Official Plan (1997 as amended), the proposed development does not provide sufficient off-street parking and transportation demand measures as required by subsection 6.2.10 of the new OP.

Staff analysis: The subject applications do not satisfy Development Criterion (xii)(b).

(xiii) the development conserves cultural heritage resources, where applicable, in accordance with the policies in Section 3.5, Cultural Heritage Resources, of this Plan;

As discussed above under Intensification Criterion (xi) of the Official Plan (1997 as amended), the development conserves cultural heritage resources. However, if the application were to be approved, consideration should be given at the Site Plan stage to ensuring the proposed development is as sensitive as possible to the nearby built heritage resource and potential cultural heritage landscape, in accordance with the policies in section 3.5 of the new OP, and the Downtown-specific cultural heritage policies in section 8.1.1(3.23) of the new OP, which state “any development located in close proximity to cultural heritage resources shall be sensitive to the cultural heritage context of the street and not just of the immediately adjacent buildings, to maintain the character of those areas”.

Staff analysis: The subject applications satisfy Development Criterion (xiii).

(xiv) the development provides stormwater management in accordance with the policies of Subsection 4.4.2(2) of this Plan;

As discussed above under Intensification Criterion (i) of the Official Plan (1997 as amended), the subject applications have not demonstrated that the proposed development will appropriately manage stormwater to the satisfaction of Regional and City staff.

Staff analysis: The subject applications have not demonstrated that they satisfy Development Criterion (xiv).

(xv) the development addresses hazardous lands and hazardous sites in accordance with Subsection 4.4.2(3) of this Plan;

As described above under Criterion (xi) of the Official Plan (1997 as amended), the proposed development has addressed hazardous lands as required by section 4.4.2(3) of the new OP.

Staff analysis: The subject applications satisfy Development Criterion (xv).

(xvi) the development considers the relationship to existing or planned transit facilities including a frequent transit corridor, higher order transit, bus routes and/or transit shelters;

The subject property is served by local transit. It is not currently served by frequent transit, but it is located on streets that are planned to be served by frequent transit in future, as shown on Schedule B-2, “Growth Framework and Long-Term Frequent Transit Corridors” of the new OP, which identifies the property as being located on/near a Frequent Transit Corridor and an MTSA Secondary Connector. The policies in section 6.2.3 of the new OP state that land use development is intended to increase transit modal share in accordance with Halton Region’s Transportation Master Plan, Active Transportation Master Plan, and Transportation Demand Management measures.

The subject property is therefore appropriate for development at transit-supportive densities. The intensity of development should reflect the role and function of the area (Downtown Burlington Secondary Regional Node) as identified in the hierarchy of Strategic Growth Areas within the ROP, which has taken into consideration the level of existing and planned transit service. As described above under Criterion (iv) of the Official Plan (1997 as amended), Official Plan Amendment 119 and the Regional Official Plan (ROP), staff are of the opinion that the subject applications propose a scale and intensity of development that does not reflect the role and function of Downtown Burlington within this hierarchy.

Staff analysis: The subject applications do not satisfy Development Criterion (xvi).

(xvii) the development complements and connects with the public realm, including walking and cycling facilities;

As discussed in various sections of this report, the proposed development does not appropriately complement, connect with, or integrate with Spencer Smith Park or adjacent street rights-of-way. The layby parking spaces proposed on Lakeshore Road do not complement the planned bike lanes in this right-of-way.

Staff analysis: The subject applications do not satisfy Development Criterion (xvii).

(xviii) the development shall be consistent with the contaminated sites policies contained in Section 4.7, Contaminated Sites, of this Plan;

As discussed above under Part II, section 2.8 of the Official Plan (1997 as amended), the subject applications have not provided all the needed information to address site contamination concerns as required by section 4.7 of the new OP.

Staff analysis: The subject applications have not demonstrated that they satisfy Development Criterion (xviii).

(xix) the development shall consider all other relevant principles, objectives, and policies of this Plan.

As discussed above under New OP, the proposed development has not considered or addressed all other relevant principles, objectives, and policies of the new OP.

Staff analysis: The subject applications do not satisfy Development Criterion (xix).

Summary of Staff analysis: the subject applications do not satisfy the Development Criteria contained in section 12.1.2(2.2)(c) of the new OP. The proposed development is not in conformity with the new OP.

6.0 Waterfront Hotel Planning Study

As described above, the Official Plan (1997 as amended) and the new Official Plan (2020) both contain site-specific policies requiring the completion of a planning study to guide development on the subject property. The Waterfront Hotel Planning Study was publicly launched in 2017 as a comprehensive land use and urban design study focused on the subject property and the surrounding lands including Spencer Smith Park.

On June 5, 2018, report PB-23-18 presented key policy directions to guide the establishment of a strategic framework to assess a future redevelopment proposal on the subject lands. The key policy directions as endorsed by Council are listed below.

In mid-2018, the Waterfront Hotel Planning Study was put on hold. Work on this study has now resumed. On January 11, 2022, City Council received [staff report PL-15-22](#) which provided an update on the study. Council also issued the following staff direction concerning the Waterfront Hotel Planning Study:

“Direct the Director of Community Planning to complete the Waterfront Hotel Study within the statutory time frame of processing the pending application related to the Waterfront Hotel (2020 Lakeshore Road) so as to inform the review of any development proposal on this site in accordance with the policies of the Official Plan.” (SD-01-22)

In accordance with this direction, staff will complete the Waterfront Hotel Planning Study within the statutory timeline of the Official Plan Amendment and Zoning By-law Amendment applications that are described in this report.

On February 15, 2022, the Waterfront Hotel Planning Study project team hosted a virtual public open house to allow the public to learn about the study process and ask questions of the project team, including City staff and the consultant team, The Planning Partnership. At this meeting, the project team presented the Emerging Preferred Concept for the development of the Waterfront Hotel site. The Emerging Preferred Concept is described below.

Up-to-date information on the Waterfront Hotel Study can be found at www.getinvolvedburlington.ca/waterfront-hotel-study.

6.1 Key Policy Directions

Staff have evaluated the subject applications with consideration for whether it is consistent with the key policy directions endorsed by Council in 2018.

Land Use and Built Form

1. Create building frontages along Lakeshore Road and Elizabeth Street with building placement that establishes a defining street wall and frames the street zone.

Staff analysis: The subject applications are consistent with this direction as the proposed development orients the building podiums to establish a defining street wall on Lakeshore Road and Elizabeth Street and frame the street zone.

2. Provide active uses at grade along Lakeshore Road and Elizabeth Street.

Staff analysis: The subject applications are generally consistent with this direction, as the proposed development provides active retail, service commercial, and hotel uses along Lakeshore Road and Elizabeth Street. Staff note that the proposed development also devotes a portion of the street frontage to office lobby, residential lobbies, and emergency stairwells; the lobby frontages should be minimized and the emergency stairwells should be relocated to maximize the portion of the frontage dedicated to active uses.

3. Achieve active and animated edges adjacent to Spencer Smith Park, with a requirement for retail and service commercial uses at grade:

- a. Built form next to the south property line shall activate and animate this edge, respect the existing grade, and be scaled to the waterfront trail with higher levels stepping back as necessary.
- b. Built form next to the west property line shall activate and animate this edge, respect the existing grade, and be scaled to Spencer Smith Park with higher levels stepping back as necessary.

Staff analysis: The subject applications are not consistent with this direction, as the proposed development is not scaled to the waterfront trail and Spencer Smith Park, and does not step back higher levels of the podium as needed to

achieve an appropriate transition from the proposed building massing to the surrounding open space.

Although the proposed development respects the existing grade and provides active uses that animate the southern property line, the western property line is not adequately activated/animated, and a blank retaining wall is provided in close proximity to the property line.

4. Require a minimum of two uses within buildings and where feasible, encourage three uses.

Staff analysis: The subject applications are consistent with this direction, providing three uses in each building and four uses overall on the site: retail/service commercial, hotel, office, and residential.

5. Establish an iconic landmark building on the site subject to the following:
 - a. A new public, pedestrian space is provided at the foot of Brant Street where public views to the Lake and Pier are enhanced;
 - b. The iconic landmark building must contain a destination use or function;
 - c. The iconic landmark building shall enhance the City of Burlington's image/identity.

Staff analysis: The subject applications are not consistent with the intent of this policy direction. While the proposed development removes the existing driveway from the foot of Brant Street, creating space for a new public, pedestrian space, the submitted Park Concept Plan has not demonstrated how this new public space may be designed and integrated with the proposed development, or how public view to the Lake and Pier from this space will be enhanced from existing conditions.

The proposed development does constitute an iconic landmark building that contains a destination use or function; however, due to the excessive scale and intensity of the proposed development and the inadequate integration of the proposed development with Spencer Smith Park, it is unclear whether the proposed development will enhance or detract from the City of Burlington's image and identity. It should be noted that a landmark building does not need to be the tallest building in the Downtown. An iconic landmark building can be created through design excellence and other factors such as appropriate built form and massing, pedestrian connections, materials and colour, seamless transitions, and/or the inclusion of public art.

6. Require design excellence in all matters of architecture, landscape architecture, sustainable and urban design and require that all public and private development proposals on or adjacent to the site be evaluated/reviewed by the Burlington Urban Design Advisory Panel.

Staff analysis: The subject applications are not consistent with this policy direction. While the proposed development was reviewed by the Burlington

Urban Design (BUD) Advisory Panel, the subject applications have not adequately addressed feedback from BUD and the proposed development does not reflect excellence in all matters of architecture, landscape architecture, sustainable and urban design.

Public Realm

7. Protect public view corridors to Lake Ontario from Brant and Elizabeth Streets, and where possible John Street.

Staff analysis: The subject applications are generally consistent with this policy direction, as the proposed development protects existing public view corridors to Lake Ontario from Brant and Elizabeth Street and preserves a four-storey high open space that protects a view corridor to the lake from John Street. However, as discussed elsewhere in this report, these John Street view corridor could be better protected by removing the fifth-storey building connection above the four-storey open space, and the view corridors from Brant Street and Elizabeth Street could be enhanced by pulling the buildings further from the east and west lot lines through an appropriate combination of setbacks, stepbacks, and parkland dedication.

8. Enhance the Brant Street view corridor to frame views to the Brant Street Pier, and require a significant building setback from the west property line and define and consider a building setback from the thin red line and maximize the new and enhanced publicly accessible green/open space.

Staff analysis: The subject applications are not consistent with this policy direction. As described above, the Brant Street view corridor is not enhanced by the proposed development and remains similar to existing conditions. The proposed development does not provide a significant building setback from the western edge of the property. Staff acknowledge that the concept of “the thin red line” no longer has a basis in the planned context of the area due to a change in the policies of the new Official Plan concerning the planned form of development on the lands to the north. However, the intent to enhance the view corridor to the pier and lake from Brant Street and to “maximize the new and enhanced publicly accessible green/open space” remains and has not been addressed by the subject applications.

9. Create new and enhanced publicly accessible green/open space, which would include new north-south pedestrian connections between Lakeshore Road and Spencer Smith Park (mid-block and along the site’s edges).

Staff analysis: The subject applications have not adequately addressed this policy direction. While the proposed development includes the provision of a new Privately Owned, Publicly accessible Space (POPS) and a new north-south pedestrian connection between Lakeshore Road and Spencer Smith

Park at mid-block, the proposed development has not provided new or enhanced green/open space or connections along the site's edges.

10. Minimize changes to the existing grade along the southern edge of the site and enhance the interface with Spencer Smith Park.

Staff analysis: The subject applications are consistent with this policy direction, as the proposed development minimizes changes to the existing grade along the southern edge of the site and has enhanced the interface with Spencer Smith Park relative to existing conditions, the proposed development still has not provided an appropriate interface of the proposed development with Spencer Smith Park, as discussed elsewhere in this report.

11. Integrate a public washroom within the future redevelopment; with an entrance that is accessible, highly visible and within close proximity to Spencer Smith Park.

Staff analysis: The subject applications have partially addressed this policy direction. The submitted Park Concept Plan reflects space for "potential access to public washroom facility" at the western edge of the proposed development in close proximity to the park entrance, additional information would be required to confirm the integration of a public washroom within the proposed development with an entrance that is accessible and highly visible.

12. Identify opportunities for the placement of public art on and adjacent to the site.

Staff analysis: The subject applications have addressed this policy direction by identifying a potential location for public art within the central POPS at the foot of John Street.

Mobility and Access

13. Vehicle access shall be from Elizabeth Street.

Staff analysis: The subject applications are consistent with this policy direction as all vehicle access of the proposed development is from Elizabeth Street.

14. Vehicle access from Brant Street will be closed and converted to a pedestrian orientated gateway to the waterfront.

Staff analysis: The subject applications are consistent with this policy direction as all the proposed development eliminates the existing vehicle access from Brant Street, although as described above, the applications have not provided information about the new pedestrian-oriented gateway to the waterfront.

15. All required on-site parking shall be provided underground (parking structures shall not be visible from the public streets and park).

Staff analysis: The subject applications are consistent with this policy direction as all proposed on-site parking has been provided underground; however, staff note that insufficient parking has been proposed, and the proposed development also reflects the provision of layby parking spaces in

the street right-of-way on Lakeshore Road, which are not supported by staff, and on Elizabeth Street.

16. Require Transportation Demand Management (TDM) and mitigation measures:

- a. Examine the feasibility of introducing a future bike rental/share hub at this location.

Staff analysis: The subject applications have not addressed this direction, as the TDM measures contemplated by the application do not examine the feasibility of introducing a future bike rental/share hub at this location. Staff also note that the proposed development does not include sufficient bicycle parking as discussed under Intensification Criterion (ii) of the Official Plan (1997 as amended).

Summary of staff analysis: The subject applications have not demonstrated that the proposed development is consistent with all of the key policy directions endorsed by Council in 2018, as described above.

6.2 Emerging Preferred Concept

The Emerging Preferred Concept for the Waterfront Hotel site that was presented by the Waterfront Hotel Planning Study project team to the public on February 15, 2022, is summarized as follows:

Built Form

- Height range of 15-22 storeys
- 3-storey podium/street wall
- Active at-grade uses like commercial, retail and restaurants
- Focus on a strong pedestrian relationship to the streets and public spaces

Public Realm

- Enhancing Brant Street as a gateway to the Downtown, the waterfront and the Waterfront Trail
- Enhance the entrance to Spencer Smith Park and the Brant street public view corridor
- John Street view corridor and inclusion of a privately-owned public space (POPS)
- Additional parkland identified on the west and south side of the site
- Maintain existing trees along Lakeshore Road

Mobility and Access

- Site access for parking and loading from Elizabeth Street
- No lay-by parking along Lakeshore Road

- Active Transportation route along Lakeshore Road, including bike lane
- No surface parking on site

Staff analysis: Based on the information available at the time of writing this report, staff are of the opinion that the Emerging Preferred Concept is more consistent with the applicable policy framework than the subject applications. In particular, staff note that the Emerging Preferred Concept:

- accounts for the provision of potential public parkland on the west and south side of the site;
- incorporates a three-storey podium and streetwall consistent with the existing and planned context for this section of Lakeshore Road;
- incorporates terracing/stepbacks to provide a more gradual transition from the height peak of the proposed development to the surrounding parkland;
- provides a maximum building height of 22 storeys that is more consistent with the planned context of the surrounding area;
- protects view corridors to the lake from John Street and Elizabeth Street, and enhances the view corridor to the lake from Brant Street;
- preserves existing trees along Lakeshore Road.

Staff note that available information about the Emerging Preferred Concept is conceptual in nature and does not provide the level of detail necessary for a comprehensive policy analysis or fulsome comparison with the subject applications. The Waterfront Hotel Planning Study project team will present a more detailed report on the Preferred Concept to Community Planning, Regulation, and Mobility Committee on April 5, 2022.

7.0 City of Burlington Zoning By-law

The Zoning By-law identifies the subject property as being located within the DW zone (Downtown Wellington Square Mixed Use Zone). This zone permits a mix of uses, including the proposed retail, service commercial, office, hotel, and residential (apartment) uses. This zone permits a maximum building height of 8 storeys up to 29 metres, and a maximum Floor Area Ratio of 5.0:1.

The applicant has submitted a Draft Zoning By-law Amendment that outlines what zoning regulations they are requesting to change in order to permit the proposed development. The Draft Zoning By-law Amendment has been published on the City's website at www.burlington.ca/2020lakeshore.

The Draft Zoning By-law Amendment proposes to rezone the subject property from "DW" to "DW-XXX" (Downtown Wellington Square Mixed Use Zone with site-specific exception). Zoning staff have reviewed the subject applications and have identified the

Zoning By-law Amendments that would be required in the site-specific exception to permit the proposed development as shown on the submitted plans. These amendments are identified in Table 2 below.

While the proposed buildings have been described in the subject applications and in this report as having a proposed height of 35 and 30 storeys total, Zoning staff have identified that due to the definition of “storey” in the Zoning By-law, these buildings would be considered to have heights of 37 and 33 storeys for zoning purposes, due to inclusion of mechanical penthouses and mezzanine levels.

Staff note that although the submitted Draft Zoning By-law Amendment requests that the deemed width of Lakeshore Road be reduced from 30 metres to 24 metres, the required road widening to bring the Lakeshore Road right-of-way to the deemed width of 30 metres appears to have been provided and accounted for in the submitted plans. If the deemed width of Lakeshore Road were reduced as requested by the applications and the amount of road widening changed accordingly, this would have an impact on site dimensions and the measurement of numerous other zoning regulations.

Table 2: Required Zoning By-law Amendments

Regulation	Existing Requirement	Amendment Needed to Permit Proposed Development
Maximum Building Height	8 storeys, 29 metres	East building: 33 storeys, including mechanical penthouse, 104.35m West building: 37 storeys, including mechanical penthouse, 119.6m Podium: 5 storeys, 18.95m
Minimum Floor Area of second, third, and fourth storeys	50% of the floor area of the first storey.	15% (applies to mezzanine level)
Maximum Floor Area Ratio	5.0:1	7.76:1*
Minimum Landscape Area abutting PC zone	3m	0m
Minimum Residential Parking Spaces	1.25 spaces per apartment unit =697 required parking spaces	1.07 spaces per apartment unit =596 required parking spaces
Minimum and Maximum yards	<u>Minimum for Floors 1 to 2:</u> Lakeshore = 0m	<u>Minimum for floors 1 to 2:</u> Lakeshore = 3.2m*

	Elizabeth = 2m West yard = 2m South Yard = 0m <u>Maximum for 1st and 2nd floors only:</u> 1 m greater than minimum <u>Minimum for floors 3+:</u> Lakeshore = 2m Elizabeth = 4m West yard = 4m South Yard = 2m	South Yard = 2m
Deemed Width of Lakeshore Road	30m	24m*
Minimum setback from the hypotenuse of a Daylight Triangle	3 m	2.56m*
Minimum Visibility Triangles	6m x 6m	None
Minimum setback for parking garage ramp from street line	7.5 m	2m
Minimum setback of an underground parking structure	3 m	0m*
Permitted uses on ground floor	The ground floor of any building within 15 metres of a public street shall be used only for retail or service commercial uses	Permitted uses on the ground floor shall include retail, service commercial, all office uses, hotel lobby and residential lobby
Minimum amenity area	20m ² per unit = 11,140m ²	Uncertain (Zoning staff request submission of more detailed Amenity Plan)
Minimum dimensions of a parking space	Minimum width: 2.75m Minimum area: 16.5 m ²	Uncertain (not shown on plans)
Minimum percent glazing of any first-floor building elevation facing a street	60%	Uncertain (not shown on plans)

*Regulations that would be impacted and need to be recalculated if the deemed width of Lakeshore Rd were reduced as requested by the subject applications.

In addition to the Zoning By-law amendments described in the table above, if the subject applications were approved, the portion of the subject property that is identified as hazardous lands regulated by Conservation Halton would be dedicated to the City and would need to be rezoned from DW to a suitable Open Space zone.

If the subject applications were approved, the Zoning By-law would also need to be amended by placing a Holding Symbol on the property until site contamination issues are addressed as requested by technical comments from Site Engineering and Halton Region staff.

8.0 Urban Design Guidelines

Staff have reviewed the subject applications in accordance with applicable Council-approved urban design guidelines. The following is a discussion of staff's analysis for each of the applicable guideline documents.

8.1 Pedestrian Level Wind Study Guidelines and Terms of Reference (2020)

A quantitative Pedestrian Wind Study was submitted with the subject applications and has been reviewed by staff in accordance with the City's Pedestrian-Level Wind Study Guidelines and Terms of Reference (Wind Study Guidelines).

The Wind Study Guidelines require assessment of significant topographic features. Staff note that the submitted study appears to have assumed flat terrain in its modelling of the subject property and its surroundings, which does not reflect the sloping terrain and substantial grade separations in the vicinity. It is not clear whether this is a significant factor for wind impacts in the study area.

The submitted study finds that existing wind conditions in the assessed locations are suitable for standing or leisurely walking in the summer, and for leisurely walking or fast walking during the winter, with the exception of an existing unsafe condition at the southwest corner of the existing hotel and on Lakeshore Road in front of the Bridgewater development east of the subject property.

The submitted study finds that the proposed development, if approved, would result in wind conditions at the assessed locations that are suitable in summer for fast walking or better, with the exception of one uncomfortable location in the proposed Privately Owned Publicly accessible Space (POPS); and suitable in winter for fast walking or better "at most sidewalks and walkways", but uncomfortable at the northwest and southwest corners of the proposed building, within the proposed central POPS, in the park to the south, and in one area on Elizabeth Street.

The proposed development would eliminate the existing unsafe condition on Lakeshore Road in front of Bridgewater to the east of the subject property. but would not resolve the existing unsafe condition at the southwest corner of the subject property, and would

also create new unsafe conditions at the northwest corner of the subject property and in one location in the proposed central POPS.

The submitted study recommends mitigation measures such as wind screens, landscaping, recessed building entrances, and overhead/trellis structures. The Wind Study Guidelines require that recommended mitigation measures be tested; staff note that the subject study does not indicate that the recommended mitigation measures have been tested for the locations that were assessed as experiencing adverse wind impacts due to the proposed development. If the proposed mitigation measures are not feasible in the needed locations, then the proposed development cannot be supported.

The subject property and its surroundings are a landmark location at the intersection of the City's Downtown and the City's most prominent and popular waterfront park. These areas currently experience, and are planned to continue to accommodate, a high level of pedestrian traffic at all times of year, including festivals and special events when the park reaches full capacity. With this in mind, it is imperative that the redevelopment of the subject property ensure the elimination or minimization of pedestrian-level wind impacts in order to ensure not only wind safety but also an appropriate level of comfort for the intended uses, which will include sitting, standing, and leisurely walking throughout the year.

Staff analysis: The subject applications have not demonstrated that pedestrian-level wind impacts of the proposed development will be acceptable in accordance with the Wind Study Guidelines.

8.2 Shadow Study Guidelines and Terms of Reference (2020)

Staff have reviewed the Shadow Study that was submitted with the subject applications in accordance with the City's Shadow Study Guidelines and Terms of Reference. The Shadow Study provides modelling of shadow impacts of the proposed development, discussion of mitigation strategies, and analysis of shadow impacts based on criteria set out in the Shadow Study Guidelines and Terms of Reference.

The study indicates that the mitigation strategies that have been employed include a separation distance of 42 metres between the two proposed towers, slender tower floorplates, limiting the podium height to 5 storeys, and the provision of an open-air atrium between the two podiums.

The Shadow Study Guidelines and Terms of Reference establish shadow impact criteria for various different contexts, including the following that are applicable to the subject applications: Parks and Open Spaces, Key Civic and Cultural Spaces, Private Outdoor Amenity Spaces, and Public Realm and Sidewalks.

Shadow impacts on Spencer Smith Park have been assessed using criteria for both “Parks and Open Space” and “Key Civic and Cultural Space”.

Shadows cast on Parks and Open Space by all existing and proposed buildings must allow for either 100% sunlight, 50% of the time, or 50% sunlight, 100% of the time during specified periods on the spring and fall equinoxes and winter solstice. This criterion is met if the Sun Access Factor is at least 0.5 on each of the three test dates. The study demonstrates that the subject applications satisfy this criterion, achieving a Sun Access Factor of 0.94 or higher on each of the three dates.

Key Civic and Cultural Spaces are subject to the most rigorous standards for avoiding shadow impacts. Proposed developments should not cast any net new shadows on Key Civic and Cultural Spaces between 10:00 a.m. and 4:00 p.m. on the spring or fall equinox. The study reflects that the subject applications do not meet this guideline as the proposed development casts shadows of less than 10m² at 3:00 p.m. and less than 100m² at 4:00 p.m. on the equinoxes. The study notes that “these values are minimal and not much greater than the existing shadows cast by the Waterfront Hotel at those times on those days of the year. Therefore, it can be concluded that the shadows that do not meet the Shadow Impact Criteria will have little impact”. Staff note that the proposed demolition of the existing Waterfront Hotel presents an opportunity for new development to improve shadow conditions in the park. As discussed above under Criterion (v), the proposed building podiums do not incorporate sufficient setbacks or stepbacks to allow for an appropriate transition to, and integration with, Spencer Smith Park. This is reflected in the shadow analysis, as the proposed 5-6 storey podiums cast shadows on Spencer Smith Park in spring, summer, and fall during the applicable times of day. These shadow impacts could be reduced if the podiums were revised to incorporate sufficiently larger setbacks and stepbacks.

Public Realm and Sidewalks criteria require that shadows cast by all existing and proposed buildings on the opposing boulevard and sidewalk must allow for either 100% sunlight 50% of the time, or 50% sunlight 100% of the time between 9:00 a.m. and 6:00 p.m. on the spring equinox. The criterion is met if the Sun Access Factor is at least 0.5 for the specified date.

These criteria have been used to assess shadow impacts on the north boulevard and sidewalk of Lakeshore Road between Brant Street and Elizabeth Street (opposite the subject property) and the east boulevard and sidewalk of Elizabeth Street south of Lakeshore Road (opposite the subject property). The subject applications achieve a Sun Access Factor of 0.5 for both of these frontages, which exactly meets the minimum requirement to satisfy the guidelines.

Staff note that the submitted study appears to reflect substantial shadows at various times from the proposed development on the Brant Street, John Street, and Elizabeth Street rights-of-way north of Lakeshore Road, and on Lakeshore Road east of Elizabeth Street, although Sun Access Factors have not been calculated for these street segments. This includes morning shadowing in the spring and fall that, due to the height of the proposed towers, covers almost the entirety of the Brant Street right-of-way from Lakeshore Road up to the north side of Elgin Street, and almost the entirety of the John Street right-of-way from Lakeshore Road up to the John Street Bus Terminal. In the afternoon, shadows fall on significant parts of Elizabeth Street and Lakeshore Road. These shadow impacts have not been adequately considered to demonstrate that shadow impacts of the proposed development are at an acceptable level. The guidelines state that “Corner sites must include calculations for all frontages identified by the City”, and this has not occurred for the subject property, which is a corner site.

Criteria for shadow impacts on Private Outdoor Amenity Spaces state that shadows from proposed developments should not exceed 2 hours in duration between 9:00 a.m. and 6:00 p.m. on the spring equinox. Where existing shadows already limit sun access to such areas during the stated times, the guidelines consider the impact of net new shadows from the proposed development. The criterion is met if the Sun Access Factor is at 0.22 on each of the test dates. The submitted study reflects a Sun Access Factor of 0.57 for the assessed private outdoor amenity spaces, which satisfies the criterion for the areas that were assessed. However, it is unclear whether all of the proposed on-site private outdoor amenity spaces have been assessed. The study has also not considered shadow impacts on private outdoor amenity spaces of neighbouring properties. Based on the modelling provided, it appears that shadow impacts on the existing private outdoor amenity areas of neighbouring properties may exceed the acceptable thresholds, including the low-rise apartments on the southeast corner of John Street and Pine Street, and the mid-rise apartment development known as “The Baxter” at the northeast corner of Elizabeth Street and Lakeshore Road.

Staff analysis: The subject applications have not demonstrated an acceptable level of shadow impacts in accordance with the Shadow Study Guidelines and Terms of Reference. While the proposed development generally meets numerical criteria of the Shadow Study Guidelines and Terms of Reference with respect to Parks and Open Space and Public Realm, the proposed development does not meet criteria for shadow impacts on key Civic and Cultural Spaces, and has not measured the impacts on neighbouring Private Outdoor Amenity Spaces as required by the guidelines. Staff also note that the proposed development meets only the minimum standards for Public Realm, and that relevant sidewalks and boulevards have not been adequately considered.

8.3 Tall Building Guidelines (2017)

Section 8.1.1(3.17) of the new OP states that the Downtown Burlington Placemaking and Urban Design Guidelines will be applicable in the Downtown and that the Tall Building Guidelines will not. As the former have not yet been completed, the latter remain informative to the review of Downtown development proposals. Accordingly, the subject applications have been evaluated by Planning staff in accordance with the City's Tall Building Guidelines.

Section 2 of the guidelines provide direction on evaluating the podium of a tall building. The proposed development satisfies the intent of many guidelines in this section, including with respect to locating the podium to frame public streets, providing mid-block connections as POPS, using podium roofs as outdoor amenity spaces, avoiding projecting balconies in podiums, and directing servicing and loading areas to side streets.

Section 2.2 of the guidelines deals with podium height and massing, and states that podium heights shall not exceed a maximum of 80% of the adjacent right-of-way (ROW) width, or 20 metres. The subject applications propose podium heights of 19 metres (5 storeys) along Lakeshore Road; this is less than 20 metres and represents 63% of the 30-metre deemed width of Lakeshore Road. However, the guidelines also state that where there is an established and planned streetwall, new podiums should generally reflect the established and planned streetwall rather than be designed to the maximum heights of 20 metres and 80% ROW width.

Staff note that the established streetwall in this vicinity varies from one to two storeys. To the northwest is the Bunton's Wharf building at 1477 Lakeshore Road, which has a podium height of 1 storey. To the north, the established streetwall comprises one listed heritage building with a height of 3.5 storeys and several other older buildings of 1-2 storeys height that collectively comprise a potential cultural heritage landscape. The new Official Plan states that the potential cultural heritage landscape will be studied in the future, and if found to have cultural heritage value, will be conserved and integrated into future development. To the northeast is the "The Baxter" development at 399 Elizabeth Street, a midrise building with a one-storey podium. To the east is the Pearle Hotel, an eight-storey midrise building that forms part of the recently constructed Bridgewater development. The Pearle Hotel has a two-storey podium along Lakeshore Road, and at the corner of Lakeshore Road and Elizabeth Street it has an eight-storey building component with no podium.

The existing Lakeshore Road streetwall is therefore predominantly a low-rise built form of between one to three storeys. The policies of the new Official Plan require future development on this segment of Lakeshore Road to provide a maximum three-storey podium, with mid-rise or tall building components above the third storey to be set back 20 metres from the street. The proposed five-storey (19 metre) podium height for the

proposed development is therefore out of character with both the existing and planned streetwall of this vicinity and is not consistent with the Tall Building Guidelines in this respect.

On Elizabeth Street, the proposed podium is 19 metres tall at the north end of the block and increasing in height towards the south due to the downward slope of the street towards the lake. At its minimum height, the proposed podium fronting on Elizabeth Street represents 95% of the 20-metre Elizabeth Street right-of-way, which exceeds the maximum set out in the guidelines. The established streetwall of the Bridgewater development on the opposite side of Elizabeth Street is a three-storey podium, except at the street corner where, as aforementioned, there is an eight-storey building component with no podium. The proposed 5-storey (19m+) podium along Elizabeth Street both exceeds the maximum height relative to ROW width and does not reflect the predominantly three-storey established streetwall. It is therefore inconsistent with the guidelines.

Along the western park frontage, the proposed podium is 19 metres tall at the north, increasing towards the south as the park slopes down toward the lake, reaching a podium height of approximately 23m at the southwest corner of the building. This proposed podium height is similar to the height of the existing Waterfront Hotel along this frontage. However, the redevelopment of the site offers the opportunity to improve the subject property's transition to, and integration with, Spencer Smith Park, at this prominent interface between a landmark building and the primary pedestrian entrance to the City's pre-eminent park destination. In addition to providing parkland dedication along this frontage as required by Parks Design and Construction comments, the proposed development should be revised to provide a more human-scaled building frontage along the park.

Along the southern frontage of the subject property, the average height along the frontage of the two podiums is approximately 22 metres. This is similar to the height of the existing Waterfront Hotel but extended along the full frontage of two buildings, each of which is wider than the approximately 25 metre width of the one existing hotel building. The podium should provide a more human-scaled podium and a more gradual transition from the maximum building height to the adjacent open space. This should include increased setbacks and the use of stepbacks, which may also be expected to mitigate shadow impacts as discussed above under Intensification Criterion (vii) of the Official Plan.

Section 2.4(e) of the guidelines states "Large podiums shall be visually broken into smaller components. Mixed-use podiums shall reflect multiple retail units, while residential buildings shall provide individual entrances for ground floor units. In the downtown, podiums shall reflect the traditional 7-10 metre lot width". The podiums of the two proposed buildings are large and have not been visually broken into smaller

components. At-grade uses within the two podiums include a mix of residential lobbies, office lobby, hotel lobby, and retail/service commercial units along street frontages and public open space frontages. Staff are of the opinion that the proposed podiums do not include sufficient articulation to visually break up the mass of the buildings, to differentiate between different uses, to achieve the 7-10 metre unit width for compatibility with the downtown character, and generally to reinforce a human scale. The Site Plan shows emergency stairwells occupying frontage along Lakeshore Road; these stairwells should be relocated internal to the building to maximize active uses along the building frontages facing the public realm, and minimize the amount of street frontage dedicated to emergency exits.

Section 3 of the guidelines provides direction on evaluating the tower component of a tall building. The proposed development satisfies the intent of many guidelines in this section, including with respect to providing a separation distance between towers, providing a maximum tower floorplate of 750 m², using lighter materials, and creating visual interest through vertical and horizontal articulation.

Sections 3.1 and 3.2 of the guidelines state that tall building design should provide a gradual height transition to adjacent established or planned context. This is not achieved by the proposed development, which consists of a 35-storey tower on the west and 30-storey tower on the east side of the site. Both of these towers are more than double the height of the existing Bunton's Wharf building to the northwest, and approximately triple the height of the mid-rise Baxter building to the northeast and mid-rise Bridgewater buildings to the immediate east. The planned context to the north, as set out in the new Official Plan, consists of a maximum 11-storey mid-rise building on the northwest corner of Lakeshore Road and John Street, and a maximum 15-storey tall building on the northeast corner of Lakeshore Road and John Street. Both of these potential future developments would be required to provide a 20-metre setback from the street above the third storey.

Further to the east, there is an existing 17-storey building (360 Pearl) at the northwest corner of Pearl Street and Lakeshore Road, the existing 22-storey Bridgewater tower at the southwest corner of the same intersection, and approvals for 29-storey and 26-storey towers on the north side of Lakeshore Road, east of Pearl Street. On the south side of Lakeshore Road at the foot of Martha Street there are also two sites with proposals for 27-storey buildings that are currently the subject of appeals to the Ontario Land Tribunal.

The new Official Plan policies for this area were developed through a detailed planning study (the Scoped Re-examination of the Adopted Official Plan), completed in 2020, that developed a new system of Downtown Precincts that "recognizes areas with distinct character and sets policies for differences in land use, height and built form, informed by historical development patterns and the planned function of each precinct"

(new OP 8.1.1.3.1.c). In accordance with this policy framework, the application of the Tall Building Guidelines should also recognize the distinct character of the immediate surroundings, which varies from one block to another. The proposed tower heights of 35 and 30 storeys on the subject property are an abrupt and substantial departure from the established and planned context of the immediate surroundings, and are inconsistent with sections 3.1 a) and 3.2 a) of the guidelines.

Section 4 of the Tall Building Guidelines provides direction on designing the Building Top; the proposed development is consistent with this section of the guidelines.

In summary, while some elements of the proposed development are consistent with the guidelines, the proposed development is substantially inconsistent with the guidelines with respect to podium height and massing, podium articulation, and tower height and massing. Staff agree with the comments of the Burlington Urban Design (BUD) Panel that “overall, the proposed building is too large for its context, and that the height, massing, proportions and scales of the podium and towers should be re-evaluated”.

Staff analysis: The scale and massing of the proposed development do not meet the intent of the Tall Building Guidelines and are not supported by staff.

8.4 Downtown Streetscape Guidelines (2019)

The subject property is located within the Mixed-Use Commercial District. The Downtown Streetscape Guidelines provide direction for streetscape design in this context.

The guidelines recommend that the boulevard space be wide to comprise a minimum 6 metre wide boulevard (curb to building face) comprising a minimum 2 metre wide marketing zone, minimum 1.8 metre wide clear path zone (or more on high-traffic pedestrian streets), minimum 1.2 metre wide furnishing zone, and minimum 0.5 metre wide edge zone (or more depending on desired features).

On the Lakeshore Road frontage, the subject applications meet or exceed these standards by providing a substantial 14 metre wide boulevard comprising a 9.8 metre marketing zone, 1.8 metre clear path zone, 2.0 metre furnishing zone, and 0.5 metre edge zone. As this section of Lakeshore Road is planned to be a prominent destination for retail and park access, staff advise that more of this boulevard width should be dedicated to providing a wide clear path zone for unimpeded pedestrian traffic, in accordance with the guidelines and with the Retail Main Streets of the new Official Plan.

The guidelines identify the intersection of Brant Street and Lakeshore Road as a priority intersection for special treatment that strengthens its importance as a gateway between the Downtown and waterfront. The subject applications do not address this direction and focus on the design of the Lakeshore Road streetscape directly in front of the subject property. Additional consideration should be given to addressing how the Lakeshore Road streetscape will flow into the Brant-Lakeshore intersection and the

Spencer Smith Park entrance, including the additional parkland to be provided through parkland dedication on the west side of the site.

The proposed boulevard width on Elizabeth Street is not clearly dimensioned on the submitted Landscape Plan but it appears to have a total width of approximately 6.8 metres consisting of an approximately 2 metre marketing zone, approximately 1.8 metre clear path zone, and approximately 3 metre wide combined furnishing and edge zone. The combined furnishing and edge zone is dominated by layby parking spaces and provides no space for street trees. Staff note that Elizabeth Street is identified as a Green Connector Street in the new Official Plan and is therefore intended to include, where feasible, enhanced pedestrian and/or cycling facilities and enhanced landscaping. Given the need to accommodate driveway and loading access for the site on Elizabeth Street, the Burlington Urban Design (BUD) Panel recommended attention be paid to the design of this street to ensure it remains pedestrian-friendly. Staff believe that the proposed streetscape design for Elizabeth Street does not adequately address landscaping and the pedestrian experience given its context.

The guidelines also promote opportunities to enhance the streetscape with the provision of public art in appropriate locations. The public realm on and around the subject property is a candidate for the provision of public art and staff agree with the suggestion of the BUD Panel that the proposed breezeway at the entrance to the POPS at the foot of John Street should be considered as a location for public art, as should the western frontage of the property where it abuts the Spencer Smith Park entrance.

While detailed implementation of the Streetscape Design Guidelines occurs at the Site Plan review stage, it is important to consider the streetscape through the review of the subject applications to ensure the building envelope and setbacks are appropriately scaled to ensure there is sufficient space for all the required streetscape features. The subject applications provide ample space for streetscaping on the Lakeshore Road frontage but have not demonstrated adequate space for the appropriate streetscaping of the Elizabeth Street frontage and the intersection of Lakeshore Road and Brant Street.

Staff analysis: The subject applications have not satisfied the intent of the Downtown Streetscape Guidelines as it relates to Elizabeth Street and the intersection of Lakeshore Road and Brant Street.

8.5 Sustainable Building and Development Guidelines (2021)

The Sustainable Building and Development Guidelines encourage sustainable design approaches in keeping with the City's declaration as a sustainable community, and in alignment with Burlington's Strategic Plan 2015-2040. The guidelines address sustainability approaches related to site design, transportation, the natural environment, water, energy and emissions, waste and buildings materials, and maintenance,

monitoring, and communication. The guidelines include both required and voluntary sustainability measures. While the guidelines are administered primarily through Site Plan applications, they are also applied to the review of Official Plan and Zoning By-law amendment applications to ensure items can be implemented at Site Plan stage.

Guidelines that are applicable to the proposed development and relevant at the Official Plan and Zoning By-law amendment stage include the following:

- 1.6 (Voluntary): Site Disturbance: On previously developed sites, restore a minimum of 50% of the site area (excluding the building footprint) by replacing impervious surfaces with native or adapted vegetation.
 - **Staff analysis:** The proposed development does not meet this voluntary guideline. The provision of parkland, landscape areas, and increased underground setbacks will aid in satisfying the intent of this guideline.
- 2.1 (Required): Site Connections: Provide pedestrian and cycling connections from on-site buildings to off-site public sidewalks, pedestrian paths, trails, open space, active transportation pathways, transit stops, and adjacent buildings and sites in accordance with Official Plan policies.
 - **Staff analysis:** The proposed development generally meets the intent of this required guideline. The proposed development provides pedestrian and cycling connections to adjacent public sidewalks and transit stops. Although the Park Concept Plan shows two pathway connections from the subject property to adjacent trails within Spencer Smith Park, as discussed elsewhere in this report, staff are not satisfied that the proposed development is adequately integrated with Spencer Smith Park.
- 2.3 (Required): Bicycle Storage: Provide bicycle parking spaces in accordance with the Zoning By-law and Official Plan policies.
 - **Staff analysis:** The proposed development does not satisfy this required guideline. As discussed under Official Plan Intensification Criteria, the proposed development provides more bicycle parking spaces than the minimum requirement of the Zoning By-law, but does not provide adequate bicycle parking spaces to accommodate the proposed development.
- 2.4 (Voluntary): Transportation Demand Management: Provision and implementation of a Transportation Demand Management (TDM) Plan.
 - **Staff analysis:** In keeping with this voluntary guideline, the Transportation Impact Study submitted with the subject applications included TDM measures. As discussed elsewhere in this report, this study identified bicycle parking as a TDM measure, but the proposed development does not provide sufficient bicycle parking.

- 2.5 (Voluntary): Bicycle Storage (Occupants): Locate occupant/employee bicycle parking near the main entrance or easy to identify area, in a weather protected area with controlled access or secure enclosures, at no extra charge to the occupant/employee.
 - **Staff analysis:** This voluntary guideline is not sufficiently satisfied. Weather-protected bicycle parking is provided within the underground parking structure on levels P1 to P4, in proximity to the residential elevators of the east tower. However, no bicycle parking is provided in proximity to the building entrances or the residential elevators of the west tower. It is not clear whether bicycle parking has controlled access or whether bicycle parking spaces are reserved for residential occupants and/or employees.
- 2.6 (Voluntary): Bicycle Storage (Visitor): Provision of bicycle parking spaces in a weather-protected area at grade near the main entrance or easy-to-find area.
 - **Staff analysis:** This voluntary guideline is not satisfied, as the submitted plans do not reflect the provision of any at-grade bicycle parking for visitors.
- 3.8 (Voluntary): Enhanced Tree Preservation: Maintain existing on-site trees that are 30 cm or more DBH (diameter at breast height) OR maintain 75% of healthy mature trees greater than 20 cm DBH.
 - **Staff analysis:** This voluntary guideline is not satisfied. As discussed elsewhere in this report, the proposed development involves the removal of 49 of 53 existing trees on or adjacent to the subject property, including 31 trees with DBH over 20 cm, of which 18 have DBH over 30 cm.
- 4.1 (Required): Stormwater Quality: Achievement of a level one/enhanced stormwater treatment for all stormwater runoff.
 - **Staff analysis:** The subject applications have not demonstrated that the proposed development satisfies this required guideline. As discussed in the Official Plan (1997 as amended) Intensification Criteria section of this report, additional information is required in relation to stormwater management.
- 4.3 (Voluntary): Pervious Surface: minimization of impervious surfaces and stormwater runoff through the use of Low Impact Development measures, such as: permeable pavements, bioswales, infiltration trenches/bioretention areas, rain gardens, draining roofs to pervious areas, and other innovative stormwater management strategies.
 - **Staff analysis:** This voluntary guideline has not been satisfied. Although more detailed information would be provided at the Site Plan stage, for the purposes of the Official Plan and Zoning By-law Amendment applications, staff note that the proposed development includes an underground

parking structure that occupies the entire property and is almost entirely covered by hard surfaces.

- 5.1 (Required): Urban Heat Island: Provide vegetated landscape areas in hard surfaces areas as per the Zoning By-law.
 - **Staff analysis:** This required guideline is not satisfied. As reflected in Section 7.0 (Zoning By-law) of this report, the proposed development does not provide the minimum 3m landscape area required abutting a park zone.
- 6.1 (Required): Waste Management Plan: Provide and implement a waste management plan in accordance with Regional requirements.
 - **Staff analysis:** This required guideline is not satisfied. As discussed in the Regional Official Plan section of this report, Regional staff have raised concerns that the proposed development does not adequately address waste management in accordance with Regional requirements.

Summary of staff analysis: The proposed development does not satisfy the intent of the relevant sections of the Sustainable Building and Development Guidelines, including several guidelines that are identified as required.

8.6 Downtown Urban Design Guidelines (2006)

The Downtown Urban Design Guidelines were approved by Council in 2006 and align with the Official Plan (1997, as amended). These guidelines identify the subject property as being located within “Block 23”, and provide a high-level development concept for the subject property. This concept is intended to provide the City with a more detailed means of responding to development applications, in combination with the Official Plan and Zoning By-law.

The concept for the subject property contemplates two tall or mid-rise buildings of up to 14 storeys with slender tower elements with small floorplates, containing retail uses at grade and residential or hotel uses above. The concept recommends low-rise podiums to establish a two- to four- storey streetwall, with taller elements stepped back significantly from the streetwall. The concept also recommends a publicly accessible mid-block pedestrian connection and view corridor oriented north-south in line with John Street.

The proposed mix of uses and site plan layout are generally consistent with the concept outlined for the subject property in the Downtown Urban Design Guidelines; however, the proposed height and massing of the tower and podium components of the proposed development are more than double what is contemplated in the Block 23 concept.

Staff analysis: The subject applications do not meet the intent of the Downtown Urban Design Guidelines.

8.7 Keeping Place: Heritage-Based Urban Design Guidelines for Downtown Burlington (2006)

The Keeping Place guidelines provide direction on integrating new development into the historic setting of Downtown Burlington to conform with the Official Plan policy in Part III, 5.5.3(g), which requires that “any development close to cultural heritage resources shall be sensitive to the historic context of the street and not just of the immediately adjacent buildings, to maintain the character of established areas”.

To that end, section 7.4.4 of the guidelines direct podiums of tall buildings to be divided into individual retail units of 6-8 metres width, and to be horizontally articulated to reinforce a human-scaled retail frontage that reinforces historic building patterns.

Staff analysis: The scale and articulation of the proposed development do not meet the intent of the Keeping Place guidelines.

8.8 Downtown Burlington Placemaking and Urban Design Guidelines (draft)

Draft Downtown Burlington Placemaking and Urban Design Guidelines were released in September 2020. The City will seek public and stakeholder feedback on the Draft Downtown Burlington Placemaking and Urban Design Guidelines and present the final version for Council approval. At this time the City anticipates the completion of the Downtown Burlington Placemaking and Urban Design Guidelines in 2022.

If the subject applications were to be approved, the proposed development would be assessed using the new Downtown Burlington Placemaking and Urban Design Guidelines in the review of a future Site Plan application.

9.0 Technical Comments

A request for comments was circulated to external agencies and relevant City departments in January 2022. Responses that were received are summarized as follows. More detailed discussion of some technical comments are provided in relevant policy analysis sections of this report.

Parks Design and Construction Section

As discussed in detail in other sections of this report, Parks Design and Construction staff identified that parkland dedication will be a requirement of development on the subject property, in the form of new parkland as an extension of Spencer Smith Park. “The addition of parkland through this development application is intended to be used to rebuild the main entrance and pathway (from Lakeshore Road to the Pier) so that there is a gradual slope to ensure an accessible route by people of all ages and abilities. The addition of parkland will provide improved access not just for pedestrians but for emergency vehicles, maintenance equipment, and large event trucks. The current configuration is very constricted. The addition of parkland will support public views to

the lake, create a better relationship between the streetscape and the park, and ultimately an improved interface between the park and the proposed new building”.

Parks Design and Construction comments also note that encroachment of development into Spencer Smith Park will not be supported, which includes below-grade footings/foundations, and that all existing trees in Spencer Smith Park must be protected. Additional technical comments were also provided in relation to potential disruption of the electrical transformers that provide power to the park.

Transportation Department

As discussed in greater detail in the section of this report that addresses Official Plan (1997) Intensification Criteria, Transportation Department staff provided comments that reflect that:

- the additional traffic generated by the proposed development can be accommodated by the surrounding road network;
- staff have no concerns with the proposed access being on Elizabeth Street provided that the proposed driveway is aligned with the existing driveway on the east side of Elizabeth Street;
- staff support the proposed number of residential parking spaces, subject to a rate of 1.04 spaces per unit for occupants and 0.03 spaces per unit for visitor parking;
- parking will be required for the proposed hotel use at a rate of 1 space per hotel room;
- bicycle parking will be required at a rate of 0.5 spaces per unit for long-term parking and 0.05 spaces per unit for short-term parking;
- overall, the proposed development does not provide adequate parking, with a shortfall of 121 vehicle parking spaces and 142 bicycle parking spaces;
- a road widening on Lakeshore Road of 2.2 to 2.78 metres is required and no encroachments into this right-of-way will be permitted;
- proposed layby parking spaces on Lakeshore Road are not supported by staff;
- additional information is required to confirm appropriate design and dimensioning of underground parking spaces;
- a minimum 6m flat landing area will be required at the top of the underground parking ramp on Elizabeth Street;

Transportation comments also included detailed technical comments on the submitted Construction Management and Mobility Plan.

Site Engineering Section

Based on review of the submitted Phase Two Environmental Site Assessment, Site Engineering staff require the filing of a Record of Site Condition and Risk Assessment,

accepted by the Ministry of Environment, Conservation, and Parks (MECP), and resolution of any related concerns.

In relation to hydrogeology, Site Engineering staff require information about the proposed approach to long-term (post-construction) dewatering of the site, as this may require a designated area for storage (quantity control) and a treatment facility (quality control) within the limits of the site, which could have implications for zoning requirements.

Site Engineering staff request some additional information and clarification related to Functional Servicing and Stormwater Management.

Site Engineering staff require additional information about the proposed shoring and excavation works to confirm that the proposed development can be constructed without permanent encroachment into City-owned lands.

Site Engineering staff do not support the proposed permanent encroachments into City rights-of-way and parklands that are apparent on the submitted plans.

Site Engineering staff identified concerns with the submitted Noise Impact Study. This study would need to be revised to address these concerns.

Site Engineering comments also identified additional information that would be required at the Site Plan stage if the subject applications were approved.

Landscaping and Forestry Section

Comments from Landscaping and Forestry staff requested the provision of additional clarifying information in relation to proposed tree removals, tree preservation, and tree planting. Additional technical comments were also provided in relation to landscaping, streetscaping, and wind impact mitigation.

Landscape staff requested that the plans be revised to consider and prioritize preservation of as many trees as possible.

Accessibility Section

Accessibility comments emphasized the importance of achieving a barrier-free path of travel on sidewalks, particularly on Elizabeth Street, and the need to align the proposed hotel entrance and drop-off area with the existing entrance and drop-off area of the existing Pearle hotel on the opposite side of Elizabeth Street.

Zoning Section

As discussed in greater detail in section 7.0 of this report, Zoning staff provided detailed comments on areas of zoning non-conformity and Zoning By-law amendments that would be required to permit the proposed development. Zoning staff also identified the need for additional required information such as amenity area plans, a stamped survey showing the deemed width of Lakeshore Road, floor plans of the mechanical penthouses, and glazing percentages for the first storey abutting a street.

Finance Department

Finance staff retained an external consultant to peer-review the submitted Fiscal Impact Study. As discussed in greater detail in the sections of this report that address the Official Plan (1997 as amended) and the new Official Plan (2020): the proposed development, if approved, would have a potential annual fiscal surplus of approximately \$153,000. While this would indicate that the redevelopment may provide a slight benefit to the City from a fiscal perspective, it is important to recognize the fiscal impact study is a tool to be used, along with other policy documents and not in isolation of other factors of importance that this study does not consider such as the physical, social, economic and cultural elements of the city. A fiscal review is only one of many useful tools that are utilized in the process.

The Tax section of the Finance Department provided standard comments.

Fire Department

Fire Department comments indicate that the proposed buildings are well served by Lakeshore Road and Elizabeth Street, and identify additional information that will be needed if the proposed development proceeds to a Site Plan application.

Transit Department

Transit Department staff plan to relocate the existing eastbound transit stop at Lakeshore Road and Brant Street from the west side of the intersection to the east side. The proposed layby parking spaces on Lakeshore Road are not supported by Transit staff as they may conflict with the future transit stop relocation.

Halton Region

Halton Region staff provided comments related to growth management, Regional waterfront parks, municipal services and infrastructure, the Regional Natural Heritage System, site contamination, and waste management. These comments indicate that “while staff note that provincial and regional planning policy generally support the intensification and redevelopment of the Subject Lands, the policies of the ‘Secondary Regional Nodes’ ‘Strategic Growth Areas’ supports local plans and priorities that are of strategic importance. Staff are not opposed to the proposed development; however, we note that matters related to municipal servicing, site contamination, and waste management need to be addressed in order to provide a fulsome response”.

Conservation Halton

Conservation Halton (CH) comments recommend that the portion of the subject property that is regulated by CH be zoned appropriately and placed into public ownership where possible and appropriate.

CH staff are of the opinion that the proposed development is consistent with the natural hazards policies of the PPS (3.1.1-3.1.7).

CH staff note that the applications make reference to bird-friendly window design for the podium levels of the proposed development, and recommend that mitigation be incorporated for all levels through lighting mitigation.

CH does not object to the proposed Official Plan Amendment and Zoning By-law Amendment.

Burlington Hydro

Burlington Hydro provided detailed technical requirements for electrical servicing of the proposed development and accommodation of existing Burlington Hydro infrastructure.

Enbridge/Union Gas

Enbridge/Union Gas has an existing gas main on Lakeshore Road in front of the subject property. System capacity would be confirmed upon receipt of total gas load.

Enbridge/Union Gas notes that there appears to be limited space between the property line and the edge of the proposed underground parking garage for meter/regulating stations.

Other agencies

The following agencies and departments provided responses that indicate no objections and/or standard comments regarding the proposed development: Halton Region Police Service, Rogers Communications, Halton District School Board, Halton Catholic District School Board, and Canada Post.

Additionally, Heritage Planning staff, Ministry of Transportation (MTO), and TransNorthern Pipeline Inc. (TNPI) have confirmed that they have no comments as the subject property is outside of their regulated area.

10.0 Public Comments

Planning staff have received comments on the subject application via email from 14 residents. A Statutory Public Meeting was held at the February 22, 2022 meeting of the Community Planning, Regulation, and Mobility Committee. Five residents delegated at this meeting and an additional 5 residents submitted written correspondence to the meeting agenda (including some duplicates of letters received by Planning staff).

All comments received from the public have been considered by staff in the review of the subject applications, including written submissions and spoken delegations at the Statutory Public Meeting. Written submissions can be viewed in the following locations:

- Written submissions received by Planning staff since February 1, 2022 are included in Appendix C of this report.
- Written submissions received prior to February 1, 2022 were included in a previous report, [PL-14-22](#), presented to Community Planning, Regulation, and Mobility Committee on February 22, 2022.

- Written correspondence from the Statutory Public Meeting can be found in the meeting agenda of the February 22, 2022 meeting of Community Planning, Regulation, and Mobility Committee.

Of the residents who have submitted written comments, one has expressed support for the subject applications, and one has expressed that they may support a modified approval if the proposed development could be modified to address the 16 key policy directions endorsed by Council in 2018 as well as the comments provided by the Burlington Urban Design (BUD) Panel in August 2021.

The balance of comments received have expressed concerns with various elements of the subject applications. Table 3 below provides a summary of concerns expressed by residents, organized by theme in order from most frequently to least frequently expressed theme, along with a staff response.

Table 3: Summary of all public comments received by Planning staff (including comments appended to both report PL-14-22 and the subject report PL-24-22)

Row #	Public comment theme	Staff response
1	<u>Built Form, Compatibility and Transition</u> Concerns have been expressed with the following aspects of the built form of the proposed development: scale and massing of the proposed buildings, setbacks from streets and parks, where the proposed towers are sited on the property, and building height. Generally the concerns expressed are that the proposed buildings are too tall, too massive, too close to streets and the park, and incompatible with the adjacent park and surrounding developments.	As discussed throughout this report, staff are of the opinion that the scale and intensity of the proposed development are not appropriate for its context and are incompatible with the adjacent park and surrounding properties. In particular it is staff's opinion that that the massing, overall height and podium height are too large; and that the proposed setbacks and stepbacks are insufficient.
2	<u>Impacts to views and access to the waterfront</u> These comments expressed concern that the cumulative impact of multiple developments along the waterfront will obstruct public views and public access to the waterfront.	As discussed in other sections of this report, staff are of the opinion that the view corridor from John Street would be better maintained by removing the fifth-storey building connection above the four-storey open space, and the view corridors down Brant Street and Elizabeth Street would be enhanced by pulling the proposed buildings further back from the west and east through an appropriate combination

		of setbacks, stepbacks, and parkland dedication.
3	<u>Change to the character of Downtown Burlington</u> Comments expressed concern that Downtown Burlington, and in particular the waterfront, has a unique character, charm, and appeal that will be negatively impacted by the cumulative impact of the proposed development and other developments.	As discussed in other sections of this report, staff are of the opinion that the proposed development is incompatible with its surroundings and inappropriate for its context, and that it does not recognize the diversity of communities in the Greater Golden Horseshoe as required by the guiding principles of the Growth Plan.
4	<u>Impacts to the public realm</u> These concerns relate to shadow impacts, wind impacts, and general concern that the proposed development will detract from the beauty of the waterfront and Downtown Burlington.	As discussed in detail in the Design Guidelines section of this report, staff are of the opinion that the proposed development has not demonstrated that it will avoid or mitigate wind and shadow impacts to an acceptable level.
5	<u>Traffic impacts</u> Comments have expressed concern with impacts to traffic in Downtown in general, and in particular impacts to traffic on Elizabeth Street due to the proposal that the new development have loading access, garage entrance, and hotel entrance on Elizabeth Street only. One commenter has suggested that driveway access should be provided from Brant Street rather than Elizabeth Street.	Staff have reviewed the Transportation Impact Study submitted with the subject applications and are of the opinion that the traffic generated by the proposed development can be accommodated by the surrounding road network. Staff are also satisfied with the proposed site access on Elizabeth Street. Staff would not support driveway access from Brant Street.
6	<u>Parking</u> Comments expressed concerns that the proposed development does not provide adequate off-street parking.	As discussed in the Intensification Criteria section of this report, staff are of the opinion that the proposed development does not provide adequate parking for vehicles or bicycles.
7	<u>The planning process</u> Some residents expressed frustration and concerns with the planning process	The City reviews development applications in accordance with a process legislated by the Ontario Planning Act, as well as the policies of Burlington's Official Plan. Staff have considered all resident input in the review of the applications. For more information on the planning

		process, visit www.burlington.ca/planningprocess .
8	<u>Density</u> Concern that proposed development is too dense.	As discussed throughout this report, staff are of the opinion that the proposed development is of an intensity that is inappropriate for its context and not commensurate with the level of existing and planned transit service in the area.
7	<u>Noise</u> Concern that proposed development will add to existing noise downtown	As discussed elsewhere in this report, staff are of the opinion that the subject applications have not demonstrated that the proposed development can achieve compatibility with surrounding developments with respect to noise.
8	<u>POPS</u> Concern with the proposal to include a Privately Owned, Publicly accessible Space (POPS) in the proposed development: specifically, that responsibility for maintaining public spaces should rest with the City, not condominium corporations	In accordance with the City's new Official Plan, POPS may be used to augment public space but shall not be used as a replacement to public parkland dedication. POPS are required to be built and maintained by the landowner to the satisfaction of the City.
10	<u>Other Comments</u> - One comment expressed concern that the subject property is not adequately served by transit to accommodate the proposed development. - Comments raised concern that the proposed development will not provide affordable housing or contribute to making housing more affordable in Burlington. - One comment expressed that the subject property should be expropriated by the City and converted to parkland.	- As discussed throughout this report, staff are of the opinion that the proposed intensity of development is not commensurate with the level of existing and planned transit in the area. - The proposed development does not include any affordable units. Staff acknowledge that the provision of additional housing supply will contribute to the provision of a range and mix of housing. - Parkland dedication is a requirement of the proposed development; however, staff are not recommending that the subject property be expropriated

		and/or entirely converted to parkland.
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Financial Matters:

All applicable development application fees have been paid.

Evaluation of the subject applications has included consideration of the financial impacts of the proposed development, if it were to be approved. As discussed in greater detail in the sections of this report that address the Official Plan (1997 as amended) and the new Official Plan (2020): the proposed development, if approved, would have a potential annual fiscal surplus of approximately \$153,000. While this would indicate that the redevelopment may provide a slight benefit to the City from a fiscal perspective, it is important to recognize the fiscal impact study is a tool to be used, along with other policy documents and not in isolation of other factors of importance that this study does not consider such as the physical, social, economic and cultural elements of the city. A fiscal review is only one of many useful tools that are utilized in the process.

Climate Implications

In February 2020, City Council approved the City of Burlington Climate Action Plan to support the City's path towards a low-carbon future, focusing on mitigating greenhouse gases and reducing energy consumption. The Plan identifies seven implementation programs, including programs to enhance energy performance for new and existing buildings; increase transit and active transportation mode shares; electrify City, personal and commercial vehicles and other currently gas-powered equipment; and support waste reduction and diversion.

While the subject applications do propose a more compact and efficient land use for the subject property than existing conditions, the proposed development is not appropriate for its context and does not comply with the City's Sustainable Development Guidelines, as discussed in detail in section 8.5 of this report.

Engagement Matters:

A virtual Pre-Application Public Consultation Meeting was held by the applicant on September 8, 2021. This meeting was attended by residents as well as by City staff, Mayor Marianne Meed Ward, and ward 2 Councillor Lisa Kearns.

Since receiving a complete application for the subject lands, City staff have engaged members of the public through the City's standard public notification and consultation practices for an Official Plan Amendment and/or Zoning By-law Amendment application:

- A webpage with information about the subject applications was published on the City's website at www.burlington.ca/2020lakeshore;
- A notice was mailed to all property owners and tenants within 120 metres of the subject property (a total of 887 addressees) on January 21, 2022;
- A notice was published in the City Update section of the Burlington Post on January 27, 2022;
- Notice signs were erected on the subject property on February 1, 2022;
- A virtual Statutory Public Meeting was held at the February 22, 2022 meeting of Community Planning, Regulation, and Mobility Committee.

As described above under Public Comments, staff have received 14 written comments from members of the public regarding the subject applications. This includes 7 comments that were received prior to February 1, 2022 and were appended to the previous report [PL-14-22](#). Additionally staff have considered 5 delegations and 5 pieces of written correspondence from the Statutory Public Meeting.

More information on the planning process in Burlington, including opportunities for public consultation, can be found at www.burlington.ca/planningprocess.

Conclusion:

Staff have evaluated the applications for Official Plan Amendment and Zoning By-law Amendment for 2020 Lakeshore Road in accordance with all applicable policies, regulations, and guidelines, and with consideration for comments received from technical reviewers and the public. Staff have also given consideration to the emerging preferred concept of the Waterfront Hotel Planning Study. The proposed development is not consistent with the Provincial Policy Statement, does not conform with A Place to Grow: Growth Plan for the Greater Golden Horseshoe, does not conform with the Region of Halton Official Plan, and does not conform to the policies of the City of Burlington Official Plan (1997 as amended). The proposed development also does not conform to the City's new Official Plan (2020), or satisfy the Council-endorsed key policy directions of the Waterfront Hotel Study. Staff are therefore recommending refusal of the subject applications.

Respectfully submitted,

Thomas Douglas, MCIP, RPP
Senior Planner
Community Planning Department
thomas.douglas@burlington.ca

Appendices:

- A. Existing Zoning Sketch
- B. Concept Plan
- C. Public Comments

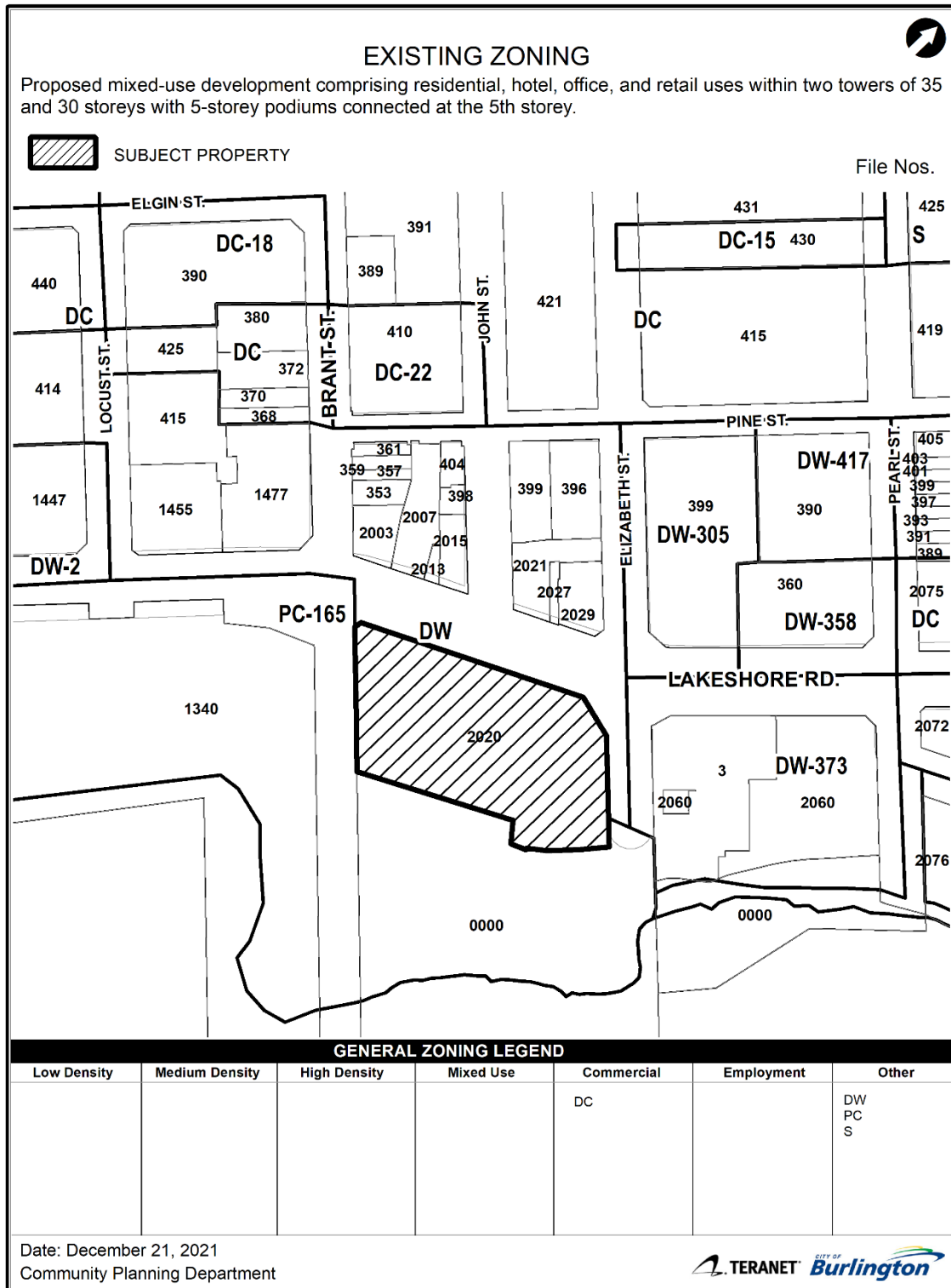
Notifications:

Bousfields Inc. c/o David Falletta

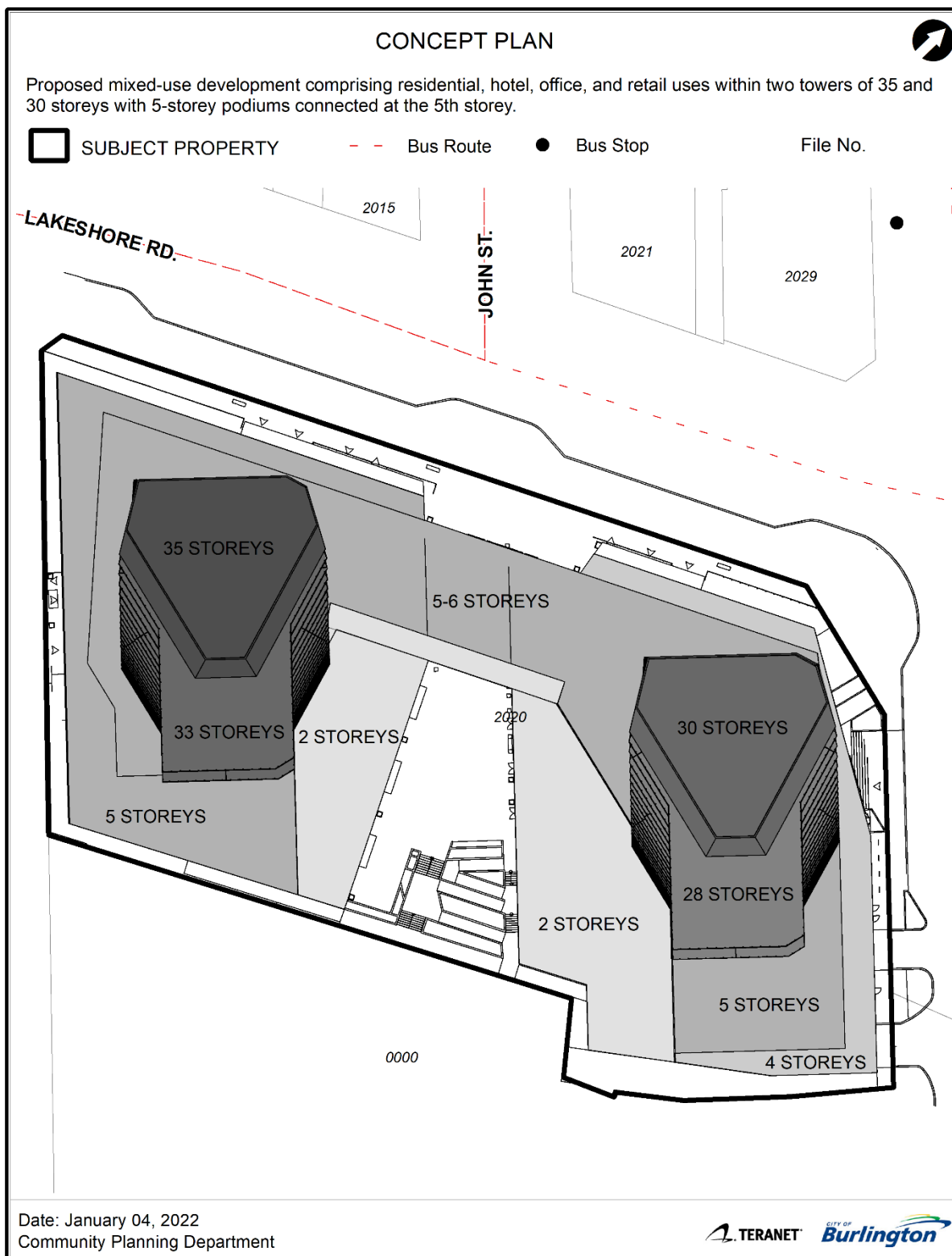
Report Approval:

All reports are reviewed and/or approved by Department Director, the Chief Financial Officer and the Executive Director of Legal Services & Corporation Counsel.

Appendix A to Report PL-24-22: Existing Zoning Sketch



Appendix B to Report PL-24-22: Concept Plan



Appendix C: Public Comments

(Comments 1-7 are contained in Appendix C of staff report [PL-14-22](#))

Comment 8

From: Sierra Leslie

Date: February 11, 2022

Hi Thomas,

I am a resident of downtown Burlington and recently saw the development proposal on the Waterfront Hotel proposing the construction of two buildings standing at 30 and 35 storeys in height. I want to share the concerns I have about a development of that scale in that area. I have read through this proposal for 2020 Lakeshore and also the Waterfront Hotel Study and the proposed concepts for building height, density, location, etc.

I am concerned about the degree to which buildings of this size so close to the waterfront would obstruct the view of the lake and parkland even from quite far back. I noticed in the waterfront study the discussion of buildings in the range of 8-20 storeys. I wonder if that is still being considered in this area? A similar concern is the shadows these very tall buildings would cast, darkening portions of Lakeshore and the surrounding area that people often explore on foot. The neighbouring buildings at Elizabeth St. and Lakeshore Rd. are quite tall already and I worry that the density of these very tall buildings will change the appeal and charm of downtown Burlington's waterfront.

Another major concern is the potential for a steep increase in road traffic in an already busy area. With Brant St. and Lakeshore Rd. being one lane in each direction for much of this area, the addition of over 550 residential units without adequate road access is concerning for the amount of traffic that will undoubtedly increase.

It's not hard to see that Burlington has one of, if not, the best waterfront in the GTA because so much thought has been put into maintaining green space, access to the waterfront, space for events, and maintaining adequate views of the waterfront, and hopefully that will continue to be a consideration going forward.

Thank you for hearing my concerns. I look forward to hearing back.

Thanks,

Sierra Leslie

Comment 9

From: Penny Hersh

Date: February 13, 2022

Good morning.

On January 27th I sent an email indicating that I was in favour of the proposed Waterfront Hotel Development. I also indicated that my major concern was the POPS proposed and my reasoning behind this.

I should have included why I feel this way about this proposed development. For close to 12 years I have worked with residents who delegated at council, met with councillors individually and sat in meetings for hours with the planning department regarding the proposed development applications for what I will call the Lakeshore Corridor from Martha Street onwards as well as Brant Street (not only this particular development).

I remember going to a meeting at the hotel very early on where we were asked to provide input(workbooks were provided) on what we felt would be of benefit for this "important" area. It was interesting to note that this proposed development dropped from sight around the Municipal election in 2018.

Here we are 12 plus years later going through the same exercise yet again. I look around and see all the other developments in the area that we fought not to go forward being approved at the OLT.

No longer do we hear the following statements coming from council: " We have reached and exceeded the density required by the Province", " Windows to the Lake", or "Grow Bold".

Can't help but think that once again this is a "make work project" that is being presented as ' public engagement' when the end result will be an appeal to the OLT. If I am correct this development has been grandfathered (correct me if I am wrong).

I applaud those residents who continue to fight on.....

Penny Hersh

Comment 10

From: Lynne and Tom McGuire

Date: February 18, 2022

Dear Mr. Douglas,

I would like to submit my objection to having 2 extremely tall buildings fronting onto the core of Burlington's downtown waterfront. Here are a few reasons for my objection:

1- The proposed buildings would dwarf all surrounding buildings. A maximum of 20 storey buildings would be more appropriate, aesthetically pleasing and not dwarf the beautiful parkland of Spencer Smith Park and the surrounding green space (which continues to shrink). It would also be more compatible and in keeping with the nearby condominiums (e.g. Bunton's Wharf, Harbour View Residences, Bridgewater, Baxter, 360 Pearl, etc). I'm also not sure how the 5 story connecting promenade is of any value. There would certainly be a better sight line for enjoying the Lake to have 2

freestanding buildings, as well as giving the impression of larger open space for the general public.

2- Having such tall buildings (at 30 and 35 stories) will produce undue, excessive shade, shadowing in the immediate area, especially the park.

3- I am also concerned about the high density of traffic these buildings will generate. The traffic on Lakeshore Rd is already overly congested and slow in peak periods. With several additional condo developments being built along the lakeshore corridor, these extra tall buildings will only increase traffic strain on not only Lakeshore Rd and Brant St, but also on the smaller connecting roads. In addition, these concerns are further exacerbated by the large amount of construction traffic that this site development would generate for a couple of years during the construction phase.

4- I am also concerned about the impact on pedestrian traffic. There is already high use of the Brant St/Lakeshore Rd intersection by the residents of Burlington which also slows down traffic flow. In addition, many parking lots are being eliminated so people will have to walk further to enjoy Spencer Smith Park. Parking in these condo developments are only for the use of the owners and not for the general public. Even parking for the commercial/retail businesses would be very limited and for customer use only.

5- Finally, it seems every developer says that having a large multi-use development would provide more affordable units for people. The reality, however, is that these developers sell their units at the maximum price with each development raising the cost per sq ft beyond what an average homeowner could afford. Why do we have to have so many 20+ story buildings in our core? They are destroying the award winning ambience of our Burlington medium-sized city niche and putting our downtown sense of community at risk for only the upper end to enjoy due to affordability. The proposed development is simply not abiding by sound planning principles and is unnecessarily excessive.

We have an opportunity now to make sure that the planning along our precious lakefront is prudent, appropriate and well thought out. Let's make sure that we avoid the long-term repercussions of inappropriate planning decisions for this most important and critical development site in all of Burlington.

I have copied the Clerk's department on this e-mail so they can submit my feedback/comments to this proposal.

Thank you,

Lynne & Tom McGuire

Comment 11

From: JoAnne Hunter

Date: February 20, 2022

Dear Thomas and Jo-Anne,

I am writing to you as a concerned Burlington citizen who has resided in Burlington for 55 years. During this time I have seen the city grow a lot, while maintaining the heritage of the downtown core.

This development project brings much concern to me since I am not sure how our infrastructure will be able to accommodate the amount of new traffic it will bring to the downtown. During rush hour in the morning and afternoon is already quite horrific and adding 557 residential apartments and 122 guest hotel rooms with only 598 parking spaces for the development, not to mention the parking spaces for the workers for the 4,348 square meters of office space and the 4,445 square meters of commercial space, I just can't see how this will have a positive impact on our community.

Another concern is the height of the buildings proposed, I feel the structures are far too high, since I thought the city of Burlington wanted to maintain the waterfront views for all to enjoy. I also feel this project will be under construction for many years and with that will bring much noise and further delays in the flow of traffic on Lakeshore, which again is a very congested road, to say the least.

There are already five major condominium projects underway in a four block radius downtown and I feel we have enough high rise buildings in the core and we really don't need more. Burlington is known as a quaint city to live in and I feel like it is being turned into a concrete jungle.

Please do not go ahead with this application to proceed since it will change Burlington and I really can't see it for the better, please keep Burlington charming and a place you want to grow your family in a safe and quiet community. I would also appreciate to be notified of the decision of the City of Burlington on the application submitted. Thank you.

Kind regards,

JoAnne Hunter

Comment 12

From: Scott Tutching

Date: February 22, 2022

I **DO NOT** want to see such a building on the lakeshore. I will also be attending the meeting this evening virtually this evening.

Thank you,

Scott

Comment 13

From: Larry Griffith

Date: February 24, 2022

Greetings,

I have followed this development application for some time now because of its importance to the City. I attended the public consultation meeting on Feb. 22/2022.

I was aghast at the numerous requests from the developer to disregard the Official Plan and its rules for development in arguably the most important location in Burlington. Our waterfront is the envy of every community in the Golden Horseshoe and is not a renewable resource. Once it's gone, it's gone forever.

Here are a few of the high level concerns I have:

- I understand the maximum building height in this location to be 8. It is ridiculous to request and approve 30 and 35 floors. Using previously approved development requests as justification is ludicrous and needs to be disregarded. The City needs to hold the line on the sins of the past.
- A floor area ratio of 55% above approved levels (7.75 vs 5.0) makes no sense and violates the density levels carefully analyzed and included in the City's by-laws.
- Parking in downtown Burlington is already an issue that needs to be addressed by the City. Applying for nearly 100 fewer parking spots (598) than the minimum required (697) by the planning rules only exacerbates an already existing problem.
- The numerous infringements on surrounding streets and parkland through the proposed setbacks and landscaping will only add to the congestion on the site. Views of the waterfront will be severely compromised.

It is very telling that the developer has ignored almost all input to their proposal. It suggests that they have no interest in compromise and instead are simply counting on the Ontario Land Tribunal to rule in their favour. This disregard speaks to the lack of any interest in developing a project for Burlington. Rather it speaks to pure greed and disdain for the citizens of the City.

I would like the City to refuse this application and to investigate the option of expropriating the 2020 Lakeshore property and incorporating it into our most prized parkland in order to return this site to all of the people of Burlington.

I look forward to your reply.

Regards,

Larry Griffith

Comment 14

From: Brad Hughes

Date: March 14, 2022

Thomas, I am reaching out to you after reading the posted sign on the current property regarding a re-development application.

I moved to Burlington in the middle of the Pandemic back in 2020. I lived in Mississauga for 50+ years previous to our move to Burlington. Mississauga (at one time) was a family oriented community with a mixture of parks, farmlands, and residential presence. Short drives south to the lakeside parks and north of Dundas highway into farm lands and horseback riding

Over the years Mississauga transformed into an over populated and massively congested metropolis. We raised two children in Mississauga so it does have the facilities to encourage that lifestyle, but no one in my family remained there. Somewhere along the way, the political greed for additional tax base blurred the lines between development and overcrowding.

Downtown Burlington continues to have a rare charm that comes with the look and feel of a small family oriented community. It is this character that you must maintain or risk becoming another Mississauga. The current building on the lakeshore location is an older building about 6 stories tall, allowing others in the downtown core the ability to see the lake and beyond with a minor interference

The application for twin towers, 30+ story structures in the place of the existing hotel would be a tragedy. I am guessing a developer needs to grow that tall in order to make a profit on the development, but that is an unfortunate circumstance and not an excuse to abuse the landscape. There are three high rise projects that are currently under construction (that I have seen) in downtown Burlington. I am surprised that Burlington allows such tall structures in the downtown core, as each one that is built acts as an eclipse to the building around them.

Burlington does not have subways or street cars. Public transportation is limited to bus routes, which results in the vast majority of the building inhabitants requiring cars for transportation. The streets in downtown Burlington are not sized to handle this massive increase in traffic (I am guessing the balance of the infrastructure is in place- sewage, electrical, domestic water). Adding the three new condo buildings that are currently under construction and then adding two 30+ story buildings on top of that, will turn your downtown into gridlock and become a source of aggravation that comes with congestion

I am reaching out to you as a voice of experience. Someone who has witnessed first-hand how politic tax greed can turn a once beautiful place into a faceless metropolis that lacks character and is horrifically congested. Perhaps you can take the opportunity

to drive out to Mississauga and drive the city from East/west and north/south. It would be shame to see Burlington follow the same path.