



**Community Planning, Regulation and Mobility Committee Meeting
Addendum**

Date: December 6, 2022
Time: 9:30 a.m. and 6:30 p.m.
Location: Hybrid meeting- virtual and Council Chambers, City Hall
Contact: Committee Clerk, Jo-Anne.Rudy@burlington.ca, 905-335-7600, x7413

Pages

2. Statutory Public Meetings:

**2.2 Official Plan and Zoning By-law amendment applications for 1010
Downsview Drive & 355 Plains Road East (PL-79-22)**

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| a. | <i>Staff presentation regarding Official Plan and Zoning By-law amendment applications for 1010 Downsview Drive & 355 Plains Road East (PL-79-22)</i> | 1 - 11 |
| b. | <i>Correspondence from Stephen Miller regarding Official Plan and Zoning By-law amendment applications for 1010 Downsview Drive & 355 Plains Road East (PL-79-22)</i> | 12 - 14 |

**2.3 City-initiated Official Plan amendment and approach in response to Bill
109 “More Homes for Everyone Act, 2022” (PL-69-22)**

- | | | |
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| a. | <i>Staff presentation regarding City-initiated Official Plan amendment and approach in response to Bill 109 “More Homes for Everyone Act, 2022” (PL-69-22)</i> | 15 - 23 |
| b. | <i>Correspondence from BILD (Building Industry and Land Development Association) regarding City-initiated Official Plan amendment and approach in response to Bill 109 “More Homes for Everyone Act, 2022” (PL-69-22)</i> | 24 - 29 |
| c. | <i>Correspondence from WE HBA (West End Home Builders' Association), regarding City-initiated Official Plan amendment and approach in response to Bill 109 “More Homes for Everyone Act, 2022” (PL-69-22)</i> | 30 - 31 |

5. Regular Items:

5.1 Official Plan and Zoning By-law amendments for 3110 South Service

Road (PL-74-22)

- a. *Delegation from Ruth Victor and Bruce Campbell, representing Ruth Victor & Associates, and Jeffrey Witchel, representing Ontario Veterinary College, regarding Official Plan and Zoning By-law amendments for 3110 South Service Road (PL-74-22)* 32 - 44
- b. *Staff presentation regarding Official Plan and Zoning By-law amendments for 3110 South Service Road (PL-74-22)* 45 - 56
- c. *Additional public comments regarding Official Plan and Zoning By-law amendments for 3110 South Service Road (PL-74-22)* 57 - 58

5.2 Eligibility of 795 Brant Street for Heritage Designation (PL-80-22)

- a. *Staff presentation regarding Eligibility of 795 Brant Street for Heritage Designation (PL-80-22)* 59 - 80

5.3 Update report regarding proposed inclusion of downtown properties on Burlington's Heritage Register (PL-78-22)

- a. *Delegation from Michael Sobhi, representing Harvey Kalles, regarding Update report regarding proposed inclusion of downtown properties on Burlington's Heritage Register (PL-78-22)* 81 - 82
- b. *Staff presentation regarding Update report regarding proposed inclusion of downtown properties on Burlington's Heritage Register (PL-78-22)* 83 - 103
- c. *Correspondence from Elizabeth Law regarding Update report regarding proposed inclusion of downtown properties on Burlington's Heritage Register (PL-78-22)* 104 - 104
- d. *Correspondence from Aaron Platt, representing Davies Howe LLP, regarding Update report regarding proposed inclusion of downtown properties on Burlington's Heritage Register (PL-78-22)* 105 - 106

5.4 City of Burlington Outdoor Patio Program - update for Q4 2022 (PL-76-22)

- a. *Delegation from Brian Dean and Craig Kowalchuk, representing Burlington Downtown Business Association and Burlington Restaurant Association, regarding City of Burlington Outdoor Patio Program - update for Q4 2022 (PL-76-22)* 107 - 110

	<i>b. Staff presentation regarding City of Burlington Outdoor Patio Program - update for Q4 2022 (PL-76-22)</i>	
	<i>c. Correspondence from Team Burlington regarding City of Burlington Outdoor Patio Program - update for Q4 2022 (PL-76-22)</i>	123 - 124
5.5	<i>City of Burlington submissions as of November 25 on Ontario's Housing Supply Action Plan and Bill 23 (PL-82-22)</i>	125 - 207
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Statutory Public Meeting

Applications to amend the Official Plan and Zoning By-law

Applicant: MHBC Planning, Urban Design and
Landscape Architecture for Colterra
Development

Addresses: 1010 Downsview Drive and 355
Plains Road East

Date: December 6, 2022

Report: PL-79-22

File no.: 505-06/22, 520-07/22

Overview of Development Site

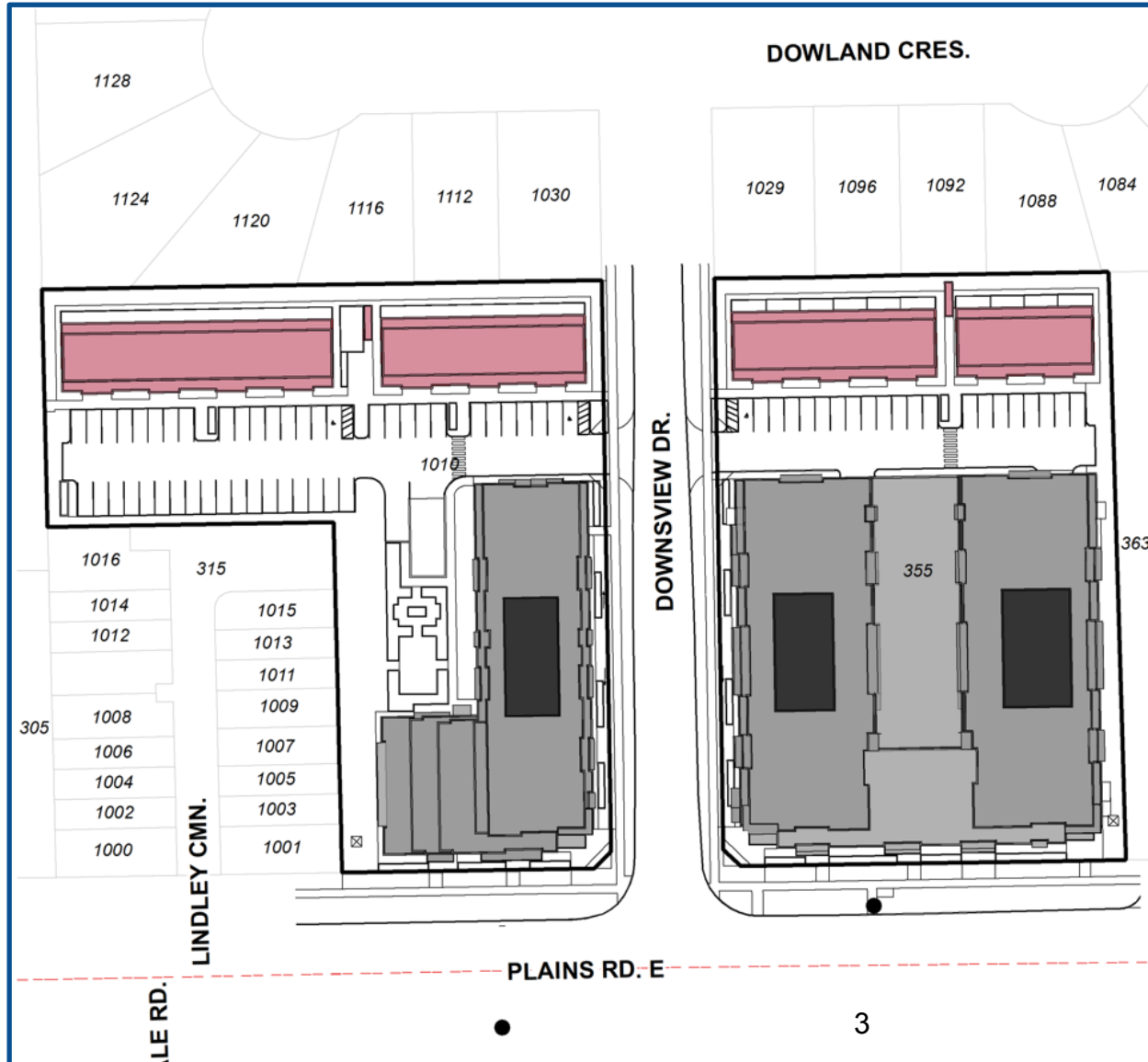


1010 Downsview Drive
Site Area: **0.72 hectares**
Frontage on Downsview Drive: 102 m

&

355 Plains Road East
Site Area: **0.75 hectares**
Frontage on Plains Road East: 69 m

Proposed Development



 Stacked Townhomes

 Mixed-use buildings

Proposed Development



Proposed Development



Proposed Development



Policy Context

- Provincial
 - Provincial Policy Statement (PPS), 2020
 - A Place to Grow: Growth Plan for the Greater Golden Horseshoe (2020)
- Regional
 - Halton Region Official Plan (ROP)
- Local
 - City of Burlington Official Plan
 - City of Burlington Zoning By-law 2020

Burlington Official Plan

Current Official Plan (1997 as amended)

Designation:	Mixed Use Corridor - General
Permits:	Mixed-use development with a maximum building height of six (6) storeys and a maximum Floor Area Ratio of 1.5:1.

New Official Plan (2020) (subject to appeals)

Designation:	Urban Corridor
Permits:	Mixed-use development to a maximum height of six (6) storeys and a maximum Floor Area Ratio of 2.0:1

Requested Official Plan Amendment

Designation:	Mixed Use Corridor - General, with site-specific policy
Permits:	Height up to eleven (11) storeys and Floor Area ratios of 4.48:1

Burlington Zoning By-law

Zoning By-law

Zone:	Mixed-Use Corridor – General (MXG)
Permits:	Mixed-use development with a maximum height of 6 storeys and a maximum Floor Area Ratio of 1.5:1

Requested Zoning By-law Amendment

Zone:	MXG-XXX (Mixed-Use Corridor – General with site-specific exception)
Permits:	Maximum Height: 8 Storeys (west parcel) 11 Storeys (east parcel) Maximum Floor Area Ratio: 2.7:1 (west parcel) 4.48:1 (east parcel) Reduced parking rate Reduced amenity area Reduced setback for below-grade parking structure Reduced landscape buffer abutting residential zone

Public Consultation

- January 31, 2022: Pre-Application Community Meeting
- Fall 2022:
 - Complete application submitted
 - Notices: sign on property, mailed to neighbours and in Burlington Post
- Webpage created: www.burlington.ca/plainsanddownsview
- December 6, 2022 (today): Statutory Public Meeting
- Public comments attached as Appendix B to Report PL-79-22
 - Traffic congestion (and associated noise pollution)
 - Parking supply
 - Building height and density
 - Types of commercial uses, and
 - Shadow impacts

Recommendation:

Receive and file report PL-79-22

For more information:

- Visit www.burlington.ca/plainsanddownsview
- Visit <https://olt.gov.on.ca/appeals-process/case-status>

[REDACTED]
Burlington
[REDACTED]

City of Burlington
426 Brant Street
Burlington
L7R 3Z6

2nd December 2022

Dear Mr. Douglas,

Re: 1010 Downsview Dr. and 355 Plains Rd. East

I am writing to you with concerns I have regarding the pending development application for the above mentioned properties (White Oaks Plaza). I am unable to attend the Statutory meeting on the 6th December so please accept my written comments instead of an in person delegation.

I take particular issue that the mixed use general (MXG) zoning designation is being used as a means of gaining intensification at the expense of retail. One only has to review the recent development projects on Plains Road to realize just how minimal the retail options will be as a result of these mixed use developments. To quote some recent applications where the retail space built was significantly less than the space being displaced:

1. 35 Plains Rd East – 2,473 square feet
2. 348 Plains Rd East – 2,000 square feet
3. 484 Plains Rd East – 10,748 square feet

Simply put, the adoption of MXG is merely accelerating the decline of retail and commercial outlets along the Plains Road corridor and leaving the ward residents with fewer local amenities.

It is interesting to read the applicant's justification report¹ in support of their application in which they state:

Planning for the proposed development has been guided by the principles for achieving a complete community which includes the connection and integration of compatible land uses, the achievement of a walkable community where residents can walk to work, shops, services and

¹ <https://www.burlington.ca/en/news/resources/Current-Development-Projects/Ward-1/Coletara-Development---1010-Downsview-Dr.-and-355-Plains-Rd.-E/Supporting-Documents/11.-Planning-Justification-Report.pdf>

park areas, the provision of a diversified range of housing options, and the inclusion of several mobility options. The proposal provides for the completion and build out of the Subject Lands with 584 residential units along with 628.6 m² of ground floor retail.

The breakdown of the retail units, as taken from the architectural plans²:

- Unit 1: 1,454 ft²
- Unit 2: 1,633 ft²
- Unit 3: 888 ft²
- Unit 4: 925 ft²
- Unit 5: 984 ft²
- Unit 6: 882 ft²

Offering 628.6 m² of retail space through 6 units – which is a mere 1.3% of the proposed total gross floor area (48,695.5 m²) - is hardly a sound justification for eliminating the vast retail footprint that is currently offered at this location.

In fact, the applicant seems to acknowledge this themselves on page 14 of their report when it was already raised as a major issue during the initial planning stages:

Retail

Those in attendance raised concerns regarding the loss of the retail plaza and the necessity for the provision of at-grade retail. There is a concern that there is limited retail in the community and small retail units at grade will not adequately service the community.

Response

Although ground floor retail is not a requirement in the planning policies, it has been included in the development proposal to help create a pedestrian friendly animated street. Sufficient retail parking has been provided on site to service the proposed retail. Existing tenants are welcome to request units in the proposed development to remain in the community. The Aldershot community does not have any available land for large scale retail, therefore it is important to provide for mixed use buildings to allow for increased density while still providing amenity for the community.

The applicant's response is inadequate. The White Oaks Plaza contains a number of commercial properties that include a restaurant and a café. How can existing tenants like these be accommodated in the proposed new building(s) given that I see no provision for any kind of commercial venting in their design? As you are aware, proper venting would be required for a restaurant or cafe in order to meet fire code regulations. It is simply not possible for the existing tenants to be rehoused as the applicant purports.

² <https://www.burlington.ca/en/news/resources/Current-Development-Projects/Ward-1/Coletara-Development---1010-Downsview-Dr.-and-355-Plains-Rd.-E/Supporting-Documents/5.-Architectural-Plans.pdf>

Furthermore, under the Evaluation of Healthy Community Guidelines (Mobility section), the applicant states on page 34 that they are in compliance of the proposed development:

The additional residential density will support a variety of commercial uses within walking distance, including the many commercial uses located along Plains Road.

I fail to see how increased residential density can support commercial uses given that all of the existing retail space on the site will be lost. How is this achieved?

The intensification currently occurring within Aldershot, in its current form, will not lead to improved retail options and this proposal is evidence of that by only offering a meagre 628.6 m² for retail space. Retail and commercial opportunities are being eroded and permanently lost.

As I have previously mentioned on other applications I have submitted and/or delegated on, I would like to advocate that commercial venting should be mandatory on all new mixed use applications that exceed a certain height (perhaps this could be 8+ storeys and done through zoning by-laws), as this would expand the variation of retail possibilities (e.g. restaurants and cafes would become feasible). Skimping on commercial venting should not be allowed as it only guarantees that there will be a lack of retail variety. We need better zoning by-laws that govern the specific retail component of MXG. As of now, an applicant can propose an 11 storey with increased density, put a vending machine on the ground floor and have it pass under MXG.

One only has to look at the MXG applications submitted in the past few years and there is not a single one that includes any kind of provision for commercial venting in their design. This effectively eliminates a subset of retail (restaurants, pubs, cafes) that the Plains Road corridor really needs.

In order to increase the retail variety within Aldershot, there needs to be a mechanism in place that will enable quality and variety of retail establishments at the initial planning application stage. I believe that mandatory commercial venting would go some way in helping achieve that goal and would reinforce the "walkable community" message that the City proclaims. The current development path that we are on, and that is endorsed by weak zoning by-laws, is simply not sustainable and will eventually lead to the demise of retail along the entire Plains Road corridor as all the small plazas are acquired and converted to residential with shoebox style partitioned units masquerading as retail space.

I would be grateful if you could acknowledge safe receipt of this letter.

Yours sincerely,

Stephen Miller

Bill 109: Consolidated Approach & Response

CPRM Committee

December 6, 2022



Background

- In March 2022 – Province introduced *More Homes for Everyone Act, 2022*. Focus on accelerating development application review timelines.

	Refund by Processing Days			
Application Type	No Refund	50% Refund	75% Refund	100% Refund
ZBA	90	91	150	210
OPA/ZBA	120	121	180	240
Site Plan	60	61	90	120

- Approximately **\$2 million** in reoccurring annual application fees are at risk if applications are not processed within legislated timelines



Refund Example

Proposal for:

- Tall building
- 475 residential units
- Retail / commercial at grade

	Refund by Processing Days			
Application Type	No Refund (within 120 days)	50% Refund (121 - 179 days)	75% Refund (180 - 239 days)	100% Refund (240+ days)
OPA/ZBA (Refund only applies to ZBA)	\$0	\$88,123	\$132,185	\$176,247

	Refund by Processing Days			
Application Type	No Refund (within 60 days)	50% Refund (61 -89 days)	75% Refund (90 - 119 days)	100% Refund (120+ days)
Site Plan	\$0	\$60,313	\$90,469	\$120,626



Implications of Bill 109:

- Potential for less public engagement
- External agencies: Conservation Halton, MTO, railways, utilities, etc. may need to amend review processes to allow for timely municipal decisions
- Process changes will be required – status quo will not suffice
- Prioritization of files subject to Bill 109 over those that are not:
 - Prioritize rezoning and site plan files over other application types (ex. Subdivision, Committee of Adjustment)
 - Prioritize Rezoning & Site Plan files submitted after Bill 109 effective date over those submitted prior



Corporate Implications of Bill 109:

■ Financial

- application fees are not a revenue generator – cost recovery mechanism
- increase in OLT appeals – further costs incurred to the City that are not covered by application fees

■ Staff Resources

- additional staff resources likely required in Development Services (Community Planning, Engineering Services, Transportation, etc.) to meet timelines
- increase in OLT appeals – may require additional staff resources (Legal, etc.)

■ Clerks

- may need flexible Committee / Council meeting schedules to meet timelines



Key Principles & Objectives:

- Ensure active and meaningful citizen engagement throughout the planning and decision making processes
- Minimize, to the extent possible, the need to issue application fee refunds
- Develop a consistent, predictable approach to processing development applications across the Region with nuanced differences to reflect local considerations
- Encourage a 'path to success' approach for the development industry through enhanced pre-consultation



Response to Bill 109

- Regional approach to processing development applications
- Streamlining the application review process
- Consultation with various internal / external stakeholders (internal staff, external agencies, development industry, etc.)
- Watch for Province to issue Bill 109 Reg's and revise approach, as needed
- Post Jan. 1, 2023 – assess, monitor and revise approach as needed



Response to Bill 109 continued...

- **Pre-Application Phase:**

- Mandatory Pre-Consultation, Pre-Application Community Meeting, Urban Design Review
- Voluntary Pre-Submission Technical Review (Path to Success)

- **Application Phase:**

- Unbundling of applications (i.e. ZBLA & Site Plan), Provide recommendation on initial submission, combined Statutory Public Meeting & Recommendation report
- Streamline site plan review to focus on matters outlined in the *Planning Act*

- **Post-Application Phase:**

- Expanded Use of Holding Provisions, standardize site plan conditions across the Region
- 'Applicable law' matters to be dealt with outside of *Planning Act* application process



Recommendation:

- Endorse the approach to implement the Provincially mandated changes resulting from Bill 109 as outlined in community planning department report PL-69-22; and
- Approve Official Plan Amendment No. 130 to the City of Burlington Official Plan, as provided in Appendix A of community planning department report PL-69-22, to implement Bill 109 legislation; and
- Deem that Section 17(21) of The Planning Act has been met; and
- Instruct the City Clerk to prepare the necessary by-law adopting Official Plan Amendment No. 130, as contained in Appendix A of community planning department report PL-69-22.



December 5, 2022

Mayor Marianne Meed Ward and Members of Council

City of Burlington
426 Brant St.
Burlington, ON
L7R 3Z6

Sent via email to clerks@burlington.ca

RE: CITY OF BURLINGTON RESPONSE TO BILL 109 AND AMENDMENTS TO THE PLANNING ACT.

Statutory Public Meeting and Recommendation for a City-initiated Official Plan Amendment and Approach in Response to Bill 109 "More Homes for Everyone Act, 2022"

The Building Industry and Land Development Association (BILD) is in receipt of staff report PL-69-22 *City-initiated Official Plan Amendment and Approach in Response to Bill 109 "More Homes for Everyone Act, 2022"*, as presented on the December 6th Community Planning, Regulation and Community committee agenda. We acknowledge that following this meeting this report will go to Council for adoption.

On behalf of our Halton Chapter members, BILD appreciates the opportunity to provide the following comments regarding this work.

Reflecting on *Bill 109, More Homes for Everyone Act, 2022*

We acknowledge that the purpose of *Bill 109, More Homes for Everyone Act, 2022* is to increase housing supply and choice for families and individuals across the province. According to the provincial government, Bill 109 is an attempt to implement some of the Housing Affordability Task Force's recommendations, as outlined in a report released in February this year. We also understand that we all have a role to play to ensure that the true intentions of this Bill are carried forward correctly.

The key amendment we are addressing through this correspondence is the proposed changes to the approval process for zoning by-law amendment and site plan applications, which would require municipalities to refund application fees on a graduated basis (i.e. 50%, 75% or 100% depending on the number of days following the application) if a decision is not made within the legislative timelines. This change would apply to applications made on or after the Province's extended timeline of July 1, 2023. The intent of this change is to incentivize municipalities to make timely decisions.

General Sentiments of the Legislative Timelines Amendment

BILD and our members recognize the pressure that this amendment creates for municipalities to uphold the legislative timelines that have lengthen over the years. We also recognize that BILD members too have a role to play to be in keeping with the timelines by being timely with their responses to application comments and other requests for information. With this amendment, both the industry and the municipalities have a collective interest to meet the timelines; developers' project proformas are based on municipal timelines as well, and any delay in the approval process can result in carrying costs incurred by our members and violations associated to purchase and sale agreements.

BILD's Response to the City of Burlington's Approach

As identified in the aforementioned staff report, and something that has been explored by some municipalities is that approach to frontload substantive issues that are identified in the project proposal prior to deeming an application complete. This also means that an applicant must ensure that a development application is complete prior to the start of the 'clock' of the legislative timeline. BILD and its members believe that parsing out large segments of the development application process before allowing the 'clock' to start on the legislative timelines is not in keeping with the spirit and intent of the legislation. It effectively removes the bulk of the process that would take the majority of the time to address in a typical development application.

As part of Bill 109, municipalities must adhere to the legislative timelines for the approval of a development application. As a matter of law, any policies or procedures that aim to circumvent or delay the typical timeline should be avoided. That means that municipalities must ensure that the application timeline is triggered once an application has been submitted. It also means that delaying the date that the clock starts on an application, through the pre-application or otherwise should also be avoided.

With respect to the proposed additional public engagement, BILD agrees that public engagement is critical to the development review and approval process. Many of our members across the GTA already conduct early consultation and feedback prior to the submission of a formal application. However, any extra-statutory pre-application consultation must remain voluntary, as a municipality cannot use this process as a means to prevent the lawful submission of an application and the commencement of applicable review periods under *the Planning Act*.

With respect to these themes, please find the enclosed correspondence from Cassels regarding the municipal implementation of Bill 109 on the topics of pre-application, complete application requirements and potential waivers.

Additional Considerations

Prioritizing Applications Submitted after July 1, 2023

BILD is concerned with the City's interpretation that an implication of Bill 109 would be that any application submitted after July 1, 2023 or an application not subject to the refund regime would be prioritized over existing applications already submitted to the City. Any application, whether it is subject to a refund or not, must be reviewed in the order they were submitted provided that developers are paying fees with the expectation that equal service will be provided. The City must investigate a more meaningful way to review all applications types.

Development Application Review Fees

We acknowledge that the City will undertake a review of Planning Application fees for 2023. As previously communicated to staff, BILD looks forward to the continued engagement with the City throughout this review.

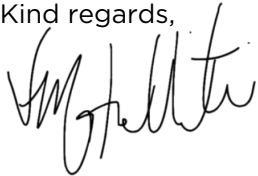
Final Sentiments

In 2021 and 2022, BILD and Mayor Meed Ward successfully hosted leadership meetings where we met as partners in prosperity and community building. Our goal was successful, and together we developed a forum of collaboration and transparency. We hope to continue these meetings in the new year.

As an industry, we would like to move forward with all our municipal partners to create a system of enhanced trust and collaboration to develop a transparent and cooperative development application process that works for all parties. Understanding that this is a seismic shift in process, it will take some time to identify best practices and create efficiencies. Some initial thoughts in this regard are to pre-qualify consultants such that there would only need to be cursory review of submitted materials and limiting council override on professional recommendations. The City's Terms of Reference exercise may lend itself to this effort.

We hope these process changes will be the start of new way of thinking and working together that will benefit current and future generations. Thank you again for the opportunity to submit these comments. We trust that you will take them into careful consideration and we look forward to the outcome of this work.

Kind regards,



Victoria Mortelliti, RPP, MCIP
Manager of Policy & Advocacy

CC: Kevin Singh, BILD Halton Co-Chair
Shane Cooney, BILD Halton Co-Chair
Paula Tenuta, SVP, BILD
Danielle Binder, Director, BILD
Members of the BILD Halton Chapter

The Building Industry and Land Development Association is an advocacy and educational group representing the building, land development and professional renovation industry in the Greater Toronto Area. BILD is the largest home builders' association in Canada, and is affiliated with the Ontario Home Builders' Association and the Canadian Home Builders' Association. It's 1,500 member companies consists not only of direct industry participants but also of supporting companies such as financial and professional service organizations, trade contractors, as well as manufacturers and suppliers of home-related products.

December 2, 2022

Danielle Binder
Director, Policy & Advocacy
Building Industry and Land Development Association
20 Upjohn Road
Suite 100
Toronto, ON M3B 2V9

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Tel: +1 416 869 5411
Fax: +1 416 640 3218
File: 51989-3

Dear Ms. Binder,

Re: Bill 109 Implementation and the Pre-Application Process

You have asked us to consider generally the amendments to the pre-application consultation process a number of municipalities are proposing in response to Bill 109, *The More Homes for Everyone Act, 2022*. Commencing January 1, 2023, an increasing portion of application fees will be refundable if a municipality fails to make a decision within the applicable statutory timelines. We understand a number of municipalities are considering an enhanced pre-application process of detailed submissions, technical review and comment, and broader councillor and community engagement, prior to submission of an application under the *Planning Act* and the commencement of the statutory review period.

Bill 109 represents the first step in the Province's implementation of the recommendations of the Ontario Housing Affordability Task Force Report, meant to reduce overall cost, delay and cut red tape to achieve the goal of delivering 1.5 million new homes over the next 10 years. The clear purpose of the amendments is to encourage faster decisions to facilitate the delivery of housing.

We anticipate that enhanced consultation and cooperation between applicants and a municipality will be required in order to meet the timeframes imposed by the *Planning Act*, and that in many cases, applicants would prefer continued collaboration rather than a refusal and the need to pursue appeals to the Ontario Land Tribunal. There may be many applicants who will welcome early consultation and feedback prior to submission of a formal application. However, in our view, any such extra-statutory pre-application process must remain voluntary and a municipality cannot use this process as a means to prevent the lawful submission of an application and the commencement of the applicable review periods under the *Planning Act*.

Limits to the requirement to consult

Applicants have a statutory right to submit development applications to the applicable authority and to have these considered in accordance with the *Planning Act*, as well as other applicable policy and legislation. The only statutory pre-condition that a municipality may impose is a requirement to consult with the municipality prior to the submission of an application. In our view, the ordinary meaning of "consult" must be applied to determine the scope of permissible

pre-application requirements, commonly defined as seeking information and advice from another. Accordingly, the purpose and intent of this pre-application step is for municipalities to provide preliminary direction and advice in advance of the submission of a formal application and the commencement of the statutory review process and in our view does not include the ability to impose a non-statutory pre-application regime outside of the *Planning Act* or to otherwise prevent an applicant from exercising its statutory right to make an application.

Further, it is our view that the authority to require mandatory consultation with a municipality or planning board does not extend to mandatory consultation with review agencies, members of the public, or other persons and public bodies. The *Planning Act* has established these as municipal requirements and neither a plain and ordinary meaning or purposive interpretation of the *Planning Act* supports the imposition of additional requirements through the consultation process.

As stated by the then Ontario Municipal Board in *Top of the Tree Developments Inc, Re*, 2007 CarswellOnt 7921:

Yes, a Municipality can surely demand for materials and the information in the course of an evaluation of an application at any given time. There is and never was a legislative impediment for it to do so via its policy in an Official Plan. But the Municipality cannot demand it for the purpose of a complete application, and only pursuant to some tangential policy.

Limits on complete application requirements

While municipalities have the authority to require “other information and material” beyond the requirements prescribed under the *Planning Act*, such additional requirements for complete applications must be contained in adopted and in force official plan policies. Importantly, such requirements are limited to the submission of “information or material” and not a means to impose additional steps or processes, such as peer reviews or consultation, that a municipality does not have authority to impose directly.

Waiver Agreements

A number of municipalities have proposed a form of agreement for the withdrawal and resubmission of an application prior to the expiry of the legislated review period. In our view, while an agreement will not be enforceable to override statutory consequences, a voluntary agreement to withdraw an application in advance of a refund deadline may be possible, together with associated amendments to any applicable fee by-laws. However, we caution that the withdrawal and resubmission of an application will have significant implications under various statutes beyond the *Planning Act*, including but not limited to the *Ontario Heritage Act* and *Development Charges Act 1997*, that parties should be mindful of.

In summary, in our view, the establishment of additional mandatory requirements for submissions and engagement before otherwise valid applications will be received by a municipality for the purpose of preventing the statutory review period under the *Planning Act*

from commencing is contrary to the purpose and intent of the *Planning Act*, as amended, and beyond the authority of municipalities in Ontario and may be subject to judicial review.

We trust the foregoing is sufficient for your purposes. We would be pleased to respond to any further questions or concerns.

Yours truly,

Cassels Brock & Blackwell LLP

A handwritten signature in black ink, appearing to read 'S.L.' with a stylized flourish at the end.

Signe Leisk
Partner

SL/AP



West End Home Builders' Association
1112 Rymal Road East, Hamilton
Serving members in Hamilton and Halton Region

CPRM December 6, 2022
PL-69-22
Correspondence from WE HBA

December 6, 2022

To:
Members of Community Planning Regulation and Mobility Committee
City of Burlington
426 Brant St

WE HBA Comments on Statutory Public Meeting and Recommendation for a City Initiated Official Plan Amendment and Approach in Response to Bill 109 "More Homes for Everyone Act, 2022"

The West End Home Builders' Association (WE HBA) is pleased to be engaged in discussions on the City of Burlington's Official Plan Amendments to implement Bill 109. As key stakeholders and partners to the City of Burlington, the means through which Burlington implements this key provincial legislation has a significant impact on how our members deliver new housing supply. In a time where the CMHC,¹ the federal government,² the provincial government³, and the City of Burlington⁴ have all agreed there is a need for significantly more new housing supply to resolve Ontario's housing crisis, the City of Burlington must seize the opportunity brought forward by this legislative piece to streamline planning approvals. This involves setting the framework to enable our members to bring new housing supply of all types and tenures online in an expedited fashion. Open communication and transparency are of crucial importance as we work together to resolve the crisis we find ourselves in.

Importantly, WE HBA requests the City of Burlington defer the approval of this report and Official Plan Amendments to allow for further discussion and a workshop meeting with the development industry and City Staff to resolve industry concerns. The Ministry of Municipal Affairs and Housing has announced its intention to delay implementation of Bill 109's fee refunding from **January 1st, 2023 to July 1st, 2023 to allow additional time to get this process right** and accelerate the issuance of housing permits and approvals.⁵ With the proposed additional time, and given the City of Burlington's Housing Strategy looked at ways to support reducing red tape and incentivizing an increase in housing supply,⁶ we believe Bill 109 provides a key opportunity to work together to streamline planning approvals in Burlington. WE HBA is requesting an iterative process to Bill 109 implementation whereby the community, applicants, city departments, and external agencies collaborate to find solutions to speed

¹ "Housing Shortages in Canada: Solving the Affordability Crisis" Cmhc-schl.gc.ca, June 23, 2022. <https://www.cmhc-schl.gc.ca/en/professionals/housing-markets-data-and-research/housing-research/research-reports/accelerate-supply/housing-shortages-canada-solving-affordability-crisis>.

² "Making Housing More Affordable" Government of Canada Budget 2022, April 7, 2022. <https://budget.gc.ca/2022/report-rapport/chap1-en.html>.

³ "Report of the Ontario Housing Affordability Task Force" Ministry of Municipal Affairs and Housing, February 8, 2022. <https://files.ontario.ca/mmah-housing-affordability-task-force-report-en-2022-02-07-v2.pdf>.

⁴ "The Corporation of the City of Burlington Housing Strategy" City of Burlington, May 20, 2022. <https://www.getinvolvedburlington.ca/19458/widgets/77428/documents/82411>

⁵ "Letter from Minister Clark to the Ontario's Big City Mayors" Ministry of Municipal Affairs and Housing, November 30, 2022.

⁶ "The Corporation of the City of Burlington Housing Strategy" City of Burlington, May 20, 2022. <https://www.getinvolvedburlington.ca/19458/widgets/77428/documents/82411>

up the approvals process. We request fulsome industry consultation to avoid outcomes from these policy changes that would slow down the process, delaying the delivery of keys to new homeowners.

As it stands now, WE HBA has significant concerns about the process changes proposed. The mandatory pre-consultation process being required prior to deeming an application complete, and the addition of policy language to the Official Plan suggesting Staff can now refuse a development application they deem incomplete may be unlawful. Furthermore, the proposed decoupling of combined applications runs contrary to the spirit of the *More Homes for Everyone* legislation as it will actually increase the amount of staff and processing time required for a single development application.

We appreciate that through this process, Staff have identified the opportunity that Bill 13 presents. WE HBA supported Bill 13, and we recommend that Bill 13 and the use of “delegated authority” be combined with Burlington’s response to Bill 109. This is an opportunity that now exists given the indicated delay of implementation of the fee refunding until July 2023. This would directly contribute to the stated goals of continued business process improvements. Furthermore, we believe there is certainly opportunity for technological enhancements to improve service delivery across Development Services. These opportunities should form the basis of industry consultation in addition to Bill 109.

WE HBA recognizes the challenge the shifting provincial planning framework to accommodate significant population growth is having on our municipal partners, as they rapidly respond to changing provincial guidance as well as continue to help our members move through the approvals process to deliver much needed housing supply. As we experience these growing pains, collaboration is of the utmost importance. We believe the implementation of Bill 109 provides an opportunity to collaborate with open and transparent industry participation in the development of new planning processes. We would be pleased to participate in a working meeting with a few of our members to have a deep dive discussion on how to improve processes.

Finally, the private market is responsible for providing homes for 80% of all Canadians,⁷ and by extension Burlingtonians. Right now, there are significant housing market distortions where young families, newcomers and young people are driving further and further outside our urban centre to find a home that meets their needs due to a lack of available housing supply. This problem is one of the key reasons the Provincial Government saw a need for urgent provincial intervention in the municipal approvals process, and brought forward Bill 109, the *More Homes for Everyone Act*. Decisions made today have cumulative long-term effects on the supply and cost to deliver new homes. WE HBA appreciates our working relationship with the City as collaboration between the industry and the City of Burlington is of the utmost importance.

Sincerely,



Michelle Diplock, RPP, MPI

Manager of Planning and Government Relations
West End Home Builders’ Association

⁷ “About-Affordable-Housing-In-Canada.” Cmhc-schl.gc.ca, March 31, 2018. <https://www.cmhc-schl.gc.ca/en/professionals/industry-innovation-and-leadership/industry-expertise/affordable-housing/about-affordable-housing/affordable-housing-in-canada>.



P3 VETERINARY PARTNERS

Pets. People. Practice.



City of Burlington Community Planning, Regulation and Mobility Committee meeting

December 6th, 2022





**3110 South Service Road
Burlington, Ontario**

To become home to:

- P3's Home Office**
- Integrated OVC - UGuelph Training**
- Emergency & Referral Medicine**



33



**ONTARIO
VETERINARY COLLEGE**

P3 Veterinary Partners

MISSION

To empower veterinary teams to live their passion and focus on unparalleled care for pets and the people who love them

VISION

Striving to be the Best Place to Work in Veterinary Medicine

COMMUNITY

Each clinic & team are consistent supporters of local causes



Our “local” strategy is working. We are the largest Canadian Owned & Operated Group of Veterinary Clinics

FACTS

- Founded in 2015, P3 has been Great Place to Work Certified since inception
- Named one of Canada's Best Managed Companies by Deloitte
- Home Office in Oakville ON, and moving to Burlington ON
- Employ over 650 associates
- Our group of 55 clinics is on track to grow beyond 100 clinics by 2025



Ontario Veterinary College University of Guelph

- Consistently ranked in the **Top 5 veterinary schools in the world (QS)**
- Only academic training centre in Ontario for veterinarians and specialists
- Goal: to better prepare graduates for the veterinary practice of the present and future
 - Increasing demand for training in primary care, urgent and emergency care, and specialist training
 - Increasing class size means more clinical exposure is required
- OVC wishes to partner with a nearby high-quality high-volume emergency and referral clinic to give trainees real-world experience
 - Improve range of technical and non-technical competencies at graduation

P3 Veterinary Partners & OVC - University of Guelph

Burlington and 3110 South Service Road are Important to us:

- Ideal location for P3's **Home Office and Training Centre** as we continue to grow
- **Strategic and Central** location to serve GHTA-Guelph-Niagara
- 3110 South Service Road has the combination of neighbourhood and highway access that makes it the ideal location for a **Centre of Excellence**
- **Real-World Training** is central to providing **more and better care** to Patients and “Pet Parents”
- **Emergency and Referral Medicine is underprovided** in the GTHA



Proposed Official Plan and Zoning By-Law Amendment

- Demolish existing Mother Tuckers Restaurant. Proposal for a three storey building with roof terrace. GFA – 5045.25 m² (54,306.63 sq ft)
- Official Plan Amendment to permit an accessory veterinary clinic with a floor area not exceeding 30% of total building GFA in conjunction with a permitted use of a prestige head office with a training facility. The FAR is to be increased from 0.5 to 0.63.
- Zoning By-law Amendment to BC1-225 to permit an FAR of 0.63 (0.5 is permitted) and to permit a veterinary clinic with a floor area of a maximum of 30% of the total building GFA as an ancillary use.

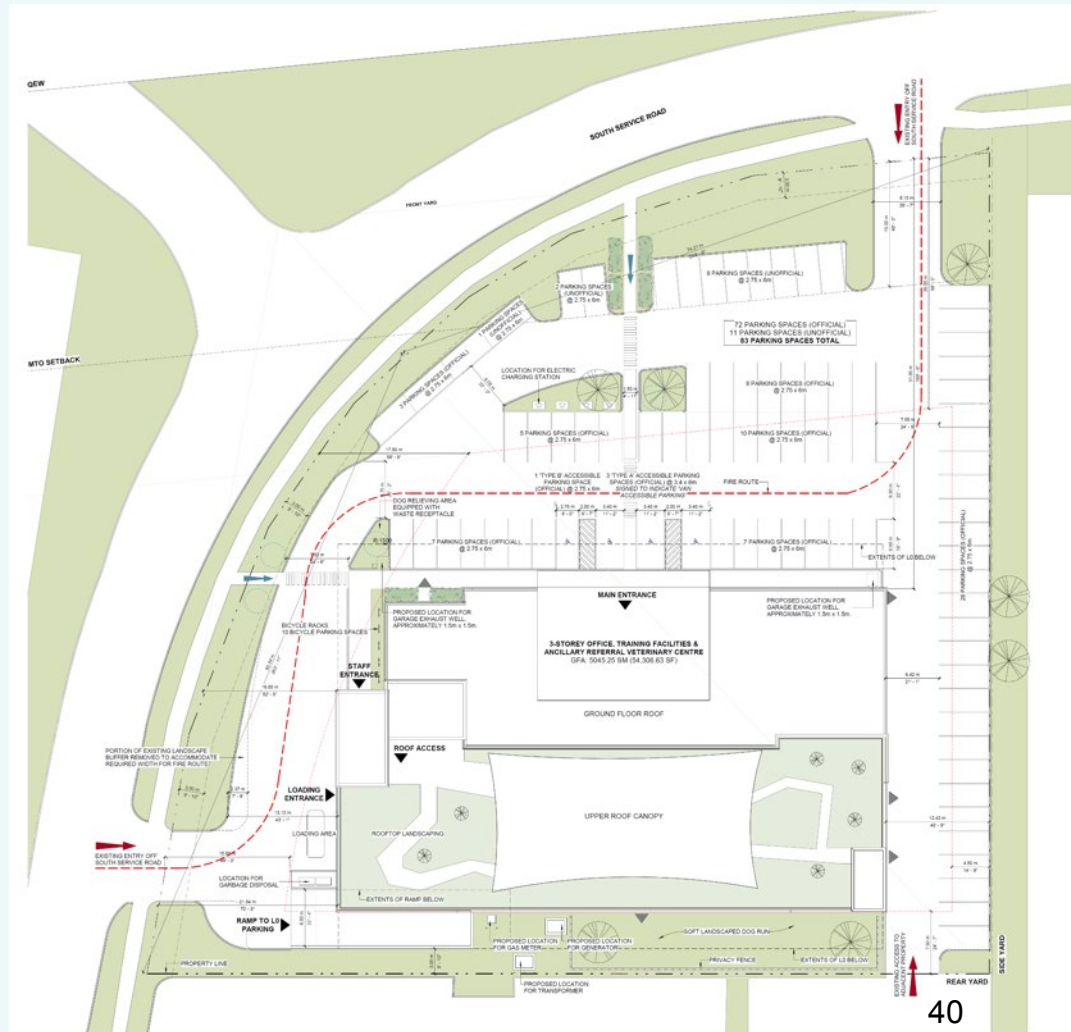
3110 South Service Road Location Plan



3110 South Service Road Concept Rendering



3110 South Service Road Concept Site Plan



SCHEDULE - AREAS BY LEVEL			
LEVEL	SM	AREA	%
LEVEL 0	208.12 m ²	2,240.19 m ²	4.13%
LEVEL 1	2195.78 m ²	23,635.22 m ²	43.52%
LEVEL 2	1320.90 m ²	14,218.09 m ²	26.18%
LEVEL 3	1320.44 m ²	14,213.13 m ²	26.17%
	5045.25 m ²	54,306.63 m ²	100%

SCHEDULE - TOTAL BUILDING AREA			
TYPE	SM	AREA	%
1. OFFICE	2096.47 m ²	22,587.78 m ²	41.59%
2. TRAINING	664.68 m ²	7,154.57 m ²	13.17%
3. VET	1394.28 m ²	15,007.9 m ²	27.64%
4. BUILDING SERVICES	887.82 m ²	9,556.38 m ²	17.6%
	5045.25 m ²	54,306.63 m ²	100%

PARKING CALCULATIONS BY FUNCTION TYPE			
ZONING TYPE	PARKING REQUIREMENT	AREA (SM)	SPACES REQUIRED
OFFICE	3 SPACES / 100 SM	2096.47 m ²	62.95
TRAINING	5 SPACES / 100 SM	664.68 m ²	33.23
VET	4 SPACES / 100 SM	1394.28 m ²	55.77
			151.96

PARKING QUANTITIES BY LEVEL			
TYPE	LEVEL 0	GRADE	TOTAL
VEHICLE (OFFICIAL)	80	72	152
VEHICLE (UNOFFICIAL)	0	11	11
BICYCLE	24	10	34

SITE STATISTICS		
	REQUIRED	PROVIDED
ZONING	BC1-225	-
MIN. REAR YARD SETBACK	7.5 m	7.5 m
MIN. SIDE YARD SETBACK	4.5 m	12.4 m
MIN. SETBACK FOR YARD ABUTTING OTHER STREETS HAVING A DEEMED WIDTH 26M OR GREATER	15 m	16 m
MIN. SETBACK FOR YARD ABUTTING A STREET ADJACENT TO THE GEW/403	30 m	51.6 m
MIN. LANDSCAPE AREA ABUTTING A STREET ADJACENT TO GEW/403	15 m	15 m
MIN. LANDSCAPE AREA ABUTTING A STREET HAVING A DEEMED WIDTH OF 26M OR GREATER	6 m	6 m - 15 m
MIN. LOT WIDTH / AREA ABUTTING A STREET ADJACENT TO THE GEW/403	60 m / 0.8 HA	74.21 m / 0.8 HA
MAX. FLOOR AREA RATIO	0.5:1	0.63:1
BUILDING HEIGHT	No maximum building height	19 m
BUILDING GROSS FLOOR AREA	-	5045.25 m ²
HARDSCAPING AREA	-	300 m ²
LANDSCAPING AREA	-	1950 m ²
ASPHALT AREA	-	3580 m ²
BICYCLE PARKING	-	34 bicycle parking spaces provided, Located at grade and Level 0.
ACCESSIBLE PARKING	6 (3 'TYPE A' & 3 'TYPE B')	6 (3 'TYPE A' & 3 'TYPE B')

SITE PLAN LEGEND	
	PROPERTY LINE
	ZONING REQUIRED SETBACKS
	VEHICLE ACCESS
	PEDESTRIAN ACCESS
	POINT OF ENTRY
	EXIT
	CROSSWALK
	PEDESTRIAN CROSSINGS TO INCLUDE CURB CUT WITH TWSI'S.
	ACCESS AISLES
	ACCESS AISLES ARE TO BE CLEARLY IDENTIFIED THROUGH APPROPRIATE LINE PAINTING.
	ACCESS AISLES FOR BF PARKING SPACES AT GRADE ARE TO INCLUDE A CURB RAMP AND TACTILE WALKING SURFACE INDICATOR (TWSI) LEADING TO THE WALKWAY ENTRANCE.
	RAISED WALKWAY
	LANDSCAPE BUFFER
	ROOFTOP LANDSCAPING
	FIRE ROUTE
	GUIDE DOG HANDLER TURNING RADIUS
	MINIMUM 1500mm LEASH RADIUS

3110 South Service Road Proposed Building Elevations



3110 South Service Road Background Studies Undertaken

- + Arborist Report
- + Urban Design Brief
- + Flood Plain Study
- + Geotechnical Study
- + Environmental Assessment
- + Landscape Design
- + Traffic Impact Study
- + Parking Study
- + Grading and Servicing Study
- + Stormwater Management Study
- + Acoustical & Noise Study



3110 South Service Road Concept Rendering





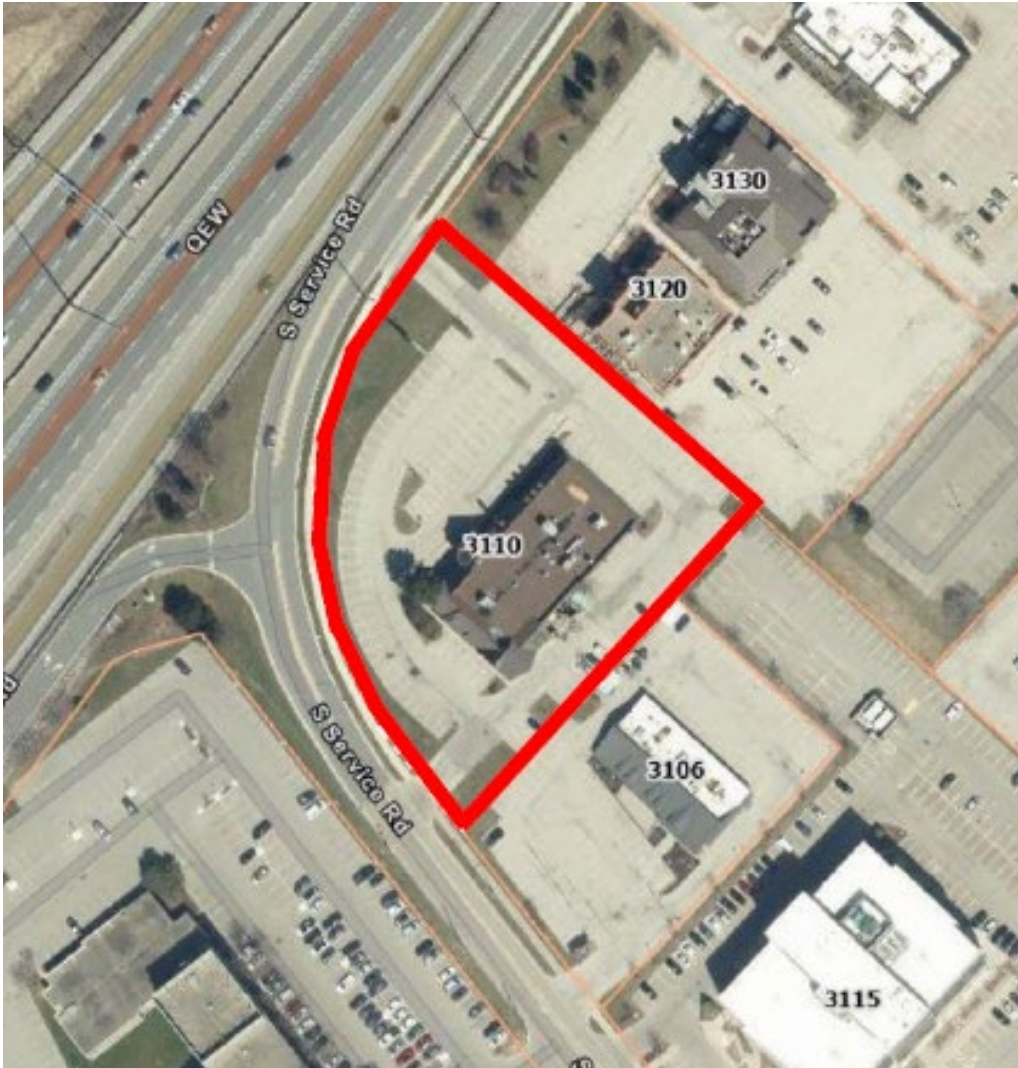
Thank you

Recommendation Report

Applications to amend the Official Plan and Zoning By-law

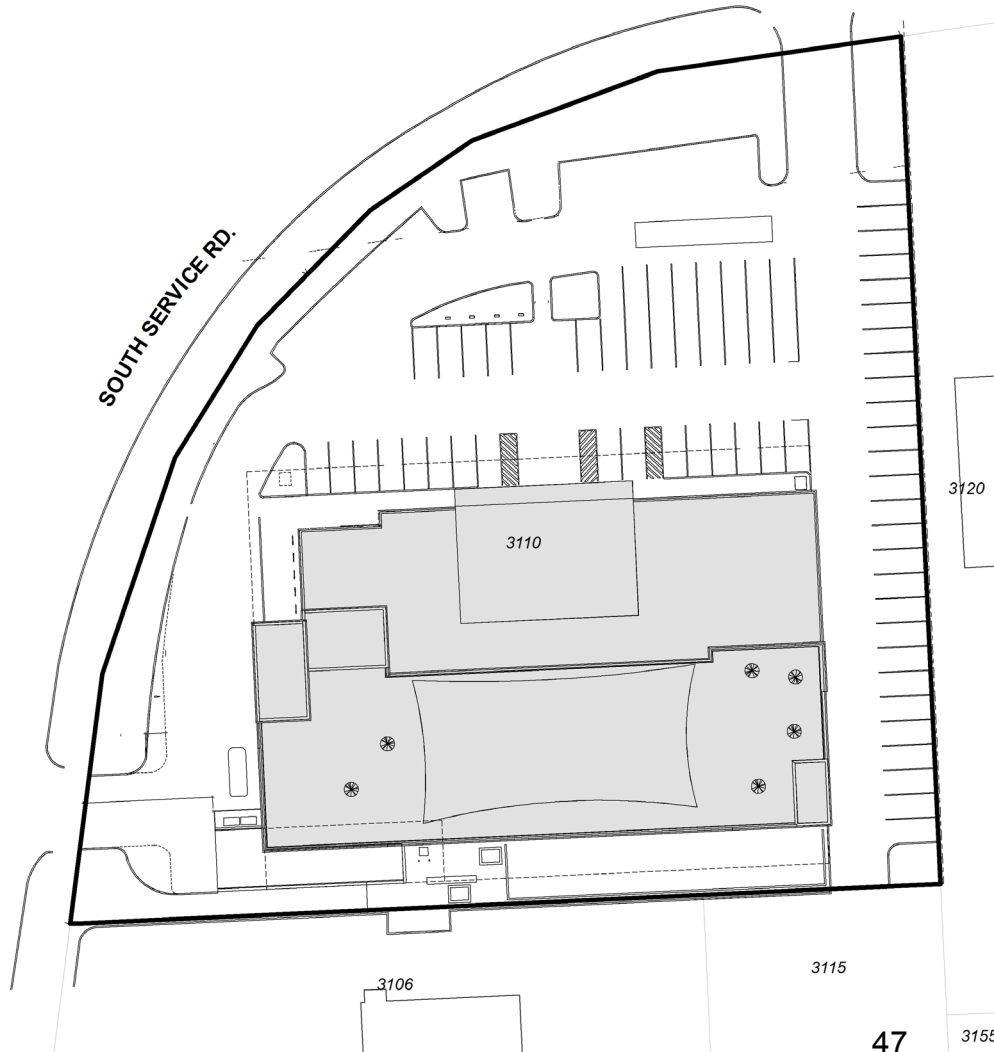
Applicant: Ruth Victor & Associates
Addresses: 3110 South Service Road
File: 505-04/22 & 520-05/22
Date: December 6, 2022
Report: PL-74-22

Overview of Development Site



Site Area: 0.80 hectares

The Application

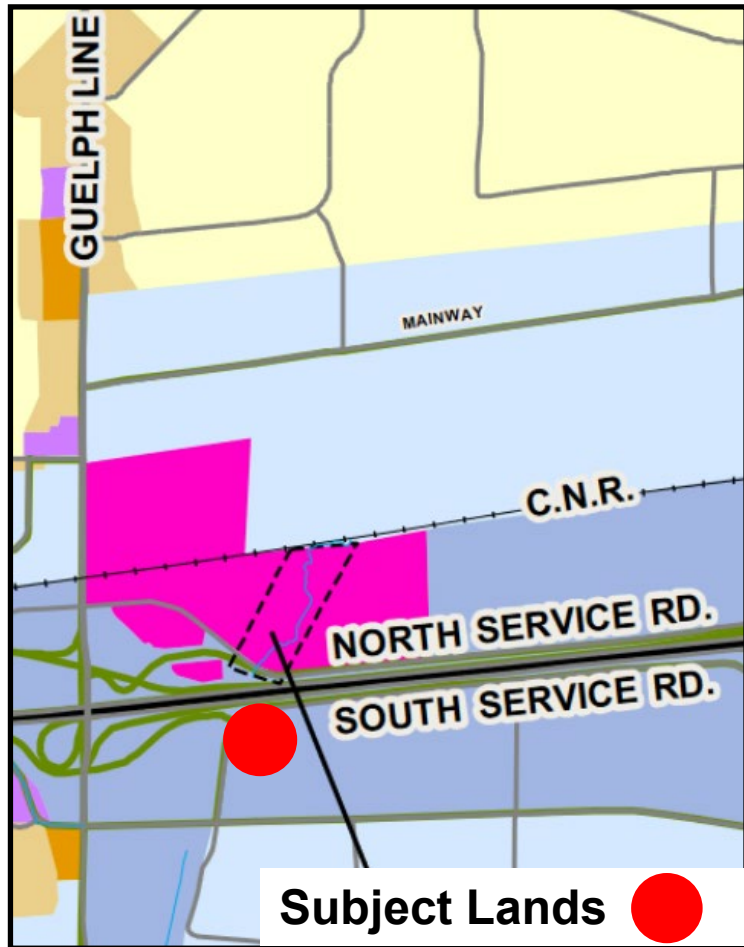


- To permit a three (3) storey office building with a total floor area of 5,045m² including training facilities and a veterinary clinic fronting onto South Service Road
- 162 vehicle parking spaces (80 underground and 82 at grade)
- 34 bicycle parking spaces.


Policy Context

- Planning Act
- Provincial Policy Statement (PPS), 2020
- A Place to Grow: Growth Plan for the Greater Golden Horseshoe (2020)
- Halton Region Official Plan (ROP)
- City of Burlington Official Plan
- City of Burlington Zoning By-law 2020

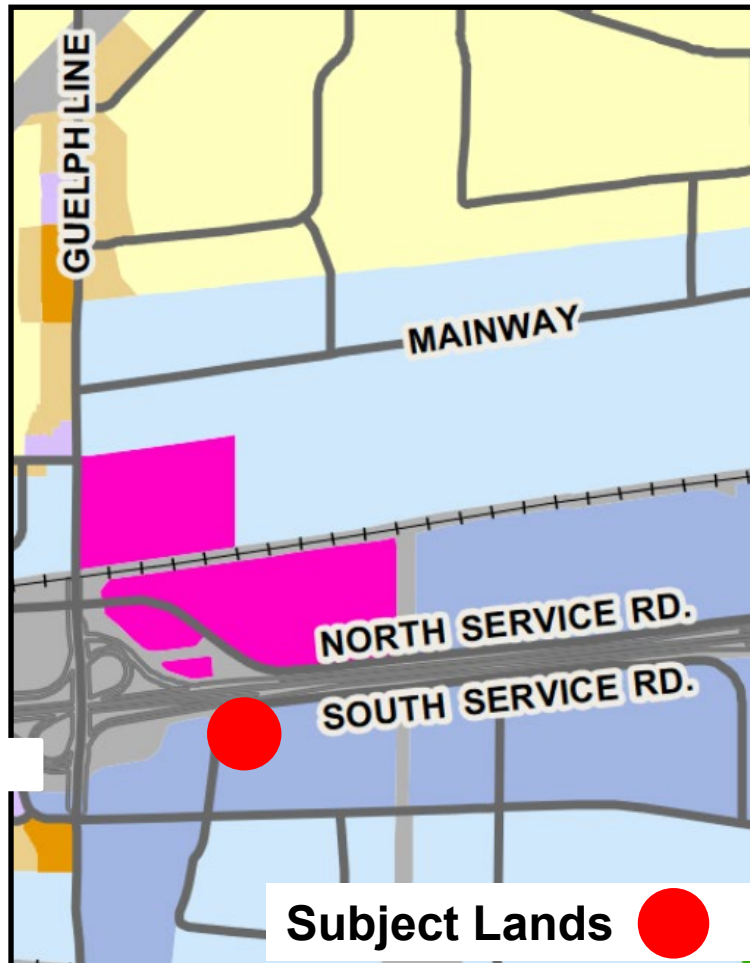
Burlington Official Plan (1997, as amended)




Current Official Plan Designation:
Business Corridor

 Business Corridor

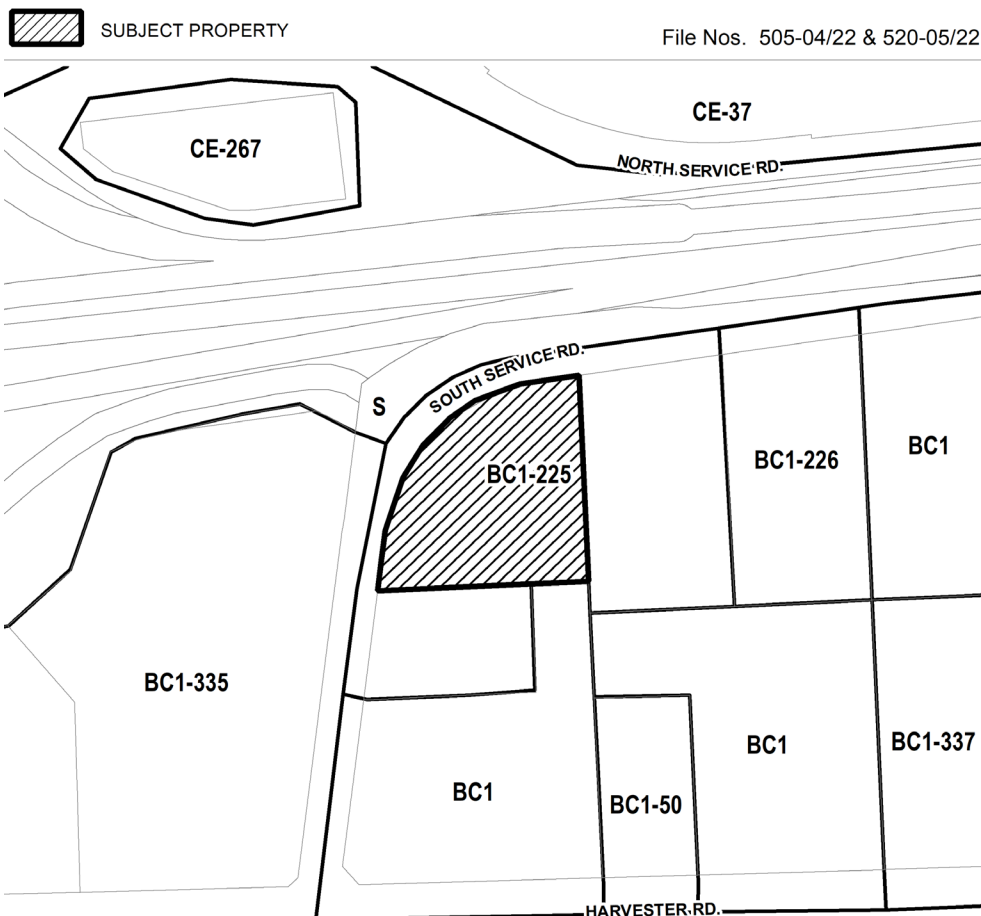
Burlington New Official Plan (2020)



New Official Plan Designation:
Business Corridor

 Business Corridor

Burlington Zoning By-law



Existing zoning:

Business Corridor (BC1-225)

- Zoning exception number 225 describes that a Night Club is a prohibited use and Footnote (f) to Table 2 of Part 3 – Employment Zones shall not apply to standard restaurants.
- Proposing to amend the BC1-225 zoning of the site to allow for the proposed use.

Burlington Official Plan

(1997, as amended)

Requested Official Plan Amendment

- Increased floor area ratio from 0.5:1 to 0.65:1.
- Increase floor area for the ancillary veterinary clinic employment use from 15% to 30% percent

Burlington Zoning By-law

Existing Zoning: BC1-225

- | | |
|--------------|---|
| Regulations: | <ul style="list-style-type: none">• Limited Service Commercial / Retail• Yard abutting South Service: 30 m• Landscape Area abutting South Service: 15 m• Loading / Unloading activities and waste containers / garbage enclosures not permitted in a yard abutting South Service• If Principal use is an Office Use, Maximum Floor Area Ratio for all uses: 0.5:1 |
|--------------|---|

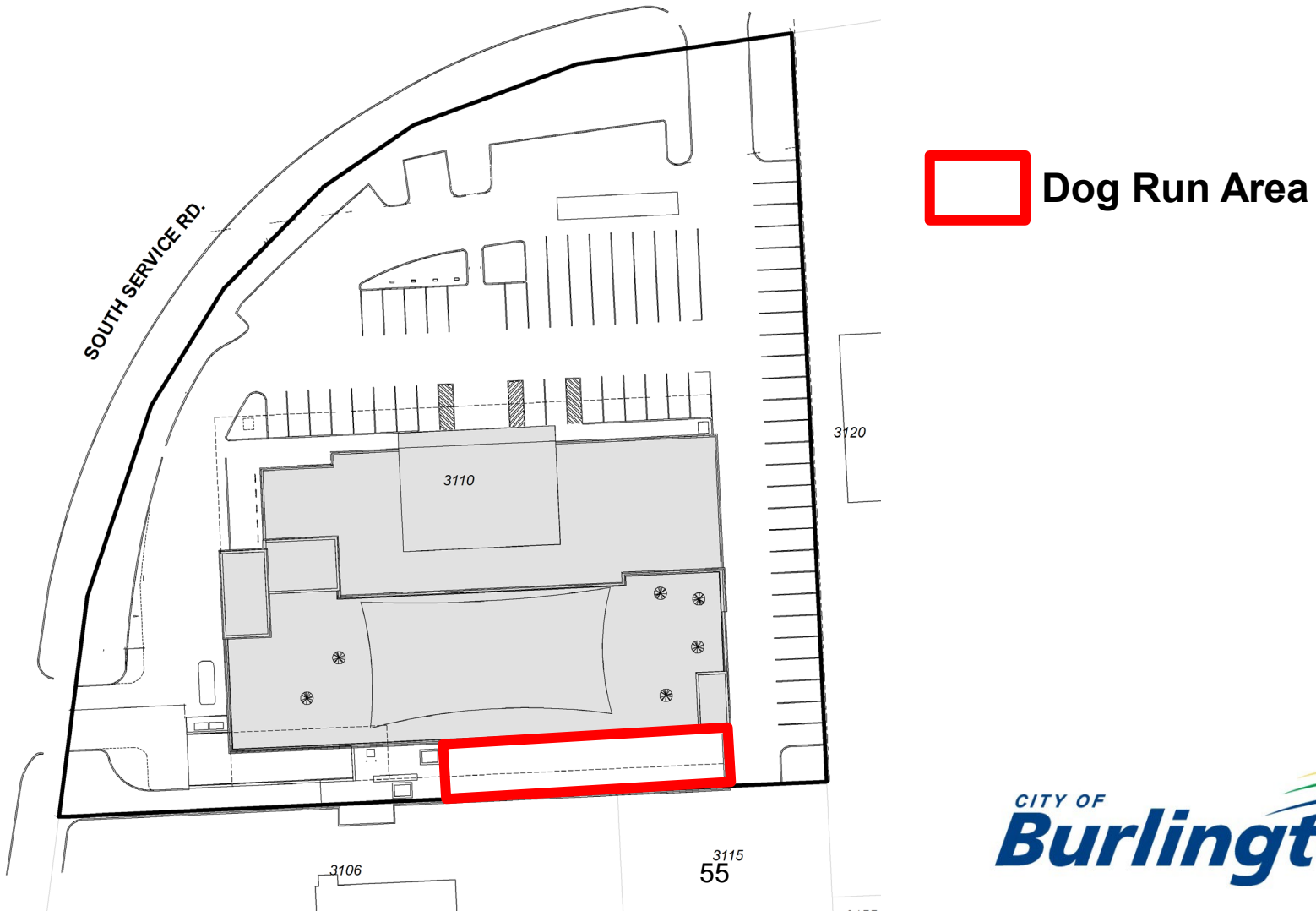
Requested Zoning: BC1-225 (as will be amended)

- | | |
|--------------|--|
| Regulations: | <ul style="list-style-type: none">• Veterinary Services with Training Facility• Retail Sales of Pet foods/supplies up to 28 m²• Yard abutting South Service: 14 m• Landscape Area abutting South Service: 3 m• Loading / Unloading activities and waste containers / garbage enclosures permitted in a yard abutting South Service• Floor Area of Veterinary Services with Training Facility: 51% maximum with a minimum 13% of the Floor Area devoted to the Training Facility use.• Maximum Floor Area Ratio for all uses: 0.65:1 |
|--------------|--|

Public Consultation

- A virtual Pre-Application Community Meeting to present the original proposal was held on March 7, 2021
- Notice signs have been posted on the subject lands
- A public notice of the Zoning By-law amendment application and today's meeting details have been mailed to 95 members of the public.
- One (1) written public comment has been received by staff with respect to the subject application since the writing of the report.

Summary of Public Comments



History of Application and Recommendation

- September 13, 2022 – Statutory Public Meeting
 - Recommendation to continue to work with applicant
- Technical and public comments have been received, and a fulsome review and analysis has been completed based on the applicable planning policies. Staff therefore recommends approval of the application.

Da Silva, Mariana

From: Kristina Didiano [REDACTED]
Sent: Wednesday, November 30, 2022 1:24 PM
To: Da Silva, Mariana
Cc: Michael Shih
Subject: RE: File 505-04/22 & 505-05/22 - 3110 South Service Rd

Follow Up Flag: Follow up
Flag Status: Flagged

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Good afternoon, Mariana.

I am contacting you on behalf of Emshih Developments Inc., owner of 3106 South Service Rd.

I understand that staff will be recommending approval of the development application for 3110 South Service Rd. on Dec 6th.

Our concerns provided in our previous written submission received on Sept. 2nd in the email below still apply as it does not appear that any alterations to the dog run area at the rear of the building appear to be made to mitigate any potential noise or odours that may negatively impact the restaurant tenant on our property.

We would like staff and the applicant to consider an alternative area or mitigative measures to reduce any impacts to our site.

Best regards,

Kristina Didiano MES, BA
Development Manager

Emshih Developments Inc.
895 Brant Street, Suite 7
[REDACTED]

From: Kristina Didiano
Sent: September 2, 2022 10:35 AM
To: mariana.dasilva@burlington.ca
Cc: Michael Shih [REDACTED]
Subject: File 505-04/22 & 505-05/22 - 3110 South Service Rd

Good morning, Mariana.

I am contacting you on behalf of Emshih Developments Inc., owner of 3106 South Service Rd, adjacent to the above noted planning application.

We understand that the applicant has requested various amendments to the Zoning By-Law and Official Plan. Although we do not object to the amendments requested, we have concerns with the proximity of the proposed Dog Run area located at the rear of the proposed building, which is directly adjacent to our property. A restaurant is located on our property, and we are concerned with the potential noise impact from the Dog Run area (barking, etc.) and potential odours from urine and/or feces that may occur while animals are outdoors. This will negatively impact the business operation of the restaurant still recovering from the Covid-19 pandemic.

We would like the applicant to consider an alternative area for the proposed Dog Run area so to minimize any negative impact on our site.

Thank you and best regards,

Kristina Didiano, MES
Planner

Emshih Developments Inc.
895 Brant St, Suite 7
Burlington ON L7R 2J6



Note: Due to the ongoing pandemic, I am currently working remotely and can be reached via email or mobile phone.

Item 5.2 Eligibility of 795 Brant Street for Heritage Designation (PL-80-22)

Community Planning Regulation & Mobility Meeting
December 6, 2022

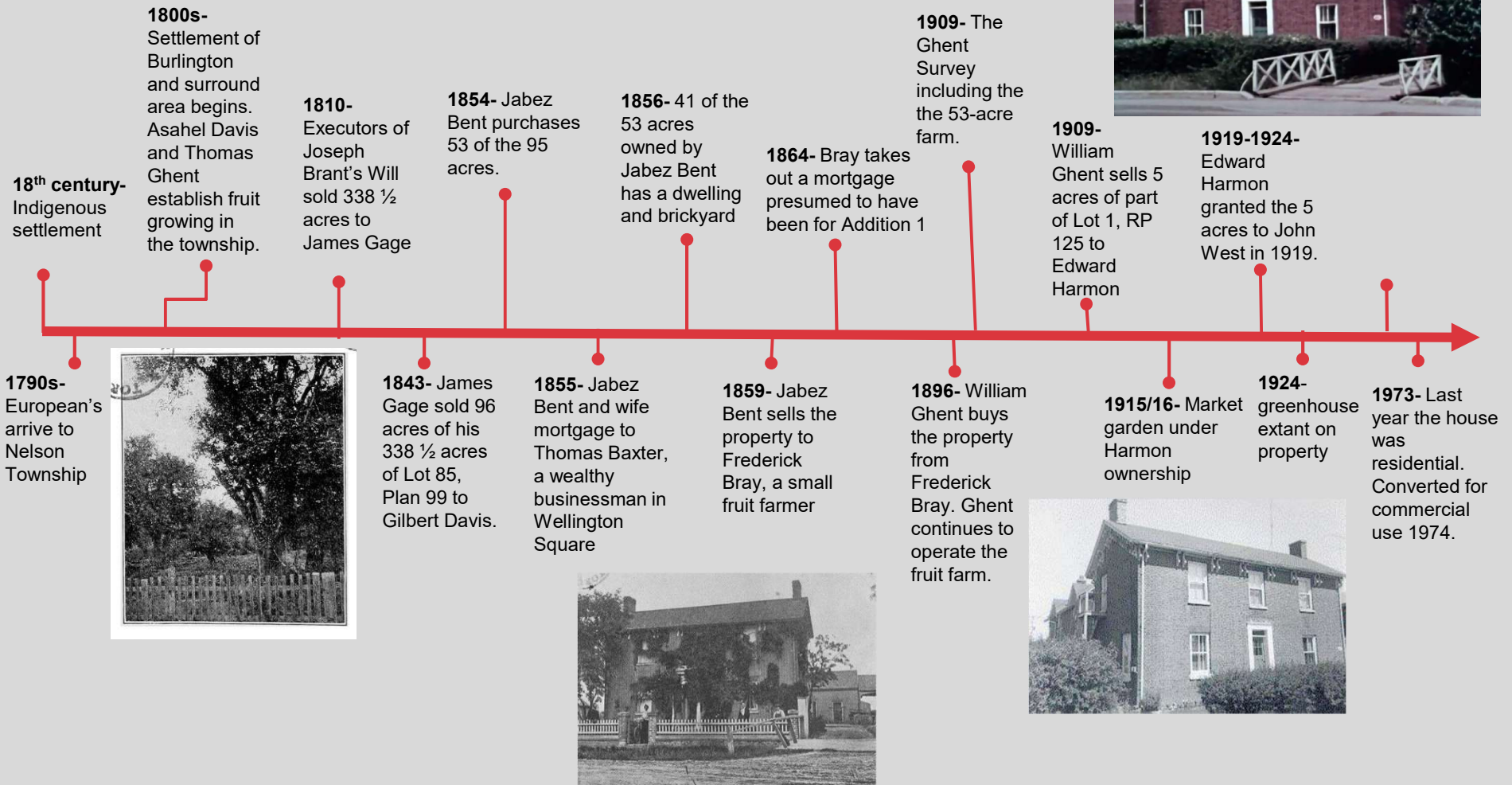


Cultural Heritage Evaluation Report (CHER)






Community
Planning
Regulation &
Mobility
Committee
Meeting
December 6,
2022

Land Use History Summary- Lot 85, Plan 99, Brants Block



List of structures built by the Bent Brothers in Burlington

Address & Property Name	Heritage Status	Construction Date & Builder	Material	Architectural Style
1001 Plains Road; Union Burying Ground	Designated 	1848 – Jabez Bent	Brick (brick wall)	N/A
507 Elizabeth Street	Demolished	ca. 1850s – James C. Bent & Jabez Bent	Frame	Vernacular
511 Elizabeth Street	Demolished	1855-1860 – James C. Bent & Jabez Bent	Frame	Vernacular
247 Malvern Road/The Chisholm- Le Patourel (moved from 466 Elizabeth Street)	Listed 	1856 – James C. Bent & Jabez Bent	Brick	Gothic Revival
3265-3269 North Service Road	None 	1858 – James C. Bent & Jabez Bent	Brick	Georgian

List of structures built by the Bent Brothers in Burlington Con't

400 Brant Street, Queen's Hotel, formally the Zimmerman House (now The Queen's Head)	Listed 	1860- Jabez Bent	Frame with Brick veneer	Georgian
451 Elizabeth Street (Sea Cadet Hall, formerly First Methodist Church)	Listed	1868 – James C. Bent	Brick	Gothic Revival
472 Locust Street, formerly 1446 Ontario Street (Former Calvary Baptist Church, now L'Église St. Philippe)	Listed	1875 – James C. Bent	Brick	Carpenter Gothic/Italianate
2015-2017 Lakeshore Road (Shaver Building)	Listed 	1881 – James C. Bent	Brick	Victorian
2375 Lakeshore Road	None	1888 – James C. Bent (Alterations)	Frame	Vernacular
1436 Ontario Street (Blathwayt House)	Designated	1885 – James C. Bent	Frame	Carpenter Gothic
1442 Ontario Street (The James Cushie Bent House)	Designated 	1888 – James C. Bent	Frame	Carpenter Gothic

Existing Conditions



795 BRANT STREET- Comparative Analysis Key Points

- A total of 10 Georgian style structures are included on the City of Burlington Municipal Register of Cultural Heritage Resources; however, only six are most comparable in style/form to that of 795 Brant Street.
- All are two-storeys with symmetrical front façades, four of the six with a three-bay façade
- Earliest example of a brick-built Georgian style house in Burlington.
- Oldest building on Brant Street
- One of three heritage properties on the Register that are still extant and are associated with 19th century fruit farms that produced goods for the market garden industry.



2477 Glenwood School Drive



795 Brant Street

795 BRANT STREET- Ontario Regulation 9/06 Summary

Design/Physical Value- **YES**

- Design value as an early example of a brick-built vernacular two-storey Georgian style house built between 1854 and 1855.
- Given 795 Brant Street was constructed by a brickmaker and mason, Jabez Bent, and by his brother, James Cushie Bent, a master builder, the property displays a high degree of craftsmanship for its era as a substantial brick structure. In particular, the original 53-acre property containing this house included a brickyard run by Jabez, and the house would have been built from hand-made bricks manufactured on-site. The brick is laid on the front façade in Flemish bond which took a skilled bricklayer, such as Jabez Bent, to execute. Ultimately, the house at 795 Brant Street reflects the architectural ideas of the Bent brothers, who brought from England a deep knowledge of their respective trades, which they used to assist in building up the local community during a pivotal time of development.

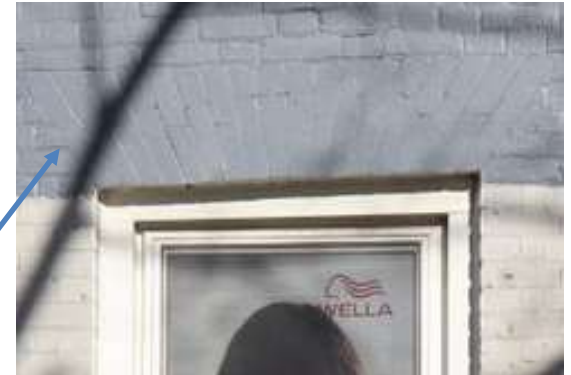


Heritage Attributes

The following heritage attributes contribute to the cultural heritage value of 795 Brant Street:

1854-1855 Original house:

- Style, form, scale and massing of the two-storey brick Georgian style house
- Symmetrical design of the three-bay front façade (west elevation) with windows on either side of the central entrance
- Shallow-pitched end gabled roof with wide eaves and inset brick chimneys at each end wall
- Recessed main entrance with panelled door and wood surround on the front façade (west elevation)
- Narrow transom as wide as the main entrance on the front façade
- Rectangular window openings with jack-arched brick voussoirs
- Original fenestration on the front façade (west elevation)
- Front façade (west elevation) laid in Flemish bond
- North and south elevations (side) laid in common bond
- Proportion of windows to brick face of the front façade



1864 Addition and original 1854-1855 rear wing:

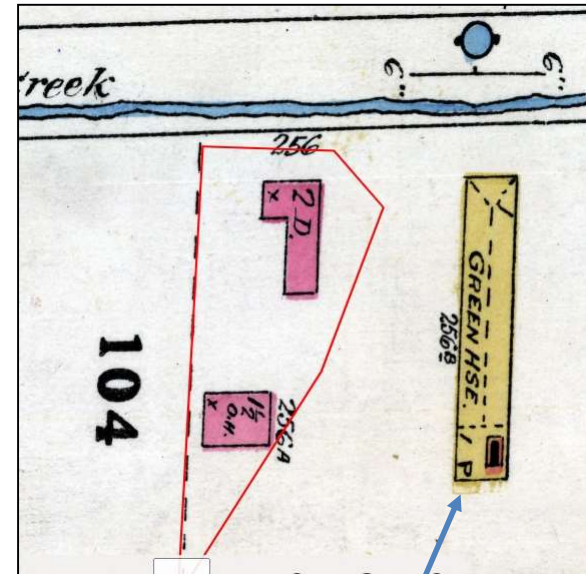
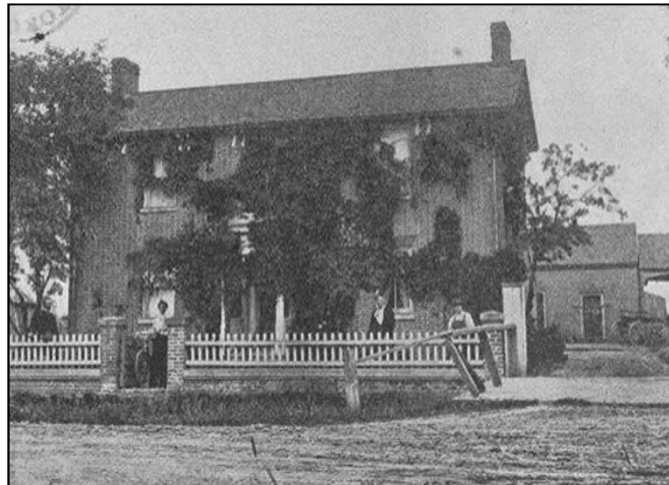
- Style, form, scale and massing of the two-storey addition
- Two gables on the north elevation with windows and segmentally arched voussoirs
- Ground floor with brick laid in common bond

**Historical/Associative
Value- YES**

795 BRANT STREET- Ontario Regulation 9/06 Summary

- The property at 795 Brant Street has historical value and direct associations with a theme and persons who are significant to the community of Burlington. The nineteenth century property owners of 795 Brant Street played a significant role in the City of Burlington's brickmaking and market gardening industries.
- The history of the property at 795 Brant Street yields information about the lives of the masons, builders, and market gardeners who played a significant role in the economic development of Burlington.

View of
house
when
owned by
William
Ghent,
circa 1902

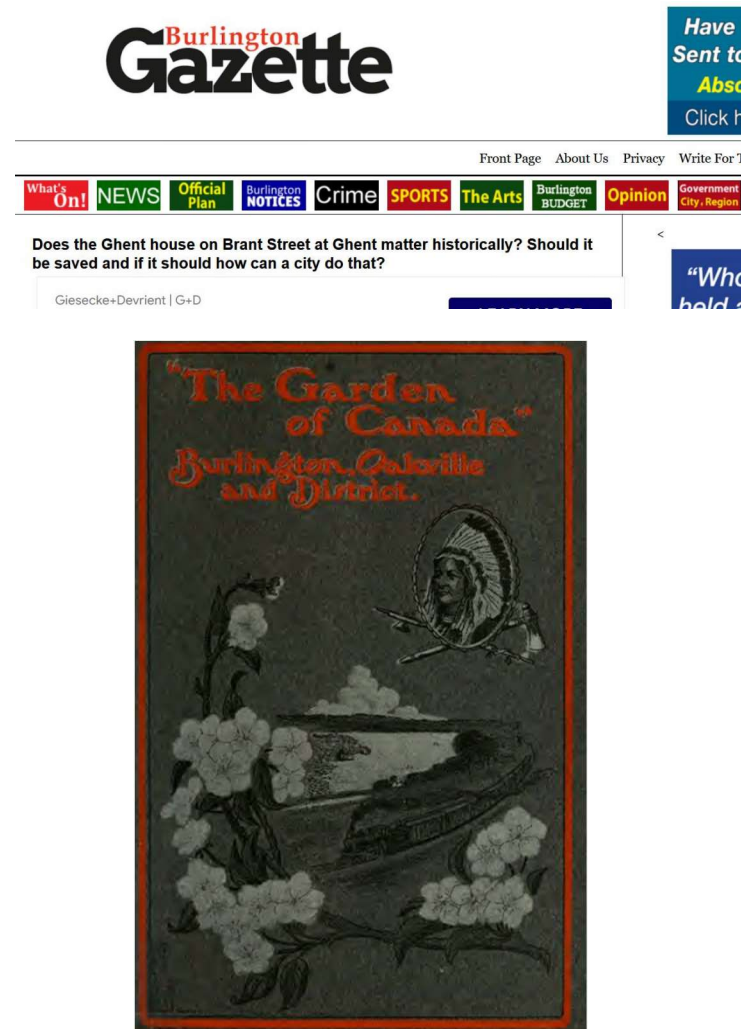


1924 FIP, frame
greenhouse associated
with 795 Brant Street

795 BRANT STREET- Ontario Regulation 9/06 Summary

Contextual Value- **YES**

- Although the house is screened by a variety of vegetation, the property has contextual value as a local landmark. Despite this reversible obstruction of views of the house, the house is seen by the community as a landmark at the corner of Brant and Prospect Streets, based on the community's interest outlined in heritage reports beginning in 1995. 795 Brant Street is one of three heritage properties (1134 Plains Road East, 2021 Blairholm Avenue, 736 King Road) currently within the City of Burlington that were nineteenth century fruit farms of early settlers that produced goods for the market garden industry.



Recommendation of the CHER

- ✓ Findings of the historical research, the site analysis, the comparative analysis, the application of Ontario Regulation 9/06, and professional expertise, determined the property at 795 Brant Street meets “one or more” of the criteria of Ontario Regulation 9/06 and therefore, merits designation under Section 29, Part IV, of the *Ontario Heritage Act*.

795 Brant Street- Timeline of Events

- **Oct 21, 2021**- Pre-app meeting
- **Mar 8, 2022**- Heritage Burlington recommends inclusion on register
- **June 21**- Added to Register, staff directed to negotiate, hire consultant
- **July 27**- Meeting with applicant team
- **Sept 21**- OPA, ZBA submitted
- **Oct 31**- Deemed complete
- **Nov 9**- Notice of intent to demolish
- **Jan 8, 2023**- Deadline to heritage designate



795 Brant Street- Highlights from Applicant's Heritage Impact Statement

- Page 6- consultant proposed that the development should retain the original 1854 house facing Brant Street
- Pages 63, 85, 95- Property meets four designation criteria
- Page 85 “the building was built around the 1850s and is considered a rare built form in Ontario due to its early construction date”



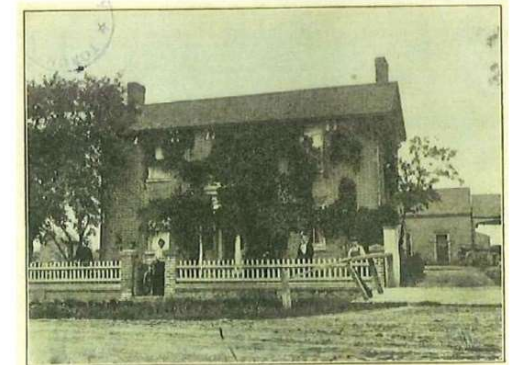
795 Brant Street- Official Plan and Zoning Bylaw Amendment Application

- Proposed 31 storeys, FAR 11.55:1
- Current OP- 6 storeys, FAR 1.5:1
- New OP- 25 storeys
- 356 residential units
- 485 sm² of retail at grade



795 Brant Street- Official Plan and Zoning Bylaw Amendment Application

- 1854 portion of the house, represents approximately 3.5% of overall site area (78m²), at the front of the site
- Would impact floor area ratio (FAR) of 7-storey podium

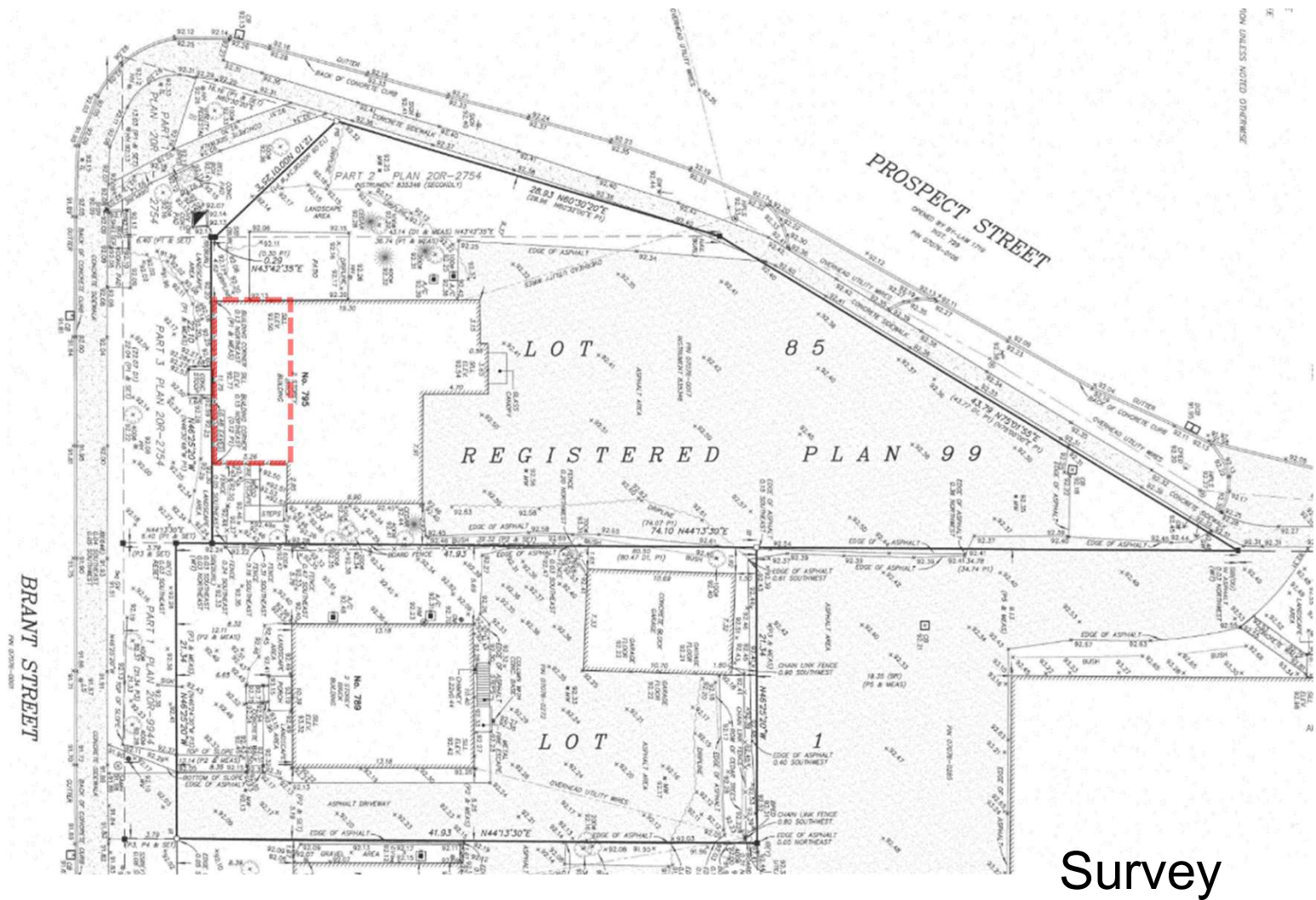


RESIDENCE OF W. GHENT, ESQ., BURLINGTON.
"The Garden of Canada", Burlington, Oakville and District. Page 45. 1902.

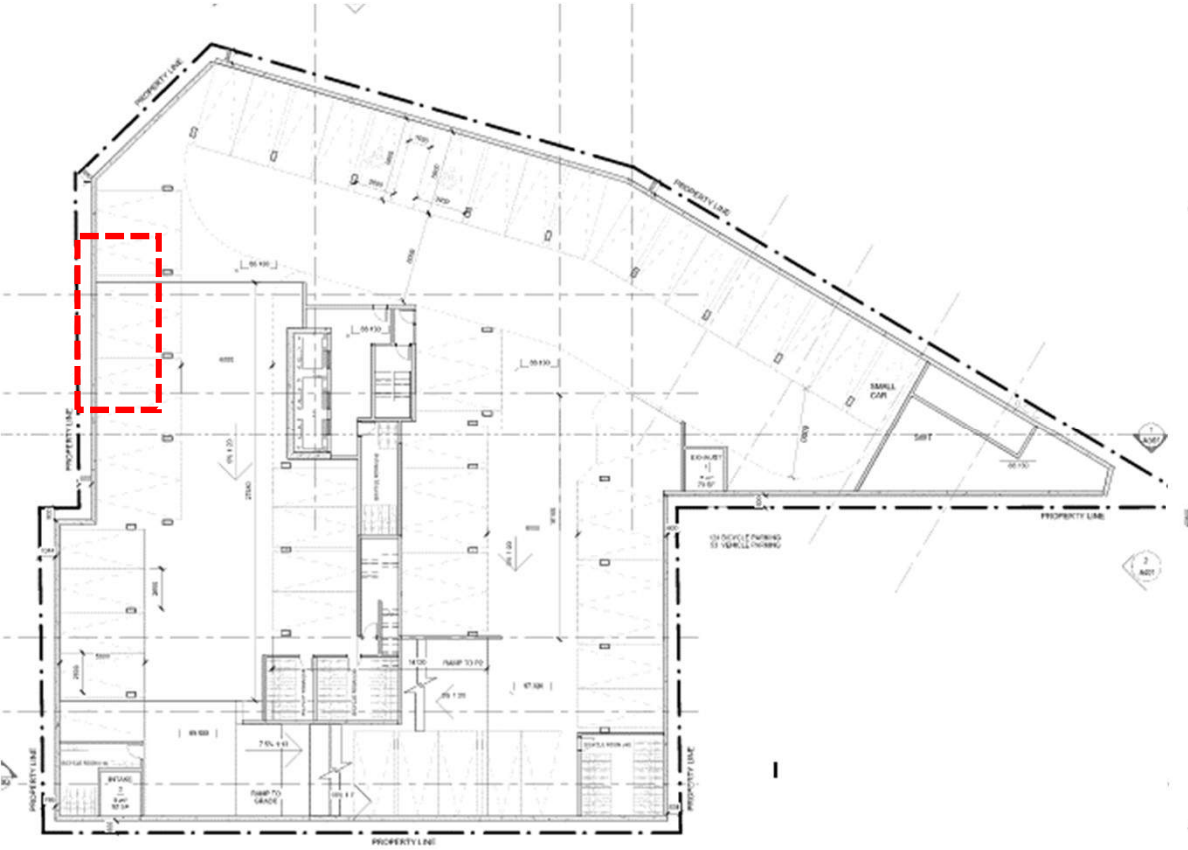


From "The Eyes of Memory"
documentary c. 1973

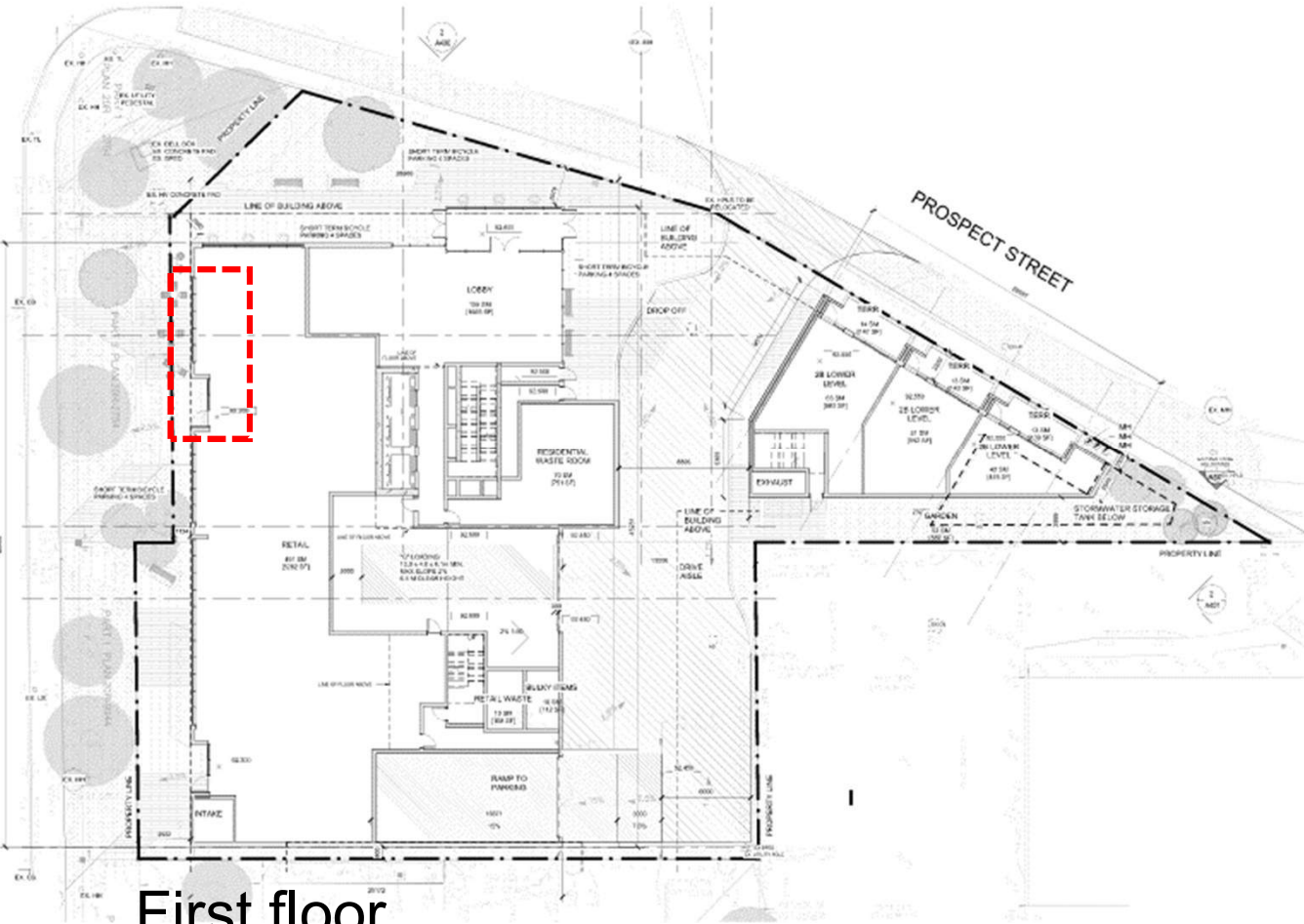
795 Brant Street- Official Plan and Zoning Bylaw Amendment Application



795 Brant Street- Official Plan and Zoning Bylaw Amendment Application

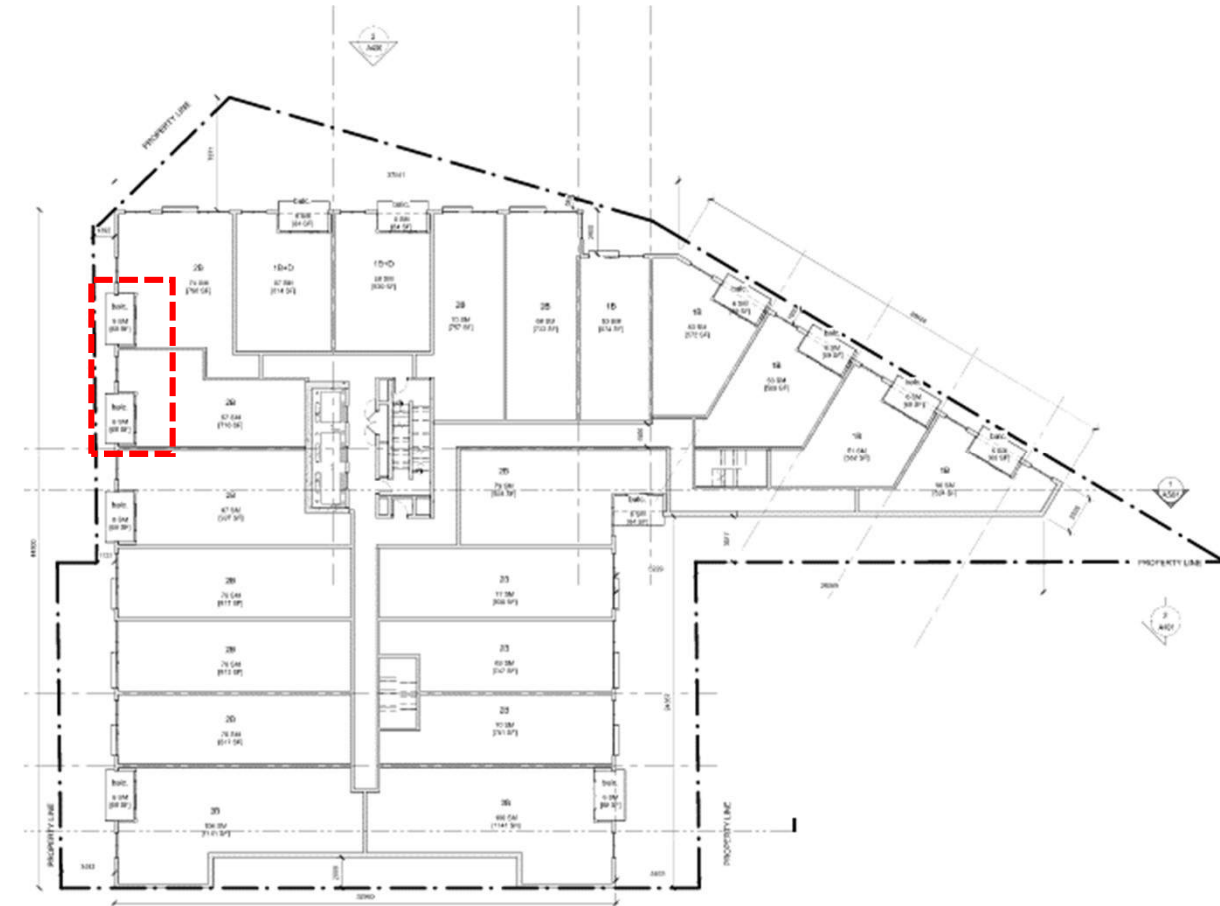


Underground parking level

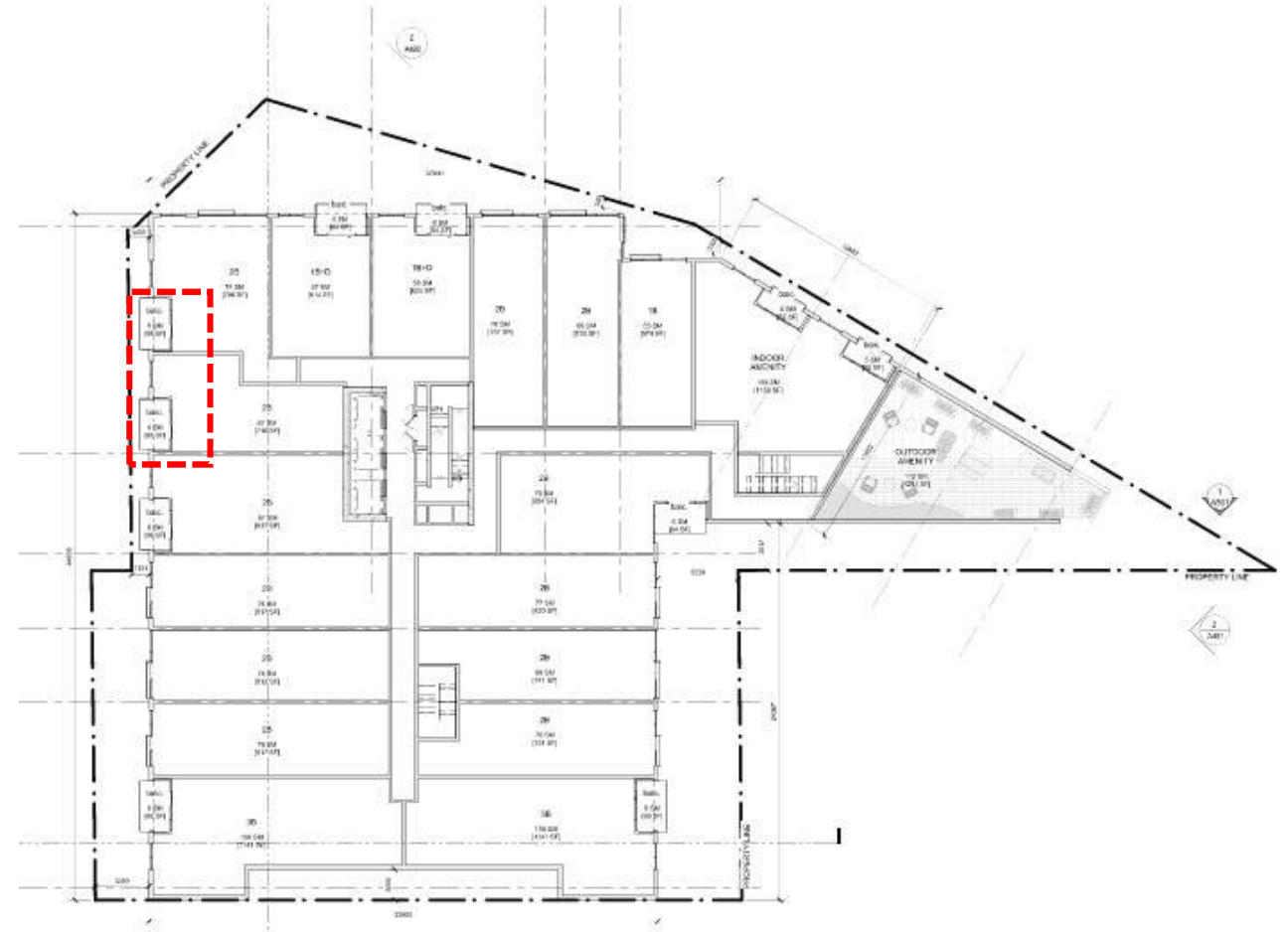


First floor

795 Brant Street- Official Plan and Zoning Bylaw Amendment Application



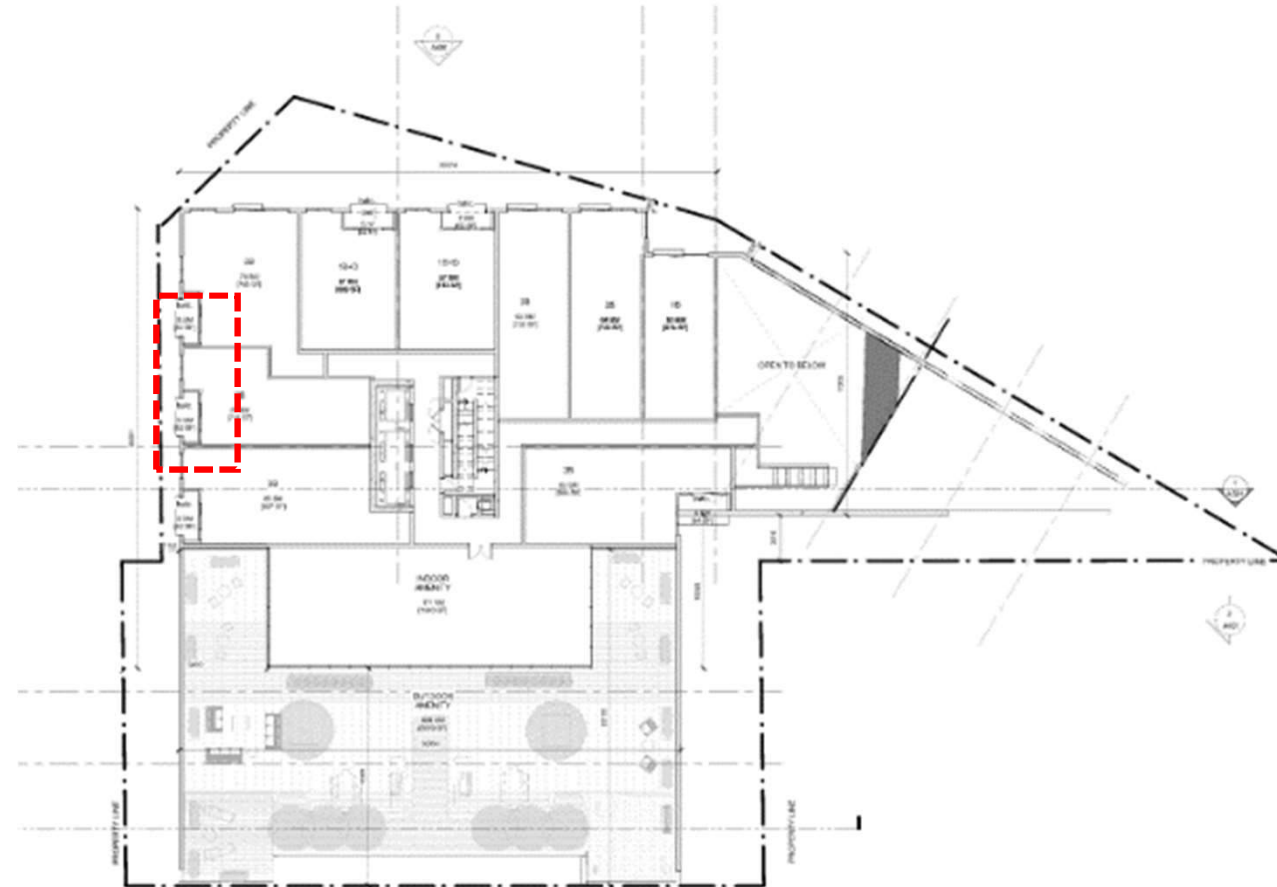
2nd-5th floor



6th floor



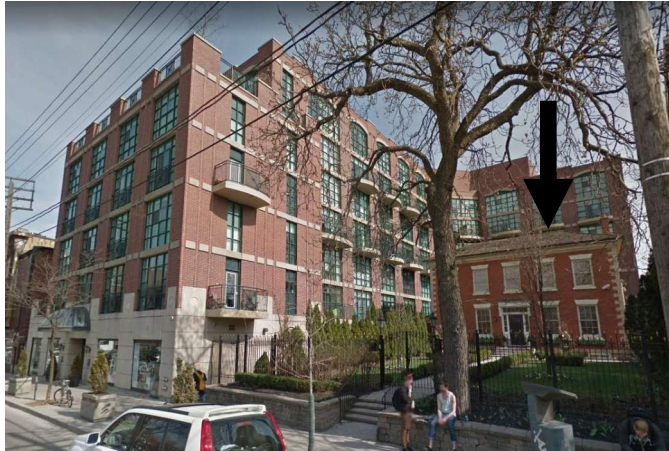
795 Brant Street- Official Plan and Zoning Bylaw Amendment Application



7th floor



795 Brant Street- Other Developments



905 Queen Street West, TO



The Grange- Boulton Manor,
TO



400 Jarvis Street- Canada
National Ballet School, TO



589 Sheppard Avenue West, TO

Staff Recommendation

State an intention to designate the property at 795 Brant Street under Part IV, Section 29 of the Ontario Heritage Act in accordance with the Heritage Evaluation of 795 Brant Street prepared by AECOM, dated November 23, 2022...



From: [REDACTED]
To: [Mailbox, Clerks; O'Reilly, John](#)
Cc: [REDACTED]
Subject: 488 Locust Street heritage registered
Date: Friday, November 25, 2022 12:08:13 PM
Attachments: [pre-demo Locust St 488 - 22-03-25.pdf](#)

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Thank you Mr. O'Reilly for your email dated Nov 16th, 2022 in which you ask us to submit an email to clerks@burlington.ca summarizing our position on our property located at 488 Locust St., Burlington.

We would like to participate on BOTH Dec 6th, 2022@ 9:30AM Community Planning Regulation and Mobility Committee Meeting regarding **PL-78-22** AND on Dec 13th, 2022 @1PM City Council Meeting; We will also try to register online using links you provided.

We purchased the above property with the intention to demolish and rebuild into a multi-generational home suitable for myself and my family. My wife and I have lived in Burlington for 35 years and raised our two children here; but now we are aging and both with chronic medical conditions. We were planning to use this property as a 3-story (triplex dwelling) residential building with the intent of living on the ground floor and have my son and daughter move in to the second and third floor to help support us as we get older.

At the time of submitting an offer to purchase this property, we put a 90 day condition to conduct our due diligence. Both My daughter and I contacted the City to ensure there would be no issues when it came to demolishing and modifying the home prior to permits. We reached out to Community Planner (email: heritage@burlington.ca) to inquire about the property's heritage status.

The response we received were as follows:

"488 Locust Street is not listed on the City's heritage register and is **not subject to a heritage designation bylaw. It has no heritage protections.**

For your information, the house is called the William Zimmerman House and was constructed in 1881. It appears on a list of properties, which have "heritage potential". However, this list **doesn't have any legal status and does not change the facts above, I just note it for your information.**

In addition, we had started the Pre-Demolition process that was signed by John O'Reilly (Planner II - Heritage Community Planning). The Signed Pre-demolition document attached with signature stating that the property can be demolished. Having been assured that this property will not be subject to a heritage status, we then removed our condition and completed the purchase of the property.

Had we anticipated any possibility after conducting our due diligence that there would be a chance for any potential change in heritage status, we would have not purchased this property.

We kindly ask that you please remove 488 Locust St from your list of Heritage Register or Designation. This is a home we would like to retire in to live out the rest of our years with the support of children.

Thank you for supporting our family in this matter,

Michael Sobhi,

35 year resident of Burlington

Cell:

email:

Item 5.3- Proposed Inclusion of Six Downtown Properties on the City of Burlington Heritage Register

Community Planning Regulation & Mobility Meeting
December 6, 2022



Why Conserve?

Preserving beloved buildings and character areas as our City transforms...



Village Square



St. Luke's Church & Cemetery



Recent Downtown developments

401-409 Brant Street

Background Pt 1/3

On July 12, 2022, City Council authorized the Downtown Cultural Heritage Landscapes Study and added the following direction:

“Direct the Director of Community Planning to connect with the Heritage Burlington Advisory Committee to reconvene and review each property in the cultural landscapes to determine which should be added to the Municipal Register; and

Report back to the Community Planning, Regulation & Mobility Committee meeting on September 13, 2022.”



Lower Brant Street, 1914



Background Pt 2/3

SUMMARY TABLE OF EXISTING AND PROPOSED HERITAGE PROPERTIES IN POTENTIAL CHLs 1-6				
Potential Cultural Heritage Landscape	Total Number of Properties	Existing Heritage Register Properties	Added to Heritage Register September 20	Considered for December 13
#1 Foot of Brant Street	15	3	6	1
#2 Locust Street	18*	8	5	1
#3 Village Square	1	1	N/A	N/A
#4 Downtown East	20	7	3	4
#5 Lakeshore Road and Burlington Avenue	13	6	4	0
#6 St. Luke's Church & Cemetery	3**	1	N/A	N/A
TOTALS	70	26	18	6

*447 and 449 Locust are a conjoined building, but separate properties

**One property contains the church & cemetery, the other two are undeveloped lands that extend to the lake and were historically part of the overall property

Background Pt 2/3

At the September 20 City Council meeting, Council added 18 properties to the heritage register and added the following direction:

“Definitely postpone (defer) the following properties for possible addition to the Heritage Register (PL-59-22) at the City Council meeting on December 13 and consult with the property owners:

353-355 Brant St

2010 Maria St

468 Elizabeth St

441 Elizabeth St

436 Pearl St

488 Locust St”



Lower Brant Street, 1914



Engagement Efforts

- **October 11-28th** Notification letters confirmed delivered to all owners
- **October 11-** November 1st: Email correspondence, in-person site visits, phone calls with 5/6 owners
- **November 1:** In-person consultation opportunity at 414 Locust Street (No attendees)
- **November 3:** Virtual consultation (Three attendees for two different properties)
- **November 17:** Follow up letters sent by purolator about December 6 CPRM Meeting. Phone calls and emails to all owners with contact information known



Brant Street, approximately 1920's

Engagement Results



353-355 Brant Street
Unknown



2010 Maria Street
Unknown



468 Elizabeth Street
Objects



441 Elizabeth Street
Objects



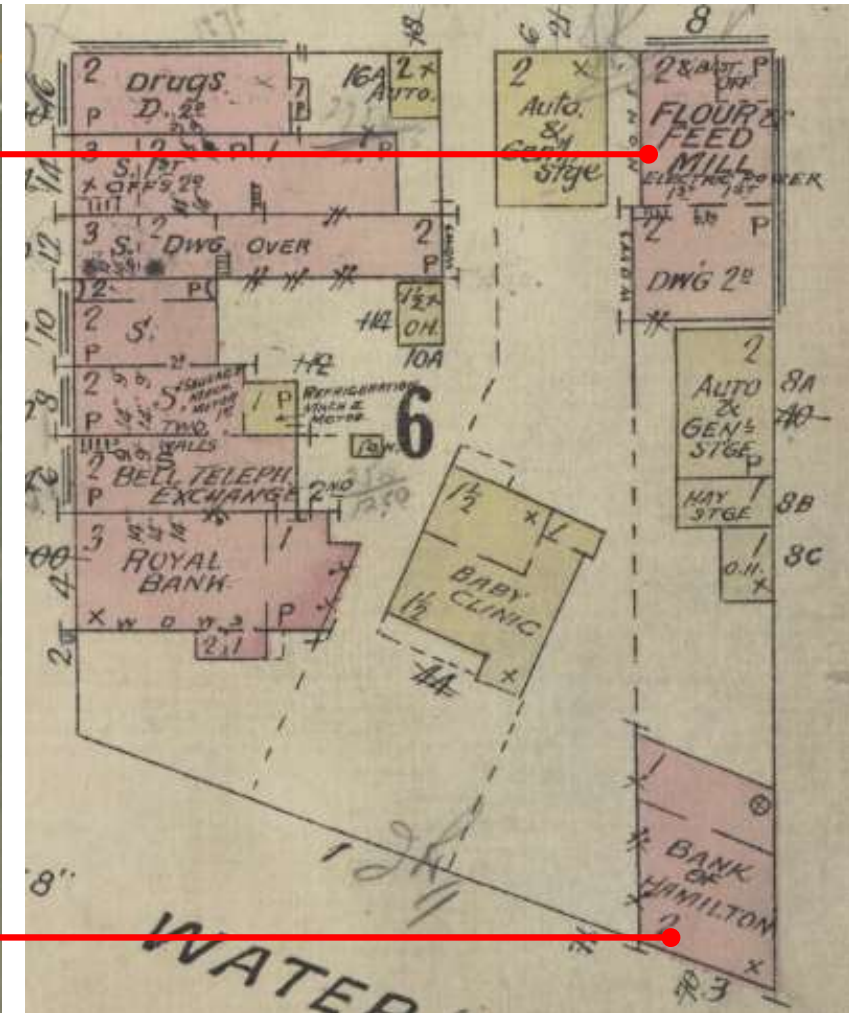
436 Pearl Street
Unknown



488 Locust Street
Objects

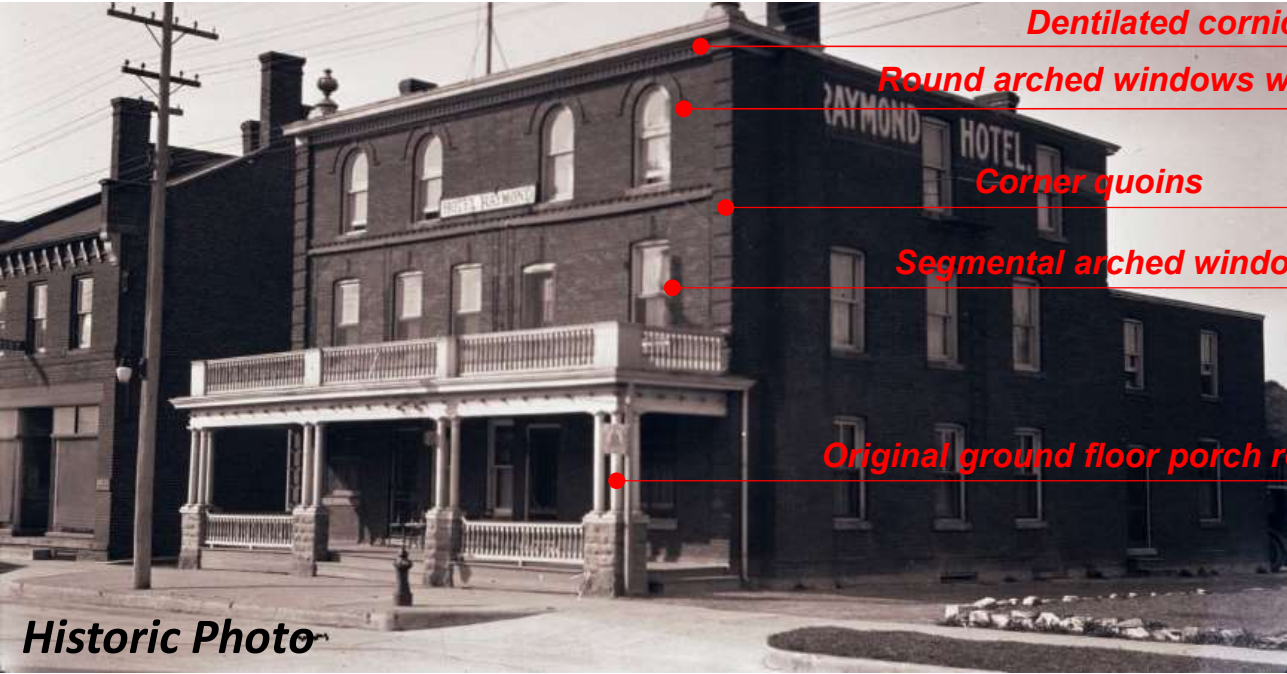
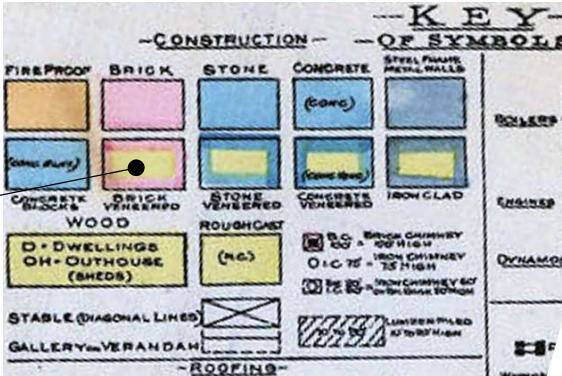
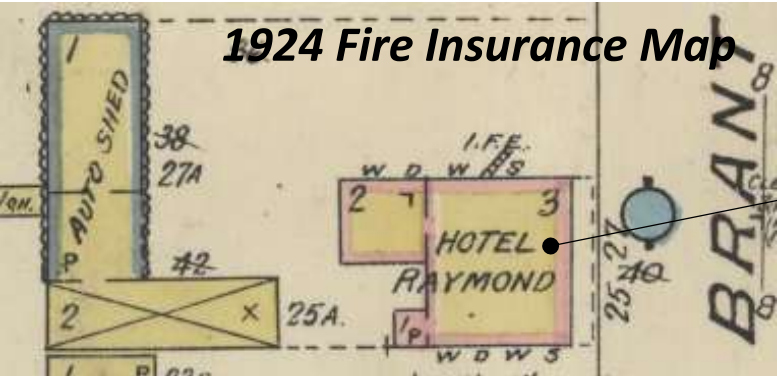
Methodology

- # 1. Comparison of fire insurance maps with satellite photos



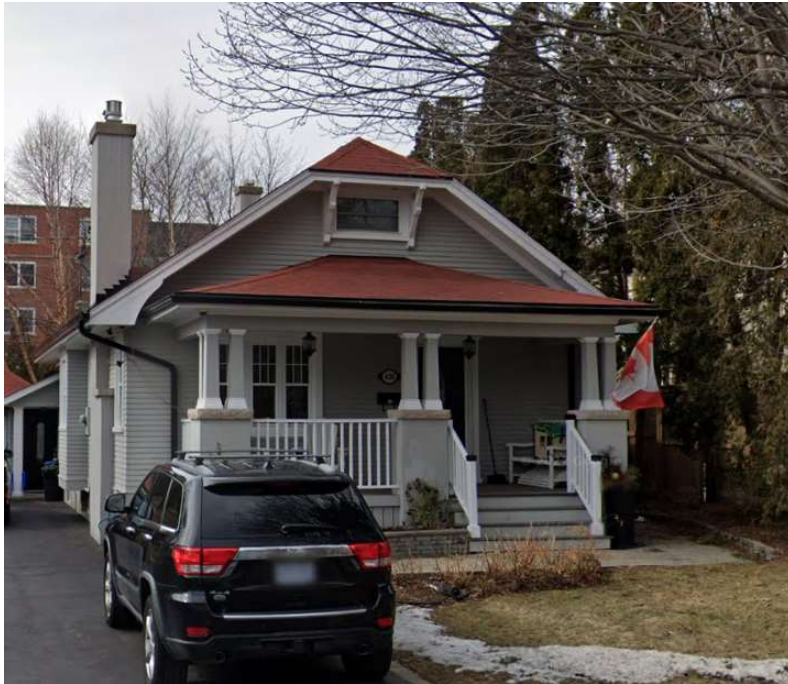
Methodology

2. Architectural Evaluation



Methodology

2. Architectural Evaluation



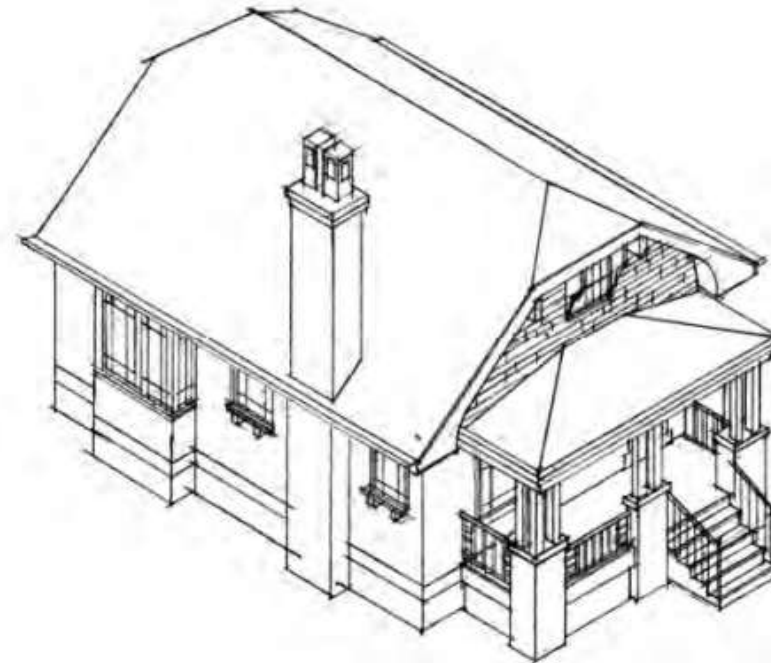
426 Burlington Avenue

CRAFTSMAN BUNGALOW
1900-1930

Gable or "Jenkins-head" (partially hipped) roof.

Bay windows tend to be square.

Concrete Block Foundations



1 or 1-1/2 storey house.

Brick ground floor construction is common, with gable ends of cedar shingles

Asymmetrical plan, with entrance to one side.

Wood double-hung windows. Elaborate glazing patterns, sometimes leaded.

Verandah is a dominant design feature.

Rafter tails often exposed, and cut into decorative shapes.

Heritage Styles Guide from Keeping Place: Heritage-Based Urban Design Guidelines for Downtown Burlington


Sample Listing Statements

2. 2010 Maria Street

Current Photo



Historic Photo


1924 Photo of water tower

1960 Aerial Photo


Legal Description	PLAN 92 BLK E PT LOT 1
Historic Land Use	Water tower (85' tall), former Police station
Date of Construction	1950s
Heritage Value or Interest	This two-storey masonry building is believed to have historical value for its former use as a police station. It is believed to have design value for its mid-century modernist details including long horizontal windows at ground level. The façade is a mix of brick and tile. Alterations include a reduction in the width of the upper storey windows.
Heritage Status	None
Assessment	(✓) Qualifies for Heritage Register

8. 353-355 Brant Street

Current Photo



Historic Photo (1914)



1914 post card of Brant Street looking north from what was then Water Street. From "The Prints of Burlington."

Legal Description	PLAN 92 PT BLK M RP 20R8210 PARTS 1,3,4
Historic Land Use	Retail
Date of Construction	Pre 1910
Heritage Value or Interest	Two-storey building believed to have historical value for its age and former retail use. The building is believed to have architectural value for its original form, scale and massing and its arrangement of upper storey segmental arched windows with stone or concrete sills. Alterations include aluminum windows, painted stucco covering the original masonry and cornice. Ground floor storefronts have been replaced. Original masonry side walls and structure may be intact.
Heritage Status	None
Assessment	(✓) Qualifies for Heritage Register

Conservation Tools

IDENTIFICATION



Listing on the Heritage Register

- Property appears on Heritage Register
- Any alteration permitted
- Demolition delayed (60 days)
- No permits needed
- No by-law
- No special guidelines
- Not registered on title
- No advance notice required
- Objection rights
- No OLT appeal rights

GROUP PROTECTION



Heritage Designation (District)

- Property appears on Heritage Register
- Alterations to common features in district restricted
- Demolition restricted
- Permits needed
- Area-specific bylaw
- HCD Guidelines
- Status registered on title
- Advance notice required
- Objection rights
- OLT appeal rights

INDIVIDUAL PROTECTION



Heritage Designation (Individual)

- Property appears on Heritage Register
- Alterations to particular building features restricted
- Demolition restricted
- Permits needed
- Property-specific bylaw
- Standards and Guidelines
- Status registered on title
- Advance notice required
- Objection rights
- OLT appeal rights

Non-designated vs Designated

Non-designated- 361 Brant Street (Many changes made)



Designated- 447/449 Locust Street (Few changes made)



Objection Rights

- Under the *Ontario Heritage Act*, owners can object to the listing
- There is no deadline for an objection
- Council must then reconsider listing and decide if property should continue to be listed or not



1959 Aerial Photo of Burlington, McMaster University Digital Archive



Staff Recommendation

Direct the Director of Community Planning to add the following list of properties to the Municipal Heritage Register and provide notice to the owner of the property within 30 days, pursuant to section 27(5) of the Ontario Heritage Act, R.S.O. 1990, c. O.18;

- 353-355 Brant St
- 2010 Maria St
- 468 Elizabeth St
- 441 Elizabeth St
- 436 Pearl S
- 488 Locust St



Brant Street 1920-1940 Joseph Brant Museum Collection

8. 353-355 Brant Street

Current Photo



Historic Photo (1914)



1914 post card of Brant Street looking north from what was then Water Street. From "The Prints of Burlington."

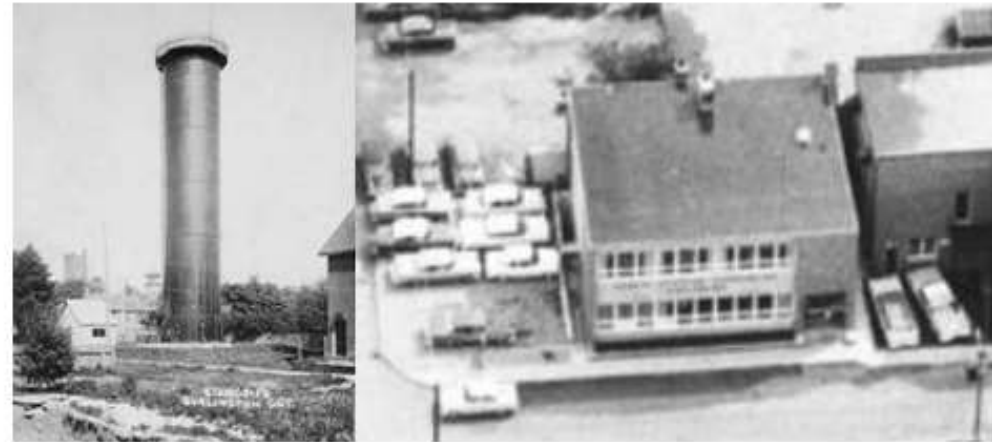
Legal Description	PLAN 92 PT BLK M RP 20R8210 PARTS 1,3,4
Historic Land Use	Retail
Date of Construction	Pre 1910
Heritage Value or Interest	Two-storey building believed to have historical value for its age and former retail use. The building is believed to have architectural value for its original form, scale and massing and its arrangement of upper storey segmental arched windows with stone or concrete sills. Alterations include aluminum windows, painted stucco covering the original masonry and cornice. Ground floor storefronts have been replaced. Original masonry side walls and structure may be intact.
Heritage Status	None
Assessment	(✓) Qualifies for Heritage Register

2. 2010 Maria Street

Current Photo



Historic Photo



1924 Photo of
water tower

1960 Aerial Photo

Legal Description	PLAN 92 BLK E PT LOT 1
Historic Land Use	Water tower (85' tall), former Police station
Date of Construction	1950s
Heritage Value or Interest	This two-storey masonry building is believed to have historical value for its former use as a police station. It is believed to have design value for its mid-century modernist details including long horizontal windows at ground level. The façade is a mix of brick and tile. Alterations include a reduction in the width of the upper storey windows.
Heritage Status Assessment	None
	(✓) Qualifies for Heritage Register

8. 468 Elizabeth Street

Current Photo



Historic Photo



1915 Photo of Elizabeth Street looking North towards Caroline

Legal Description	PLAN 92 BLK F PT LOT 6
Historic Land Use	Residential (dwelling)
Date of Construction	Pre 1910
Heritage Value or Interest	This two storey masonry building has historical value for its age and potential to yield information about Burlington residential areas before 1910. It is believed to have design value for its vernacular homestead and craftsman details. The house is two bays wide, with entrance positioned at the side of the ground floor. The full width veranda with craftsman style stone base is original. Two-over-two sash windows feature segmental arches.
Heritage Status	None
Assessment	(✓) Qualifies for Heritage Register



16. 441 Elizabeth Street

Current Photo



Legal Description	PLAN 92 BLK K PT LOT 3
Historic Land Use	Empty lot
Date of Construction	Unknown, post 1924
Heritage Value or Interest	Believed to have some historical and design value. Basic vernacular homestead with heavily altered façade with minimal distinguishing historic features. Segmental arched window visible on side elevation
Heritage Status	None
Assessment	(✓) Heritage Burlington Advisory Committee recommends for inclusion on Register

18. 436 Pearl Street

Current Photo



Legal Description	PLAN 92 BLK K LOT 14
Historic Land Use	Residential (Dwelling)
Date of Construction	Pre 1910 (Middle gable roof portion)
Heritage Value or Interest	This building is believed to have some potential historical value due to its local reputation and conversion from a two-storey gable roof house to a popular restaurant. Extensively altered with ground storey additions. Second storey has been re-clad and no window openings remain.
Heritage Status	None
Assessment	(✓) Heritage Burlington Advisory Committee recommends for inclusion on Register



7. 488 Locust Street

Current Photo



Historic Photo



1950s image of Locust Street- Vintage Burlington

Legal Description	PLAN 74 PT LOT 50
Historic Land Use	Residential (Dwelling)
Date of Construction	Pre 1910
Heritage Value or Interest	This property is believed to have historical value for its significant age and potential to yield information about Burlington's residential neighbourhoods before 1910. It is also believed to have architectural value for its Victorian vernacular features including a covered porch, bay window, round arched window in the second-storey gable and two-over-two sash windows.
Heritage Status	None
Assessment	(✓) Qualifies for Heritage Register



NOTICE OF OBJECTION

Correspondence from Elizabeth Law

Addressing our objections to Heritage Status for 437 & 441 Elizabeth Street

437 Elizabeth St. –

- a new addition was added which is not original to building
- original brick has been painted

Both buildings are not of any significant architectural detail that is of any cultural importance. The buildings are presently not taking advantage of property lot size for potentially more dense coverage. When both buildings were purchased the terms and conditions did not include heritage restrictions – this is being “beside” introduced “after”. Existing (adjacent properties) are both high rise construction. The properties should be allowed to be developed for more people to enjoy the downtown (high rise) experience. These properties 437 & 441 will be devalued if given the heritage designation.



Aaron I. Platt
aaronp@davieshowe.com
Direct: 416.263.4500
Main: 416.977.7088
Fax: 416.977.8931
File No. 703951

December 5, 2022

By E-Mail Only to *kevin.arjoon@burlington.ca*

Mr. Kevin Arjoon, City Clerk
The Corporation of the City of Burlington
426 Brant Street, P.O. Box 5013
Burlington, ON L7R 3Z6

Dear Mr. Arjoon:

**Re: City of Burlington
Proposal to List 468 Elizabeth Street, Burlington on the Heritage Register
Objection to Listing due to Lack of Particulars
Request for Deferral**

We are counsel to Crystal Homes, the owner of 468 Elizabeth Street (the “**Subject Property**”).

We are writing in response to the City’s proposal to list the Subject Property on the Heritage Register.

Having received a five-sentence written justification for the proposed listing of the Subject Property in the Heritage Register, our client requests more time to complete their own, more detailed, study.

Independent study is necessary as the particulars included in the justification fail to provide insight into the nature of the purported heritage value of the Subject Property. Accordingly, our client disagrees with the proposed listing of the Subject Property.

Given the specialized nature of the knowledge required to conduct a thorough study, we anticipate that there will not be sufficient time to complete the work ahead of Council’s meeting on December 13, 2022. Given the upcoming holiday season, we expect that such constraints will last into the new year.

A deferral is appropriate and proportionate under the circumstances, given the considerable, uncompensated, inconvenience that is created by being listed in the Heritage Registrar under the *Ontario Heritage Act*.

Yours truly,
DAVIES HOWE LLP



Aaron I. Platt
Professional Corporation

AIP: al

copy: Mr. John O'Reilly, City of Burlington, Planner II, Heritage

(Introductions)

Purpose of our delegation is to show support for the recommendations in the Outdoor Patio Program report, **with modifications**.

Staff is asking Committee to endorse IN PRINCIPLE the Draft Patio Design Guidelines included as Appendix B.

Both my organization, the BRA and industry suppliers were consulted on these draft guidelines during an intensive briefing last month. These were the same draft guidelines shared with members of City Council.

From that meeting we jointly tabled 14 recommendations and edits we would like to see addressed. We expect that these amendments will be duly considered when staff re-approaches with a final report in Q1.

Providing blanket support for the proposed fee schedule in the report is however, a challenge.

We are reminded of the projections from industry experts that the recovery of the hospitality sector, province wide, is a five to seven year journey toward pre-pandemic sales.

Our downtown boasts the largest concentration of restaurants and hospitality service providers in Halton Region. As advocates for this industry, Craig and I will continue to push for the removal of all barriers and additional costs to operators that could impair their recovery.

It is well known that chronic labour shortages, persistent supply chain concerns and the cost of fuel are already impediments to recovery.

Our goal today is to provide DIRECT advice and solutions to Committee as staff consider the rates & fees by-law.

RECOMMENDATION 1: We are asking Committee and Council to reduce the insurance burden on operators from \$5M to \$2M in 2023.

\$2M is the approved rate from last season.

I would bring Committee's attention to the correspondence submitted by Team Burlington in support of this reduced cost.

For many in the industry, Chair, the proposed leap to \$5M in patio liability insurance is a clear barrier to entry. This is especially true for smaller operators in the BIAs where it is typical to carry insurance in the \$1M-\$2M range.

We would like to see this program expand, not only in its geography but also in the number of participants. The industry has concluded that a requirement for \$5M and the resultant leap in cost to the operator to meet that standard, an estimated **\$10-\$40K** per business annually, would be a significant disincentive to participate.

RECOMMENDATION 2: We are asking Committee and Council to reduce or eliminate many of the proposed fees outlined in the present report.

Prior to the pandemic, operators that encroached on public parking stalls were charged a fee of \$1,720 to offset the loss of revenue that would be generated.

In June 2020 Council's wisdom was to waive that fee in its entirety.

This was part of a municipal support package that waived *also* the fees and requirements for site plan approval and zoning clearance certificates.

The present report is seeking a *re-introduction* of the parking space fee to an amount of **\$750** per space. In addition, it introduces a new fee of **\$500** per application for patios encroaching on-street to assume the cost for any bollards, hazard-marker signage or barriers required.

While we appreciate the desire to include municipal cost-recovery measures, we are in fact seeking a municipal investment in a permanent patio program commencing 2023.

Finally Chair, the staff recommendation in the report is OPTION 2: *“the discontinuation of a municipal investment in on-street barriers for the creation of “pedestrian clear paths” on roads”*.

We agree with the sentiment of the citywide patio survey referenced in the report: the outdoor dining experience was *not enhanced* by the set up of large, orange waterfilled barriers last season.

The hospitality sector downtown **does** support the need for a consistency of look and feel in the design of the patios and rights of way.

Yet, our support for the new design guidelines, in principle, comes with significant consequence.

By the municipality rescinding its investment in the creation of pedestrian clear paths the onus will fall squarely on the operators to fund and install this required infrastructure.

This is an unacceptable cost.

Page 12 of the Report outlines a solution to the problem of funding a centrally-managed pedestrian walkway system: The Municipal Accommodation Tax Reserve Fund.

A permanent patio program citywide requires a permanent investment in pedestrian walkways.

Our knowledge of the MAT program is the following:

- 1) Local hospitality providers have already commenced the collection of this tax

2) 50% of this revenue is to be used at the discretion of the City of Burlington

3) The intention of the MAT Fund is to invest in projects that *“improve visitor and resident experiences by increasing the infrastructure and tourism capacity of the City”* as well as *“investing in placemaking initiatives that provide economic recovery to tourism and hospitality businesses”*

Our view is that this Fund is perfectly aligned to support the needed infrastructure that the revised Design Guidelines demand.

Yet, this program is out-of-reach until 2024.

Chair, we submit

RECOMMENDATION 3: We are asking Committee and Council to expedite the MAT Fund to 2023. Specifically, to signal pre-approval for the purchase or rental of pedestrian platforms to support the Patio Program city-wide. Alternatively, to identify a similar funding source to meet this goal.

In conclusion, Chair, our delegation is seeking funding certainty from this Council as operators weigh their participation in the proposed Patio Program for next year.

We submit that if the tenets of the present report were in effect today including: higher insurance requirements, the introduction of new fees, and, a significant expense to furnish the public realm, most operators would simply opt out.

- That concludes our delegation, we will take questions

2023 City of Burlington Outdoor Patio Program - Update for Q4 2022

CPRM December 6, 2022
PL-76-22
Staff Presentation



Jason Brander, MPA, MCIP, RPP
Special Business Area Coordinator
December 6, 2022

Background

- The intent of report PL-76-22 is to provide an update on the City-Wide Patio Program and the next steps for the project. The report also requests Council endorsement of the design guidelines.
- There will be another report, which is intended to be the final report no later than February 2023.
- That report will make final recommendations on fees, insurance and will bring forward amending By-laws which will implement the standards contained in the final guidelines.
- The draft guidelines will also be amended to implement the feedback received to date and today from Council.



City-Wide Patio Program Update

Project Plan

August-September 2022	<ul style="list-style-type: none">• Project Kick Off.• Formation of interdepartmental Patios Team, to meet every two weeks for the duration of the project.• Set up project website and online questionnaire that engages both businesses and area residents.
October-November 2022	<ul style="list-style-type: none">• Conduct research and develop draft city-wide patio guidelines and program structure.• Community engagement to present draft city-wide patio guidelines and program structure.
Q4 2022 and Q1 2023	<ul style="list-style-type: none">• Preparation of draft city-wide patio guidelines and program structure. Report to Burlington City Council in advance of the 2023 patio season.
Q2 2023-onward	<ul style="list-style-type: none">• On going monitoring and refinement of policies, regulations and guidelines.

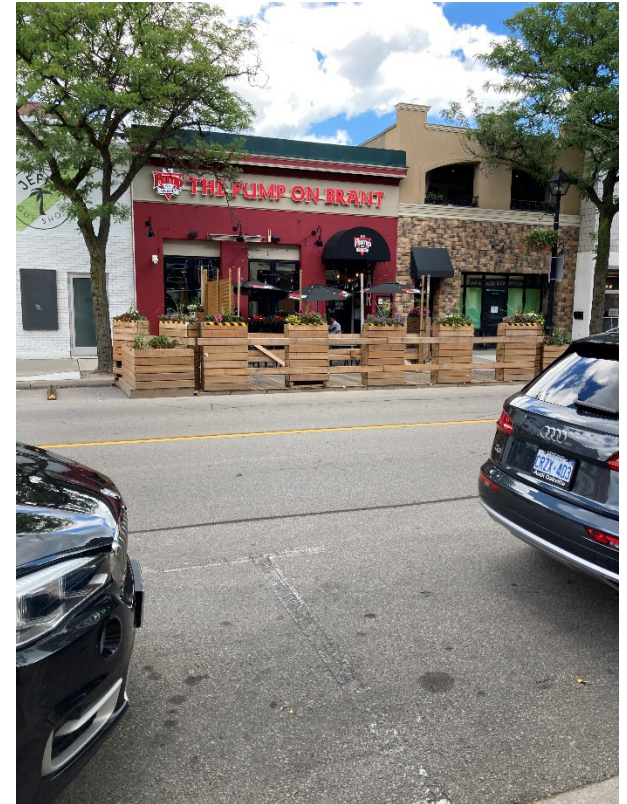
Consultation to Date

- **July 29, 2022** - City Staff, the Burlington Downtown Business Association, and stakeholders from the patio industry participated in a walking tour of the Burlington Downtown.
- **September 9, 2022** – Focus group meeting held with members of the Burlington Restaurant Association (BRA) and BDBA to discuss the project, survey and next steps.
- **September 12 – October 11, 2022** – Get Involved Burlington website launched providing project updates. A public survey was launched about the City-Wide Patio Program to provide an opportunity for residents, patio operators and businesses to comment on the current program and what they would like to see as part of a future.
- **November 10, 2022** – Roundtable with the BRA and BDBA with respect to the draft guidelines.
- **November 10, 2022** – Presentation of the draft guidelines to Accessibility Committee.
- **December 2, 2022** – Guidelines posted for public comment on Get Involved Burlington Page.
- Ongoing consultation and discussion with our internal commenting partners.

Draft Design Guidelines

For 2023 Patio Season

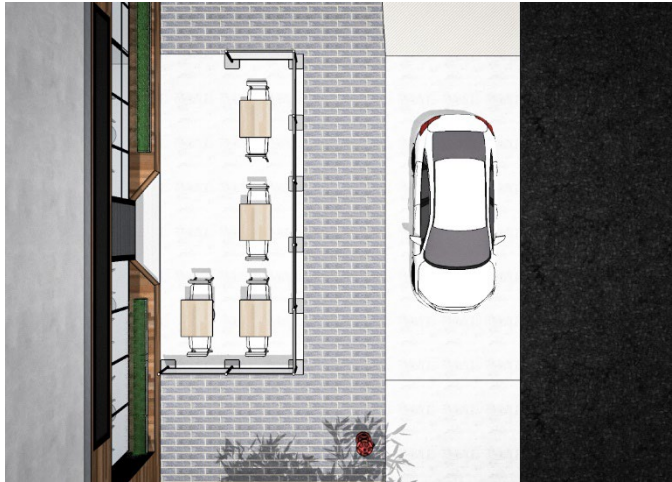
- Design guidance for patios on public property (curb lane and sidewalks), as well as patios on private property;
- Accessibility requirements for all patios;
- Instructions of how operators can apply and step-by-step details on how applications will be processed;
- Guidelines related to fencing, umbrellas and canopies; and
- Fire safety requirements.



Proposed Design Guidelines vs. Previous Design Guidance

Standard	Pop-Up Patio Program (2015-19)	Temporary Patio Program (2020-22)	Proposed Patio Burlington Program - 2023
Pedestrian Clear Path	2.0 m horizontal	2.0 m horizontal	1.8 m horizontal 2.44 m vertical
Dates of Operation	May 15-September 16 (on average)	April 15-October 31	No Change
Number of Patios	Limit of 10 within the Downtown	No limit	No limit
Patio Types	Sidewalk Patio, Curb Lane Patio w/Pedestrian By-pass	No specific regulations regarding patio type.	Sidewalk Patio Curb Lane Patio Patio on Private Property
Temporary Tents	No specific regulations regarding temporary tents.	Per OBC & AGCO Requirements	Per OBC requirements. Locational requirements carried forward.

Types of Patios - Flexibility Based on Context



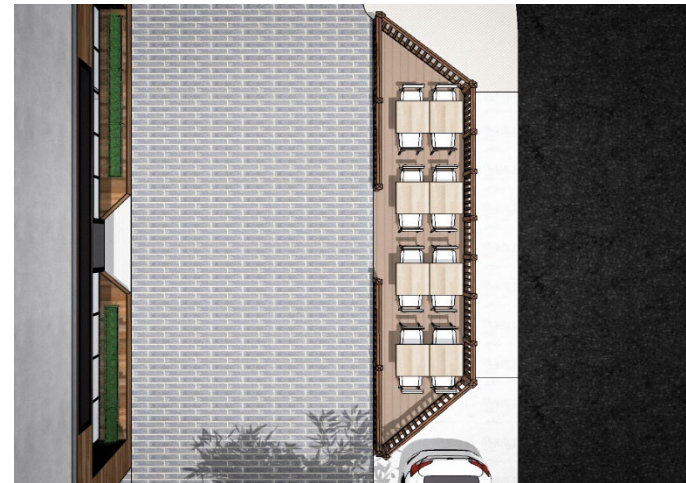
1. Frontage Patio



2. Curbside Patio



3. Frontage Patio w/ Pedestrian By-Pass



4. Parklet Patio

Fees

- As part of the original Pop-Up Patio Program from 2015-19, the licensee was responsible for payment of fees to off-set the loss of revenue from parking spaces, which amounted to approximately \$3,254.00 for 154 days per space. This fee was eventually reduced and is now \$1,720.00. It was \$1,806.00 as recently as 2019.
- Most municipalities surveyed that were charging a fee for temporary patios reverted to regular permit fees for private property.
- Staff are investigating market rates based on commercial land value and the rates of surrounding municipalities, which is how we will arrive at a fee recommendation for the 2023 season a part of the Q1 report.

Proposed Insurance

For 2023 Patio Season

- Recommendation for a \$5 million liability limit, which is a resumption of liability limits from previous years patio programs and was arrived at following consultation with Legal Services including the City's Insurance and Risk Management Officer and City's insurance broker.

Options for Operation of the Program

For 2023 Patio Season

Option 1: Continue to Provide Barriers for the Creation of Pedestrian Clear Ways (COVID-era measure)

- Maintaining the status quo, which would utilize the City-owned orange barriers and asphalt ramps to permit pedestrian clear paths on the roadway at an ongoing operational cost of \$15,500.00.
- This cost would be recovered through an additional fee on top of the base fee, administered at the time an operator is approved for a curb lane patio, if there is additional work required for the City to install and maintain required safety devices (knock down bollards, hazard marker signage, planters, etc.)

Options for Operation of the Program

For 2023 Patio Season

Option 2 (Recommended by Staff): Discontinue Providing On-street Barriers for the Creation of Pedestrian Clear Paths on Roads (Pre-COVID approach):

- This would place the onus on restaurant operators to provide and install a pedestrian by-pass where permitted, which is the same practice as the former Pop-Up Patios program.
- There would still be ongoing costs associated with installing and maintaining required safety devices, which could include the installation of orange barriers in some locations, at an estimated cost of \$10,000.00. However, the requirement for the City to install asphalt ramps to access pedestrian clear paths would be eliminated.
- Based on the fees as outlined above and assuming a similar uptake of 14 patios on public property like the 2022 patio season, the revenues generated by collecting a permit fee at the rates recommended above may offset costs by approximately \$10,000.00 for 2023.

Next Steps

For 2023 Patio Season

- Q1 2023 Final Report – **no later than February** which will implement a streamlined application and permit process, finalized fee structure and patio design guidelines.
- Staff will recommend approval of an amendment to Zoning By-law 2020 to permanently implement zoning standards for the outdoor patio program.
- Staff recommend that Council endorse, in principle, the draft Patio Burlington Design Guidelines attached as Appendix B, with modifications as a result of additional stakeholder consultation to be included in a Final Report to Council by Q1 2023.

For more information, visit:

<https://www.getinvolvedburlington.ca/city-wide-patio-program>

City Wide Patio Program



The City of Burlington is creating a set of new guidelines for patios and temporary tents. The new guidelines will:

- provide design direction to business operators,
- think of pedestrians, cyclists and motorists,
- create consistent rules, regulations and design for patios,
- create a new, streamlined process to apply for a patio permit for operators.

As part of this study, staff are looking into a City-wide approach to patios. Your feedback will help us to create new guidelines.

We introduced patios in 2015 under the Pop-Up Patio Program in the downtown core. During the City's COVID-19 response, the [Temporary Outdoor Patios](#) Program was approved by Council and runs until October 31, 2022.

Restaurant and business owners, please contact [Jason Brander](#) to fill out the business/restaurant patio survey.

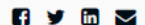
SURVEY

Patio Survey General Public

Please provide your input as we prepare for the 2023 patio season. This survey is for the general public.

Restaurant/business owners, please contact [Jason Brander](#) for the restaurant/business patio survey.

Take Survey



Team Burlington
414 Locust Street
Burlington, ON
L7S 1T7

CPRM December 6, 2022
PL-76-22
Correspondence from Team Burlington

November 28, 2022

Members of Burlington City Council
426 Brant Street
Burlington, ON
L7R 3Z6

Re: Team Burlington Advocacy on Patio Liability Insurance

Throughout the pandemic Team Burlington which includes Burlington Economic Development, Burlington Chamber of Commerce, Tourism Burlington, Burlington Downtown Business Association and the Aldershot Village BIA have advocated on behalf of businesses. The Hospitality sector has been one of the hardest hit sectors by COVID-19 and faces significant barriers to sustainability. Increasing fixed operating costs remain an issue for restaurants and they are struggling with increased rents, insurance premiums, and the new minimum wage all of which are increasing the costs of operating their business. At the same time inflation is adding additional costs for the business and decreasing the disposable income that customers are able to spend on restaurants. While the grants and other supports in place to help businesses through the impacts of COVID-19 have ended the hospitality sector is still facing many obstacles to survival.

The average cost of insurance for a restaurant based on information provided by the Burlington Restaurant Association is \$20-40K in annual premiums depending on the size and nature of the restaurant. An increase to \$5 Million liability (from \$2 Million) insurance increases the premium by 50 – 100% depending on the insurance carrier. This would result in an additional \$10 – 40K per business on an annual basis to meet the temporary patio policy requirements currently in place.

Team Burlington has regular engagement with the business community including the Digital Main Street Service Squad and My Main Street Ambassadors who have engaged over 500 business in 2022. Burlington's hospitality sector continues to voice concerns around recovery and have still not seen profits return to pre pandemic levels. Within the private sector, typically restaurants and large private landlords of commercial plazas hold liability insurance in the \$5-10 Million range as part of lease agreements. Additional feedback that Team Burlington received from the Burlington Restaurant Association indicated that while the majority of restaurants hold a minimum of \$5 Million liability, smaller establishments with limited alcohol sales may hold only \$1 Million in liability insurance. Likewise for smaller commercial landlords, particularly in the Business Improvement Areas (BIAs), the requirement of restaurants and cafes for liability insurance for patios may be in the \$1 -2 Million range. The requirement of liability insurance set at \$5 Million may create a barrier for smaller establishments to remain competitive and service customers who prefer outdoor dining.

Team Burlington is calling on the City of Burlington to remove all barriers and additional costs to support Burlington businesses and encourage their survival. In line with previous years, we are asking that Council give consideration to decreasing the patio liability insurance minimum to \$2 Million dollars for 2023 to support businesses trying to survive the impacts of COVID-19. This ask is inline with the council approved patio liability requirements in 2021 and 2022 which were seen as essential element of supporting the hospitality sector during COVID-19.

Sincerely,



Anita Cassidy
Executive Director
Burlington Economic Development



SUBJECT: City of Burlington submissions as of November 25 on Ontario's Housing Supply Action Plan and Bill 23

TO: Community Planning, Regulation & Mobility Cttee.

FROM: Community Planning Department

Report Number: PL-82-22

Wards Affected: All

File Numbers: 145-26

Date to Committee: December 6, 2022

Date to Council: December 13, 2022

Recommendation:

Direct the Director of Community Planning to provide any additional comments based on feedback at the December 6 CPRM Committee to the Province in advance of Council approval on December 13, 2022.

PURPOSE:

The purpose of this report is to share the submissions, to the Province of Ontario in response to the various consultations related to *Bill 23, More Homes Built Faster Act, 2022*.

Vision to Focus Alignment:

- Increase economic prosperity and community responsive city growth
 - Improve integrated city mobility
 - Support sustainable infrastructure and a resilient environment
 - Building more citizen engagement, community health and culture
 - Deliver customer centric services with a focus on efficiency and technology transformation
-

Background and Discussion:

As set out in [CS-12-22: Consultations on Bill 23 More Homes Built Faster, 2022](#) the province introduced Bill 23, *More Homes Built Faster Act, 2022* on October 25, 2022.

The goal of the legislation is to facilitate the construction of 1.5 million new homes in Ontario by 2031. The omnibus bill proposes amending a number of existing statutes including: the *Planning Act*, *Ontario Heritage Act*, *Development Charges Act*, *Conservation Authorities Act*, and *Ontario Land Tribunals Act*, amongst others, and introduces new legislation named *Supporting Growth and Housing in York and Durham Regions Act, 2022*.

On November 23, one day in advance of the first deadline, consultation periods were extended for several postings. Regardless, since the first reading of Bill 23, the province proposed a number of amendments further emphasizing the lack of consultation and shortened timelines in order for municipalities to provide comment. Staff are disappointed to note that at the time of preparing this report, the Bill has received Royal Assent.

These comments follow through on the commitment made in staff report PL-27-22 [City's response to the Housing Affordability Task Force recommendation](#) report to provide timely comments on any Environmental Registry of Ontario (ERO) postings subject to subsequent Council approval. The attached comments were prepared by staff and informed by the guiding principles set out in [CS-12-22: Consultations on Bill 23 More Homes Built Faster, 2022](#) including:

- More Homes Built Faster
- Complete Communities
- An Engaged Community
- Growth Pays for Growth
- Matters of Provincial Interest
- Public Health and Safety
- Environment, Urban Design and Climate Change

The attached responses fall into three categories:

- Comments "Submitted" by their deadline indicating that given the short commenting period, immediately after the municipal election, City Council was not afforded the opportunity to review and endorse the comments prior to submission and additional comments or refinements may be submitted after the commenting deadline;
- "Not Submitted" as these comments have not yet been submitted to the ERO as comment are due after CPRM Committee consideration; or
- "No submission".

Please refer to the listed appendix for more details on each.

Posting / Name	Submission (Submitted; Not Submitted or No Submission)	Consultation Deadline
Planning Act (Schedule 9 of Bill 23) ERO 019-6163	Refer to Appendix A (Not Submitted)	December 9, 2022
Heritage Act ERO 019-6196	Refer to Appendix B (Submitted) ¹	December 9, 2022
Planning Act and Development Charges Act ERO 019-6172	Refer to Appendix C (Not Submitted)	December 9, 2022
Conservation Authorities ERO 019-6141	Refer to Appendix D (Not Submitted)	December 9, 2022
Updates to Ontario Wetland Evaluation System ERO 019-6160	Refer to Appendix E (Submitted)	November 24, 2022
Proposed Municipal Act Changes: Municipal Rental Replacement By-Law ORR 22-MMAH017	Refer to Appendix F (Not Submitted)	December 9, 2022
Proposed Amendments to the OLT ORR 22-MAG011	Refer to Appendix G (No Submission)	December 9, 2022

¹ Submitted at the original deadline of November 24, commenting deadline has since been extended.

Proposed Changes to Ontario Regulation 232/18: Inclusionary Zoning ERO 019-6173	Refer to Appendix H (Not Submitted)	December 9, 2022
Proposed updates to the regulation of development for the protection of people and property from natural hazards in Ontario ERO 019-2927	Refer to Appendix I (Not Submitted)	December 30, 2022
Proposed Changes to Ontario Regulation 299/19: Additional Residential Units ERO 019-6197	Refer to Appendix J (Not Submitted)	December 9, 2022
Seeking Input on Rent-to-Own Arrangements ORR 22-MMAH018	Refer to Appendix K (Not Submitted)	December 9, 2022
Proposed Amendments to the Greenbelt Plan ERO 019-6216	Refer to Appendix L (Submitted)	December 4, 2022
Ontario Underground Infrastructure Notification Act, 2012 ORR 22-MGCS022	(No Submission)	December 9, 2022
New Home Construction Licensing Act ORR 22-MGCS021	(No Submission)	December 9, 2022

While a number of postings with a commenting deadline of December 30 have been included above, responses to several have not been included in this report. The postings that have not been addressed above are listed below:

- Review of A Place to Grow and Provincial Policy Statement
- Proposed Revocation of the Parkway Belt West Plan
- Conserving Ontario's Natural Heritage

Strategy/process

Staff have worked expeditiously to deliver the attached comments and continue to work on the remaining consultations. A future report will deliver comments on the remaining postings.

Other Postings: 2031 Municipal Housing Targets Bulletin

In addition to the wide-ranging postings listed on the ERO and the Ontario Regulatory Registry (ORR) the Province introduced the concept of housing targets in a bulletin listed on the ERO as “2031 Municipal Housing Targets”. The notice is clear that the Bulletin has been posted for “informational purposes only” and that the Province is not seeking comments.

The bulletin establishes housing targets for 29 selected lower- and single tier municipalities in Southern Ontario and includes the requirement that each municipality establish a pledge that identifies tools and strategies they intend to use to achieve their housing target. More details about the nature of the targets are required. As part of the Region of Halton’s municipal comprehensive review work, the Land Needs Assessment (LNA) identified that in the period from 2021 to 2031, an additional 11,342 units will be needed to accommodate Burlington’s share of population growth. The LNA study work included detailed study and analysis informed by a Provincially-mandated land needs assessment methodology and the allocation of 1.1 million people by 2051 to Halton Region as set out by the Province.

Through this bulletin the Provincial government has assigned a target of 29,000 residential units by 2032. This pledge figure to 2032 does not align with the recent Minister Decision on ROPA 49, nor is it supported by any data. Although not specifically identified as an item for consultation the City requires additional supporting information related to the basis of this assigned target. In addition, the City requests that municipalities and the Provincial government work collaboratively to identify additional tools, resources and appropriate funding from the Province in light of the significant changes proposed in Bill 23 that substantially limit the ability of municipalities to generate revenue to support development and growth of complete communities. Municipalities will require significant support from the Province in order to find locally appropriate, innovative ways to make progress on their respective pledges.

Options Considered

Not applicable.

Financial Matters:

The changes proposed in Bill 23, namely those impacting development charges, parkland dedication fees (including land conveyance) and community benefits charges, will have significant and broad sweeping detrimental consequences to municipal finances. These have been captured at a high level within our submission to ERO 019-6172 attached as Appendix C to this report and previous Council report CS-12-22. At this time, it is difficult to quantify the impact in dollars terms as the Bill proposes a number of changes, many of which are yet to be defined and will vary based on type, and location of future development. Staff will continue to review the proposed changes contained in Bill 23 and will outline further financial impacts as more information becomes available.

Total Financial Impact

Not applicable.

Source of Funding

Not applicable.

Other Resource Impacts

The long-term impacts of the proposals will require significant staff resources in order to respond and adapt to the wide-ranging changes proposed related to Bill 109, Bill 23 and related postings regarding the Housing Supply Action Plan 3.0.

Climate Implications

On April 23, 2019, Burlington's City Council unanimously passed a motion to declare a climate emergency. Broadly, the City has set out frameworks to provide for innovative solutions and opportunities to address local housing issues while making better use of existing infrastructure and services. This will be done through the provision of additional residential units and directing new housing options in locations designated for intensification, such as Major Transit Station Areas.

In accordance with the Growth Plan for the Greater Golden Horseshoe, planning in Burlington must have as a guiding principle the need to "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."

Engagement Matters:

Given the very tight timelines for the proposals reflected in the attachments, engagement was limited to City staff departments. As indicated in [CS-12-22: Consultations on Bill 23 More Homes Built Faster, 2022](#) staff will be preparing a communications strategy to explain the changes proposed in *Bill 23, More Homes Built Faster Act, 2022* and the impact they will have on the City's planning process. There will be significant ongoing efforts required to communicate and engage with the community as the City responds and implements the changes in the legislation.

Conclusion:

The legislative amendments contained in Bill 23, which received Royal Assent on November 28th, amount to the most drastic changes to the land use planning process that Ontario has seen in decades. There will be considerable impacts on how Burlington plans and protects for appropriate development within the City while also streamlining the development review process in order to build more homes faster. While at the same time ensuring that other matters of provincial interest are maintained such as supporting employment and protecting the environment and cultural heritage. Overall, the changes in Bill 23 will require the City to make significant revisions to its land use planning process and will have substantial impacts on associated planning and financial outcomes.

Respectfully submitted,

Mark H. Simeoni
Director of Community Planning
905-335-7777, ext. 7556

Helen Walihura
Government Relations Manager
905-335-7777, ext. 7895

Joan Ford
Chief Financial Officer
905-335-7777, ext. 7652

Appendices:

- A. Planning Act submission
- B. Heritage Act submission
- C. Planning Act and Development Charges Act submission
- D. Conservation Authorities submission
- E. Update on Ontario Wetland Evaluation System submission
- F. Municipal Act – Municipal Rental Replacement By-Law submission
- G. Proposed Amendments to the OLT Act (for reference)
- H. Inclusionary Zoning submission
- I. Natural Hazards submission
- J. Additional Residential Units submission
- K. Rent to Own submission
- L. Greenbelt Plan submission

Notifications:

Honourable Doug Ford, Premier of Ontario,
Honourable Steve Clark, Minister of Municipal Affairs and Housing,
Natalie Pierre, MPP Burlington,
Effie Triantafilopoulos, MPP North-Burlington Oakville,
Honourable Parm Gill, Minister of Red Tape Reduction,
Mike Schreiner, Leader of the Ontario Green Party and MPP Guelph,
John Fraser, Interim Leader of the Ontario Liberal Party and MPP Ottawa South,
Peter Tabuns, Interim Leader Ontario NDP Party and MPP Toronto-Danforth,
Halton Region,
Town of Halton Hills,
Town of Oakville,
Town of Milton,
Association of Municipalities of Ontario, the Ontario Big City Mayors Caucus,
BILD Halton Chapter,
Burlington Chamber of Commerce,
Federation of Canadian Municipalities

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.



289-983-0648

Mark.Simeoni@burlington.ca

November 24, 2022

Electronic Submission only

ATTENTION:

Honourable Steve Clark, MPP
Minister of Municipal Affairs
100 Strowger Boulevard, Suite 101
Brockville, ON K6V 5J9
Steve.Clark@pc.ola.org

RE: Proposed Planning Act and City of Toronto Act Changes (Schedules 9 and 1 of Bill 23 - the proposed More Homes Built Faster Act, 2022)

ERO Posting 019-6163

Background:

Environmental Registry posting 019-6163 proposes sweeping changes to Planning in Ontario with the stated intent of building more homes faster given that “too many people are struggling with the rising cost of living and with finding housing that meets their family’s needs”.

The City of Burlington is committed to supporting the creation of more housing and more diverse housing options. The City’s new Official Plan approved with modifications by Halton Region in November 2020 and currently under appeal, supports opportunities for the accommodation of a wide range of housing options in Burlington. Further, Burlington recently completed a Housing Strategy that provides a roadmap for addressing local housing needs and increasing attainable housing options that meets the needs of all current and future residents at all stages of life and at all income levels. The Housing Strategy highlights the City’s commitment to meeting resident’s housing needs and the critical importance of partnership with other levels of government, the development community and residents.

The ERO posting lists the following 9 key elements of the proposal:

- Addressing the Missing Middle
- Higher Density Around Transit
- Streamlining Municipal Planning Responsibilities

- Third Party Appeals
- Public Meetings – Plans of Subdivision
- Site Plan – Exemption for Development up to 10 units, Architectural Details and Landscape Design
- Streamline Approval Process for Land Lease Communities (LLC)
- Facilitating Aggregate Applications
- Conservation Authorities

Please find attached the City of Burlington's comments and suggestions to support the achievement of real progress on the various elements of this extremely wide-ranging proposal.

High Level Feedback:

Given the wide-ranging nature of the proposals related to the Planning Act included within the Bill staff are concerned that not only are the cumulative impacts that these proposed changes difficult to understand, but also are concerned that it will be difficult to monitor the effect of changes in supporting the objective of more homes built faster. In addition, staff are concerned that the proposal has the potential to significantly undermine the matters of provincial interest prescribed in Section 2 of the Planning Act. All would agree that building more housing is a common goal and of critical importance but not at the expense of the matters of provincial interest enshrined through Planning practice in the interest of the public interest.

While not an exhaustive list of the concerns the following elements of the proposal will have the effect of compromising the city's ability to achieve its strategic goals

1. **Exclusion of the Community and disregard for public interest and future residents.** The changes proposed through Bill 23 will have the impact of significantly reducing the ability for the local planning context and the community's vision and input to make its way into the planning process. Combined with Bill 109, there will be a significant reduction in the time in which the community can be engaged on planning matters. Further, the change in approval authority for planning matters from the Halton Region to the Minister could contribute to a more opaque planning process – one that could easily be biased towards special interest groups with little room from transparency or accountability. Combined with the proposed changes to the CBC, DCs and Parkland Dedication legislation, these changes further erode the city's ability to deliver the critical elements of a complete community that align with the community vision.
2. **Protection of Public Health and Safety-** The Province and the City are committed to protecting life and property from natural hazards and the City works closely with many partners including Conservation Halton and the Region of Halton to ensure the health, safety and resiliency of our citizens and systems. The

Region of Halton provides coordination, expertise and oversight over many critical systems which ensure the health and safety of our public. Conservation Halton similarly provides the technical oversight and authority which protects life and property impacts due to natural hazards. Staff is concerned that the changes proposed could lead to a disorganized and poorly planned approach to our critical planning systems absent significant time and resources to ensure those critical functions and roles can be addressed. These changes also don't account for significant regional differences across the province. The City recognizes the importance of expediting planning approvals for residential development however, given the proposed volume of new homes, it remains imperative that applications be reviewed in the context of the whole planning system.

3. **Cost of Growth and Impact to the Community.** The proposed changes, when assessed together limit the city's ability to plan for, finance and construct the necessary infrastructure to support growth. The proposed changes represent a departure from the premise that growth should pay for growth and places the burden for that growth on the tax payer.
4. **Regional Coordination and Matters of Provincial Interest** - The Province and the City are committed to ensuring that the matters of Provincial Interest in Section 2 of the Planning Act are addressed through a systems based approach in planning for infrastructure, Natural Heritage, agriculture, employment and growth management, among others. Historically, Halton Region has shared in this commitment in overseeing the regional market area. Staff are concerned that the decoupling of regional land use planning from regional infrastructure planning could result in delays in the delivery of services including water/wastewater infrastructure, phasing and coordination of capacity allocation between local municipalities, which could have detrimental impacts on the timing and development of new homes and may lead to inequitable financing and capacity distribution.
5. **Removal of Planning Act Process for 10-unit (or less) development** - Staff is concerned that the exempting of developments with less than 10 units could be counter to the goal of building more homes faster as it could lead to an increase in non-Planning Act applications which may have the impact of slowing down smaller development files, especially in light of the reduced timelines proposed under Bill 109 and the re-direction of resources to meet the time requirements or face penalties. Additionally, staff are concerned that the proposed changes may be indirectly incentivizing development at too low an intensity as it makes smaller scale development the path of least resistance.

Please accept this letter and its attachment as the City of Burlington submission on ERO posting 019-6163. Given the short period for consultation the attached comments have not been approved by City Council. This letter and its attachment will be shared with the

City's Committee's and Council at the earliest opportunity. Should Council determine any additional comments or refinements to the attached comments are required the Province will be advised at the earliest opportunity.

Sincerely,

A handwritten signature in black ink, appearing to read 'Mark H. Simeoni', written in a cursive style.

Mark H. Simeoni, MCIP, RPP
Director of Community Planning
Community Planning Department
City of Burlington

Theme: Building More Homes Contributor: MTSA Team on behalf of Community Planning, Site Engineering, Transportation, Forestry, Building Primary Associated ERO Postings (Deadline): Proposed Planning Act and City of Toronto Act Changes (Schedules 9 and 1 of Bill 23 - the proposed More Homes Built Faster Act, 2022) – ERO 019-6163 <u>Nov 24</u>			
Summary of Changes	Staff Comments/Questions	Guiding Principle (see the Options considered section of the hyperlinked report) (indicate support or concern)	Approaches or alternatives for consideration
Addressing the “Missing Middle” /enhancing the Additional Residential Units Framework -Allow up to 3 units per lot as of right in many existing residential areas. -Supersedes local OPs and zoning to automatically, province-wide to any parcel of land where residential uses are permitted in settlement areas with full municipal water and sewage services. -Prohibit municipalities from imposing DCs, Parkland Dedication or cash-in-lieu requirements, parkland dedication or cash-in-lieu requirements	Comments Staff generally support the idea of enhancing the framework to permit Additional Residential Units more broadly. Addressing the Missing Middle though the proposed Additional Residential Unit framework supports the City’s goals of increasing housing options across the City. This is further supported though Burlington’s Housing Strategy that provides a roadmap for addressing local housing needs and increasing attainable housing options that meet the needs of all current and future residents at all stages of life and at all income levels. Not only does the framework support the creation of new housing units in a unique and more affordable format, it also has the potential to generate better affordability for existing home owners by reducing costs and barriers to creating rental opportunities within their existing properties.	More Homes Built Faster This change is supporting the City’s commitment to bolster the creation of more housing and delivery of housing options in alignment with Strategic direction 1 of the City’s strategic plan.	It is critical to ensure that while removing barriers any future regulation must recognize the critical role of local Zoning regulations to guide development responsive to local planning and infrastructure context. Consider an amendment requiring the principle dwelling comply with parking requirements so as not to compound parking issues. Consider including a regulation that identifies that servicing and infrastructure capacity (including community infrastructure) is assumed to be sufficient but that servicing capacity is available on a first come first served basis. Consider an approach that permits more ARUs closer to transit.

<p>-Prohibit municipalities from applying minimum unit sizes, requiring more than one parking space per unit in respect of any second unit in a primary building and any unit in an ancillary structure.</p>			
<p>Higher Density Around Transit</p> <p>-Require municipalities to implement “as-of-right” zoning for transit supportive densities in Major Transit Station Areas (MTSAs)/Protected Major Transit Station Areas (PMTSA)</p> <p>-Require municipalities to update their zoning by-laws to permit transit-supportive densities as-of-right within 1 year of MTSA or PMTSA approval; if zoning updates were not undertaken within the 1-year period, the usual protection from appeals to the Ontario Land Tribunal for PMTSAs would not apply.</p>	<p>Comments:</p> <p>Staff are supportive of the concept of locating high density communities around transit.</p> <p>This is supported by the creation of a strategic growth framework as established in Burlington’s Official Plan (2020) and Burlington’s Strategic Plan (Strategic direction 1, A City that Grows). Further, Burlington’s Vision to Focus plan identified the need to complete area-specific planning for the MTSAs, work which has been under way since 2021. The City’s new Official Plan was approved with modifications by Halton Region in November 2020 and is currently under appeal. Burlington’s Official Plan (2020) supports opportunities for the accommodation of a wide range of housing options in Burlington and lays the foundation for the layering in of the area specific plans for the PMTSAs through the creation of a growth framework. This framework delicately directs substantial growth to key, strategic areas of the city. Unfortunately, the OLT process related to the appeals to the Official Plan (2020) has taken considerably longer than anticipated and has caused challenges for the advancement of the PMTSA ASP work. It is</p>	<p>More Homes Faster</p> <p>Despite the challenges facing the city’s implementation of MTSA Area Specific Plans as a result of the Official Plan (2020) appeals, this change supports the city’s objectives of locating growth around higher order transit.</p> <p>The City, through Strategic Direction 1 of the City’s strategic plan has committed to achieving growth in mixed use nodes and corridors, including MTSAs and Urban centres to provide a range of diverse, dense and affordable housing that is transit supportive.</p>	<p>Suggest that the Province provide direction and clarity on how the proposed changes work alongside Community Planning Permit Systems and as-of-right zoning permissions in MTSA areas. This could serve to provide greater clarity to the development industry and expedite development application timelines.</p> <p>Consider supports that recognize the costs to municipalities to provide high-quality, durable and multi-purpose community amenities to support the more intense areas of Ontario’s communities. Please see staff comments on ERO 019-6172 for more detailed comments around the financial implications of the proposed changes to city building initiatives.</p>

	<p>anticipated that a lengthy and multi-stage hearing process lays ahead. The on-going appeals process to the OLT continues to undermine the city’s ability to approve housing not just within the PMTSA areas but across the city and is a significant contributor to delays in achieving more homes for the Burlington community.</p> <p>Despite the challenges with the OLT process for the Official Plan, staff remain concerned about how the supporting amenities such as parks, community amenities, office and other commercial uses intended to support new development will be achieved given the high cost of land and as of right zoning permissions proposed. Combined with reductions in the city’s ability to collect parkland dedication/cash in lieu as well as development charges, the ability to deliver on the objectives of the Provincial Growth Plan of complete communities is severely diminished.. Staff support the creation of opportunities to achieve more homes being built faster but remain concerned about achieving complete communities in light of the proposed changes.</p>		
<p>Streamlining Municipal Planning Responsibilities</p> <p>-Remove the planning policy and approval responsibilities from certain upper-tier municipalities (upon proclamation at a future date).</p> <p>- Deem the Official Plans of these upper-tier</p>	<p>Comments:</p> <p>The Province and the City of Burlington are committed to ensuring that the matters of Provincial Interest in Section 2 of the Planning Act are addressed through the City’s strategic directions and Official Plan policies. Historically, Halton Region has also shared in this commitment given the regional-level scale of many of the matters of provincial interest. Without a systems-level dedicated oversight, local interests may lead to</p>	<p>Complete Communities</p> <p>The City is committed to ensure that growth is responsive to the community vision and needs. The City relies on partnerships with the development community, municipal partners such as the Region, service providers and other levels of government to ensure the delivery of transit supportive complete communities to allow present and future</p>	

Appendix A: Proposed Planning Act (Schedule 9 of Bill 23)

<p>municipalities to form an official plan of the relevant lower-tier municipality.</p> <ul style="list-style-type: none">- Enable these upper-tier municipalities to function as a commenting agency and remove appeal rights and party status.-Future regs would identify which OPs and OPAs would not require approval by the Minister-potential additional upper-tier municipalities in the future	<p>varying approaches and priorities resulting in fragmented and disorderly planned communities.</p> <p>Staff are concerned that decoupling regional land use planning from regional infrastructure planning could result in delays and inefficiencies in the delivery of services including water/wastewater infrastructure, phasing and coordination of capacity allocation between local municipalities. These changes, as proposed, would have detrimental impacts on the timing and development of new homes and may be therefore contrary to the stated objectives of the province of building homes faster. Staff are further concerned about the lack of oversight around regional growth, including employment and population growth, monitoring, financing and planning for infrastructure to support that growth, should planning responsibilities be removed from upper tier governments.</p> <p>The City has had an excellent and iterative relationship with the Region on reviewing OPAs and ASPs through a Memorandum of Understanding to ensure that the local vision is accurately reflected in the Region’s decision as the approval authority. We await the additional regulations that would identify which OPs and OPAs are exempt from Ministry approval and how the Ministry intends to ensure local vision and decision making is reflected in any ministry decision as the approval authority.</p> <p>The Region has spent a considerable time and resources completing their Municipal Comprehensive review through a phased approach. ROPA 50 is</p>	<p>residents to live, work, shop and play in the community.</p>	
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	currently underway to update the Regional Natural Heritage System and Rural and Agricultural system policies. Questions remain in association with these proposed changes as to how the remainder of the Regional Official Plan Review would be completed. Should that responsibility be handed to the City to complete the balance the City may be under resourced and may possibly not have access to the requisite professional expertise and support to do so.		
Third Party Appeals -Limit third party appeals for all planning matters -Appeal rights would be maintained for key participants (e.g., applicants, the Province, public bodies...), except where appeals have already been restricted (e.g., the Minister's decision on new official plan). -Limit on third-party appeals would apply to any matter that has been appealed but has not yet been scheduled for a hearing on the day the bill is introduced.	Comments: Staff are concerned with the proposal to limit most third party appeals for planning matters as it eliminates the right of appeal for parties and groups with legitimate interests and concerns, despite their ability to be engaged in the planning process. The City of Burlington remains committed to the creation of an engaged community. Residents in Burlington have come to expect that they will be informed and engaged on these matters through the various actions the City takes. Staff are concerned that the limiting of third-party appeals, regardless of the nature of the application, would limit resident's involvement at the OLT and dismisses many of the legitimate concerns of residents, many of which can be useful in positively shaping development applications. Further, not all planning applications are housing related and wholesale removal of appeal rights for third parties could lead to impacts on other matters of provincial or public interest including the protection of employment areas, land use compatibility concerns or rural or agricultural planning-related issues.	Engaged Community The proposed changes cause concern as it limits the ability for the public or other stakeholders to participate fully in the planning process. Staff are concerned that despite the objective of building homes faster, the blanket removal of third party appeals directly limits the role someone can play in advocating for themselves including on minor variance applications and non-housing related applications.	The City has experienced delays in scheduling even procedural hearings at the OLT. Staff note the critical importance of the commitment of resources to the OLT. Although the specific commitment is not set out in this proposal those additional resources are sorely needed and it is critical that the Province move forward expeditiously to support the objectives of this legislation and to target matters, such as Official Plans that support opportunities for the accommodation of a wide range of housing options.

	<p>Staff understands that the government is proposing amendments to those changes to include limiting third party appeals for minor variance and consent applications only, whereas previously all planning applications were proposed. Staff is supportive of the change as it increases the ability for residents and other stakeholders to remain engaged in the planning process.</p> <p>Regarding city-initiated planning approvals, the elimination of third -party appeals could have positively impacted the city’s ability to approve policies to support the creation of new homes. Currently, the City is nearing the end of its second year of the OLT appeals process to the new Official Plan (2020) with a multi-year, multi-stage process ahead which includes a number of appellants that could be classified as “third party”. Hypothetically, the elimination of third party appeals could have contributed to a more streamlined process, bringing the plan into effect, thus unlocking significant housing opportunities.</p>		
<p>Public Meetings - Plans of Subdivision</p> <p>Remove the public meeting requirement for draft plans of subdivision.</p>	<p>Comments:</p> <p>Staff are concerned that the removal of the public meeting requirements for draft plans of subdivision compromises the engagement process and limits the opportunity for the community to provide meaningful and valuable input into the planning process, especially when combined with the provincial decision of ROPA 49 where significant residential development is now permitted in areas that were previously</p>	<p>An Engaged Community</p> <p>The City of Burlington is committed to engaging residents on issues that affect their lives and their city. The goal of community engagement is to lead to more informed and therefore, better decision-making, thereby making it critical that residents continue to be engaged in community planning and development applications in their neighbourhood. The City remains committed</p>	

	exclusively designated for employment uses.	to engagement, and note that the proposed changes remove requirements for holding a public meeting, not requirements for giving notice, and do not preclude the city from hosting a public or information meeting in the future to continue to deliver the level of engagement that residents expect of the City.	
<p>Site Plan – Exemption for Development up to 10 units, Architectural Details and Landscape Design</p> <p>a) Exempt all aspects of site plan control for residential development up to 10 units</p> <p>b) Limit the scope of site plan control by removing the ability for municipalities to regulate architectural details and landscape design and Sustainable Design details</p>	<p>Comments</p> <p>a) Exemption of residential developments with up to 10 units</p> <p>Staff are concerned about how matters such as site access, circulation, parking layout, accessible design will be considered for developments with 10 or less units in the absence of site plan control. Due to the nature of where smaller residential projects typically occur (infill in existing neighbourhoods) site plan review of such developments may be appropriate for ensuring compatibility between new and existing development. Staff note that exempting developments with less than 10 units (but not part of associated subdivision) could result in more non-Planning Act applications and could have the unintended effect of slowing down the pre-building permit process for such developments due to Bill 109 timeline pressures. Priority will likely be on site plan applications so that the City is not penalized under Bill 109.</p> <p>Furthermore, staff are concerned that the exemption could incentivize larger projects to be built at 10-unit or less increments in order to circumvent site plan requirements, which may result in unintentional cumulative impacts that City may not be able to assess</p>	<p>More Homes Built Faster</p> <p>The City is committed to providing more housing options that meet the needs of all residents. Staff are concerned that the proposed changes to the site plan review process may actually slow down the process for applications under 10 units and may lead to unintended consequences as development applications will not have the benefit of a number of key review processes.</p>	<p>Suggest that the province provide clarity on how these changes are considered in relation to the implementation of a Community Planning Permit System.</p> <p>Recommend that the province provide greater clarity around how landscaping fits in relation to the proposed changes. Section 41(7)(a)6 still allows municipality to, as a condition of approval, require the owner to “provide to the satisfaction of and at no expense to the municipality any or all of the following: ...6. Walls, fences, hedges, trees, shrubs or other groundcover or facilities for the landscaping of the lands or the protection of the adjoining lands.”</p> <p>Expand exemption in s.41(4.1)1.1 to allow consideration of matters relating to exterior access to any building, not just a building that will contain affordable housing.</p>

	<p>or mitigate. Also, it is possible that the proposed changes could incentivize new housing at too low an intensity, whereas higher intensity may be more appropriate in the long term.</p> <p>b) Change in scope of review – external design, appearance no longer allowed. Staff note that this change applies to all types of development, not just residential. This change significantly limits the City’s ability to ensure that development contributes to a high-quality built environment, consistent with the City’s Official Plan, sustainable development guidelines and urban design guidelines. This change appears to contradict the Province’s stated interest in "the promotion of built form that is well-designed, encourages a sense of place, and provides for public spaces that are of high quality, safe, accessible, attractive and vibrant” and “the mitigation of greenhouse gas emissions and adaptation to a changing climate”.</p> <p>c) General comments (applies to both types of changes):</p> <ul style="list-style-type: none">• Concern that these changes will apply to not just the urban area but everywhere in the city.• In light of the plan to generate substantial amounts of new housing, site plan review, urban design and sustainable design practices are more important than ever to ensure healthy, sustainable, attractive and liveable cities.		
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<p>Streamline Approval Process for Land Lease Communities (LLC)</p> <p>Allow LLCs to be approved through site plan control instead of plan of subdivision so that they can leverage a maximum lease period of up to 49 years (from 21 years) without a land division approval).</p>	<p>Comments:</p> <ul style="list-style-type: none"> • More clarity is needed on when site plan process is required for land lease communities. • Similar concerns as proposed changes to type of development subject to site plan control. 	<p>More Homes Built Faster</p> <p>Without further detail, staff are unclear as to how these proposed changes impact the city's objectives. Staff are supportive of measures that make housing in a variety of forms more accessible. One of the identified actions of Burlington's Housing Strategy centers around the use of underutilized properties to create affordable housing opportunities including land lease communities.</p>	<p>Provide additional clarity and direction through future regulations.</p>
<p>Facilitating Aggregate Applications</p> <p>Changes are proposed to remove the "2-year timeout" period for applications to amend new official plans, secondary plans and zoning by-laws in respect of mineral aggregate operations. Currently, the Act sets a 2-year period when changes to new official plans, secondary plans and new comprehensive zoning by-laws are not permitted, unless these changes are municipally supported.</p>	<p>Comments:</p> <p>While originally proposed to apply only to aggregate operations, Staff understands that the government is proposing amendments to the proposed aggregate-only exemption to remove the 2-year time out period provision entirely for all applications. Staff are concerned about the removal of the 2-year time out period as it does not allow municipalities to get frameworks implemented before requests for changes are made. This further erodes the public processes that support the creation of these frameworks if they are permitted to be amended so soon.</p>	<p>An Engaged Community, More Homes Built Faster & Complete Communities</p> <p>Staff have concerns that the proposed changes will undermine the ability for the city to start to implement the community's vision for our city, should amendments be permitted immediately after approved changes. This will create further process and add time and complication to getting new homes built.</p>	
<p>Conservation Authorities</p>	<p>This is addressed through staff's comments on ERO Posting ERO 019- 6141.</p>		

PL-82-22
Appendix A: Proposed Planning Act (Schedule 9 of Bill 23)

<p>Changes are proposed to re-enact provisions that are not yet in force but would limit conservation authority (CA) appeals of land use planning decisions. CAs would continue to be able to appeal matters where they are the applicant. When acting as a public body, CAs would only be able to appeal with respect to matters related to natural hazard policies in provincial policy statements.</p> <p>Changes are also proposed to broaden the ability of CAs to use an existing streamlined process to sever and dispose of land.</p> <p>Both of these changes are proposed to take effect January 1, 2023.</p>	
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November 24, 2022

Electronic Submission only

ATT: Paula Kulpa
 Heritage Branch, Ministry of Citizenship and Multiculturalism
 400 University Avenue, 5th Floor
 Toronto, ON
 M7A 2R9
 Canada

RE: **Changes to the Ontario Heritage Act and its regulations: Bill 23 (Schedule 6) - the Proposed More Homes Built Faster Act, 2022 –**
[ERO 019-6196](#)

Please accept this letter and its attachment as the City of Burlington submission on ERO Posting 019-6196. Given the short period for consultation the attached comments have not been approved by City Council. This letter and its attachment will be shared with the City's Committee's and Council at the earliest opportunity. Should Council determine any additional comments or refinements to the attached comments are required the Province will be advised at the earliest opportunity.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark Simeoni".

Mark H. Simeoni, MCIP, RPP
 Director of Community Planning
 Community Planning Department
 City of Burlington

Theme: Streamlining Development Approvals Contributor: Community Planning Primary Associated ERO Postings: Proposed Changes to the Ontario Heritage Act and its regulations: Bill 23 (Schedule 6) - the Proposed More Homes Built Faster Act, 2022 – <u>ERO 019-6196</u>			
Summary of Changes	Staff Comments/Questions	Guiding Principle (see the Options considered section of the hyperlinked report) (indicate support or concern)	Approaches or alternatives for consideration
<p>#1 - Municipalities will not be permitted to issue a notice of intention to designate a property under Part IV of the <i>Ontario Heritage Act</i> unless the property is already on the heritage register at the time the application is deemed complete, which can be as early as 30 days after submission.</p> <p>#2 - Heritage registers to be reviewed and a decision made whether listed properties are to be designated within 2 years, and if not, removed from the register for at least 5 years</p>	<p>#1 - This places strict limits on Burlington’s ability to heritage designate properties that are not on the heritage register and are subject to a development application*. A municipality has only 30 days to deem an application for an OPA, ZBA or SPA “complete”, so for a property not yet on the Heritage Register, Burlington will only have a month to consult its heritage committee and deliver a recommendation to Council. This is not enough time to study a property and will result in some candidates for heritage designation being demolished.</p> <p>*Official Plan policy 8.4.1(b) enables Burlington to ask for a heritage impact study for a property “worthy of designation”, if an HIS were required as condition of submission.</p>	<p>Complete Communities</p> <p>Cultural resources are central to building a vibrant, livable and unique community. They have the ability to boost economic development and tourism by making destinations for visitors and local residents and are linked to other aspects of the city’s overall health, including the environment.</p> <p>Cultural heritage resources are located throughout the city and many are privately owned. These resources provide physical and cultural links to the identity of the city, create a sense of civic pride, and contribute to the quality of life and enjoyment of the city by residents and visitors alike. The conservation of cultural heritage resources also contributes to the overall sustainability of the city.</p>	<ul style="list-style-type: none"> • Allowing municipalities to require the submission of certain materials (i.e. heritage impact study) as part of a pre-consultation submission, would allow the municipality time to determine whether or not the property is worthy of protection, prior to a development application being submitted. • The proposed legislation requires heritage registers to be reviewed within 2 years, which does not provide sufficient time for municipalities to complete the review of all properties. As an example, the City of Burlington would need to assess over 200 properties within the timeframe which would be very difficult. The provision of additional time beyond 2 years would be very beneficial and would allow municipalities time to complete this work in an orderly and thorough manner. • Under the proposed legislation, once a property has been removed from the heritage register, it cannot

<p>#3 - A process is proposed which will allow Heritage Conservation District Plans to be amended or repealed</p> <p>#4 - Criteria for Heritage Conservation District Plans can be established for regulation</p> <p>#5 Non-designated properties to be automatically removed from the Heritage Register if a municipality withdraws a notice of intention to designate, does not pass a designation bylaw in time or repeals a designation bylaw.</p>	<p># 2 - Requiring municipalities to review and designate all non-designated properties on the Heritage Register within 2 years or else remove them from the Heritage Register on a long term basis presents a difficult binary choice to municipalities:</p> <ul style="list-style-type: none"> • City Council must choose to remove most or all non-designated heritage properties from their Heritage Registers and leave them unprotected for a significant period of time contrary to the Provincial Policy Statement, 2020 and Official Plan requiring that significant built heritage resources be protected • Incur major financial and staff resource costs to study all non-designated properties on their Heritage Register for possible designation, culminating in a large decision-making burden for Council. Further, if a City Council initiates a campaign of continuous heritage designations over two years or an omnibus heritage designation bylaw of multiple properties at the end of a two-year study, it will face numerous Ontario Land Tribunal appeals that could monopolize heritage staff time for months or years. <p>Although Burlington has a relatively small heritage register, it has 207 “grade A” non-designated heritage properties including</p>	<p>Planning staff are concerned that this legislation, specifically the requirement to force designate or remove properties from the heritage register, will erode the cultural heritage resources within the City and negatively impact the vibrancy, livability and uniqueness of the City.</p> <p>Matters of Provincial Interest</p> <p>The Planning Act sets out that the conservation of features of significant architectural, cultural, historical, archaeological, or scientific interest is a provincial interest.</p> <p>This is reinforced through the Provincial Policy Statement which sets out that “Long-term economic prosperity should be supported by:</p> <p>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.”</p> <p>Further, the PPS sets out that “Significant built heritage resources and significant cultural heritage landscapes shall be conserved.”</p>	<p>be added back for a period of 5 years. Shortening this time frame to 2 years would maintain the intent of the legislation but provide for an increased level of protection, should circumstances evolve or change.</p> <ul style="list-style-type: none"> • Requiring municipalities to make a decision on whether listed properties are to be designated or removed from the register will have unintended consequences and potentially put cultural heritage resources at risk. An alternative approach could be to require municipalities to review their heritage register at defined intervals and assess each property using specific criteria to determine whether the property should remain on the register, be removed from the register or be designated. This process would also allow for public engagement to ensure that community voices have the opportunity to participate in this process.
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	<p>eleven significant churches, seven pioneer or historic cemeteries, five schools and Burlington’s oldest home the Stewart-Spence house built in 1832. Studying all properties, or a subset, forces a potentially ugly confrontation between City Council and numerous property owners over the issue of “imposed” heritage designation. The City of Burlington has historically incentivized designation through negotiation and generous financial supports. This is the approach promoted in the new Official Plan, 2020, in which the City is supposed to encourage and support private stewardship of the City’s cultural heritage resources. Burlington has implemented this incentives-first approach with its heritage grant program and the popular heritage tax rebate program. The ability to list properties on the Heritage Register enables Burlington to negotiate with owners for voluntary conservation at an appropriate time- when the property is being redeveloped or a demolition is proposed. The brief timeline proposed under this legislation does not create any time for these negotiations, which will likely take place under high pressure at Council meetings. Multiple high-profile, landmark heritage sites are threatened by this legislative change.</p> <p>#3 – This change will have minimal impact and is a positive change that will clarify the criteria</p>	<p>Planning staff are concerned that this legislation, specifically the requirement to force designate or remove properties from the heritage register, will not advance the provincial interest of conserving significant architectural, cultural, historical features and will likely have the opposite effect. This legislation could result in historic properties, that are valued by their local communities, being threatened or lost.</p>	
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	<p>an area must meet to qualify as a Heritage Conservation District.</p> <p>#4 - This has minimal impact and is a positive change that will creates a pathway for a municipality to revise its heritage conservation district bylaws.</p> <p>#5 This change introduces too much finality to Council's decision not to pursue heritage designation, since a property will have to be automatically removed from the register and cannot be added back for 5 years. This impacts the municipality's ability to monitor the property and pursue conservation if there is a new owner or council. For example, in 2012, a previous Council chose to repeal the heritage designation of a property in the City, because the owner argued it created financial hardship for them. The property was then removed from the register, but not demolished. It was sold to new owners who wish to redevelop. The development site may have enough land that the house could be integrated into a larger development and converted to a multi-unit building, however because the property is not on the heritage register, staff would have very limited negotiating power. The owner could demolish the property with no notice to the City.</p>		
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289-983-0648
 Joan.Ford@burlington.ca

November 24, 2022

Electronic Submission Only

ATT: Ministry of Municipal Affairs and Housing
 777 Bay St., Toronto,
 Ontario, M5G 2G2

RE: Proposed changes to the Planning Act and Development Charges Act, 1997 to provide greater cost certainty for municipal development-related charges.

Environmental Registry of Ontario Number: 019-6172

Background:

Schedule 3 of Bill 23, *More Homes Faster Act, 2022*, proposes a number of changes to the *Development Charges Act, 1997* in order to provide greater cost certainty for municipal development related charges.

Comments:

Please find attached, the City of Burlington's staff comments related to the proposed changes to the *Development Charges Act, 1997 (DCA)*.

The significant changes proposed to the *Development Charges Act, 1997*, substantially limit the ability of municipalities to generate the revenue needed to support the development and growth of complete communities. Municipalities and the Provincial government will need to work collaboratively to identify additional tools, resources and appropriate funding sources to address this gap.

There is no evidence to suggest that reducing development related fees improves housing affordability. The reduction in revenue that supports growth related infrastructure will rather, increase the burden on existing taxpayers resulting in increases to the cost of housing ownership and subsequently housing affordability. The proposed changes to the *Planning Act* will result in the City's Park provisioning levels to drop considerably.

The proposed definition of Affordable residential units (both ownership and rental) in the *DCA* relies solely on market conditions to determine affordability and not household income. This disconnects housing affordability from the real incomes of Ontarians and will result in the exclusion of low and middle income residents from ownership and rental markets. Consider using the definition in the *Provincial Policy Statement (PPS)* for consistency across municipalities and clarity across policy frameworks. This will ensure that household income informs the definition of what is truly affordable for residents.

The reduction of development related fees historically shouldered by the for-profit housing sector will result in significant impacts to the funding of municipal services, in the absence of other funding sources such as funding support from the Provincial government, the cost must then be

passed on to tax-payers, increasing their cost of living. Municipalities will require significant support from the Province in order to find locally appropriate, innovative ways to build more homes faster, that are affordable and attainable for Burlington's residents.

Next Steps:

Please accept this letter and its attachment as the City of Burlington submission on ERO posting Number 019-6172. Given the short period for consultation the attached comments have not been approved by City Council. This letter and its attachment will be shared with the City's Committee's and Council at the earliest opportunity. Should Council determine any additional comments or refinements to the attached comments are required the Province will be advised at the earliest opportunity.

Sincerely,


Joan Ford

City of Burlington

	<ul style="list-style-type: none">- Creates an issue as new parks will be constructed years after new homes are built because of reduced and deferred funding.- The type of public space/parkland being conveyed to the City will be reduced in size or too small to be considered a public park.- New parkland can be encumbered limiting design and quality of public spaces. Parks on encumbered land will be closed more often to repair underground infrastructure.- The City’s Park provisioning level will drop considerably. There will be very few new parks being built. Residents living in high intensification areas do not have backyards and will be forced to travel much longer distances to access a public park for recreational purposes.- Applicants will have the ability to identify what lands shall be conveyed to the City, so long as they meet criteria to be established in regulations, without the City being able to refuse to accept it. Particularly without the benefit of knowing what those criteria will be, it is very concerning that the City will be compelled to accept land that it does not want and could impose significant liability and costs on the City to maintain the identified land. <p>Build transparency and other measures to support the faster acquisition of more parks</p> <ul style="list-style-type: none">- A single parcel of parkland is expensive, the requirement to spend and/ or allocate 60% of parkland reserve each year doesn’t allow to build reserve funds for high value single land transactions.- The proposed reduced revenues to parkland will only reduce the ability to develop and acquire parks contrary to the proposal indicating the faster acquisition of parks.- If 60% of parkland reserves are to be spent each year, all expenditures will be forced to be put towards asset renewal as this does not allow time to accrue adequate funding to buy land.- If 60% of parkland reserves are to be allocated each year, it will take many years to accrue adequate funding to acquire any parkland given the high cost of real-estate <p>Set maximum interest rate for DC freeze and deferral (prime + 1 per cent)</p> <ul style="list-style-type: none">- No additional comment, the City’s current interest rate does not exceed this maximum <p>Reduce development costs to enable more housing to be built faster & Increase transparency and accountability in the use of development charges funds</p>	<p>Creation of Complete Communities</p> <p>Growth Pays for Growth</p> <p>Growth Pays for Growth</p> <p>Financial Impact on Municipalities</p>
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	<ul style="list-style-type: none">- The proposed phase-in of development charges, and a by-law update every 10 years defers and simultaneously reduces collection of DC revenue. This creates a funding gap between DC collection and timing of capital works. Furthermore, this scenario would result in an immediate reduction to the City of Burlington’s DC rate that is less than our 2019 bylaw with statutory indexing. Therefore, not adequately capturing increases in capital costs of growth projects between study updates, nor considering indexing for recent construction market escalations. This further exacerbates the city’s ability to fund the cost of growth infrastructure.- The Bill proposes to remove the cost of land for certain services (yet to be defined). Land represents a significant cost for some municipalities in the purchase of property to provide services to new residents (e.g. roads, fire stations, community centres, libraries.). This is a cost required due to growth and should be funded by new development.- The delay/ reduction in collection of DCs will defer capital projects as the required financing will take longer to materialize, otherwise the city will need to look to alternate funding sources such as the tax base and debt financing. This causes an inequity between current and future residents of Burlington, and contrary to the principle of growth pays for growth.- Reductions in DC revenues do not meet the goal of increasing housing supply it only serves to delay the timing of key infrastructure to support growth- There will be increased pressure on the existing property tax base to supplement the capital costs of growth projects that are not being recovered from DCs/ CBC/ PD, thereby contrary to the principle of growth pays for growth- The City makes every effort to spend/ allocate reserve fund dollars to expedite growth related projects and ensure that growth funding is assigned as required to infrastructure that is in support of growth. The City does not have an excessive reserve fund balance and as such these proposed changes reducing revenue will further defer the city’s growth projects.- Greater understanding is required to determine how reduction in development charges revenue for developers will lead to the increased development of affordable housing as opposed to an increase in developer profits.- There is no evidence to suggest reducing development related fees improves housing affordability. The reduction in capital funding to address growth related projects will increase the burden on existing taxpayers which itself reduces housing affordability.- Studies are required to establish when, where and how a municipality will grow. Growth related studies should continue to be funded by growth and not shouldered by the taxpayers.- The significant changes proposed to the DCA substantially limit the ability of municipalities to generate the revenue needed to support the development and growth of complete communities. Consider	<div>Creation of Complete Communities</div> <div>More Homes Faster</div>
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	<p>providing grants, subsidies, and other funding measures to compensate for the lost revenue to address this gap.</p> <ul style="list-style-type: none">- Consider monitoring how many housing providers elect to build affordable, attainable, non-profit and IZ units to determine if this exemption is effective in incentivizing the delivery of these unit types. <p>Encourage the supply of rental housing</p> <ul style="list-style-type: none">- Rental stream exemptions thresholds are defined by a new bulletin, more information/ clarification is required to discern the impact of this proposed legislation.- Exemption of these rental units adds further loss of revenue and increased burden onto infrastructure such as water/wastewater and also other services such as transit and active transportation- Consider monitoring the uptake on rental housing that qualifies for exemption and subsidize with grants and other sources of funding to ensure service levels are maintained. <p>Encourage the supply of affordable housing</p> <ul style="list-style-type: none">- More information is required around the Bulletin and how it will determine AMR and average purchase price. How often the bulletin will be updated, what data sources will be used and whether it will be based on geographic locations, unit type and number of bedrooms.- Is there sufficient evidence to demonstrate that exemptions provided with respect to DC/CBC/PD is enough to incentivize affordable rental and ownership housing, this will be largely dependant on location as housing prices/ land values vary by geographical locations thereby affordability itself will vary by region.- What is the rationale for using “80% of AMR” and “80% of average purchase price” to define affordability? The PPS currently uses household income as a metric for determining affordability.- Consider using the definition in the PPS for consistency and clarity across policy frameworks. This will ensure that household income informs the definition of affordable.- Disconnecting the definition of affordable and attainable from the household income of Ontarians and relying on the market to define affordable and attainable will result in a further disconnection of housing affordability from real incomes.- How do these new definitions ensure that moderate and low-income decile households are considered when defining what is affordable?	<p>Growth Pays for Growth</p> <p>More Homes Faster</p>
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	<ul style="list-style-type: none">- Within the City’s DC bylaw is the exemption of non-profit housing developments, however this exemption would now extend into CBC, and PD. Exemption of any kind increases pressure on the city property tax base for cost recovery of capital projects- Need more clarity around the aspects of affordability and how to keep these units affordable for 25 years, and what are the ramifications if they are not, will the exempted fees apply?- An agreement does not appear to be required for affordable/attainable residential units exempt from payment of a C.B.C. Agreements should be allowed to include the C.B.C. so that if a municipality needs to enforce the provisions of an agreement, both development charges and C.B.C.s could be collected accordingly.- These newly exempted affordable, attainable and IZ units will require municipalities to enter into agreements to ensure that these units remain affordable and attainable for up to a maximum of 25 years. This will introduce a new administrative burden and will be cumbersome and will need to be monitored. <p>Gentle Density</p> <ul style="list-style-type: none">- no comment, as a result of moving the exemptions directly into the Act from regulations <p>Encourage the supply of attainable housing</p> <ul style="list-style-type: none">- An attainable unit excludes affordable and rental units however it has not been defined in the DCA. Given that the intent of this exemption is unknown there is no way to quantify the impact however it could be significant.- Is there sufficient evidence to demonstrate that exemptions provided with respect to DC/CBC/PD is enough to incentivize attainable housing, this will be largely dependant on location as housing prices/land values vary by geographical locations- Why is rental not included in the definition of attainable?	<p>More Homes Faster</p> <p>Growth Pays for Growth</p>
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November 24, 2022

Electronic Submission only

ATT: Public Input Coordinator

Ministry of Natural Resources and Forestry
Resource Planning and Development Policy Branch
300 Water Street, 6th Floor, South Tower
Peterborough, ON K9J 8M5

RE: Legislative and regulatory proposals affecting conservation authorities to support the Housing Supply Action Plan 3.0
ERO Posting 019-6141

Background:

Through proposed modifications to Sections 21 & 28 of the *Conservation Authorities Act* (CAA), Conservation Authorities in Ontario will no longer be able to provide a municipal program or service related to the commenting on applications under *prescribed acts*. These *prescribed acts* include, but are not limited to, *the Planning Act*, *the Niagara Escarpment Planning and Development Act*, and *the Aggregate Resources Act*. While these modifications preclude Conservation Authorities from providing comment related to municipal services for proposals under the *Planning Act*, services related to the risk of natural hazards are still listed as a mandatory program. As a result, it is expected that Conservation Authorities will continue to advise on development applications, under the prescribed Acts, as it relates to their listed mandatory services. O.Reg 687/21 currently defines mandatory programs and services as they are listed in S. 21.1 of the CAA, which does not include items such as wetlands or valleylands despite being conservation authority regulated features per S. 28 of the CAA.

Permitting requirements under the CAA have been altered, and a process for potential exemption from CAA permitting has been proposed. S. 28.1 (1) (a) of the CAA has been altered to remove a conservation authority's ability to consider impacts related to *pollution* or the *conservation of land* in review of proposed activities prohibited by S. 28. The language has been further clarified to include the ability to consider impacts to unstable soil or bedrock. Additionally, S. 28 has been updated to include the ability to exempt proposed development from requiring a permit under the CAA if a *Planning Act* approval has been given in relation to the proposed project and where prescribed conditions and restrictions are satisfied. Such conditions and restrictions are not described within the legislative changes of Bill 23, rather they will be considered as part of a future *Regulation*.

Conservation Authorities will be required to issue permits for activities prohibited by S. 28 of the CAA where projects are subject to an infrastructure and housing accelerator order

under S. 34.1 of the *Planning Act* and would permit the Minister of MNRF to amend any condition applied to such permits. Further, for permits required for projects that are part of a Minister's Zoning Order under Section 34.1 or 47 of the *Planning Act*, is it proposed that the Minister of MNRF would have an expanded ability to prescribe limits on conditions applied to such CAA permits and would now be able to permit development to begin where an ecological compensation agreement is required but not yet complete.

In addition to the proposed changes to CA's permitting and *planning act* roles, Bill 23 also seeks to 'freeze' conservation authority fees at current (2022/2023) levels and require that CAs inventory their land holdings and identify properties that could reasonably support housing.

Comments:

The changes to the role of conservation authorities proposed through Bill 23 represents a significant change to the planning and development review process in Ontario and signifies a different direction to the delivery of municipal programs and services than that which was provided in 2021 through *Bill 229, Protect, Support and Recover from COVID-19 Act* and the associated regulations. As a result of proposed Bill 23, municipalities in Halton Region will no longer be able to rely on some of the valuable services in the development review process that have previously been undertaken in partnership with Conservation Halton (CH) and Halton Region. Currently, the City of Burlington is party to a Memorandum of Understanding (MoU) for the provision of planning services, focused on ecological review, between the Region and CH. As a result of Bill 229, this MoU was set to be updated as required by *O.Reg 687/21* and an additional MoU for watershed services was being developed. Given the proposed prohibition on CAs commenting on municipal services for applications under the *Planning Act*, it can be reasonably assumed that these responsibilities will now fall solely to the municipalities. The following impacts on municipalities as a result of these changes and potential means of mitigating those impacts should be considered:

- Reduced access to technical expertise residing at conservation authorities in the development review process including, but not limited to ecology, hydrogeology, hydrology, hydraulic modelling.
- Delivery of Halton Region 'one-study' approach to Environmental Impact Assessments (or equivalent).
- Study duplication as a result of the inability to effectively coordinate *planning act* approvals and CAA permits.
- Potential for an increase to municipal tax levy if CAs cannot achieve full cost recovery of mandatory services due to the proposed freezing of fee schedules.
- Diminished oversight of the impacts to the natural environment and water resources where a development is exempt from a CAA permit, or where development is authorized by a MZO.
- Impacts of pollution on key natural features and hydrologic features will become limited to municipal boundaries rather than utilizing a watershed approach.

- Increase in cost of servicing conservation lands if identified for housing redevelopment.

The City of Burlington remains supportive of changes to the legislation that will aid in ensuring the issue of housing availability is addressed while balancing the protection of the natural environment for future generations. The City is committed to a systems-based approach to natural heritage planning that utilizes a science-based approach to understanding the impacts on natural systems that may be realized as a result of proposed development. The citizens that the City represents rely on the health of these systems for clean water, clean air, and other social and cultural benefits. The City relies on the health and resiliency of these systems to augment traditional infrastructure, guard against natural hazards, and to maintain the overall well-being of the citizens of the City of Burlington.

The impacts being felt locally, and globally, as a result of climate change cannot be understated. A healthy and functional natural heritage system represents the pre-eminent tool in adapting to these impacts and ensuring resiliency into the future. The health and function of these systems have traditionally been addressed through a partnership of municipalities, public bodies, non-governmental agencies, and private developers working together on a common path. Bill 23's proposed changes to the role of conservation authorities in protecting the natural environment represents a threat to the ability of the City to ensure the resiliency and future health of its natural heritage system. The City, in partnership with the Region of Halton and Conservation Halton, have moved towards an integrated *one-study* approach to natural heritage planning within the development review process. The changes to the *Conservation Authorities Act*, coupled with further proposed changes to the Ontario Wetland Evaluation System (OWES) and proposed ecological offsetting criteria is likely to result in an overall future loss of natural heritage in the City, particularly within the urban area. These changes may also introduce more uncertainty into the development review process as municipalities take on more responsibility without the benefit of effective communications with a regulatory authority. Like many GTA municipalities, the natural heritage system within the urban area of the City has been degraded as a result of historical urbanization. It is more important than ever for the City to ensure the best tools and partnerships are able to be leveraged to ensure the health and resiliency of the City's natural heritage system.

Next Steps:

The City of Burlington remains supportive of the previous changes to the CAA and the accompanying Regulations that formed part of Bill 229: *Protect, Support and Recover from COVID-19 Act*. Those changes ensured that conservation authorities core services were appropriately defined (Category 1 services), and also set out the requirements that would need to be in place if a municipality sought certain programs or services from CAs beyond those mandatory services (Category 2 & 3 services). The City utilizes this flexibility to work in partnership with Conservation Halton and the Region of Halton through an established MoU for defined planning services. This has resulted in a more streamlined review of environmental impacts and natural hazards while also providing

more clarity and consistency in required submission materials. It is the City's position that the diminishment of the role of CAs within the development and permitting processes will result in a prolonged pre-application process as well as the duplication of studies and requirements borne out of restrictions placed on CAs participation in applications under *prescribed Acts*. The City is respectfully requesting the Province reconsider continuing the direction that was prescribed through Bill 229.

Please accept this letter and its attachment as the City of Burlington submission on ERO Posting 019-6141. Given the short period for consultation the attached comments have not been approved by City Council. This letter and its attachment will be shared with the City's Committee's and Council at the earliest opportunity. Should Council determine any additional comments or refinements to the attached comments are required the Province will be advised at the earliest opportunity.

Sincerely,

A handwritten signature in black ink, appearing to read 'Mark H. Simeoni', written in a cursive style.

Mark H. Simeoni, MCIP, RPP
Director of Community Planning
Community Planning Department
City of Burlington

Theme: Streamlining Development Approvals Contributor: Policy and Community Primary Associated ERO Postings: <u>Legislative and regulatory proposals affecting conservation authorities to support the Housing Supply Action Plan 3.0 – ERO 019-6141 Schedule 2.</u>			
Summary of Changes	Staff Comments/Questions	Guiding Principle (indicate support or concern)	Approaches or Alternatives for Consideration
Conservation Authorities (CAs) restricted from commenting on applications under <i>prescribed Acts</i> for matters outside their core mandate (Category 1 Services)	<ul style="list-style-type: none"> • This undoes the direction provided by the Province through Bill 229 and the associated O.Regs (686/21 & 687/22). • Taken with the proposed changes to the Regulations proposed by ERO # 019-2927 this may result in duplication of studies and plans at the pre-consultation stage if CAs cannot comment on <i>Planning Act</i> applications outside matters related to Category 1 services. • Further, Section 21 of the CAA does not include <i>wetlands</i>, yet Section 28 keeps <i>wetlands</i> within the regulatory purview of CAs. This is likely to result in differing requirements under 	<p>Environment, Urban Design and Climate Change – concern</p> <p>CAs provide important technical expertise relating to environmental protection and climate change adaptation/mitigation that will no longer be part of the development process.</p> <p>Public Health and Safety – concern</p> <p>Municipalities may have to take on responsibilities and liabilities for development and compliance in hazard areas.</p> <p>Matters of Provincial Interest – concern</p>	<ul style="list-style-type: none"> • clarify or formally delegate permitting requirements for development on or in hazards, and that the CAs are permitted to comment on <i>Planning Act</i> applications for all S.28 items (hazards, wetlands, valleylands) • The MoU direction for Category 2 Services established through Bill 229 and associated O.Regs. should be continued and the proposed wording changes related to CAs involvement in applications under <i>prescribed Acts</i> should be abandoned. This would keep municipalities on track with the progress on applicable MoUs that have been in the works since the passing of Bill 229 which was aimed at ensuring municipalities would have more flexibility in the services they obtained from CAs.

	<p>the <i>CAA</i> and <i>Planning Act</i> for the assessment of wetlands.</p> <ul style="list-style-type: none"> • Municipalities would require additional Staff to fill in the technical gaps in application review (ecology, hydrology, modelling). • Section 28 (1) of the <i>CAA</i> still lists hazard lands, wetlands, rivers/valleys, shoreline as items under the CA's purview <u>as they relate to development</u>. These proposed changes seem more geared to prohibiting communication and collaboration between municipalities and CAs. • The delivery of the Region of Halton's '1-study' approach to EIAs would be impacted, as would the delivery of Category 2 Services under the MoU for planning services and watershed services between the Region and CH of which all Halton municipalities are party to. 	Impact to ability and cost for municipalities to deliver on a number of listed matters of Provincial Interest.	
Ability to exempt requirements for CA permits where approvals under a <i>prescribed Act</i> has been given.	<ul style="list-style-type: none"> • Certain conditions would need to be met to exempt applicants from CA permitting requirements 	<p>Financial Impacts on Municipalities – concern</p> <p>If the changes result in additional risks being born by</p>	<ul style="list-style-type: none"> • If this direction is being pursued, it is suggested that a Letter of Clearance from the CA be a condition of exemption so that municipalities are not taking on

	<p>(Section 28). It is unclear what these conditions will be.</p> <ul style="list-style-type: none"> • If conditions are too lenient this could result in Municipalities having to accept the risk associated with development that would normally require a CA permit per S. 28 of the CAA. 	<p>municipalities, additional staffing may be required to ensure proper technical review to protect property and life. This risk and technical expertise largely reside at CAs currently.</p> <p>Environment, Urban Design and Climate Change – concern</p> <p>Without the financial ability to retain the necessary technical expertise negative impact to the natural environment and increase risk to life and property may result.</p>	<p>additional risk for matters regulated by CAs.</p>
<p>CAs no longer considered a <i>public body</i> capable of appealing decisions under <i>prescribed Acts</i>.</p>	<ul style="list-style-type: none"> • Given the CAs have their own permitting process and associated appeal process there is limited impact in this change. • If letters of clearance from a CA are required in-lieu of permits for applications under <i>prescribed Acts</i> there would sufficient oversight for CAs to ensure matters pursuant to Section 28 CAA are either accounted for or 	<p>Environment, Urban Design and Climate Change – concern</p> <p>Decisions on development applications may not fully consider matters under CA regulation if they can be exempted from CA permitting without oversight.</p> <p>Public Health and Safety – concern</p>	<ul style="list-style-type: none"> • There would be general support for this proposed change if the forthcoming exemption conditions include a requirement of a letter of clearance from a CA.

	subjected to CA permitting requirements.	Decisions on development applications may not fully consider hazard matters under CA regulation if they can be exempted from CA permitting without oversight.	
CA fee schedules to be frozen at 2022/2023 levels.	<ul style="list-style-type: none"> Freezing CAs fees coupled with the newfound ability to exempt certain development from obtaining a CA permit will put significant strain on CA resources in the long term. This could result in higher municipal levy rates to offset costs. 	<p>Growth Pays for Growth – concern Additional costs may be borne by the existing tax base.</p> <p>Financial Impacts on Municipalities – concern Additional costs may be borne through municipal levy contributions.</p>	<ul style="list-style-type: none"> Allow CA permitting fees to achieve full cost recovery at minimum.
CAs no longer has a role in regulating the impacts of <i>pollution</i> in relation to development. Minister and/or Tribunal no longer has to consider <i>pollution</i> in appeals.	<ul style="list-style-type: none"> CAs provide a watershed lens when assessing impacts to key features. The cumulative and downstream impacts of development is often better assessed on a watershed basis. Coupled with removal of commenting capabilities this change may lead to impacts of development only being considered within a municipal boundary lens. Cross-boundary disputes may increase. 	<p>Environment, Urban Design and Climate Change – concern May result in cross-boundary/downstream impacts to key hydrologic and natural features.</p> <p>Matters of Provincial Interest – concern Impact to ability and cost for municipalities to deliver on a</p>	<ul style="list-style-type: none"> Retain references to pollution in S. 28 of the CAA.

	<ul style="list-style-type: none"> • CAs ability to regulate sediment/erosion impacts would be diminished. • Powers of CA and the ability to create Regulations pertaining to prohibiting, regulating, permitting control of <i>pollution</i> still exist in Sections 21 & 28 of the CAA. 	number of listed matters of Provincial Interest.	
CAs must inventory their land holdings and identify properties that could reasonably support housing.	<ul style="list-style-type: none"> • Its currently unclear how lands identified that could reasonably accommodate housing would be transferred and/or planned for to accommodate residential uses. Also unclear is how the test of <i>reasonable</i> is being carried out. • Most CA owned lands are comprised of ecologically sensitive lands or important recreational lands available for public use. • Additional land use planning approvals are highly likely to be required to accommodate residential uses. • Land use compatibility needs to be seriously considered in the assessment of <i>reasonable</i>. • Lands in settlement areas are most likely to be 	<p>Matters of Provincial Interest – concern</p> <p>Impact to ability and cost for municipalities to deliver on a number of listed matters of Provincial Interest.</p> <p>Environment, Urban Design and Climate Change – concern</p> <p>CAs hold environmentally sensitive lands. If these are lost there will be a resulting negative impact to the natural environment.</p> <p>Public Health and Safety – concern</p> <p>Natural and recreation areas have a positive and important influence on the health of</p>	<ul style="list-style-type: none"> • Test of <i>reasonable</i> needs to include: <ul style="list-style-type: none"> ○ Land Compatibility Assessment. ○ Natural Environment Evaluation. ○ Financial Impact Assessment. • Municipalities should be included in the assessment of properties as stakeholders and decision-makers on future Planning Act applications.

	<p>targeted. Ecosystem services needs to be a serious consideration as should the threat of reduction to the City's Natural Heritage System.</p>	<p>citizens. Diminishing the availability of these areas will result in a decrease to public health and well-being.</p> <p>Complete Communities – concern.</p> <p>Much of CA land holdings already form important components in the planning of complete communities. Removing these properties would diminish the ability to plan for complete communities.</p>	
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November 24, 2022

Electronic Submission only

ATT: Public Input Coordinator
 Ministry of Natural Resources and Forestry
 Resource Planning and Development Policy Branch
 300 Water Street, 6th Floor, South Tower
 Peterborough, ON K9J 8M5

RE: Proposed Updates to the Ontario Wetland Evaluation System (OWES)
 ERO Posting 019-6160

Background:

Environmental Registry posting 019-6160 proposes substantial changes to how wetlands are evaluated and catalogued through the the Ontario Wetland Evaluation System (OWES). Those proposed changes are generally understood as follows:

- Removing the ability to describe complexes of wetlands.
- Individual wetlands of an identified complex will be able to be individually re-assessed and re-delineated.
- Interactions of wetlands within complexes relating to surface water and groundwater resources will no longer have to be assessed in the consideration of provincial significance.
- Special scoring for Species at Risk (SAR)/Threatened (THR) species/habitat to be removed; and
- MNRF no longer to review wetland evaluations.

The City of Burlington recognizes the importance of a systems-based approach to planning for natural heritage and key features. Wetlands are a vital component of the functional connections between aquatic and terrestrial systems. The ecological, social, and economic benefits of wetlands are substantial and provide for some of the most productive and biologically diverse habitats in Ontario. Since the 1980s, a substantial amount of southern Ontario wetlands have already been lost to encroaching land uses and development. The conservation and protection of the remaining wetlands is of more importance than ever.

From a natural heritage planning perspective, the proposed changes to the complexing of wetlands does not represent a systems-based approach to planning for the natural environment. This direction is not supported by a science-based ecological understanding of natural systems. Advances in mapping and modelling over the past 10 years have resulted in a better understanding of hydrological connections of wetland complexes and

more efficient delineation processes. Removal of the complexing approach to wetland assessment is not a direction that is supported by the current policy or guidance provided by the Provincial Policy Statement (2020) or the Natural Heritage Reference Manual. This direction is likely to result in:

- An inconsistent approach to wetland evaluations;
- Challenges to recently assessed wetlands;and,
- A net loss of overall natural heritage system within municipalities.

These changes would be opposite to Provincial direction regarding proper accounting for *ecosystem services*. As noted in A Place to Grow (2020) wetlands provide numerous benefits including water storage and filtration, cleaner air and habitats, and support pollinators, carbon storage, adaptation and resilience to climate change. These benefits may be cost prohibitive to replicate with traditional infrastructure or services if the features supporting ecosystem services are lost; at expense to the municipality. It is likely, due to the wording of the proposed changes, that municipalities will seek their own OWES evaluator to either review completed evaluations, or to proactively evaluate wetland features deemed important to the City's natural heritage system in order to deliver on several identified matters of provincial interest.

Next Steps:

There is general support for the modernization of OWES and for additional clarity on the complexing of wetlands. However, permitting an individual component of a larger system to be assessed in isolation from that system is a significant departure from accepted ecological principles and a departure from principles enshrined in the Provincial Policy Statement (2020), A Place to Grow (2020), and the Natural Heritage Resource Manual. The opportunity to have a more open and productive dialogue on modernizing OWES would be preferred and some innovative consideration may include:

- update to include conclusive minimum size criteria for wetland units.
- OWES scoring for SAR/THR/Rare species could be modified to better reflect some of the inconsistencies in the process.
- Creating a scoring cap.
- Applicability where species status lists are current and available.

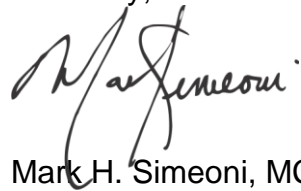
Currently, OWES recognizes the ecological complexities of wetlands. These complexities, such as the interaction of groundwater and surface water inputs, is part of what makes a wetland such a valuable feature suited to providing important ecosystem services. While the type of studies that may be required to assess these interactions can be both extensive and expensive, the general goal of revising OWES should focus on making the process transparent and replicable rather than disposing of important evaluative concepts.

Finally, It is unclear what role municipalities will have in the wetland evaluation process. Clarity should be provided regarding whether a municipality has the ability to retain their

own OWES evaluator where there may be a dispute in the evaluation process. Additional clarity is also sought regarding at what level oversight occurs. In general, having no or unclear oversight of the matter of wetland evaluation opens the process to abuse and potential conflicts of interest and the potential of undermining of certain matters of provincial interest enshrined in the Planning Act. It is suggested, in-lieu of an appeal mechanism, and removal as MNRF as arbiter, that it be clarified what recourse is available where there are conflicting evaluations or where there is a dispute regarding conclusions.

Please accept this letter and its attachment as the City of Burlington submission on ERO posting 019-6160. Given the short period for consultation the attached comments have not been approved by City Council. This letter and its attachment will be shared with the City's Committee's and Council at the earliest opportunity. Should Council determine any additional comments or refinements to the attached comments are required the Province will be advised at the earliest opportunity.

Sincerely,

A handwritten signature in black ink, appearing to read 'Mark H. Simeoni', written over a horizontal line.

Mark H. Simeoni, MCIP, RPP
Director of Community Planning
Community Planning Department
City of Burlington

Theme: Streamlining Development Approvals Contributor: Policy and Community Primary Associated ERO Postings: Proposed Updates to the Ontario Wetland Evaluation System (OWES) – ERO 019-6160 Notice Type: Policy Deadline: November 24, 2022			
Summary of Changes	Staff Comments/Questions	Guiding Principle (see the Options considered section of the hyperlinked report) (indicate support or concern)	Approaches or alternatives for consideration
Significant impacts (diminishment) to the ability to describe <i>complexes</i> of wetlands. Individual wetlands of an identified <i>complex</i> will be able to be individually assessed and re-delineated.	<ul style="list-style-type: none"> - From a natural heritage planning perspective, the changes to the <i>complexing</i> of wetlands are conflicting to a <i>systems-based</i> approach to planning for the natural environment. This direction is not supported by the science-based ecological understanding of natural systems. There is concern this direction may result in: <ul style="list-style-type: none"> • An inconsistent approach to wetland evaluations. It is unclear if a wetland evaluator's opinion can be challenged or appealed by a municipality. This could result in staff implications for the City (ecological expertise or peer review experts). • Could make the evaluation system more susceptible to abuse. • Will allow challenges to recently assessed wetlands that reside in the PSW designation. • A net loss of overall natural heritage system within the City. 	<p>Environment, Urban Design and Climate Change – concern</p> <p>Overall net loss to wetland features and the buffers protecting them. Wetlands play an important function in mitigating and adapting to the impacts of climate change.</p> <p>Matters of Provincial Interest – concern</p> <p>Impact to ability and cost for municipalities to deliver on a number of listed matters of Provincial Interest.</p> <p>Public Health and Safety – concern</p> <p>Loss of functions supporting ecosystem services including stormwater attenuation and conveyance.</p>	<ul style="list-style-type: none"> • It is generally agreed that OWES needs modernized and additional clarity on complexing is required. However, permitting an individual component of a larger system to be assessed in isolation from that system is a major departure from accepted ecological principles and undermines broader provincial objectives. • The OWES could be updated to include conclusive minimum size criteria for wetland units within a complex. While minimum threshold has been largely resisted in the past in favor of more subjective scoring metrics, a specific minimum threshold for a wetland within a complex could be established to ensure outcomes are transparent and replicable.

	<p>Delisting a wetland would preclude the consideration of potential ecological offsetting which is understood to be a policy direction being considered by the Province.</p> <ul style="list-style-type: none"> - These changes would be opposite to Provincial direction regarding proper accounting for <i>ecosystem services</i>; wetlands provide numerous benefits that may need to be replicated with traditional infrastructure if the features supporting ecosystem services are lost. 		
Interactions of wetlands within complexes relating to surface water and groundwater resources will no longer have to be assessed in the consideration of <i>provincial</i> significance.	<ul style="list-style-type: none"> - The proposed approach is not supportive of a <i>systems-based approach</i> to natural heritage planning. - Many wetlands are supported by ground water and surface water. Often the interaction between the SW/GW contributions needs to be considered to understand how sensitive/resilient a wetland is. Ultimately this information is needed for a complete understanding of potential impacts. - This direction is not consistent with the requirements conferred on planning authorities under S. 2.2. of the PPS (2020). 	<p>Matters of Provincial Interest – concern</p> <p>Impact to ability and cost for municipalities to deliver on a number of listed matters of Provincial Interest.</p> <p>Public Health and Safety – concern</p> <p>Potential to impact key natural features part of the City’s Natural heritage System (NHS). May have impact on overall water quality.</p>	<ul style="list-style-type: none"> - OWES recognizes the ecological complexities of wetlands. These complexities, such as the interaction of groundwater and surface water inputs, is part of what makes a wetland such a valuable feature suited to providing important ecosystem services. - Suggest retaining the groundwater/surface water assessment and detail applicable study requirements similar to the direction provided through S 2.2. of the PPS (2020).
Special scoring for SAR/THR species/habitat to be removed	<ul style="list-style-type: none"> - Wetlands tend to represent unique habitats that are difficult to replicate. Often SAR/THR species will not have an alternative habitat within a reasonable proximity. - The health and populations of SAR/THR species often act as indicators as to the 	<p>Matters of Provincial Interest – concern</p> <p>Impact to ability and cost for municipalities to deliver on a number of listed matters of Provincial Interest.</p> <p>Environment, Urban Design and Climate Change – concern</p>	<ul style="list-style-type: none"> - OWES scoring for SAR/THR/Rare species should be maintained but could be modified to better reflect some of the inconsistencies in the process: <ul style="list-style-type: none"> • A scoring cap; or • Only applicable where local status lists are current and available.

	<p>overall health of a system and the uniqueness of a feature.</p> <ul style="list-style-type: none"> - This would undermine the ability to protect local or regionally rare communities. - May restrict the extent a Biodiversity Plan could protect species/habitat of local concern. - There are proposed changes that establish scoring thresholds which will provide needed clarity in the assessment process. 	<p>Loss of unique habitats and impact to overall biodiversity of urban areas and growth areas should be anticipated. Wetlands play an important function in mitigating and adapting to the impacts of climate change.</p>	
<p>MNRF no longer to review wetland evaluations.</p>	<ul style="list-style-type: none"> - It is unclear whether a municipality can challenge an OWES practitioner's assessment with their own expert. - It is unclear at what level the oversight occurs at. - In general, having no flexibility but to accept a wetland evaluation as part of a development application impacts transparency and accountability. Ultimately, public confidence in the process begins to erode. 	<p>Financial Impact on Municipalities – Concern</p> <p>Additional technical expertise would be required to be retained by municipalities. May result in disputes leading to additional OLT burden.</p>	<ul style="list-style-type: none"> - Due to the wording of the proposed changes, it is likely that Municipalities will seek their own OWES evaluator to either review completed evaluations, or to proactively evaluate wetland features deemed important to the local/regional Natural Heritage System. - It is suggested, in-lieu of an appeal mechanism and removal as MNRF as arbiter, that it be clarified what is to happen in a case where there are conflicting evaluations or where there is a dispute regarding conclusions.

November 24, 2022

Electronic submission only

ATT: Cristina Da Silva
Cristina.Dasilva@ontario.ca

RE: Proposed enactment of the Minister's regulation-making authority under the Municipal Act, 2001 to introduce new limits on municipal rental demolition and conversion by-laws.

Ontario Regulatory Registry Posting N/A, Proposal Number 22-MMAH017

Background:

Ontario Regulatory Registry posting (N/A), Proposal Number 22-MMAH017 works with Schedule 4 of Bill 23 which proposes adding a subsection (7) under section 99.1 of the *Municipal Act, 2001*. This new section would enact the Minister's regulation-making authority to introduce regulations that impose limits and conditions on the powers of local municipalities to prohibit and regulate the demolition and conversion of residential rental properties with six units or more. This amendment to the *Municipal Act, 2001* is intended to standardize and clarify municipal powers and provide consistency across the province. The intent of this posting is to seek feedback on the nature of a future regulation.

Comments:

Rental units provide some of Burlington's most affordable housing, providing housing units for some of Burlington's most vulnerable residents. More Homes Built Faster should always include rental homes. Like in many of Ontario's Cities, the demand for rental units in Burlington has outpaced supply consistently over the last 15 years. As the demand for rental units continues to grow, it will be important that municipalities have the tools available to protect existing rental stock and incentivize the creation of new rental housing.

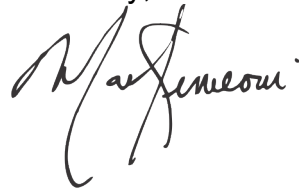
After extensive study and consultation, the [City of Burlington's Housing Strategy, 2022](#), recommended leveraging the existing policies within the Burlington Official Plans (1997 in effect and 2020 under appeal) to implement a rental-replacement by-law that would protect the existing rental stock. The policies of the Official Plan(s) seek to protect rental units and are responsive to local rental market conditions.

Limiting the ability of municipalities to be responsive to local context to protect existing rental stock will undermine their capacity to provide housing for residents. In Burlington, it will undermine the City's ability to meet growing rental demand, lowering an already exceedingly low vacancy rate, reducing affordability and impacting the quality of life of residents.

Next Steps:

Please accept this letter and its attachment as the City of Burlington submission on ORR posting Proposal Number 22-MMAH017. Given the short period for consultation the attached comments have not been approved by City Council. This letter and its attachment will be shared with the City's Committee's and Council at the earliest opportunity. Should Council determine any additional comments or refinements to the attached comments are required the Province will be advised at the earliest opportunity. Should a Regulation come forward, staff look forward to engaging with the Province to provide comments and finding solutions together.

Sincerely,

A handwritten signature in black ink, appearing to read 'Mark H. Simeoni'.

Mark H. Simeoni, MCIP, RPP
Director of Community Planning
Community Planning Department
City of Burlington

Theme: Helping Home Buyers and Renters Contributor: Community Planning Primary Associated ERO Postings (Deadline): Municipal Act – Municipal Rental Replacement By-Laws (ORR 22-MMAH017) November 24, 2022			
Summary of Changes	Staff Comments/Questions	Guiding Principle (see the Options considered section of the hyperlinked report) (indicate support or concern)	Approaches or alternatives for consideration
1- Municipal Rental Replacement By-Laws. Adding in subsection (7) under s.99.1 of the Municipal Act, 2001 to enable the province to introduce regulations to impose limits and conditions on the powers of a local municipality to prohibit and regulate the demolition and conversion of residential rental properties with six or more units.	<u>Questions</u> <ul style="list-style-type: none"> How would this new regulation protect existing rental units and tenant rights? Under what circumstance would a Regulation be introduced? How would the regulation give regard to the nuances of local context within the rental market? <u>Burlington's Rental Market</u> <ul style="list-style-type: none"> Demand for rental units in Burlington continues to outpace construction of rental units. Burlington's vacancy rate has been at or below 2% for the last 15 years and Burlington needs to build over 200 units per year to keep up with rental demand. Limiting the protection of exiting rental units will undermine the ability of the City meet the demand for rental units. 25% of Burlington's Households were renters in 2021 up from 20.5% in 2006 with 20% of renters in Core Housing Need in 2021. City of Burlington's Official Plans (1997-in effect and 2020-under appeal) policies intend to protect rental units and is responsive to the vacancy rate. 	More Homes Faster <ul style="list-style-type: none"> The construction of more housing units faster should include rental units. Reducing protections for existing rental units will erode the City's already limited supply of rental housing stock, reduce affordability of units overall and undermine the city's ability to deliver the required 200+ new rental units needed to keep up with demand. Complete Communities <ul style="list-style-type: none"> Rental units represent some of Burlington's most affordable housing options, their protection and incentivization is critical to meet the needs of middle and low income residents and to protect its most vulnerable community members. 	<ul style="list-style-type: none"> The new regulation should be responsive to local rental market conditions and vacancy rates. While the Residential Tenancies Act provides protections with regard to extensive/major renovations, it does not provide protections for demolition and conversions of rental properties. A new regulation should consider protections for renters related to demolition and conversion; giving regard to the substantial impact on renters and their quality of life when their units are demolished or converted. Should a regulation be prepared, consider developing a monitoring framework to ensure that the rental stock is not negatively impacted and that the number of renters in Core Housing Need does not increase. Given that the demand for rental units continues to outpace supply, consider opportunities to invest in grants and other funding sources to incentivize the creation of new rental units within communities. Consider exempting demolition/conversion of rental units with 6 or more residential rental units from required conditions (such as required 3% vacancy rate) if: <ul style="list-style-type: none"> More or same residential units are being provided by proposed development/conversion

PL-82-22
Appendix F: Municipal Rental Replacement By-Law

	<ul style="list-style-type: none">• Burlington’s Housing Strategy, 2022 highlights the importance of a healthy rental housing stock (at or above 3% vacancy rate) to meet the needs of residents at all income levels and stages of life.		<ul style="list-style-type: none">○ The same number of rental units with the same number of bedrooms per unit and similar rental rate are being provided• This approach would generally be in line with the City’s 2020 Official Plan policies

Theme: Streamlining development approvals Contributor: Legal Primary Associated ERO Postings (Deadline): <u>Proposed Amendments to the Ontario Land Tribunal Act, 2021 (November 25th)</u>			
Summary of Changes	Staff Comments/Questions	Guiding Principle (see the Options considered section of the hyperlinked report) (indicate support or concern)	Approaches or alternatives for consideration
Clarify the OLT's powers to dismiss appeals due to unreasonable delay by parties. Prior to dismissal, parties would be given notice of the OLT's intent to dismiss and an opportunity to respond in accordance with the OLT's Rules of Practice and Procedure.	<ul style="list-style-type: none"> As noted, this change is a clarification of the powers to dismiss an appeal that the Tribunal currently has, and accordingly, it is not clear it is necessary. It is unclear if this clarification will result in more dismissals. As the City is not an appellant of matters, the potential impact of this clarification to the City is limited. 		
Clarify the OLT's powers to order an unsuccessful party to pay a successful party's costs. This proposed amendment is intended to encourage parties to reach an agreement without going through the Tribunal. If the OLT decides to award costs, costs	<ul style="list-style-type: none"> Again, this change is a clarification of powers the Tribunal's current authority to award costs. Despite already having broad authority to award costs, the Tribunal rules (and the rules of its predecessors) have established a rule requiring that the conduct of the party be unreasonable, frivolous or vexatious before costs will be awarded against them. This approach recognizes that the Planning Act establishes a public system for planning, and parties who engage in that system in good faith 	<p>Concern:</p> <p>Public Engagement - if members of the public or public entities are deterred from participating in these processes for the fear of cost implications.</p> <p>Growth Pays for Growth – if municipalities start to face costs awards against them where they are participating in good faith, the cost burden of municipal participation in</p>	

would be ordered in accordance with its Rules of Practice and Procedure, which could address when costs for a successful party may be awarded.	<p>and with reasonable conduct should not be punished for doing so.</p> <ul style="list-style-type: none"> • The impact on participation, for the general public or the City, in hearings will be determined by whether the Tribunal will change its rules in response to this clarification on its existing powers. • Further, in planning matters, it is not always clear as to who the successful or unsuccessful party is, as the Tribunal can approve parts of an application and refuse others, and as applications often change throughout the appeal process. 	its own land use planning system and the costs of the applicant will fall to tax payers	
Enable priority criteria to be established in regulation to help ensure that OLT cases that create the most housing, for example, will be resolved as quickly as possible. A new Lieutenant Governor in Council (LGIC) regulation under the OLTA would be developed after consultations with affected ministries and posting on the Regulatory Registry.	<ul style="list-style-type: none"> • The impacts of this new regulatory authority will not be fully understood until the regulations have been released. • Concern that if site-specific applications for residential intensification is prioritized above all other files, it may result in other elements of complete communities, such as employment uses, or comprehensive municipal plans for the City or specific areas being significantly delayed 	Concern: Complete Communities – if applications for residential development are prioritized to the detriment of other types of applications and municipally initiation instruments, the vision for complete communities will not be realized.	
Enable service standards (i.e., timelines) for specific case resolution activities at the OLT	<ul style="list-style-type: none"> • Again, the impacts of this new regulatory authority will not be fully understood until the regulations have been released 		

to be set in regulation. A new Minister's regulation under the OLTA would be developed after consultation with the public and stakeholders via a posting on the Regulatory Registry.	<ul style="list-style-type: none">• In establishing timelines, it is important to reflect the time required for City staff to obtain instructions from City Council as necessary		
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289-983-0648
 Mark.Simeoni@burlington.ca

December 9, 2022

Electronic Submission only

ATTENTION:

Honourable Steve Clark, MPP
 Minister of Municipal Affairs
 100 Strowger Boulevard, Suite 101
 Brockville, ON K6V 5J9
Steve.Clark@pc.ola.org

RE: Proposed Changes to Ontario Regulation 232/18: Inclusionary Zoning

Environmental Registry of Ontario Posting 019-6173

Background:

Environmental Registry of Ontario posting 019-6173 proposes a number of changes to Ontario Regulation 232/18: Inclusionary Zoning. These changes would establish an upper limit on the number of units that could be set aside as affordable, a maximum affordability period and prescribe an approach to determining the lowest rent/price for inclusionary zoning units. The proposed changes intend to provide more consistency, certainty and clarity across the province's Protected Major Transit Station Areas.

Comments:

The proposed changes to Ontario Regulation 232/18 will limit the ability of municipalities to deliver affordable units within the PMTSAs. It will also limit the depth of affordability of units and could result in the premature loss of affordable units from the PMTSA's.

Setting the minimum price/rent of inclusionary zoning units to 80% of purchase price/AMR instead of relying on the technical work of municipalities as set out in O.Reg 232/18 may result in the reduced affordability of inclusionary zoning units. This change to the Regulation relies solely on market conditions and not household income. Due to the high cost of rental and ownership housing in Ontario, this may further exclude low and middle-income residents from ownership and rental markets within the PMTSAs. Relying on the Municipal Assessment Reports of Municipalities as set out in O.Reg 232/18 to determine the minimum price/rent that is feasible will ensure that the greatest number of affordable units will be generated at the deepest possible level of affordability; providing a tool for municipalities to provide more affordable units faster within PMTSAs.

Next Steps:

Please accept this letter and its attachment as the City of Burlington submission on ORR posting 019-6173. Given the short period for consultation the attached comments have not been approved by City Council. This letter and its attachment will be shared with the City's Committee's and Council at the earliest opportunity. Should Council determine any additional comments or refinements to the attached comments are required the Province will be advised at the earliest opportunity.

Sincerely,

A handwritten signature in black ink, appearing to read 'Mark H. Simeoni'.

Mark H. Simeoni, MCIP, RPP
Director of Community Planning
Community Planning Department
City of Burlington

Theme: Reducing costs, fees and taxes Contributor: Community Planning Primary Associated ERO Postings: ERO 019-6173 December 9, 2022			
Summary of Changes	Staff Comments/Questions	Guiding Principle (see the Options considered section of the hyperlinked report) (indicate support or concern)	Approaches or alternatives for consideration
Establish an upper limit on the number of units that would be required to be set aside as affordable to % of the total number of units or 5% of the total GFA of the total residential units	<ul style="list-style-type: none"> - What is the rationale for a 5% upper limit on the set aside rate? - This maximum could inadvertently limit the capacity of municipalities to deliver affordable housing units in Ontario's PMTSAs 	More Homes Faster <ul style="list-style-type: none"> - This changes to the Regulation may inadvertently diminish the capacity of municipalities to deliver more affordable homes faster in PMTSAs. 	<ul style="list-style-type: none"> - Consider allowing the findings of the studies and analysis undertaken by municipalities that are currently required by Ontario Regulation 232/18 to determine a feasible set aside rate for each PMTSA that is responsive to localized market contexts. - Consider the number of municipalities that have initiated the Municipal Assessment Report process guided by the existing regulation that has been modified by the Province in recent times. Significant investment has been made based on good faith. - Consider other tools to generate deeply affordable units such as appropriate development standard modifications.
Establish the maximum period over with the affordable housing units would be required to remain affordable to 25 years.	<ul style="list-style-type: none"> - What is the rationale setting 25 years as the maximum affordability period? - This maximum could inadvertently limit the capacity of municipalities retain affordable units within PMTSAs 	Complete Communities <ul style="list-style-type: none"> - This change to the regulation may inadvertently diminish the capacity of municipalities to retain affordable housing units within the PMTSAs. 	<ul style="list-style-type: none"> - Consider allowing the findings of the studies and analysis undertaken by municipalities that are currently required on Ontario Regulation 232/18 to determine what affordability period is most feasible for each PMTSA and that is responsive to localized market contexts.
The lowest price/rent that can be required will be set at 80% of	<ul style="list-style-type: none"> - More information is required around the Bulletin and how it will determine AMR and average purchase price. Such as how often the 	Complete Communities <ul style="list-style-type: none"> - This change to the regulation may inadvertently diminish the depth of 	<ul style="list-style-type: none"> - Or consider allowing municipalities to determine the lowest price/rent to be required based local context and feasibility within each PMTSA through the studies

the average resale purchase price for ownership units and 80% of the AMR of rental units	<p>bulletin will be updated, what data sources will be used and whether it will be based on geographic locations, unit type and number of bedrooms.</p> <ul style="list-style-type: none"> - What is the rationale for using “80% of AMR” and “80% of average purchase price” to define affordability? The PPS currently uses household income as a metric for determining affordability. - Disconnecting the definition of affordable from the household income of Ontarians and relying on the market to define affordable will result in a further disconnection of housing affordability from real incomes. - How do these new definitions ensure that moderate and low-income decile households are considered when defining what is affordable? - Through work on the Housing Strategy in 2021, the Housing Needs and Opportunities Report provides tables (63 & 65) that assess the income decile that a household would need to be in to be able to afford a housing unit in Burlington. Adjusting these unit prices to 80% of the AMR or average sales price showed that: <ul style="list-style-type: none"> o For both the rental and ownership units in Burlington, 80% of the average sales price/AMR does not provide affordability deep enough that low-income and some middle-income residents can afford units. o Even at 80% of the average sales price, a household would need to make at least \$113, 702.00 per year to enter 	affordability of units within the PMTSAs.	<p>and analysis that municipalities are currently required to undertake under Regulation 232/18. This will ensure that the deepest affordability possible is made available to low and middle-income residents.</p> <ul style="list-style-type: none"> - Alternatively, consider using the definition in the PPS for consistency and clarity across policy frameworks. This will ensure that household income informs the definition of affordable.
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	the housing market and at least \$48,579.00 per year to afford a rental unit (a bachelor apartment).		
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December 30, 2022

Electronic Submission only

ATT: Public Input Coordinator

Ministry of Natural Resources and Forestry
Resource Planning and Development Policy Branch
300 Water Street, 6th Floor, South Tower
Peterborough, ON K9J 8M5

RE: **Proposed updates to the regulation of development for the protection of people and property from natural hazards in Ontario**
ERO Posting 019-2927

Background:

Through proposed modifications to Sections 21 & 28 of the *Conservation Authorities Act* (CAA), as well as forthcoming Regulations, a number of Conservation Authority processes are expected to be altered or further defined. The following items are understood to be proposed:

- A new Regulation will be created and adopted that will be applicable to all thirty-six (36) CAs. This Regulation will:
 - Formalize pre-consultation requirements for CAA permits.
 - Formalize complete application requires including, but not limited to, studies and/or technical information.
 - Limit the type of site-specific conditions applied to CAA permits.
 - Expand CA's ability to issue maximum length permits and issue extensions.
 - Formalize development related policy requirements and application review procedures.
 - Describe 'low-risk' activities that could be exempted from requiring a CAA permit.
- The new Regulation will update a number of definitions including *watercourse* and *wetland*.
- Requirement for CAs to formally map regulated areas and notify the public when/if these areas are expanded upon.
- Allow development to be exempt from CAA permits where a *Planning Act* authorization has been provided. The use of the exemption tool will be subject to conditions provided in a future Regulation.

Comments:

Coupled with the changes proposed to the CAA through ERO posting 019-6141, this proposal will significantly alter how CAs operate in their permitting role and alter the way they interact with the development review process under the *Planning Act*. As a result, municipalities in Halton Region, including the City of Burlington, may no longer be able to rely on some of the valuable services in the development review process that have previously been undertaken in partnership with Conservation Halton (CH) and Halton Region. Currently, the City of Burlington is party to a Memorandum of Understanding (MoU) for the provision of planning services, focused on ecological review, between the Region and CH. Given the proposed direction of providing the ability for development authorized by the *Planning Act* to be exempted from permitting requirements under CAA, there is a significant concern that this signals the downloading of risks and responsibilities for natural hazards to municipalities. The following impacts on municipalities as a result of these changes and potential means of mitigating those impacts should be considered:

- Reduced access to technical expertise residing at conservation authorities in the development review process including, but not limited to ecology, hydrogeology, hydrology, hydraulic modelling.
- Additional financial burden to retain technical expertise to assess aspects of development applications previously reviewed by CA staff.
- Additional financial and staff burden to take on the responsibility of monitoring, inspection, and compliance responsibilities where an exemption from a CAA permit is given.
- Additional risks and responsibilities for natural hazards being downloaded to municipalities including inspection, compliance, and technical review.
- Duplication of studies and technical reports where *Planning Act* and CAA permits are filed for concurrently. This has potential impact to the delivery of Halton Region's 'one-study' approach to Environmental Impact Assessments (or equivalent).
- Study duplication as a result of differing applicable standards and application requirements that will result from an inability to effectively coordinate *planning act* approvals and CAA permits.
- Diminished oversight of the impacts to the natural environment and water resources where a development is exempt from a CAA permit, or where development is authorized by a MZO.
- Diminished oversight regarding assumed 'low-risk' development in regulated areas through provided expanded exemptions.

The City of Burlington remains supportive of changes to the legislation that will aid in ensuring the issue of housing availability is addressed while balancing the protection of the natural environment and the protection of life and property from natural hazards. The City works together with agency partners including Conservation Halton to understand

the risks posed by natural hazards and to formulate mitigation and enhancement strategies to ensure a safe and resilient outcome for all stakeholders.

The Province has posed four (4) questions to the public and agencies regarding the creation of an CAA permit exemption mechanism for use through the *Planning Act*. Those questions are:

1. In which municipalities should the exemption apply? How should this be determined?
2. Which *Planning Act* authorizations should be required for the exemption to apply?
3. Should a municipality be subject to any requirements or conditions where this type of exemption is in place?
4. Are there any regulated activities to which this exemption shouldn't apply?

Before a substantive response can be provided on the questions posed, it must first be clarified to what extent the use of this exemption tool will make municipalities responsible for the risk and liability that goes with development planning within natural hazards. Section 3.0 of the *Provincial Policy Statement (PPS)* 2020 has historically provided strategic direction to public bodies, including municipalities, on how to adequately plan for and protect citizens from natural hazards as follows:

Ontario's long-term prosperity, environmental health and social well-being depend on reducing the potential for public cost or risk to Ontario's residents from natural or human-made hazard [...]

Mitigating potential risk to public health or safety or of property damage from natural hazards, including risks that may be associated with impacts of a changing climate, will require the Province, planning authorities and conservation authorities to work together. (PPS, 2020. Pg. 32)

Taking this Provincial direction seriously, the City of Burlington in partnership with the Region of Halton and Conservation Halton, have moved to an integrated *one-study* approach to natural hazards planning within the development review process. This process permits all those agencies with vested interest or legislated responsibility for hazards to provide a coordinated response regarding study requirements and mitigation expectations. Restricting the ability of CAs to participate wholly within *Planning Act* applications and providing an exemption tool to effectively circumvent CA regulatory authority seems to be antithetical to the strategic direction reflected in the PPS (2020).

If the implementation of a CAA exemption mechanism is being seriously considered by the Province, it would make most sense to make its implementation at the discretion of individual municipalities. It would be further prudent to require a municipality to implement Official Plan (OP) policy authorizing the use of the exemption tool and describing the conditions under which it can be utilized. This would represent a more transparent approach to implementation that would include public consultation.

The impacts being felt locally, and globally, as a result of climate change cannot be understated. A healthy and functional natural heritage system represents the pre-eminent tool in adapting to impacts as a result of exacerbated natural hazards. The health and function of these systems have traditionally been addressed through a partnership of municipalities, public bodies, non-governmental agencies, and private developers working together on a common path. Bill 23's proposed changes to the role of Conservation Authorities in protecting life and property from natural hazards represent a threat to the ability of the City to adapt and achieve resiliency.

The City, in partnership with the Region of Halton and Conservation Halton, have moved towards to an integrated *one-study* approach within the development review process. With the proposed changes to the CAA these coordinated efforts would be negatively impacted. If the ability to coordinate aspects of natural hazard planning with the regulatory authority responsible for them is removed, it is likely that municipalities will have to assume the related risks and responsibilities as well as the associated liabilities. To mitigate this risk municipalities will require access to technical expertise that have not been historically retained to avoid duplication with CAs. This is being viewed as having the potential to have a significant financial and staffing impact on municipalities.

It is more important than ever for the City to ensure the best tools and partnerships are able to be leveraged to ensure the health and resiliency to mitigate hazards being exacerbated by elements of climate change.

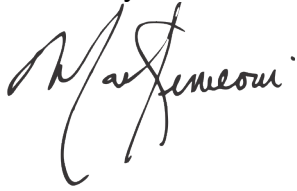
Next Steps:

The Province has City of Burlington remains supportive of the previous changes to the CAA and the accompanying Regulations that formed part of Bill 229: *Protect, Support and Recover from COVID-19 Act*. Those changes ensured that conservation authorities core services were appropriately defined (Category 1 services), and also set out the requirements that would need to be in place if a municipality sought certain programs or services from CAs beyond those mandatory services (Category 2 & 3 services). The City utilizes this flexibility to work in partnership with Conservation Halton and the Region of Halton through an established MoU for defined planning services. This has resulted in a more streamlined review of environmental impacts and natural hazards while also providing more clarity and consistency in required submission materials. It is the City's position that the diminishment of the role of CAs within the development and permitting processes will result in a prolonged pre-application process as well as the duplication of studies and requirements borne out of restrictions placed on CAs participation in applications under *prescribed Acts*. The City it respectfully requesting the Province reconsider continuing the direction that was prescribed through Bill 229.

Please accept this letter and its attachment as the City of Burlington submission on ERO Posting 019-2927. Staff will be sharing these comments with the City's Committees and

Council at the earliest opportunity. Refinements and clarification will be provided as required.

Sincerely,

A handwritten signature in black ink, appearing to read 'Mark Simeoni', with a stylized flourish at the end.

Mark Simeoni, MCIP, RPP
Director of Community Planning
Community Planning Department
City of Burlington

Theme: Streamlining development approvals. Contributor: Policy and Community			
Primary Associated ERO Postings: Proposed updates to the regulation of development for the protection of people and property from natural hazards in Ontario – ERO 019-2927			
Notice Type: Regulation			
Deadline: December 30, 2022			
Summary of Changes	Staff Comments/Questions	Guiding Principle (see the Options considered section of the hyperlinked report) (indicate support or concern)	Approaches or alternatives for consideration
<ul style="list-style-type: none"> - Newly proposed O.Reg. for regulation of development in or near hazards (O.Reg. not yet released). Is intended to apply to all 36 CAs. - The new regulations will: <ol style="list-style-type: none"> i. detail <i>complete application requirements</i> for Conservation Authority Permits ii. Limit the site-specific conditions a CA may attach to a permit with the focus being on hazards and public safety. iii. Expand a CA's ability to issues maximum length permits and issue 	<ul style="list-style-type: none"> - The proposed complete application requirements are fairly standard except for (h) that identifies: <u><i>Such other technical information, studies or plans, as the authority may request prior to the confirmation of a complete application by the authority, including as determined during any pre-consultation between the authority and the applicant.</i></u> - Its unclear which process would take precedence when a <i>Planning Act</i> application and a CA Permit application are concurrently filed. Limiting CA's ability to comment/participate in the planning process will lead to duplication of effort at the pre-consultation stage of development applications. - Conservation Halton already implements many of the service delivery 	<p>More homes built faster – concern</p> <p>Duplication of study requirements and separate, uncoordinated development review processes is not likely to streamline required approval processes.</p>	<ul style="list-style-type: none"> - Please clarify if low risk activities being considered for exemption would be applicable within 30.0 m of a wetland or required buffers of other key features. - Please clarify how additional study requirements and two separate, uncoordinated processes would result in streamlining compared to all agencies working within the same, coordinated process? - Consider continuing to allow CAs to provide Category 2 services to municipalities where there is an agreement in place between the municipality and the CA.

<p>extensions. (max. 60 months). Written application 60 days before expiry for extension, demonstrates <i>circumstances beyond the control of the holder of the permission</i>.</p> <ul style="list-style-type: none"> - CAs will be required to develop, consult on, make publicly available, and periodically review a policy that includes: <ul style="list-style-type: none"> - Additional complete application details - Timelines for confirmation/notification of complete application including administrative process if notification does not occur. - Timelines for decision following complete application - Additional technical details on regulator requirements and application review procedures. 	<p>standards that are going to be considered in the new Regulation</p>		
<ul style="list-style-type: none"> - Site-specific conditions a CA may attach to a permit will be limited to conditions that mitigate: 	<ul style="list-style-type: none"> - It is assumed that CAs would be able to continue to apply standard permit conditions (non-site specific) that have been developed and consulted on over time. If so, defining the extent of site- 	<p>Environment, Urban design and Climate Change – concern</p> <p>If monitoring or compliance related conditions cannot be implemented</p>	<ul style="list-style-type: none"> - Please clarify if CA standard conditions would continue to be applied and applicable.

<ul style="list-style-type: none"> - Effects the development project is likely to have on the control of flooding, erosion, dynamic beaches or unstable soil or bedrock; and - Conditions or circumstances created by the development project that, in the event of a natural hazard, might jeopardize the health or safety of person or result in the damage or destruction of property. 	<p>specific conditions to encompass, generally, CA core mandate issues should not be an issue. Until the regulation is drafted it is difficult to comment on the extent of potential restrictions.</p> <ul style="list-style-type: none"> - If conditions related to monitoring, inspection, compliance are impacted those may fall on the municipalities to implement through the development approval process. 	<p>additional impacts to hazards and key features should be anticipated during and after construction phase.</p> <p>Growth pays for growth – concern</p> <p>If monitoring or compliance related conditions cannot be implemented, it may fall on municipal resources to carry out those tasks</p>	
<ul style="list-style-type: none"> - CAs are required to map where a permit will be required and must notify the public when enlargements to these areas are being proposed through mapping updates. 	<ul style="list-style-type: none"> - Conservation Halton, working with the City of Burlington, is proactive in mapping updates. The updating process includes public engagement opportunities including review of mapping results. 	<p>Matters of Provincial Interest – support</p> <p>Having access to high quality hazard mapping allows municipalities to more efficiently deliver on a number of provincial interests.</p> <p>Complete Communities – support</p> <p>Having access to recent, quality data on hazards impacting current and future neighbourhoods helps plan for safer and healthier communities.</p> <p>Public Health and Life Safety – support</p> <p>Hazard mapping allows for best management practices to be</p>	<ul style="list-style-type: none"> - There is general support for hazard mapping projects as well as the supporting public engagement opportunities.

		<p>implemented where there is a known risk to existing or future development.</p> <p>An Engaged Community – support</p> <p>Public notification and engagement in the hazard mapping process ensures municipal residents are informed and engaged in process affecting them.</p>	
<ul style="list-style-type: none"> - Definition of watercourse will be updated to read: <i>a defined channel having a bed, and banks or sides.</i> - Definitions for wetland and hazardous land will be set out in regulation 	<ul style="list-style-type: none"> - There is a concern that the proposed definition of watercourse may result in altered or difficult to define sections of a watercourse to be left out of hazard mapping. - The definition of wetland has not been harmonized with all Provincial Plans. 	<p>Environment, Urban design and Climate Change – concern</p> <p>Watercourse, wetlands, and other key features play an important role in overall environmental health of municipalities as well as offering mitigation from the effects of a changing climate. Issues arising from the improper definition of such features may lead to the loss of system features or the diminishment of existing protections.</p>	<ul style="list-style-type: none"> - Recommend taking the opportunity to harmonize the definition of wetlands to be consistent with other Provincial policy documents.
<ul style="list-style-type: none"> - S.28 CAA is updated to allow for development to be exempted from requiring a CAA permit where a <i>planning act</i> decision has authorized the development. - It is proposed that a <i>planning act</i> approval would have to meet certain conditions for the exemption to apply. These conditions are to be provided through a future Regulation. The 	<ul style="list-style-type: none"> - The ability for planning act decisions to exempt development from obtaining a required CAA permit could result in municipalities having to take on the risk and responsibility for development in hazards. - CA permits often carry conditions for inspection and compliance. A role municipalities would likely have to take on if a CA permit is exempted. - To adequately respond to these added roles and responsibilities, many municipalities would have to retain additional staff in technical disciplines 	<p>Public Health and Life Safety – concern</p> <p>May result in less stringent application of standards that are implemented to mitigate impact to the natural environment and protect people and property from natural hazards.</p> <p>Growth pays for growth – Concern</p> <p>If additional responsibilities and risks are to be borne by the municipality through</p>	<ul style="list-style-type: none"> - Any exemption process or policy being considered by the Province should be made to be voluntary and require a municipality to have enabling Official Plan policies for use of CAA permit exemption authority. - Please clarify if use of the exemption would result in the risks and liabilities of hazard regulation being downloaded to the municipality. - Please clarify if funding for additional technical expertise/staff will be provided for municipalities taking on additional compliance/inspection responsibilities.

<p>Province is seeking feedback on the development of this Regulation posing the following four (4) questions:</p> <ul style="list-style-type: none"> i. In which municipalities should the exemption apply? How should this be determined? ii. Which <i>Planning Act</i> authorizations should be required for the exemption to apply? iii. Should a municipality be subject to any requirements or conditions where this type of exemption is in place? iv. Are there any regulated activities to which this exemption shouldn't apply? 	<p>that have traditionally been addressed by expertise residing at CAs.</p> <ul style="list-style-type: none"> - These changes can be viewed as additional downloading of Provincial responsibilities onto municipalities without clear efficiencies being gained as a result. 	<p><i>planning act</i> decisions, municipalities will have to seek additional personnel or third-party reviewers in technical disciplines previously addressed by CAs.</p> <p>Matters of Provincial Interest – concern</p> <p>Delivery of a number of provincial interests could be impacted through this shifting in responsibility from the province to municipalities.</p>	
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289-983-0648

Mark.Simeoni@burlington.ca

December 9, 2022

Electronic Submission only

ATTENTION:

Honourable Steve Clark, MPP
Minister of Municipal Affairs
100 Strowger Boulevard, Suite 101
Brockville, ON K6V 5J9
Steve.Clark@pc.ola.org

RE: Proposed Changes to Ontario Regulation 299/19: Additional Residential Units

Environmental Registry of Ontario Posting 019-6197

Background:

Schedule 9 of Bill 23, *More Homes Faster Act, 2022* proposes amendments to the *Planning Act, 1990* to support gentle intensification in existing residential areas. As a result of these proposed legislative changes, consequential amendments are proposed to Ontario Regulation 299/19: Additional Residential Units (O.Reg 299/19) through Environmental Registry of Ontario posting 019-6197. The proposed changes would remove barriers and incent gentle intensification in residential areas through the delivery of Additional Residential Units (ARUs).

Comments:

Overall, the changes proposed in Schedule 9 of Bill 23 and O.Reg 299/19 align with the City's commitment to bolster the creation of more housing and the delivery of housing options. This aligns with Strategic direction 1 of the City's strategic plan and the policies of the City's new Official Plan, 2020. This type of gentle intensification delivers affordable residential units as well as a source of income for home owners and in so, improves housing affordability for homeowners.

It is critical to ensure that while removing barriers to the development of Additional Residential Units, municipalities retain the ability to protect the health and safety of residents and respond to local context. Changes to the regulation should support the role of local Zoning regulations that guide development and is responsive to local planning and infrastructure context. Retaining the ability to be responsive to local context will be crucial in understanding the comprehensive and cumulative impacts of gentle densification, including the impacts on the delivery of services, stormwater management, parks and active transportation provisioning.

It is difficult to comment as a draft of the modifications to the regulation was not released. The Province is encouraged to work closely with municipalities to understand opportunities to remove barriers, smooth processes and reinforce the role of Zoning. Working together to provide clarity to municipalities also means providing clarity to residents, ultimately the creators of these new units. Please consider working more closely together to reduce the burden of study and encourage the removal of barriers to the delivery of these types of units.

Recommendations:

- Ensure that the Regulation clarifies and reinforces the role of Zoning;
- Consider requiring the principle dwelling comply with parking requirements so as not to compound parking issues;
- Consider including a regulation that identifies that servicing and infrastructure capacity (including community infrastructure) is assumed to be sufficient, but that servicing capacity is available on a first come first served basis;
- Consider implementing a Provincial ARU registry program. The registry program would support homeowners in creating ARUs and provide a reliable source of information that is consistent across the province. The program would connect homeowners to resources, provide information about costs, benefits and strengthen existing and new partnerships and would also serve to connect tenants with safe, legal housing units;
- Consider implementing a monitoring program to evaluate the success of the removal of barriers and incenting ARUs and adjust policy and regulation tools as required.

Next Steps:

Please accept this letter as the City of Burlington's submission on ERO posting 019-6197. Given the short period for consultation the attached comments have not been approved by City Council. This letter and its attachment will be shared with the City's Committee's and Council at the earliest opportunity. Should Council determine any additional comments or refinements to the attached comments are required the Province will be advised at the earliest opportunity.

Sincerely,



Mark H. Simeoni, MCIP, RPP
Director of Community Planning
Community Planning Department
City of Burlington



289-983-0648

Mark.Simeoni@burlington.ca

December 9, 2022

Electronic submission only

ATT: Afra Kahn
Afra.khan@ontario.ca

RE: Seeking input on Rent-to-Own Arrangements

Ontario Regulatory Registry Posting N/A, Proposal Number 22-MMAH018

Background:

The Province of Ontario is exploring the role that the rent-to-own home financing model may have in housing attainability. The province is seeking input to inform the consideration of its role in rent-to-own financing models as a way to support housing attainability in the province.

Comments:

The Rent-to-own financing model could contribute to attainable home ownership in Ontario if it were to be funded and supported appropriately by the Provincial Government. However, on its own, it will not increase the supply of housing or increase housing affordability for renters, some of the most vulnerable members of Burlington's community.

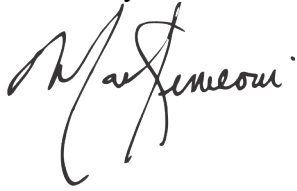
The [City of Burlington's housing Strategy \(2022\)](#) and the [Housing Needs and Opportunities Report](#) found that innovative housing solutions and alternatives to traditional ownership including rent-to-own, life-leases, co-operative housing and community land trusts could be used to help deliver increased housing options that meet the needs of residents at all stages of life and at all income levels. It will be important to consider exploring additional innovative housing solutions that together may improve affordability for low and middle income owners *and* renters.

Next Steps:

Please accept this letter and its attachment as the City of Burlington submission on ORR posting Proposal Number 22-MMAH018. Given the short period for consultation the attached comments have not been approved by City Council. This letter and its attachment will be shared with the City's Committee's and Council at the earliest opportunity. Should Council determine any additional comments or refinements to the attached comments are required the Province will be advised at the earliest opportunity.

Staff look forward to engaging with the Province to work towards to shared goal of more homes, faster.

Sincerely,

A handwritten signature in black ink, appearing to read 'Mark H. Simeoni'.

Mark H. Simeoni, MCIP, RPP
Director of Community Planning

Feedback on Rent-to-Own Arrangements

Commenting Deadline: December 9, 2022

ORR posting: MMAH018

Comments

1. Do you think that rent-to-own arrangements are a viable way to support housing attainability in Ontario?

It is possible that Rent-to-Own arrangements could contribute to attainable home ownership in Ontario if it were to be funded and supported appropriately by the Provincial Government. However, it likely will not on its own, increase the supply of housing or increase housing affordability for renters, some of the most vulnerable members of Burlington's community. Further, it is difficult to assess the impact of rent-to-own arrangements on housing attainability given that the term "Attainability" has yet to be fully defined by the *Development Charges Act, 1997* and forthcoming Bulletins.

The [City of Burlington's housing Strategy \(2022\)](#) and [Housing Needs and Opportunities Report](#) found that alternatives to traditional ownership including rent-to-own, life-leases, co-operative housing and community land trusts amongst other innovative housing solutions could be used to help deliver increased housing options to meet the needs of residents at all stages of life and at all income levels.

Considering other non-traditional housing models along with rent-to-own arrangements could support the construction of more housing units faster and supply more housing options that meet the needs of middle and low income residents in communities.

2. Are there any barriers with rent-to-own arrangements that you think may be discouraging providers from offering this type of housing?

Without proper funding and incentivization from upper levels of government, there are minimal incentives for housing providers to deliver rent-to-own housing arrangements. There is a lack of competitive advantage(s) in comparison with traditional ownership models and this could discourage providers.

Further, Property owners would be required to act as landlords over the duration of the rent-to-own agreement, requiring them devote resources to the maintenance and repair of the properties.

3. Are there any issues with existing rent-to-own arrangements that make it difficult or unfavorable for clients, such as renters, to engage in them?

Rent-to-Own agreements do not provide any additional affordability to those attempting to enter the ownership market and in fact, require a household income substantial enough to be able to make an extra monthly payment on top of rent to accrue a down payment for the eventual purchase of the property. Additionally, some agreements require an initial down payment, in many cases, this will be cost prohibitive to many renters and could affect housing affordability for households with middle and low incomes. Further, the extra monthly payment may also affect the client's credit rating and create difficulties during mortgage application process.

4. Are there measures the government could consider to facilitate these agreements, such as making them more viable for housing providers, increasing client protections, raising awareness and public education on this alternate form of home ownership, etc?

Below, are a number of measures to be considered:

- Consider exploring a wider variety of non-traditional homeownership models and the role that the Province could take in supporting these models in delivering more affordable and attainable homes across the province;
- Consider providing funding sources to optimize the potential for the delivery of buildings with non-traditional ownership formats to encourage providers and clients;
- Consider make use of underutilized government owned lands by providing them to local and community-based organizations and municipalities to support innovative forms of affordable housing;
- Considering housing awareness and advocacy programs along with expanding partnerships with providers, community-based organizations and non-profit sector to leverage their knowledge and understanding of alternative forms of housing ownership; and
- Consider making non-traditional homeownership models responsive to client needs based on household income.



December 4, 2022

Electronic Submission only

ATT: Ministry of Municipal Affairs and Housing
 777 Bay Street, 17th Floor
 Toronto, ON M7A 2J3
greenbeltconsultation@ontario.ca

RE: Proposed Amendments to the Greenbelt Plan
 ERO Posting 019-6216

Background:

Environmental Registry posting 019-6216 proposes to remove approximately 7,400 acres of land from the Greenbelt area in order to facilitate the building of 50,000 new residential homes. In total fourteen (14) removals have been identified across ten (10) municipalities. It is anticipated that construction on these lands would begin no later than 2025 and that the proponents of these changes would fully fund the necessary infrastructure up front. In compensation for the proposed removals, approximately 9,400 acres of lands will be added to the Greenbelt area in the form of lands within the Paris-Galt Moraine, as well as Urban River Valleys (URVs) identified through ERO posting 019-4485: Growing the size of the Greenbelt.

The Protected Countryside lands identified in the Greenbelt Plan are intended to enhance the spatial extent of agriculturally and environmentally protected lands covered by the Niagara Escarpment Plan and the Oak Ridges Moraine Plan while at the same time improving linkages between these areas and the surrounding major lake systems and watersheds. The Protected Countryside is made up of an Agricultural System and a Natural System. The Greenbelt Plan provides a broad framework for protection of key natural and hydrological features recognizing the interrelated nature of both.

It is expected that, although removed from the Greenbelt Plan and the Protected Countryside designation therein, the features making up the natural heritage system will remain protected by various levels of Provincial and municipal environmental policies-including remaining within the Provincial Natural Heritage System. As agricultural lands are not afforded the same level of protection from development once removed from the Protected Countryside designation, the following comments are primarily focused on potential impacts to the Agricultural System.

Discussion:

Previous Consultation

In 2021, a copy of correspondence provided to Burlington City Council regarding ERO posting 019-3136: Growing the size of the Greenbelt was submitted to the Environmental Registry for information purposes. Although the City did not identify additional lands for consideration in 2021 and is not directly impacted by the more recently proposed amendments, Burlington's urban area is largely bounded by the Greenbelt to the north and west. The City therefore has a strong interest in fully understanding the potential for future impacts to Greenbelt lands within Burlington, as well as how the currently proposed changes may impact the integrity of the Greenbelt system as whole. The City recognizes the importance of the conservation of these lands and wishes to emphasize the need for consistency with the original premise of the Greenbelt Plan- identifying where urbanization should not occur in order to provide *permanent* protection to the agricultural land base and the ecological and hydrological features, areas and functions occurring on the landscape.

Assessment Framework

On aggregate, potentially growing Greenbelt protected area by $\pm 2,000$ acres would represent a positive step in sensitive land conservation. However, a significant portion of the lands identified for addition are already provided a high level of protection. For example, URVs are largely conservation authority regulated hazard lands which enjoy further protection in provincial and municipal policy where key natural heritage features or hydrologic features are present. As the Greenbelt URV designation can only be applied to publicly owned lands and primarily serves to recognize the importance of connections to southern Ontario, the net extent of additional protection being gained is unclear.

Despite the proposed addition being greater than the removals on aggregate, a concern remains that quality and/or value of the lands have not been fully considered. In reviewing the proposal, it is unclear whether the assessment framework has appropriately distinguished between natural heritage and agricultural lands to ensure sufficient compensation of each Greenbelt system component. This is of particular concern in relation to agricultural lands, which are a highly limited and irreplaceable resource not just in Ontario but across Canada. This proposal will result in a net loss of protected agricultural lands, which may be exacerbated in future through additional removals that are offset by the addition of lands not suitable for agricultural purposes.

Given the strong protections provided for natural heritage and aggregate resources, development on agricultural lands is often framed as a 'lesser' impact in cases where it avoids impacts to natural heritage or aggregate resources. This creates an invisible hierarchy where agricultural lands continue to be put forward as the preferred location for development, despite stated Provincial interests in protecting Agricultural System viability. In the absence of a cumulative lens, individual Agricultural Impact Assessments at the time of application are likely to fall short of mitigating broader system impacts over

the long-term. For example, the cumulative downstream impacts of encroaching urban development may permanently alter the ecological integrity of the watershed and negatively impact the ecosystem services relied upon by farmers.

Individual impact assessments also fail to consider the edge effects associated with urban expansion, particularly in relation to urban encroachment driving land speculation at the urban fringe and contributing to the inflation of land prices. In addition to weakening the message of certainty that the Greenbelt was intended to provide, increasing land costs present a significant additional barrier to new farm entrants. This comes at a time when the industry faces both a looming succession crisis and a sharp increase in climate-related vulnerabilities.

The 2021 Census of Agriculture shows a continued trend of significant decline in the amount of agricultural land available for production in Ontario. The vulnerabilities of the agri-food system exposed by the global COVID-19 pandemic and numerous supply chain disruptions, further exacerbated by the increasing challenges of a changing climate, have highlighted the critical importance of preserving local food production capacity. Any proposed removal of agricultural lands from the Greenbelt should therefore be supported by comprehensive technical analysis in the form of an Agricultural Impact Assessment **prior** to such lands being made available for urban development.

This analysis should be informed by Land Evaluation and Area Review data, a detailed review of alternatives/demonstration of need, and consideration of cumulative long-term impacts to the Agricultural System at large. These precedent setting decisions should also be examined within the context of the recently announced “Grow Ontario: a provincial agri-food strategy”, which is premised on the concept that “*Ontario’s agri-food sector is and always will be a cornerstone of our thriving economy*”. In the absence of such analysis, it is not clear how ongoing urban encroachment will be managed over the long-term to ensure an appropriate balancing of Provincial interests and prevent the incremental erosion of the Agricultural System.

Next Steps:

The City recommends the consideration of a more transparent assessment framework and decision-making process, as this would allow all municipalities to better plan for any future removals the Province may suggest from other Greenbelt lands in future. The City of Burlington would like to understand, in more detail, the assessment framework used to consider the selected lands for removal and addition. The City is seeking clarity on the extent to which the affected municipalities were involved in the assessment process, specifically what conditions needed to be met regarding servicing and what agencies were consulted in that process.

A detailed numerical breakdown of the land removals/additions is also requested, showing existing designations (as per the applicable official plan/Provincial plan) contrasted with the proposed new designations and illustrated through mapping. The City would also like to better understand how section 5.7 - Monitoring/Performance Measures

of the Greenbelt Plan will be implemented with respect to the changes proposed through ERO posting 019-6216, as well as future removals/additions that may occur.

Please accept this letter and its attachment as the City of Burlington submission on ERO posting 019-6216. Given the short period for consultation the attached comments have not been approved by City Council. This letter and its attachment will be shared with the City's Committee's and Council at the earliest opportunity. Should Council determine any additional comments or refinements to the attached comments are required the Province will be advised at the earliest opportunity.

Sincerely,

A handwritten signature in black ink, appearing to read 'Mark H. Simeoni', written in a cursive style.

Mark H. Simeoni, MCIP, RPP
Director of Community Planning
Community Planning Department
City of Burlington

November 16, 2022

Mayor & Members of Council
City of Burlington

SUBJECT: Comments on Bill 23 – More Homes Built Faster Act, 2022

On October 25, 2022, the Ontario Ministry of Municipal Affairs introduced Bill 23 - the proposed More Homes Built Faster Act, 2022 (Bill 23). Bill 23 is part of Ontario's Housing Supply Action Plan, a long-term strategy to increase housing supply and provide more affordable housing options. While we are supportive of the goals of the Bill with respect to the building of more affordable houses, we are deeply concerned with proposed provisions that would significantly limit the tools available for municipalities to protect, conserve and allow for adaptive reuse of their cultural and built heritage. This bill, if approved, will weaken all municipalities' ability to identify and protect their valuable heritage resources, which, once lost, can never be replaced.

Moreover, while the overall thrust of the Bill appears to be aimed at transferring many of the costs of development from developers to rate-payers as a means of encouraging housing construction, there appears to be no actual mechanism that would ensure that the savings realized by developers will be passed on to consumers in the form of more affordable housing prices.

Background:

The *Heritage Act* is used by municipalities to recognize cultural and heritage resources and to protect and preserve them for current and future generations. Many volunteers generously donate their time and expertise to municipal heritage advisory committees or local historical societies in support of this mission. Two tools are used to do this (1) Designation and (2) Listing on the Municipal Register as a non-designated building. While designation provides better protection for a property or landscape, some owners are reluctant to embrace designation because it is listed on their property title and requires that a heritage permit be issued by the municipality for any maintenance or repair work to the historic elements of their property.

Listing on the Register allows the owner to make any changes or maintenance to their property without any permits or involvement of the municipality. Only if the owner wishes to demolish the property does listing on the Register come into play. Application for a demolition permit allows the municipality 60 days to conduct a heritage assessment to determine if the property has considerable heritage or cultural significance. If the study concludes that it does, the City could decide to designate the property to prevent demolition. If the study concludes that it does not, the demolition permit will be issued.

These are the only measures available, through the *Heritage Act*, to prevent the demolition of heritage assets. The *Heritage Act* was amended and weakened in 2021 under the auspices of Bill 108 – More Homes, More Choice. There is a movement afoot now to further amend and weaken the *Heritage Act*, among changes to other Acts, through Bill 23 – More Homes Built Faster.

Implications:

Some of the changes Bill 23 will make to the *Heritage Act* will:

- Remove the protection from demolition for properties listed on the Register by limiting the time it can be listed to 2 years before it must be designated (possibly against the Owner's wishes).
- State that any property removed from the Register, possibly through a decision by the Ontario Land Tribunal, cannot be put back on the Register for a period of 5 years. During this time, it therefore has no protection from demolition.
- Specify that if a complete Official Plan, Zoning Bylaw or Site Plan approval application is submitted, only properties already listed on the Municipal Register can be designated.
- Allow the Province, justified by any current or new initiatives, to override the protection afforded to a provincial heritage property.
- Amend Schedule 7, Subsection 19 (1) to expand the Ontario Land Tribunal's powers to dismiss a proceeding without a hearing, on the basis that the party who brought the proceeding has contributed to undue delay. Section 19 of the Act is also amended to give the Tribunal the power to dismiss a proceeding entirely, if the Tribunal is of the opinion that a party has failed to comply with a Tribunal order. Section 20 is amended to give the Tribunal the power to order an unsuccessful party to pay a successful party's costs.
- Increase rigor in the process of identifying and protecting Heritage Conservation Districts (HCD) and introduce a regulatory authority to prescribe processes for municipalities to amend or repeal existing HCD designation and HCD plan bylaws.

Recommendations:

- The Heritage Burlington Advisory Committee (HBAC) supports the comments within this letter dated November 16, 2022, regarding the proposed changes to the *Heritage Act* as identified in Bill 23 – More Homes Built Faster;
- And further, the HBAC respectfully requests staff to forward the letter to Council and seek Council to request the Province not to pass Bill 23 until such time as further evaluation, analysis, and consultation has occurred with municipalities and heritage based conservation associations/organizations for measures to protect the Provinces' cultural and built heritage while supporting more affordable housing.

Summary:

Surviving and evolving for over decades and even hundreds of years, the City's heritage properties and landscapes are visible reminders of our history and once demolished, are gone forever. We rescue, restore, preserve, and protect our heritage not only because it is our past, or because it is unique or beautiful. It is not a matter of buildings, stones, or about intangible traditions; our cultural heritage is our identity, it represents our values, our strength, continuity, and our pride.

Identification and protection of heritage by municipalities is facilitated by volunteer-based organizations and municipal heritage advisory committees as legislated by the *Heritage Act*. Unless there is pressure for development, many heritage buildings and properties are preserved and cared for by their owners with listing on the Register being a sufficient identification and protection tool. In most cases, there is no need to require all properties listed on the Register be designated as proposed by Bill 23.

The Heritage Burlington Advisory Committee advises that everything possible should be done to object to the passage of Bill 23. This bill will have a severely negative impact on the preservation of heritage and cultural resources, put an incredible strain on city staff resources, and create contentious and confrontational relationships between the City and heritage property owners.

Sincerely,

A handwritten signature in black ink, appearing to read 'M Camacho', with a large, stylized initial 'M'.

Michele Camacho
Chair, Heritage Burlington

