



**SUBJECT: Recommendation Report for official plan and zoning by-law amendments for 401,403,405,409,411 & 413 Brant Street, 444,448 & 450 John Street, 2002 and 2012 James Street**

**TO: Planning and Development Committee**

**FROM: Department of City Building -Planning Building and Culture**

Report Number: PB-67-18

Wards Affected: 2

File Numbers: 505-01/18 & 520-01/18

Date to Committee: July 10, 2018

Date to Council: July 16, 2018

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### **Recommendation:**

Approve the application submitted by Reserve Properties Inc., to amend the Official Plan and Zoning By-law, as modified by department of city building report PB-67-18, to permit a mixed used development with a height up to 18 storeys; and

Approve Amendment No. 113 to the City of Burlington Official Plan, as contained in Appendix B of department of city building report PB-67-18, to modify the "Downtown Core Precinct" policies affecting 401,403,405,409,411 & 413 Brant Street, 444,448 & 450 John Street, 2002 and 2012 James Street, to permit a mixed use development consisting of a 18 storey building with a minimum of 365 square metres of commercial or office space on the second floor and 760 square metres of commercial retail space at grade; 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. 113 as contained in Appendix B of department of city building report PB-67-18; and

Approve the application by Reserve Properties Inc., to amend the Zoning By-law, as modified by staff in department of city building report PB-67-18, to permit a mixed use building with a height of up to 18 storeys at 401,403,405,409,411 & 413 Brant Street, 444,448 & 450 John Street, 2002 and 2012 James Street; and

Deem that the amending zoning by-law will conform to the Official Plan for the City of Burlington once Official Plan Amendment No. 113 is adopted; and

State that the amending zoning by-law will not come into effect until Official Plan Amendment No. 113 is adopted; and

Execute a Section 37 Agreement, in accordance with Section 37 of the Planning Act and Part VI, Section 2.3 of the City's Official Plan, as they relate to the request for increased density on the subject properties; and

Approve the proposal by Reserve Inc., to remove three (3) city-owned trees from the Brant Street, James Street, and John Street rights-of-way in front of the properties at 401,403,405,409,411 & 413 Brant Street, 444,448 & 450 John Street, 2002 and 2012 James Street and identified on Sketch No.2 in Appendix A of department of city building report PB-67/18, subject to the following:

- i) The Owner shall compensate the City of Burlington for the tree removals by providing compensation (replanting or cash-in-lieu, where opportunity for replanting is not available, in the amount of \$4,100); and

All associated costs with respect to the removal of the trees will be the responsibility of the Owner and the contractor hired to remove the trees will be approved to the satisfaction of the Executive Director of Capital Works.

### **Purpose:**

The purpose of the report is to recommend a modified approval of applications to permit a mixed use building at 401,403,405,409,411 & 413 Brant Street, 444,448 & 450 John Street, 2002 and 2012 James Street.

Applications have been submitted by Reserve Properties Inc. requesting amendments to the City's Official Plan and Zoning By-law 2020 for the subject properties in order to permit a proposed 24-storey mixed use building (includes 1-storey of rooftop amenity space). Appendix A contains sketches showing the proposed development. The applicants are proposing to amend the Official Plan (Downtown Core designation) and Zoning By-law (DC zone) to permit the proposed 23-storey plus 1 storey of outdoor amenity space, mixed use building with a floor area ratio of 10: 1 and a parking rate of 0.93 spaces per unit.

Planning staff are recommending a modified approval which would permit a mixed use building with a height up to 18 storeys, including one storey of roof top amenity area, subject to significant design and public realm improvements and a parking rate of 1.25 spaces per unit.

The modified development proposal aligns with the following objectives in Burlington's Strategic Plan 2015-2040:

## A City that Grows:

### Promoting Economic Growth

1.1. b More people who live in Burlington also work in Burlington.

1.1. e Small businesses contribute to the creation of \*complete neighbourhoods where residents are close to goods and services.

1.1. g: Burlington's downtown is vibrant and thriving with greater intensification attracting both businesses and people to enjoy the quality of life.

### Intensification

1.2. a: Growth is being achieved in mixed use areas and along main roads with transit service, including mobility hubs, downtown and uptown.

1.2. d: Transitioning neighbourhoods are being designed to promote easy access to amenities, services and employment areas with more opportunities for walking, cycling and using public transit.

1.2. g: Intensification is planned so that growth is financially sustainable and so new infrastructure needed to support growth is paid using all financial tools available to have development pay for growth infrastructure.

1.2. h: Burlington has a downtown that supports intensification and contains green space and amenities, has vibrant pedestrian-focused streets, is culturally active and is home to a mix of businesses and residents.

1.2.i: Architecture and buildings are designed and constructed to have minimal impact on the environment reflecting urban design excellence that create buildings and public spaces where people can live, work or gather.

### Focused Population Growth

1.3. a: Burlington is an inclusive city that has a higher proportion of youth, newcomers and young families and offers a price range and mix of housing choices.

## A City that Moves:

### Increased Transportation Flows and Connectivity

2.1. b: Mobility hubs are being developed and supported by intensification and built forms that allow walkable neighbourhoods to develop.

2.1. g: Walkability has guided the development of new/transitioning neighbourhoods and the downtown so that people rely less on automobiles

<b>RECOMMENDATIONS:</b>		<i>Modified Approval</i>	<b>Ward No.:</b>	2
<b>Application Details</b>	<b>APPLICANT:</b>	<i>Reserve Properties Ltd.</i>		
	<b>OWNER:</b>	<i>2001586 Ontario Inc. (owner, Elizabeth Law): 401 and 405 Brant Street</i> <i>2486157 Ontario Inc. (owner, Elizabeth Law): 403 Brant Street</i> <i>Elizabeth Law: 409 and 413 Brant Street</i> <i>Elizabeth Law Interiors Ltd.: 411 Brant Street, 448 John Street, 2012 James Street</i> <i>Albert Ludwig Schmid</i> <i>444 John Street</i>		
	<b>FILE NUMBERS:</b>	<i>505-01/18 &amp; 520-01/18</i>		
	<b>TYPE OF APPLICATION:</b>	<i>Official Plan &amp; Zoning By-law Amendment</i>		
	<b>PROPOSED USE:</b>	<i>24-storey mixed use building with commercial/retail at grade, and 227 residential units.</i>		
<b>Property Details</b>	<b>PROPERTY LOCATION:</b>	<i>Block bound by Brant Street, James Street, John Street, and city owned parking.</i>		
	<b>MUNICIPAL ADDRESSES:</b>	<i>401-413 Brant Street, 444-450 John Street, 2002 and 2012 James Street</i>		
	<b>PROPERTY AREA:</b>	<i>0.2 hectares (0.5 acres)</i>		
	<b>EXISTING USE:</b>	<i>1 &amp; 2 storey retail commercial buildings</i>		
<b>Documents</b>	<b>OFFICIAL PLAN Existing:</b>	<i>Downtown Mixed Use Centre – Downtown Core Precinct</i>		
	<b>OFFICIAL PLAN Proposed:</b>	<i>Additional height and density requested.</i>		
	<b>ZONING Existing:</b>	<i>‘DC – Downtown Core’</i>		
	<b>ZONING Proposed:</b>	<i>Modified ‘H-DC’ with site specific exception</i>		
<b>Pro ces</b>	<b>NEIGHBOURHOOD MEETING:</b>	<i>May 1, 2018</i>		

	<b>PUBLIC COMMENTS:</b>	<i>Staff have received 15 emails, two letters and two neighbourhood comment sheets.</i> <i>Note: Some constituents sent multiple letters</i>
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## Background and Discussion:

### Application Details and Processing History

On December 19, 2017, the applicant met with City and Halton Region staff to determine the requirements of a complete application under the Planning Act. At this pre-consultation meeting, the applicant was advised of the direction within the Downtown Draft Precinct Plan that was presented to Council on September 28, 2017 and November 30, 2017 that proposed a height limit of 11 storeys on the site, with the opportunity for consideration up to 17 storeys subject to public realm improvements. On January 23, 2018, Council directed staff to incorporate the Precinct Plan and accompanying policies (as amended) into the new Official Plan.

On January 23, 2018, the Department of City Building received Official Plan and Zoning By-law amendments for the subject properties. On March 1, 2018, the applications were deemed complete. The applications seek permission to develop a mixed use building up to 23 storeys with one storey of outdoor amenity area, as illustrated in the sketches in Appendix A. The proposed development includes:

- five storeys of underground parking;
- one storey of retail uses (597 square metres) at grade fronting Brant Street, James Street and John Street, including the retention of the two heritage listed buildings;
- 22-storeys (above the retail floor) containing 227 residential units;
- Approximately 105 m<sup>2</sup> of publicly accessible open space at Brant and James Streets (14mx15m);
- increased building setbacks to the new building (3m along Brant, 3m along James Street, 3m John Street);
- 0 m setback along 19.5 m of Brant Street including the 401 Brant Street heritage façade.
- 0 m setback along 19.5 m of John Street including the 444 John Street facade;
- Rooftop amenity area.

The floor area ratio of the proposed development is 10:1 (measured by adding the retail floor area, indoor amenity area and residential floor area and dividing it by the site area), and the proposed density is 1,135 units per hectare. The proposed development is illustrated in the attached Sketches 2 & 3 (Appendix A).

The subject applications seek approval to:

- Increase the height of the building to 23 storeys plus 1 storey of outdoor amenity area from the 4 storey permission in the Zoning By-law and the 8 storey permission in the Official Plan;
- Increase the density on the property to 10:1 from the 4.0:1 floor area ratio permitted in the Zoning By-law and the Official Plan;
- Decrease the amenity space required from 20 m<sup>2</sup>/unit to 3.6m<sup>2</sup>/unit
- Reduce the amount of parking to 212 spaces from the 284 spaces required in the Zoning By-law (1.25 spaces per unit to 0.93 spaces per unit proposed); and
- Reduce the minimum required height of the 2<sup>nd</sup> storey from 4.5 m to 3.8m;
- Reduce the minimum required setbacks for the proposed underground parking structure; and
- Increase the maximum permitted encroachments for the proposed balconies;

Staff initiated the public and technical circulation of the applications in February 2018 and the City scheduled a neighbourhood meeting that was held on May 1, 2018 at the Lions Club, which was attended by approximately 60 residents. At this meeting, the applicant's slides showed a revised building design. As staff did not receive a resubmission with sufficient detail, staff has not reviewed this design.

Based on the feedback received and in light of policy analysis, Staff recommends a modified approval of the applications which consists of the following:

- 17 storey height, plus rooftop amenity space (18 storeys);
- Maximum 8.4:1 Floor Area Ratio;
- 3 storey podium;
- minimum 760 square metres of ground floor retail / commercial space on the first and second floor;
- minimum 365 square metres of commercial or office space on the second floor;
- A minimum 16mx16m visibility triangle (128m<sup>2</sup>) (publicly accessible open space) at the corner of Brant Street and James Street with no encroachments;
- 5m by 5m visibility triangle for the intersection of James Street and John Street;
- 3m by 3m visibility triangle for the south-west and south-east corners of the property;
- Appropriate stepbacks and terracing above the 3<sup>rd</sup> floor;
- Maximum 760 m<sup>2</sup> floor plate for the tower portion of the development;
- 18 m<sup>2</sup> per unit of amenity space;
- No reduction in required parking;

- Continuous 3m setback along Brant Street and James Street, 1.8m setback along John Street; and
- Securing of community benefits in accordance with Section 37 of the Planning Act. A report outlining the recommended community benefits is submitted under separate cover.

Additional information is required and a holding provision is recommended to ensure:

- that the site is uncontaminated and suitable for the intended use;
- development can be adequately serviced by storm sewers as a result of dewatering the underground parking garage;
- the applicant enters into a Residential Development Agreement to be registered on title to, among other things, protect the heritage buildings through future construction via a heritage easement. A draft residential development agreement is found in Appendix D

Staff recommend the utilization of an “H” (holding zone) to limit the redevelopment of the site until such a time as these issues are resolved to the satisfaction of Capital Works and the Region of Halton.

### **Site Description:**

The proposed Official Plan Amendment (OPA) and Zoning By-law Amendment (hereafter referred to as rezoning) applications apply to the properties located at the block bound by Brant Street on the west, James Street on the north and John Street on the east and City owned parking and Elgin Street Promenade to the south, as shown on the Location / Zoning Sketch, attached as Appendix A.

The applications apply to the properties known municipally as 401-413 Brant Street, 444-450 John Street, 2002 and 2012 James Street, which the applicants have assembled (referred hereto as 409 Brant Street). These properties currently contain several commercial / retail buildings and operations.

Two of the buildings on the subject lands are listed on the municipal heritage register. 401 Brant Street is a storey and a half retail building (a bakery) and 444 John Street is a two storey building (a jeweler) formerly used as an ice house. The subject lands comprise a total area of approximately 0.2 hectares (0.5 acres). The lands have approximately 50.3 metres of frontage on James Street; 40.4 metres of frontage on Brant Street; and 40.35 metres of frontage on John Street.

Surrounding Land Uses:

<b>North</b>	North of James Street, currently 1-2 storey retail. A 23-storey mixed use building was approved by Council on May 22, 2018, discussed below.
<b>East</b>	John Street, surface parking and a 6 storey office building fronting on John Street.
<b>South</b>	City owned parking and the Elgin Street Promenade.
<b>West</b>	Brant Street, 8-storey City Hall (includes Civic Square and the Cenotaph War Memorial). Three and a half storey mixed use building on the municipal heritage register to the south-west.

#### **421 Brant Street: Surrounding Approved Development:**

On February 9, 2017 the Planning and Building Department acknowledged that complete applications had been received for Official Plan and Zoning By-law amendments for 421 – 431 Brant Street.

The statutory public meeting took place at the Planning and Building Committee meeting held on May 2, 2017 ([PB-38-17](#)). Planning staff recommended modified approval which was approved in principle by Council on November 13, 2017 ([PB-62-17](#)). The Zoning Bylaw and Section 37 agreement were approved by Council on May 22, 2018. The approved development consists of the following:

- Twenty-three (23) storey building, which includes a 1-storey rooftop amenity area;
- Four-storey podium;
- 760 square metres of ground floor retail / commercial space;
- 365 square metres of 2<sup>nd</sup> floor office space;
- 169 residential units (maximum);
- A parking ratio of 1.2 parking spaces per residential unit in the below-grade parking structure, in addition to 8 dedicated visitor parking spaces and 1 car share space;
- Appropriate building setbacks from Brant Street (2.95 metres), James Street (2.6 metres) and John Street (1.8 metres);
- A 128 square metre (16 metre x 16 metre) visibility triangle (publicly accessible open space) at the corner of Brant Street and James Street;
- Appropriate building stepbacks and terracing above the 4<sup>th</sup> floor and above the 18<sup>th</sup> floor

The site is located within the Downtown Urban Centre and within the Downtown Core designation. It is important to note that the existing OP included a site specific exception for a portion of the site (421 – 427 Brant Street) which recognized the site as



appropriate for increased height and density. The exception set an increased maximum height for the site of seven storeys with taller buildings up to a maximum height of twelve storeys permitted where they provide a sense of compatibility with surrounding land uses and a sense of pedestrian scale by the use of terracing above the second floor. The exception for 421 – 427 Brant Street also set out an increased maximum floor area ratio of 4.5:1, except that higher floor area ratios were permitted subject to community benefits provisions.

It is also important to note that the timing of the 421 Brant Street application preceded emerging policy directions for the Downtown Urban Growth Centre, which are now incorporated as a part of the Council Adopted Official Plan: Grow Bold. On Sept. 28 2017, the draft new Downtown Mobility Hub Precinct Plan was presented to Council for the first time for discussion and feedback at a Council Workshop at the Committee of the Whole. No decisions were made. On November 13, the 421 Brant Street applications were approved in principle. On November 30, 2017 a staff report on the Draft Downtown Precinct Plan and proposed Official Plan policies ([PB-81-17](#)) contemplated modifying the building height permissions at Brant Street and James to recognize that node as an area appropriate for landmark buildings and to reduce the building height permissions in the Cannery Precinct for the property located at Brant Street and Lakeshore Road in light of the 421 Brant Street application. No Staff/Council motion was made to increase height permissions in the Special Planning Area at Brant and James Streets as a result of the approval of the 421 Brant application on November 13<sup>th</sup>, 2017.

### ***Background Reports***

The applicant has submitted the following technical reports and plans listed below in support of the applications. These reports were circulated to technical staff and agencies for review and comment and posted on the City's website ([www.burlington.ca/409-Brant](http://www.burlington.ca/409-Brant)) to facilitate public review.

- [Planning Justification Report](#), prepared by Wellings Planning Consultants Inc., dated January 2018. The Report includes draft Official Plan and Zoning By-law Amendments.
- [Survey and Height Survey Plans](#), prepared by R. Avis surveying Inc., dated November 2, 2017 and December 8, 2017 respectively.
- [Architectural Drawings](#), prepared by Graziani & Corazza Architects Inc, dated January 17, 2018.
- **View Renderings**, prepared by Graziani & Corazza Architects Inc., dated January 15, 2018 and January 18, 2018.
- [Shadow Studies](#), prepared by Graziani & Corazza Architects Inc., dated January 17, 2018.
- [Urban Design Brief](#), prepared by Bousfields Inc, dated January 2018.

- [Preliminary Grading and Site Servicing Plans](#), prepared by S. Llewellyn & Associates Limited, dated December 2017.
- [Functional Servicing & Stormwater Management Report](#), prepared by S. Llewellyn & Associates Limited, dated December 2017.
- [Transportation Impact Study, Parking Study and TDM Options Report](#), prepared by Paradigm Transportation Solutions Limited, dated January 2018.
- [Heritage Impact Statement](#), prepared by Goldsmith Borgal & Company Ltd. Architects, dated January 17, 2018.
- [Environmental Noise Feasibility Study](#), prepared by Valcoustics Canada Ltd., dated December 21, 2017.
- [Phase 1 Environmental Site Assessment Reports](#), prepared by Golder Associates Ltd, dated February 20, 2018
- [Phase 2 Environmental Site Assessment Reports](#), prepared by Golder Associates Ltd, dated November 2017.
- [Letter of Reliance \(City and Region\)](#), prepared by Golder Associates Ltd., dated November 2017.
- [Environmental Site Screening Questionnaire](#), dated December 1, 2017.
- [Arborist Letter](#), prepared by Strybos Barron King Landscape Architecture, dated January 4, 2018.
- [Landscape & Terrace Plan](#), prepared by Strybos Barron King Landscape Architecture, dated January 4, 2018.
- [Geotechnical Evaluation](#), prepared by Golder Associates Ltd., dated December 18, 2017.
- [Pedestrian Level Wind Study](#), prepared by Gradient Wind Engineering Inc, dated December 21, 2017.
- **3D Model.**

## **Discussion:**

### **Policy Framework and Review**

The applications to amend the Official Plan and Zoning By-law are subject to the following policy framework: The Planning Act; Provincial Policy Statement, 2014; Growth Plan for the Greater Golden Horseshoe, 2017; The Big Move, Transforming Transportation in the Greater Toronto and Hamilton Area; Halton Region Official Plan; Burlington Official Plan; Downtown Urban Design Guidelines; Tall Building Design Guidelines; and Zoning By-law 2020.

Staff has reviewed and analyzed the planning merits of these applications within this policy framework as described below.

## PROVINCIAL POLICY CONTEXT:

### Planning Act: Matters of Provincial Interest

Municipalities, when dealing with their responsibilities under the *Planning Act*, shall have regard to a wide range of matters of provincial interest. A number of these matters of provincial interest are relevant to this site-specific development application, key matters are highlighted below with further analysis discussed throughout the report.

Matter of Provincial Interest	Staff Analysis
<p>The adequate provision and efficient use of communication, transportation, sewage and water services and waste management system.</p>	<p>Halton Region did not identify any sanitary or water capacity issues. Not enough information was provided with the application to adequately determine if storm water and ground water captured as a result of dewatering the underground parking can be adequately handled on site. Staff recommend that a Holding provision be imposed until such a time as stormwater information has been provided to the satisfaction of the City of Burlington.</p> <p>Traffic can adequately be handled by surrounding roadways. The proposed parking rates are not adequate to handle the on-site parking demand. Staff have recommended a modified parking rate to address off-site parking concerns. This is discussed in greater detail later in the report.</p>
<p>The orderly development of safe and healthy communities.</p>	<p>The Phase I Environmental Site Assessment (ESA) provided with the application indicates that historically there have been potentially contaminating uses on and surrounding the site. The Phase Two ESA provided with the application does not meet City and Regional requirements. As a result, it cannot be determined at this time if the site is clean and suitable for the intended residential use. Staff have modified the proposal restrict development using a Holding provision until such a time as Halton Region and the City of Burlington are satisfied that the site is suitable for the intended use.</p> <p>The application proposed a significant reduction in indoor and outdoor amenity space which will have an impact on the health and wellbeing of the</p>

	<p>residents. Staff have recommended a modified approval which increases the amenity requirements in order to ensure that residents have ample access to the outdoors and opportunity to recreate on the site.</p>
<p>The adequate provision of a full range of housing, including affordable housing.</p>	<p>The development proposes a variety of unit sizes of varying price levels to appeal to a variety of household types. The application did not address the provision of affordable housing.</p>
<p>The adequate provision of employment opportunities.</p>	<p>The application proposes a reduction in approximately 3050 m<sup>2</sup> of commercial and retail space. No office space has been proposed. This represents a 60% decrease in the existing commercial space on site, thereby eroding the retail and employment base of the Downtown.</p> <p>To increase the amount of commercial and office space provided, staff has recommended a modified approval which would increase commercial space to 760 square metres of ground floor retail / commercial space and require a minimum of 365 square metres of 2<sup>nd</sup> floor commercial or office space, as consistent with the approval of adjacent 421 Brant Street which has a site area of a similar size.</p>
<p>The protection of the financial and economic well-being of the Province and its municipalities.</p>	<p>The proposed development is located within an area well serviced by infrastructure and public service facilities and will not require significant public sector investment to support the development.</p>
<p>The appropriate location of growth and development.</p>	<p>The proposed development is located within an intensification area, in close proximity to transit, and within the Urban Growth Centre boundary.</p> <p>The Downtown Burlington Urban Growth Centre is meant to accommodate a significant share of the City's population and employment growth while taking advantage of the qualities that contribute to a unique identity including waterfront location, historic buildings, and streetscapes, development pattern. The height, density, form, bulk, and spacing of</p>

	<p>development shall be compatible with the surrounding area.</p> <p>Through the adopted Official Plan: Grow Bold, the City of Burlington has imposed measures to ensure that growth and intensification in the defined Urban Growth Centre Boundary occurs in a manner that maintains a precinct system which establishes areas with a common character and/or objectives for land uses and built form, and ensures that development incorporates effective transitions with adjacent development</p> <p>Staff have recommended a modified approval which meets the objectives of the current Official Plan, and the direction of the Council adopted Official Plan by allowing additional height up to 17 storeys, plus 1 storey of outdoor amenity area in exchange for a significant civic enhancement of the corner of Brant and James Street, and provides additional setbacks for building terracing and public realm improvements in order to align with the vision for Brant Street.</p> <p>The applicant's proposal has not provided evidence that intensification beyond Council's vision is warranted to achieve Provincial objectives.</p>
<p>The promotion of development that is designed to be sustainable, to support public transit and to be oriented to pedestrians.</p>	<p>Although the proposed development represents an increase in density along a frequent transit route (both Brant and James Streets) and is within 60m of the Downtown Bus Terminal, the proposed development fails to meet Official Policy and the Tall Building Guidelines as related to the public realm and pedestrian experience.</p> <p>The reduction in commercial space does not support Official Plan policy to preserve the commercial function of Downtown and Brant Street as the main street spine of the Downtown.</p> <p>Staff are not satisfied that building provides adequate streetscaping or a sufficiently high level of urban design to meet the needs of pedestrians or foster social interaction. Staff is not satisfied that</p>

	<p>shadow and wind impacts on the public realm have been addressed satisfactorily.</p> <p>Staff have recommended a modified approval which requires additional commercial and office space, reduces the podium height, provides additional setbacks for building terracing and public realm improvements in order to promote a complete community and ensure a high quality pedestrian experience.</p>
<p>The promotion of built form that,</p> <p>Is well-designed</p> <p>Encourages a sense of place</p> <p>Provides for public spaces that are of high quality, safe, accessible, attractive and vibrant.</p>	<p>The proposal is not in keeping with the vision for Brant Street which speaks to maintaining its open, airy, main street character.</p> <p>The proposed method for the conservation of the cultural heritage resources on the subject property has not supported the “sense of place” of downtown Burlington, and more particularly the Brant Street and John Street streetscapes.</p> <p>The proposal does not meet the Tall Building Guidelines or Downtown design guidelines, increases wind levels in public spaces and has not adequately mitigated shadow impacts.</p>

### **Provincial Policy Statement (2014)**

The Provincial Policy Statement (PPS) came into effect on April 30, 2014 and applies to decisions concerning planning matters made after this date. The PPS provides broad policy direction on matters of provincial interest related to land use planning and development to provide for healthy, liveable and safe communities. The PPS recognizes that Official Plans are the most important vehicle for implementation of the PPS), however all Council decisions affecting planning matters “shall be consistent with” the PPS.

The PPS directs growth to settlement areas and promotes densities and a mix of land uses which optimize use of land and resources; are appropriate for, and efficiently use, the infrastructure and public service facilities; minimize negative impacts to air quality and climate change and promote energy efficiency; support active transportation and are transit-supportive, where transit is planned, exists or may be developed (PPS, 1.1.3.2). The PPS requires that sufficient land be made available through intensification and redevelopment and, if necessary, designated growth areas (PPS, 1.1.2).

In addition, the PPS directs planning authorities to identify appropriate locations and opportunities for intensification and to promote appropriate development standards to facilitate intensification, redevelopment and compact form, while avoiding or mitigating risks to public health and safety (PPS, 1.1.3.3, 1.1.3.4). The PPS directs planning authorities to establish and implement minimum targets for intensification and redevelopment within built-up areas, based on local conditions. The PPS notes that where a provincial target is established through a provincial plan that the provincial target shall represent the minimum target (PPS, 1.1.3.5) which in this case is the Places to Grow. The PPS sets out that new development within designated growth areas shall have a compact form, contain a mix of uses and densities that allow for the efficient use of land, infrastructure and public service facilities (PPS, 1.1.3.6).

The PPS sets out that the Official Plan is the most important vehicle for implementation of the PPS (PPS, 4.7). The appropriate locations and opportunities for intensification are identified in the City of Burlington's Official Plan and redevelopment shall occur in accordance with the City's intensification strategy and have been reexamined through the public process associated with the Council adopted Official Plan. Development standards to facilitate intensification are provided through evaluation criteria contained in the City's Official Plan and more specifically through the City's Zoning By-law 2020.

The housing policies of the PPS direct planning authorities to provide an appropriate range and mix of housing types and densities to meet the needs of current and future residents of the regional market area (PPS, 1.4.3). This is to be accommodated by promoting densities for new housing and establishing development standards for new residential intensification and redevelopment which minimize the cost of housing and facilitate compact form, while maintaining appropriate levels of public health and safety. The City's intensification strategy has appropriately considered, planned for and implemented an effective strategy that directs a significant amount of intensification to the City's mixed use centres and intensification corridors which is consistent with the PPS. How densities should be allocated in the local context is defined through the policies of the Official Plan. This strategy has been further solidified through the Urban Structure, Growth Framework, and land use policies of the Council adopted Official Plan, Grow Bold.

The PPS promotes the creation of healthy, active communities by planning public streets, spaces and facilities to be safe, meet the needs of pedestrians, foster social interaction and facilitate active transportation and community connectivity (PPS, 1.5.1).

The PPS states that "Planning authorities shall not permit development and site alteration on adjacent lands to protected heritage property except where the proposed development and site alteration has been evaluated and it has been demonstrated that the heritage attributes of the protected heritage property will be conserved" (2.6.3).

The Provincial Policy Statement recognizes the diversity of Ontario and that local context is important. Policies are outcome-oriented, and some policies provide flexibility in their implementation provided that provincial interests are upheld. It also recognizes that some planning objectives need to be considered in the context of the municipality as a whole (PPS, Part III). Further, as mentioned above, the PPS identifies Official plans as the vehicle to identify and protect provincial interests and set out appropriate land use designations and policies that direct development to suitable areas. The City's Official Plan provides this policy framework and includes evaluation criteria for intensification proposals.

**Opinion:**

It is the opinion of the applicant as expressed in the Planning Justification Report that the proposed high density mixed use development on the subject lands is consistent with the policy directives of the PPS as the redevelopment represents appropriate intensification in a designated growth area, takes advantage of existing infrastructure, is transit supportive, and adds to the mix and range of housing types in the Downtown Area. The applicant states that redevelopment also maintains commercial opportunities through the provision of ground floor commercial.

However, based on the assessment below, Staff are not satisfied that the application as submitted is consistent with the policies of the PPS.

The subject property is located within the settlement area as well as within a designated growth area of the Downtown. The site is well served by transit and is located on an adjacent transit route, within 60m of the John Street Transit Terminal. The site can be adequately serviced by surrounding roadways and infrastructure.

Staff recognize that as the site is located in a walkable, transit oriented location within the Downtown Mobility hub, some intensification of this site may be appropriate. As discussed, the PPS recognizes the municipality's OP as the vehicle for implementing provincial policy. Through the City's intensification strategy and creation of the Council adopted Official Plan, a holistic approach has been created to accommodate growth and promote transit use as required by Places to Grow and the Big Move. This vision has been created, with significant public input to provide opportunities for redevelopment while maintaining and enhancing the unique characteristics of the Downtown. In both the existing Official Plan and Grow Bold, the vision for Brant Street south of Caroline Street is to maintain and enhance the existing low/midrise main street character. The Council adopted Official Plan does permit more intensity on the subject lands (up to 17 storeys) provided that compatibility, a high level of design, and the provision of a public square is provided. Staff are supportive of this opportunity to significantly enhance the public realm and help create Civic engagement/complete communities. Staff are of the opinion that the application as proposed is not consistent with the vision for development in this area, as at 23-storeys plus roof top amenity this building exceeds the



height and density expectations for the site, the proposed built form fails to meet the intent of the policies for Brant Street and urban design policies intended to provide compatibility and a high quality public realm and built environment.

*Housing:*

The proposal will provide a range and mix of housing types including 1 bedroom, 2 bedroom and 3 bedroom apartment units. The variety of unit sizes will provide a range of unit prices with the smaller units providing more affordable options within the housing market.

*Built Heritage:*

Staff note that the Planning Justification Report submitted by the applicant does not address the heritage buildings in the context of the PPS. The subject properties do not meet the definition of “protected heritage property” in the PPS (6.0), as none are designated under the Heritage Act or the subject of a heritage conservation easement. However, staff note that the buildings do have some protections under the Heritage Act by virtue of their listing on the Municipal Register, and that through the processing of this application, staff intend for these buildings to become protected by both a conservation easement agreement and a subsequent designation under Part IV of the Heritage Act. So while these resources do not meet the definition of “protected heritage properties” at the current time, they have value nonetheless and their character-defining attributes should be conserved in consideration that they are expected to become protected heritage properties.

Furthermore, staff note that, as stated in Part III of the PPS, the policies of the PPS represent minimum standards, and policy-makers may go beyond these minimum standards to address matters of importance to a specific community, unless doing so would conflict with any policy of the PPS. The City’s Official Plan policies are discussed below and require the conservation of cultural heritage resources on the subject property despite their current undesignated status.

*Healthy Communities:*

The proposal does promote active transportation, and community connectivity given its location, bicycle parking, and proximity to recreational trails and parks. However, the removal of a significant amount of commercial Gross Floor Area along the Brant Street spine is not supportive of creating a complete community or facilitating active transportation within or to the Downtown. As discussed later in the report, the building does not provide adequate streetscaping or a sufficiently high level of urban design to meet the needs of pedestrians or foster social interaction. Additionally, the application proposes 3.6 m<sup>2</sup> per unit amenity space which is insufficient to support leisure and recreation of the occupants of the building. As the site is located in close proximity to

ample park space in the Downtown, Staff's modified approval recommends that 18 m<sup>2</sup> per unit be provided.

### *Conclusion*

Based on Staff's assessment above, the proposed development is not consistent with the PPS because:

- The proposal is not consistent with the City's vision of the Urban Growth Centre;
- The two heritage resources have not satisfactorily been conserved;
- The proposal does not support healthy communities by providing insufficient amenity space and level of urban design; and
- The proposal does not support creating complete communities by removing a significant amount of commercial Gross Floor Area from the major Downtown spine of Brant Street.

Staff are therefore recommending a modified approval that permits intensification on the site but is consistent with the PPS. The modified approval reduces the height of the building to 17 storeys plus one storey of roof top amenity area, reduces the height of the podium to 3 storeys, terraces the building away from Brant Street, addresses streetscaping, increases amenity space, and provides additional commercial/office space. This aligns with the vision for Brant Street as a main street spine with a low rise character along Brant, while recognizing the significant enhancement of the public open space at Civic Square.

### **Growth Plan for the Greater Golden Horseshoe (2017)**

The Growth Plan for the Greater Golden Horseshoe (Growth Plan) came into effect on July 1, 2017 and provides a growth management policy direction for the defined growth plan area. The Growth Plan provides a framework for implementing the Province's vision for building stronger, prosperous complete communities by better managing growth. The guiding principles of the plan include prioritizing intensification and higher densities to ensure efficient use of land, infrastructure and support a range and mix of housing options that support transit viability. The policies support the achievement of complete communities that are compact, transit-supportive, make effective use of investments in infrastructure and public service facilities and accommodate people at all stages of life. This includes providing a mix of housing, a good range of jobs and easy access to stores and services to meet daily needs of residents (GP, 2.1).

The Growth Plan contains population and employment forecasts to plan for and manage growth to the horizon of the Growth Plan (2041). The policies direct the vast majority of growth to settlement areas and more specifically within delineated built-up areas and strategic growth areas where there is an existing or planned transit and public service facility (GP, 2.2.1.2, c)).

The City's Official Plan policies direct new growth to the built-up area and focus intensification within the mixed use centres and intensification corridors while being sensitive to the local context. The Growth Plan requires municipalities to develop and implement, through their official plans and other supporting documents, a strategy and policies to phase in and achieve allocated intensification and the intensification targets. Policies are to encourage intensification throughout the built-up area; identify the appropriate type and scale of development; transition of built form to adjacent areas; identify strategic growth areas to support achievement of the intensification targets; support the achievement of complete communities; and implement intensification (GP, 2.2.2.4). The City began developing and implementing an intensification strategy to implement the 2006 Growth Plan objectives through directing a significant amount of population and employment growth to mixed use intensification corridors and centres. This strategy has been further solidified through the Urban Structure, Growth Framework, and land use policies of the Council adopted Official Plan, **Grow Bold**.

The Growth Plan also identifies Urban Growth Centres (UGC) that will be planned to accommodate significant population and employment growth. Downtown Burlington has been identified as a UGC and is required to achieve a minimum density target of 200 residents and jobs combined per hectare by 2031 or earlier (GP, 2.2.3). The Growth Plan identifies that these targets are not to be applied on a site specific scale (GP, 5.2.4.6)

The Growth Plan supports the achievement of minimum identified intensification and density targets by identifying and considering a range and mix of housing options and densities and by planning to diversify overall housing stock across the municipality (GP, 2.2.6). Municipalities are to consider the use of available tools to require that multi-unit residential developments incorporate a mix of unit sizes to accommodate a wide range of household sizes and incomes at transit supportive densities. In addition, municipalities are to maintain at all times land with servicing capacity sufficient to provide at least a three year supply of residential units which can be exclusively consist of lands suitably zoned for intensification and redevelopment.

The Growth Plan growth allocation numbers for the City of Burlington to 2031 were approved by Halton Region in Regional Official Plan Amendment 37. Council has further advanced this approach by endorsing an Intensification Framework for the purposes of developing the City's new Official Plan. The Growth Plan notes that intensification and density targets are minimum standards and municipalities can go beyond these minimum targets, where appropriate. The Growth Plan identifies that municipalities are to develop and implement urban design policies within their Official Plan and other supporting documents to direct the development of high quality public realm and compact built form in planning to achieve the minimum intensification and density targets of the Plan.

The Growth Plan requires the conservation of cultural heritage resources in order to foster a sense of place and benefit communities, particularly in strategic growth areas (4.2.7.1). The subject property is located within the Downtown Burlington Urban Growth Centre, which is considered a strategic growth area in accordance with the Growth Plan.

### **Opinion**

The applicant maintains that the proposed development of the subject lands for a high density mixed use development conforms to the guiding principles and policies of the Growth Plan as the site is located within an Urban Growth Centre (i.e. Downtown Burlington) where significant population and employment growth is expected, the proposal will add to the range of housing and commercial choices for the Downtown Area, and is in close proximity to existing commercial, recreational, cultural and entertainment uses all of which make up a complete community. Staff disagrees with this assessment based on the review of the Growth Plan below.

Staff support the intensification of the site as it is located within the Urban Growth Centre at a location that is well served by transit and pedestrians and has adequate servicing capacity. The Growth Plan defines intensification as the development of a property, site or area at a higher density than currently exists. Staff also supports the significantly enhanced Civic function provided with this application as a net benefit for the Downtown and would consider increased heights and densities beyond what is anticipated in the current Official Plan on this site in order to facilitate this City Building objective, provided compatibility with surrounding development and the public realm can be achieved. However, insufficient evidence has been provided in the applicant's submission that a deviation from Council's vision for development on the site is warranted.

The Downtown Precinct Plan is the City's vision for how to implement the density targets for the Downtown Urban Growth Centre and mobility hub while recognizing local context. Staff are of the opinion that the application as proposed is not consistent with the vision for development in this area, at 23-storeys plus one storey of outdoor amenity space this building exceeds the height and density expectations for the site, the proposed built form fails to meet the intent of the policies for Brant Street and urban design policies intended to provide compatibility and a high quality public realm and built environment.

The Growth Plan requires the City of Burlington to consider the conservation of the cultural heritage resources on the subject property in the context of their contribution to defining and supporting the "sense of place" of downtown Burlington, and more particularly the Brant Street and John Street streetscapes. In order to conserve this sense of place, it will be necessary to conserve the sense of scale of the buildings and

fine-grained commercial character of Brant Street and John Street; this is discussed in greater detail in later sections of the report.

Staff recommend a modified approval which reduces the height of the building to 17 storeys plus one storey of roof top amenity area, reduces the height of the podium to 3 storeys, terraces the building away from Brant Street, addresses streetscaping, and provides additional commercial/office space. This aligns with the vision for Brant Street as a main street spine with a low rise character along Brant, while recognizing the significant enhancement of the public open space at Civic Square. A holding zone which requires the applicant to enter into a Residential Development Agreement, including the provision of a heritage easement will ensure that the heritage dwellings are satisfactorily incorporated into the development.

### *Conclusion*

The proposed development does not conform to the Growth Plan as:

- the Downtown UGC is well positioned to meet its density targets by 2031;
- a comprehensive vision for the Downtown UGC has been vetted by Council and the public. The proposal as submitted fails to meet the objectives of the current Official Plan, and the policy direction within Grow Bold for the Brant Main Street Precinct Special Planning Area and the downtown as a whole;
- the conservation strategy proposed does not define the 'sense of place' of the Brant Main Street precinct.

The recommended modified approval recommended by Staff will achieve intensification of the subject site while still meeting the Council adopted vision for the Mobility Hub.

### **The Big Move: Transforming Transportation in the Greater Toronto and Hamilton Areas (2008)**

The Big Move: Transforming Transportation in the Greater Toronto and Hamilton Areas (Big Move) is a provincial policy document prepared under the Metrolinx Act (2008) that contains action items to develop and implement a multi-modal transportation plan for the Greater Toronto and Hamilton Area (GTHA). The goals of The Big Move are to provide more comfortable, convenient and interconnected transportation choices that are accessible and safe for all persons throughout the GTHA.

The Big Move identifies a comprehensive rapid transit development plan with Anchor and Gateway Mobility Hubs throughout the GTHA. The Big Move identifies the major transit station area as well as the area within an 800-metre radius of the transit station as the Mobility Hub. It regards these areas as forecasted to achieve, or have the potential to achieve, a minimum density of approximately 10,000 people and jobs within

an 800 metre radius. Downtown Burlington is designated as an Anchor Mobility Hub given it is identified as an Urban Growth Centre and major transit station area.

*Conclusion:*

The Downtown Burlington Mobility Hub has exceeded the minimum density of 10,000 people and jobs associated with a Mobility Hub and is expected to reach the Urban Growth Centre density target of 20,920 people and jobs (200 persons and jobs per hectare) by the year 2031 or earlier.

The subject property is located within the 800 metre radius of the Major Transit Station Area and as such is considered to be within the Downtown Burlington Anchor Mobility Hub.

**REGIONAL POLICY CONTEXT:**

**Region of Halton Official Plan**

The Region's Official Plan (ROP) provides goals, objectives and policies to direct physical development and change in Halton Region. The ROP provides population and intensification targets for all of the local municipalities including the City of Burlington. The ROP identifies that the City is expected to meet a minimum intensification target of 8,300 new dwelling units constructed within the Built Up Area between 2015-2031 (ROP, 56, Table 2). The subject lands are designated in the ROP as "Urban Area" and form part of the Urban Growth Centre.

The Urban Area is intended to accommodate future growth through increased densities and intensification that is compact and transit supportive in order to reduce the dependence on the automobile and facilitate active transportation. The ROP establishes that the range of permitted uses within the Urban Area will be in accordance with Local Official Plans and Zoning By-laws, however, all development shall be subject to all other relevant policies of the ROP (ROP, 76).

Within the Urban Area, the ROP policies support residential intensification and the development of vibrant and healthy communities. The ROP objectives for intensification areas are to provide an urban form that is complementary to existing developed areas, makes efficient use of land and services, and promotes a diverse and compatible mix of land uses that create a vibrant, diverse and pedestrian-oriented urban environment. It also promotes the achievement of densities higher than surrounding areas and promotes mixed uses that support active transportation and ensure the viability of existing and planned transit for everyday activities (ROP, 78).

Further, the policies state that Urban Growth Centres are parts of intensification areas which are intended to accommodate a significant share of population and employment growth, support and promote active transportation and transit supportive land uses and

serve as focal areas for investment. Urban Growth Centres are required to achieve a minimum development density target of 200 residents and jobs combined per gross hectare by 2031 or earlier (ROP, 80, 81).

Intensification within the City of Burlington has been designed to be achieved through specific Official Plan designations, such as the Downtown Mixed Use Centre and Precincts including the Downtown Core Precinct. The ROP states the Urban Area should establish a rate and phasing of growth that ensures the logical and orderly progression of development.

The ROP supports the provision of an adequate mix and variety of housing to satisfy differing physical, social and economic needs. It further targets that at least 50% of new housing units produced annually within the Region be in the form of townhouses or multi-storey buildings.

All new development in the Urban Area is to be on the basis of connections to Regional Servicing (ROP, 89(3)).

Halton Region's Official Plan (ROP) requires "that development proposals on adjacent lands to protected cultural heritage resources:

- a) study and consider the preservation, relocation, and/or adaptive re-use of historic buildings and structures based on both social and economic costs and benefits;
- b) incorporate in any reconstruction or alterations, design features that are in harmony with the area's character and existing buildings in mass, height, setback, and architectural details; and
- c) express the cultural heritage resources in some way, including: display of building fragments, marking the traces of former locations, exhibiting descriptions of former uses, and reflecting the former architecture and uses." (167.3)

"Adjacent lands" for the purposes of ROP policy 167(3) in the Burlington context are those lands that are contiguous to a protected heritage resource.

**Opinion:**

The proposal complies with the ROP as it provides intensification within the Urban Growth Centre and no issues with water or sanitary services have been identified.

The modified approval which recommends the incorporation of a Holding provision to address any potential site contamination complies with Regional policy.

The subject applications proposed development on land adjacent to and including two properties containing cultural heritage resources that are currently protected by the Municipal Register but not by a designation or easement (401 Brant and 444 John St).

The proposed development has studied and considered the partial preservation of the heritage buildings, although few details have been provided about their proposed adaptive re-use. The subject applications propose to incorporate design features of these two resources, and express them through facade retention and commemoration. The proposed development satisfies policy 167(3) of the ROP.

## **CITY OF BURLINGTON POLICY CONTEXT:**

### **City of Burlington's Intensification Strategy and Urban Growth Centre Targets**

The City's Intensification Strategy identifies two Mixed Use Centres (Downtown Burlington and Uptown), a series of intensification corridors, potential GO Station intensification opportunities and established implementation measures to plan for and accommodate growth within the built boundary.

The City has conducted several exercises implemented through Official Plan amendments (OPA 55, OPA 59, OPA 73) and has developed a comprehensive and balanced approach to intensification that protects established neighbourhoods and the accommodates compatible intensification in appropriate locations of the City.

Council has further advanced this approach by endorsing an Intensification Framework for the purposes of developing the City's new Official Plan, as found in report [PB-29-16](#). The Intensification Framework continues to highlight the importance the Urban Growth Centre and the city's three major Transit Station Areas as primary areas for intensification as well as adding the connecting intensification corridors and certain parts of the city's employment area. The Framework also provides greater clarity and direction to the public, city staff and other levels of government as to where and how the city plans to grow and intensify over time. As a part of the overall intensification strategy, Council endorsed a Mobility Hub Framework to identify a clear vision for the mature state of development for the Mobility Hub lands in order to meet the Province's growth targets.

The City's Urban Growth Centre (UGC) with respect to the Provincial Growth Plan's is required to meet a minimum required gross density of 200 residents and jobs per hectare by the year 2031. Given the UGC minimum intensification target of 200 persons and jobs per hectare and UGC area of 104.6 ha, the UGC will require the accommodation of 20,920 persons and jobs by 2031 to meet the minimum target. Staff are of the opinion that the City of Burlington is well positioned to achieve the minimum density target of 200 residents and jobs per hectares by 2031.

The City's Official Plan and intensification framework support the City's ability to achieve the minimum density target established in the Provincial Growth Plan, Regional Official Plan and the City Official Plan.



### **City of Burlington Council Adopted Official Plan: Grow Bold & Mobility Hubs Area Specific Plan**

The proposed new Official Plan (OP), adopted by Council in April 2018, has been developed to reflect the opportunities and challenges that face the City as it continues to evolve. The City's proposed new Official Plan communicates Council's vision and reaffirms the City's commitment to maintain a firm urban boundary. The proposed new Official Plan introduces a new Urban Structure and Growth Framework to further direct growth to the appropriate locations of the City. Until the new Official Plan is approved by the Region, the policies in the new Official Plan are informative and not determinative. However, staff have reviewed Grow Bold as it will form the basis for policy moving forward.

Grow Bold identifies the subject properties on the following schedules:

- *Urban Centre* on Schedule B, Urban Structure
- *Primary Growth Area* on Schedule B-1, Growth Framework
- *Primary Mobility Hub Connector (Brant) and Secondary Mobility Hub Connector* on Schedule B-2, Growth Framework and Long Term Frequent Transit Corridor
- *Urban Centre* within the Downtown Urban Growth Centre Boundary on Schedule C, Land Use – Urban Planning Area; and
- *Brant Main Street Precinct (Special Planning Area)* on Schedule D, Downtown Urban Centre.

#### *Primary Growth Area*

The Downtown is considered an Urban Centre and is identified as a mobility hub in the proposed new Official Plan consistent with Provincial and Regional documents. The subject lands are located within the Downtown Burlington Mobility Hub. This area is identified as a Primary Growth Area that is intended to accommodate the majority of the City's forecasted growth. Primary Growth Areas are regarded as the most appropriate and predominant location for new tall buildings, in accordance with the underlying land use designations or land use policies of the area specific plan.

In keeping with the Growth Plan, the City's Official Plan identifies Major Transit Station Areas and the Urban Growth Centre (Downtown Burlington) as focal points for higher intensity and mixed use development that will accommodate a significant share of the city's future population and employment growth to 2031 and beyond. The new City Official Plan identifies that Area Specific Plans will be completed for each of the Mobility Hubs. The Area Specific/Precinct Plans for the Mobility Hubs were identified as a key priority in the Council's Strategic Plan which supports the objectives of The Big Move Plan, the Growth Plan and the Region's Official Plan.

#### *Mobility Hubs Process*

In July 2016, Council directed staff to begin the Area Specific Planning process for Mobility Hubs and comprehensive public engagement and technical study began. A precinct system and policy framework has been developed with the goal of achieving the following objectives for Downtown Mobility Hub:

- Allowing for height and density permissions that will support and enhance the city-wide, regional and Provincial significance of the Downtown Mobility Hub and its role as a major transit centre;
- Providing for development that can achieve heights and densities that will create a population and employment base that will attract new businesses, services and amenities to the Downtown Mobility Hub;
- Where possible, establishing maximum building heights which are consistent with existing development precedents;
- Ensuring that the tallest developments are located in areas of the Downtown Mobility Hub which have the greatest pedestrian access to higher-order transit (Burlington GO);
- Concentrating the tallest developments in areas away from the Lake Ontario to increase their affordability and attract a wider range of demographics and income levels to the Downtown Mobility Hub;
- Establishing effective transitions from tall building locations to established residential areas both within and adjacent to the study boundary;
- Mitigating future traffic congestion associated with growth through a variety of measures including development specific transportation demand management measures, enhanced pedestrian and cycling amenities and networks and the strategic concentrations of height and density within walking distance of major transit stations.
- Ensuring the Downtown Mobility Hub has adequate lands to accommodate future community and government public services required to serve existing and future residents and employees.

Beginning in April 2017, staff completed several visioning workshops with the public and Council and collected feedback. Public feedback spoke to the importance of the low rise Brant Street character. Members of the public felt that Brant Street should not be lined with tall buildings and that height should be stepped back from Brant Street. However, in order to achieve city building objectives of providing an enhanced Civic Square, additional heights were allowed on sites at the intersection of James and Brant Street in return for providing public space on private property. In November 2017, City staff presented a proposed Downtown Mobility Hub Precinct Plan to the Planning and Development Committee. The subject lands were designated as Brant Main Street

Precinct Special Planning Area. In January 2018, the Precinct Plan was updated to address comments received and additional analysis that had been completed, staff was directed to incorporate these policy directions into the new Official Plan. With respect to the subject lands, the designation and accompanying policies were not changed.

#### *Downtown Urban Centre*

The Downtown Urban Centre is a lively, vibrant "people place", with a wide variety of employment, shopping, leisure, residential, recreational and tourism opportunities. It is the city's centre for cultural facilities, public gatherings, festive and civic occasions, and social interaction. The Downtown will continue to be an area where specialty retail, community retail, entertainment, cultural, public service facilities and institutional facilities, and offices, as well as residential uses, shall be developed. The Downtown will continue to develop as the city's primary centre, taking advantage of the unique qualities that set it apart from all other areas of the city and that contribute to its distinct identity. These qualities include the waterfront location and related activities, historic buildings, streetscapes and development pattern, views and vistas, cultural activities, pedestrian orientation, and recognition of the Downtown as a centre of business and civic activity.

The Precinct Plan and Urban Centre policies provide a framework to provide locations for higher intensity, transit supportive and pedestrian oriented development in order to accommodate the density targets for the Urban Growth Centre while ensuring that a unique community identity is maintained. The implementation of the Downtown Area Specific Plan will include additional Official Plan policies which will build on the proposed policies that are being brought forward through Grow Bold.

#### *Streetscaping/Public Realm*

The Downtown will provide a continuous, harmonious, safe and attractive pedestrian oriented environment through high-quality streetscapes including enhanced greenery/landscaping, new developments which achieve urban design and architectural excellence, and the retention and expansion of cultural assets including public art (8.1.1(3.1)).

#### **Comment:**

The proposed development incorporates an increased setback to provide for an enhanced pedestrian realm including patios and wider sidewalks. However, a 0m setback to the heritage facades and an adjacent 1 storey projection on the podium has been proposed. It is staff's opinion that this projection will create a conflict for cars and pedestrians at the entrance to the parking garage and will create a pinch point for pedestrians headed in a southerly direction on Brant and John Street. Staff are not supportive of these proposed setbacks.

As discussed in later sections of the report, it is the opinion of staff that shadow and wind impacts on the public realm have not been appropriately mitigated.

Further details regarding glazing, building entrances, and building materials will be determined through a future Site Plan process.

#### Commercial/Office

The objectives of the Downtown Urban Centre require a mix of uses that reinforce the Downtown's role as a complete community, and ensure that Downtown continues to have a strong employment base that will attract new businesses, services and amenities to support the long term success of the Downtown. (OP 8.1.1(3.1)). Further, it's the vision of the Brant Main Street Precinct to continue to serve as a unique retail destination within the Downtown and City Wide (8.1.1(3.7)).

#### **Comment:**

The site currently contains over 3600 m<sup>2</sup> of commercial and retail space, and the applications propose to replace 597 m<sup>2</sup> of that area. Staff are not supportive of this significant reduction in space which represents a loss of employment opportunity and commercial space in the Downtown.

Some reduction would be expected on the main floor due to: increased setbacks to provide enhanced landscaping and sidewalks; the public square at the corner of James and Brant; residential lobby area; space for garbage and loading area; and the parking garage ramp. However, the configuration of the internal aspects of the proposal including; garbage, loading, and a circular underground parking ramp; are inefficient when compared to a similarly sized and located site (such as the project at 421 Brant Street). This adjacent proposal was able to provide increased setbacks for public realm improvements, but with a more efficient parking and loading lay out was able to provide 760 m<sup>2</sup> of commercial at grade. The site layout should be reconfigured and office or additional commercial space should be provided on the second floor to offset the loss of retail space.

#### Cultural Heritage:

The policies of the Downtown Urban Centre speak to conserving the Downtown's cultural heritage resources by integrating them into new development, where possible (8.1.1(3.1)). Development shall consider cultural heritage resources and where feasible incorporate these resources into development in a way that conserves the character defining attributes of the building. The Downtown Urban Centre policies permit the transfer of additional intensity to a development equal in gross floor area to that of a cultural heritage resource. (8.1.1(3.18))

The full extent of maximum development permissions stated within all Downtown Urban Centre precincts may not be achievable on every site within a precinct, due to site-specific factors including, but not limited to... cultural heritage resources” (8.1.1.3.2 n).

**Comment:**

Grow Bold prioritizes integration with new development as the preferred conservation strategy for cultural heritage resources located within the downtown. This principle requires the design of the proposed development to complement the historical attributes of the cultural heritage resources identified in the Downtown Urban Design Guidelines. The design of developments should be sensitive to the street context and surrounding cultural heritage resources, including those that are not immediately adjacent, such as 400 Brant Street and 426 Brant Street. The scale and massing of the proposed podium should not overwhelm the Queen’s Head Pub building across the street at 400 Brant Street. Furthermore, the proposed development should not obstruct views to the Knox Presbyterian Church to the east.

The conservation of the existing cultural heritage resources on the subject lands by integrating them into the proposed development and maintaining a sensitive design that should not overwhelm or impair the heritage value of the resources may have an impact on the site’s development capacity, without contravening the new Official Plan. The retention of facades only does not suffice to conserve the character-defining scale of the subject resources. The applicant has preserved the Brant Street and John Street facades of the two buildings but not the interior spaces. Retaining the buildings in their original locations facing onto commercial streets helps preserve the heritage appearance of the street. However, satisfactory conservation and integration of these built heritage resources will require the conservation of the entire building envelopes, or a substantial part thereof, to preserve the fine-grained scale and massing that supports the historic Brant Street and John Street commercial context. As the interior walls of these buildings do not have design or physical value, staff would be willing to consider a proposal to create new openings in these interior walls that would connect the retail space to adjacent spaces while satisfying the intent of keeping the interior spaces enclosed with their original proportion/dimensions. Additionally, 444 John Street has been incorporated into the loading and parking entrance to the building and would not function as retail space.

444 John Street (Alfred Schmidt Jewelers) is approximately 65 m<sup>2</sup> in size and 401 Brant Street (Kelly’s Bakeshop) is approximately 232 m<sup>2</sup>. This allowable increase in intensity would equal less than one additional floor (750 m<sup>2</sup>).

Staff are not supportive of the proposed treatment of the heritage buildings.

**Development Pattern:**

The policies of the Downtown Urban Centre seek to protect significant public view corridors to Lake Ontario, the Brant Street Pier, City Hall/Civic Square and other landmarks. The Precinct Plan and policies concentrate the tallest development in those parts of the Urban Growth Centre that have the greatest pedestrian access to higher-order transit and which are located away from the Lake Ontario waterfront, to increase affordability and attract a wide range of demographics and income levels to the Downtown. (8.1.1(3.1))

**Comment:**

Grow Bold envisions maximum heights in the majority of the Downtown to be in the range of 11-17 storeys. There are only two areas which are proposed to exceed this. The Upper Brant Precinct provides for the tallest buildings in the downtown north of Ghent Avenue, as it reflects the precinct's location within walking distance to higher order transit at the Burlington GO station. The Cannery District will establish a height maximum for the Downtown outside the Upper Brant Precinct. As mentioned above, through the planning process, the Brant Main Street Special Planning Area was considered for additional height and intensity in light of the 421 Brant approval however, the proposed 17 storey heights were maintained. This development exceeds the development expectations of the downtown and the Urban Growth Centre.

*Brant Main Street Precinct*

The subject lands are within Brant Main Street Precinct Special Planning Area. The intent of the Brant Main Street Precinct is to maintain and enhance the existing main street character along Brant Street. This low-rise form (maximum 3 storeys) along Brant Street could form the podium to a development, where the height is terraced away from Brant Street towards John and Locust Streets. Special Planning Area policies for the corner of Brant and James Streets require development to contribute towards the enhancement of a civic node to compliment Civic Square. Where views from James Street to the Civic Square, City Hall tower and War Memorial are maintained/enhanced and an at grade public plaza is provided at the Brant and James Street intersection, greater heights of up to 17 storeys will be permitted as compared to those otherwise permitted on Brant Street (maximum of 11 storeys) in exchange for these amenities.

**Comment:**

At 23-storeys plus roof top amenity area, this proposed building both exceeds the height and density expectations for the site and the proposed built form fails to meet the

intent of the policies within the Brant Main Street Precinct and site specific Special Planning Area Policies.

The podium height exceeds Tall Building Guidelines and is higher than the existing street wall along the east side of Brant Street north of the Lake with the exception of 421 Brant Street. Grow Bold sets a 3 storey maximum podium height to frame Brant Street while recognizing the existing low rise character of the area. Additionally, the 1 ½ storey heritage buildings located within the 4 storey podium appear to be dwarfed by the proposed building.

Height permissions for the site of up to 17 storeys, are predicated on complementing and expanding the existing civic square and establishing view corridors to Civic Square, City Hall Tower and Burlington War Memorial from James Street. However, this property remains part of the Brant Main Street Precinct and efforts should be made to terrace development back from Brant Street to preserve the existing character. At 81 m and with a 3 m stepback above the 4<sup>th</sup> floor along Brant and James Streets, the building fails to terrace development away from Brant Street which would preserve sky views and maintain the main-street pedestrian experience.

#### *Urban Design/Compatibility*

Through urban design, Grow Bold also emphasizes land use compatibility, a high-quality public realm and built environment. In keeping with the Tall Building Design Guidelines, the updated policies recommend the inclusion of tall building design elements, such as minimum tower separations, maximum floor plates for towers Urban Design and the Tall Building Design Guidelines will be discussed in a later section of this report.

#### **Comment**

This policy prioritizes integration with new development as the preferred conservation strategy for cultural heritage resources located within the downtown.

The latter part of this policy aligns with current OP Part III, section 5.5.3 (g), discussed above.

This policy also emphasizes the importance of catering the design of developments to be sensitive to the street context and surrounding cultural heritage resources, including those that are not immediately adjacent, such as 400 Brant Street and 426 Brant Street. The scale and massing of the proposed podium should not overwhelm the Queen's Head Pub building across the street at 400 Brant Street. The proposed podium and tower should also be designed in such a way as to avoid shadow or wind impacts on the Cenotaph parkette (426 Brant Street), particularly at 11:00am on November 11<sup>th</sup>, when Remembrance Day ceremonies occur at this location. Furthermore, the proposed development should not obstruct views to the Knox Presbyterian Church to the east

### *Cultural Heritage*

The new OP addresses cultural heritage resources in section 3.5.

All options for the retention of cultural heritage resources in their original location should be exhausted before resorting to re-location. The following alternatives shall be given due consideration in order of priority:

- (i) on-site retention in the original use and location and integration with the surrounding or new development;
- (ii) on-site retention in an adaptive re-use;
- (iii) relocation to another site within the same development; and
- (iv) relocation to a sympathetic site within the City.

The City will consider other conservation solutions as appropriate” (3.5.2.5 c).

The City may require a letter of credit or other financial security satisfactory to the City, from the owner of property containing a cultural heritage resource or of property within a cultural heritage landscape, to secure:

- (i) protection of the resource during development and/or relocation, and/or:
- (ii) implementation of measures to conserve the cultural heritage resource approved by the City” (3.5.2.5 j).

### **Comment**

The subject applications propose to retain both the heritage buildings in their original location, which is supported. The subject applications propose a retail use for the 401 Brant Street, which is consistent with its original use; this is supported by the new OP, however, Staff are not satisfied that the scale of the original building has been maintained. The subject applications also propose an inappropriate new use for 444 John Street which incorporates this building into the loading space for the proposed use.

The City will require the owner to provide securities to secure the protection of the heritage buildings during development and the implementation of City-approved measures to conserve these resources. The amount of securities to be provided shall be based on a cost estimate for the proposed rehabilitation and restoration works



provided by the applicant in a Conservation Plan. This formalizes an existing City practice.

To address outstanding questions related to the heritage structures, the modified approval includes a Holding Provision which will require the landowner to enter into a Residential Development Agreement which will require the resubmission of a Heritage Impact Statement and will require the owner to a Heritage Easement to ensure the protection of the properties through the development process.

### **Opinion**

The Downtown Precinct Plan is the City's vision for how to implement the density targets for the Downtown Urban Growth Centre and mobility hub. This vision has been created holistically with significant public input. The vision seeks to provide a low to mid-rise main street character within the Brant Main Street precinct. Site specific policies for the corners of Brant and James Street allow additional height in exchange for enhanced views to Civic Square and publically accessible open space. At 24-storeys this building both exceeds the height and density expectations for the site, and the proposed built form fails to meet the intent of the policies within the Brant Main Street Precinct Special Planning Area and urban design policies intended to provide compatibility a high quality public realm and built environment. Additionally, the application proposes to remove a significant portion of the retail/commercial uses on the site which will erode the Downtown's employment base and ability for Brant Street to function a major commercial destination in Burlington.

### *Conclusion*

In light of the above, staff recommend a maximum 17 storey plus roof top amenity area, terraced built form with a 3 storey podium and a minimum of 760 m<sup>2</sup> of retail / commercial space and 365 m<sup>2</sup> of commercial or office space to be provided on the second floor of the development with a holding provision to address outstanding technical issues and the heritage buildings on the site.

### **City of Burlington Official Plan, 2008**

The City's in force Official Plan recognizes changes with respect to the future built form within the City. The Plan encourages greater live-work relationships and the focusing of more intense land uses into specified mixed use centres as the City gradually evolves. It also identifies and encourages that to meet the needs of the changing population, a broader mix of residential dwellings in terms of type, size, cost and ownership in a more compact form that is served by various modes of transportation and located in close proximity to jobs, shopping and leisure areas. This direction is designed to maintain the established character of the City's neighbourhoods by directing growth towards

underutilized or vacant parcels and to mixed use corridors and the Uptown and Downtown mixed use centres which include the Downtown Urban Growth Centre.

The City's Official Plan identifies the subject properties on three schedules:

- *Mixed Use Activity Area* on Schedule A, Settlement Pattern;
- *Mixed Use Centre* within the Downtown Urban Growth Centre Boundary on Schedule B, Comprehensive Land Use Plan – Urban Planning Area; and
- *Downtown Core* on Schedule E, Downtown Mixed Use Centre.

The City's Official Plan identifies the Urban Growth Centre boundary which includes a number of precincts. Development within each of these precincts is subject to the specific applicable land use designation policies. The Downtown Burlington Urban Growth Centre is meant to accommodate a significant share of the City's population and employment growth while taking advantage of the qualities that contribute to a unique identity including waterfront location, historic buildings, and streetscapes, development pattern. Re-development is to be accommodated through the infilling of existing surface parking lots, rehabilitation of existing buildings and intensification of under utilized lands and buildings. The height, density, form, bulk, and spacing of development shall be compatible with the surrounding area.

#### *Mixed Use Activity Area*

Mixed Use Activity Areas are locations where:

*employment, shopping and residential land uses will be integrated in a compact urban form, at higher development intensities and will be pedestrian-oriented and highly accessible by public transit.*

Mixed Use Activity Areas address the demand for higher intensity employment, shopping and residential areas within the City. These areas provide alternatives to low density, suburban development and encourage the efficient use of physical resources and municipal services.

The Mixed Use Activity Areas are intended to encourage comprehensively planned mixed use areas that provide for the integration of uses such as retail stores, offices, hotels, institutional and entertainment uses with residential uses, community facilities, cultural facilities, institutions and open space in a compact, urban form, while retaining compatibility with nearby land uses. Given that these areas have a mixture of uses, they are intended to develop in a compact urban form, be pedestrian-oriented and highly accessible by public transit (OP, Part III, 5.2).

It is the general intent of the OP that Mixed Use Activity Areas shall be subject to a high quality of urban design (OP, Part III, 5.2.2). Staff have completed an assessment of the proposed urban design relating to the City's Downtown Urban Design Guidelines and

the Tall Building Design Guidelines which is discussed in further detail in the sections below.

### *Mixed Use Centre*

Within the Mixed Use Activity Areas, there are a series of Mixed Use Corridors and Mixed Use Centres which are intended to accommodate a significant amount of the City's intensification within the built boundary.

The Mixed Use Centre is intended for mixed use developments consisting of medium and high density residential uses and encourages higher intensity, transit supportive and pedestrian oriented developments while retaining compatibility with nearby land uses. The policies promote a more diversified transportation system that serves all modes of transportation (people in vehicles, people on public transit, people on bikes and people walking) (OP, 5.4.1). The Mixed Use Centre provides for a range of intensities and heights dependent on location and site specific factors. This OP policy acknowledges and anticipates that the full range of permitted uses and the full extent of development intensity will not be permitted at every location within the Mixed Use Centre based on site specific factors, one of which is land use compatibility. This policy conforms to and is consistent with policies in the Provincial Policy Statement and in the Regional Official Plan (OP, 5.4.2).

The Mixed Use Centre designation contains a number of site plan considerations intended to ensure compatibility between the Mixed Use Centre uses and adjacent uses. These considerations include the following:

- i. buildings should be located with their front face to the street, to provide a sense of human comfort and pedestrian scale and interest, and in close proximity to the street and transit services, wherever feasible;*
- ii. the site plan for individual sites includes features to integrate the new development with surrounding uses;*
- iii. the site plan promotes safe, convenient, and barrier-free pedestrian travel within the site, between the site and adjacent land uses, and to and from transit stops;*
- iv. off-street parking areas, loading areas and service areas shall be screened and landscaped;*
- v. the site plan promotes public safety;*
- vi. the site plan promotes convenient access to public transit services;*
- vii. off-street parking areas shall be located in the side and rear yards;*
- viii. off-street parking areas shall be located away from adjacent residential uses; and*
- ix. loading areas and service areas are located to avoid conflict between pedestrian and vehicular traffic.*

**Comment:**

The application as submitted provides public realm and streetscape improvements by providing increased setbacks to the proposed building, and retail frontage along the public roadway frontages. However, staff recommend that the heritage facades and podium extension be shifted back on the lot to provide the opportunity for the continuation of widened sidewalks and views into the Elgin Street Promenade to prevent pedestrian conflicts. The podium of the building integrates well with the Elgin Promenade to the south by providing second storey terraces and amenity space which overlooks the promenade and provides visual interest and 'eyes on the street'. The 1.2m setback on the south side of the building allows for landscaping adjacent to the promenade.

The proposed parking and loading will be located underground with access off John Street, a more minor street, to reduce conflict between vehicles and pedestrians. All parking and loading will be located inside the building and screened from view. Due to the location of the parking garage entrance and the existing 0m setbacks at 444 John Street as well as the bump out proposed to the north of the garage entrance, visibility for those exiting the garage will be limited and conflicts with pedestrians on the sidewalk are possible.

The Tall Building Guidelines recommend a minimum 25m tower separation. The proposed setbacks along with the surrounding road rights-of-way and the Transnorthern Pipeline/Elgin Promenade to the south will provide sufficient buffer to future development.

The OP states that proposals for residential intensification shall be evaluated on the basis of the objectives and policies of the Housing Intensification Section of the OP. This policy clearly sets out the requirement to evaluate all proposals for residential intensification within the Mixed Use Centre on the basis of the objectives and the Housing Intensification policies. This evaluation has been completed and is outlined in the Housing Intensification Section below.

*Downtown Mixed Use Centre Designation*

The boundary for the Downtown Burlington Urban Growth Centre (UGC) is shown on Schedule B: Comprehensive Land Use Plan – Urban Planning Area and on Schedule E: Downtown Mixed Use Centre. The OP sets out that the UGC boundary includes various land use designations, and as such, development within this boundary is subject to the specific policies of the applicable land use designations. The Downtown Burlington UGC is meant to accommodate a significant share of the City's population and employment growth while taking advantage of the qualities that contribute to a unique community identity including waterfront location, historic buildings, and

streetscapes, development pattern. Re-development is to be accommodated through the infilling of existing surface parking lots, rehabilitation of existing buildings and intensification of under utilized lands and buildings. The height, density, form, bulk, and spacing of development shall be compatible with the surrounding area. New development shall be of high quality design to maintain and enhance the Downtown's image as an enjoyable, safe, pedestrian-oriented place and designed and built to complement pedestrian activity and historical attributes (OP, Part III, 5.5.1).

The following are some of the objectives of the Downtown Mixed Use Centre with specific relevance to the proposed development (OP, Part III, 5.5.2).

- a) *To establish the Downtown as a Mixed Use Centre composed of retail, service, office, public and residential uses while providing a focus and source of identity in the context of the City as a whole;*
- b) *Within the Urban Growth Centre Boundary as delineated on Schedule B, Comprehensive Land Use Plan – Urban Planning Area, and Schedule E, Downtown Mixed Use Centre, the target is established of a minimum gross density of 200 residents and jobs per hectare, in accordance with the “Places to Grow” Growth Plan for the Greater Golden Horseshoe, 2006.*  
Comment: The City is well positioned to meet this target by 2031.
- c) *To establish a unique role for the Downtown so that it provides for certain uses such as offices, and residential, as well as unique opportunities such as independent, specialty retail activities and waterfront recreational opportunities;*
- d) *To establish and maintain the Downtown's primary role as the City centre for cultural, governmental, civic and waterfront activities;*  
Comment: While, the proposed development would incorporate an expansion to the civic function in this area by providing an expansion to Civic Square on the east side of Brant Street, Staff is recommending that this public square be increased in size and configuration.
- e) *To create a compact Downtown city core with a mix of residential, commercial and other uses, as an alternative to the car oriented shopping plazas, malls and business corridors;*  
Comment: While some retail is provided at grade, the overall retail function of the site has been reduced. Staff are of the opinion that a reconfiguration of the parking and loading functions inside of the building would provide the opportunity to increase the retail space at the ground floor level. Staff also

require the provision of office uses on the site to maintain an employment function.

- g) To increase the resident population and provide a variety of housing types mainly at medium and high densities that will strengthen the live/work relationship, ensure the Downtown is used after business hours, and create a local market for convenience and service goods;*

Comment: The proposed development provides residential intensification however, the removal of retail space and lack of office space does not promote a live/work relationship in the Downtown.

- h) To provide commercial activity that serves the general needs of Downtown residents as well as specialized functions for the entire community;*

Comment: As mentioned above, the site area currently contains over 3600 m<sup>2</sup> of commercial and retail space, the applications propose to replace 597 m<sup>2</sup> of space. Staff are not supportive of this significant reduction in space which represents a loss of employment opportunity and commercial space in the Downtown.

- i) To ensure that buildings in the Downtown are offset by a range of open space areas (that may include parkettes, urban plazas, and pedestrian networks) that may allow for both passive and active recreational and social activities;*

Comment: At approximately 106.5m<sup>2</sup> (14mx15m) the proposed publically accessible open space provided at the Brant Street and James Street intersection provides a significant extension to Civic Square and enhances views from James Street to the south end of Civic Square.

- l) To establish the concept of design excellence in the Downtown to encourage long-term investment;*

Comment: As discussed below, the proposal does not meet the intent of the Downtown Urban Design Guidelines and the Tall Building Guidelines.

- m) To establish planning precincts within the Downtown, each with their own distinct character and specific planning policies;*

- n) To create a continuous, harmonious, safe and attractive environment through streetscape, building façade improvements and the design of new buildings;*

Comment: The proposed development provides increased setbacks which will provide the opportunity for enhanced streetscaping and widened sidewalks.

Zero meter setbacks to the existing heritage buildings have been maintained, additionally a 1 storey podium extension has been provided north of the buildings. As only the facades are being maintained, the planned 3m setback should be provided to the heritage buildings to provide for continuity of sidewalk width and to provide visibility from the Elgin promenade to Brant and John Street.

- o) To ensure that the density, form, bulk, height and spacing of development is compatible with the surrounding area;*

Comment: As outlined in further detail below, the proposal as submitted does not provide compatibility with surrounding existing or planned uses.

- r) To provide adequate and safe parking in the Downtown.*

Comment: The applicant has proposed a combined resident and visitor parking rate of 0.93 spaces per unit. As discussed later in the report, this is insufficient to service the development.

### **Opinion:**

Staff are of the opinion that the level of intensification being recommended for this site is outside of the scope of the principles and objectives of the Downtown Mixed Use Centre and the Downtown Core Precinct, and does not maintain the general intent and purpose of this designation. Staff have recommended a modified approval to address these issues.

### **Downtown Cultural Heritage**

Part III, section 5.5.1 of the OP contains policies applying only to the Downtown Mixed Use Centre, within which the subject lands are situated. The following policies from Part III are applicable to the subject applications:

- b) As a Mixed Use Centre the Downtown shall take advantage of the unique qualities that set it apart from all other areas of the City and contribute to a distinct identity. These qualities include... historic buildings, streetscapes, and development pattern, cultural activities, pedestrian orientation, and recognition as a centre of business and civic activity.*

Comment: This principle promotes not only the conservation of historic buildings but their incorporation as a unique and featured component of the proposed development, to anchor the subject lands in their unique neighbourhood context.

- g) New development shall be of high quality design to maintain and enhance the Downtown's image as an enjoyable, safe, pedestrian-oriented place, and*

*designed and built to complement pedestrian activity and historical attributes as outlined in the Downtown Urban Design Guidelines.*

Comment: This principle requires the design of the proposed development to complement the historical attributes of the cultural heritage resources identified in the Downtown Urban Design Guidelines. The Design Guidelines identify the 444 John Street, 401 Brant Street, as well as 413 Brant Street, as having historical attributes (Downtown Urban Design Guidelines 7.11.3). Staff recognize that the more recent evaluation of the subject lands by GBCA did not find 413 Brant Street to have any cultural heritage value; therefore, the design of the proposed development need only complement the historical attributes of the 444 John Street and 401 Brant Street to satisfy this policy.

*The Downtown's cultural heritage resources shall be preserved and integrated into new development, where possible, and any development close to cultural heritage resources shall be sensitive to the historic context of the street and not just of the immediately adjacent buildings, to maintain the character of established areas" (Part III 5.5.3 g).*

This policy requires the preservation and integration of the cultural heritage resources on but also requires the development to be sensitive to the historic context of the street and not just the immediately surrounding buildings, to maintain the character of established areas. This policy therefore requires the proposed development to be sensitive to nearby cultural heritage resources on Brant, James, and John Street, including 400 Brant Street (the Queen's Head Pub), 426 Brant Street (Cenotaph and King Edward Fountain), and Knox Presbyterian Church (461 Elizabeth Street). The podium of the proposed development should be designed to complement rather than overwhelm the scale of 400 Brant Street (Queen's Head Pub) directly across the street. The podium height at 3 storeys will be more reflective of the scale of 400 Brant Street.

#### *Downtown Core Precinct Designation*

The Downtown Mixed Use Centre policies describe the individual precincts as areas that have their own distinct character and specific planning policies.

Within the Downtown Mixed Use Centre, the subject site falls within the Downtown Core Precinct. The objectives of the Downtown Core Precinct are:

- a) To designate the inner core area of the Downtown for higher density development consistent with the role of Brant Street as a major spine of the Downtown Mixed Use Centre, to meet Provincial Growth objectives and to help support increased transit use.*



- b) *To require a high standard of design for new buildings in order to provide a sense of place, compatibility with existing development and a sense of pedestrian scale and comfort.”*

### *Height*

The OP sets out that high-density residential apartment uses, including the residential use of upper storeys of commercial buildings may be permitted in the Downtown Core precinct. Within the designation, the minimum density of residential buildings shall be 51 units per net hectare. The minimum height of buildings shall be two storeys. The maximum height of buildings shall be four storeys. Taller buildings up to a maximum height of eight storeys and 29 m may be permitted where they provide compatibility with surrounding land uses and a sense of pedestrian scale by the use of terracing above the second floor, and subject to community benefits provisions.

### *Density*

The Official Plan also addresses density in terms of floor area ratio and requires that the maximum floor area ratio for any individual site shall be 4.0:1, except that higher floor area ratios may be permitted in conjunction with the aforementioned heights.

The Downtown Core Precinct designation requires that retail or service commercial uses are provided at grade along public streets in residential or office buildings and in parking garages, except where bordering residential precincts. This designation requires that buildings be constructed to the street line with no surface parking permitted, except for loading and emergency vehicles and further sets out that on-site parking is not required for non-residential uses.

The OP sets out that applications for increased building heights for mid to high rise buildings in the Downtown Core Precinct may be required to provide an angular plane study, identifying visual, sun shadowing and wind impacts, and demonstrating how such impacts can be mitigated to acceptable levels. As noted in the sections below, the applicants have provided studies; however, staff are not satisfied that impacts of the proposed development are appropriately mitigated.

### **Opinion:**

The OP sets out that each precinct in the downtown has its own distinct character and specific planning policies. While Brant Street should remain as a primarily low and mid-rise street, Staff recognize that the subject site may be appropriate for increased height and density in exchange for the provision of a public square and views to the Civic Square from James Street. However, as discussed further below, staff are not satisfied that the proposed building mitigates visual, wind or shadow impacts.

The proposed development meets these policies of the OP and provides for increased setbacks to the proposed building. Although retail uses are provided at grade, the building lay out could be reconfigured to provide for additional retail space at grade and additional office or retail space could be provided on the second storey to offset the loss of space on the site.

Based on the above, Staff are of the opinion that the proposed development fails to meet the objectives and policies of the Downtown Core Precinct. Staff do not find a compelling argument that the proposed development justifies a deviation from the Council vision for the site and precinct.

In order to comply with the intent of the Official Plan, and maintain the feel of the low and mid-rise main street character of Brant Street staff recommend a 3 storey podium, continuous setbacks at grade, and a minimum of 760 m<sup>2</sup> of retail / commercial space and 400 m<sup>2</sup> of office space to be provided on the first and second floors of the development. In order to facilitate the provision of a significant public realm improvement of providing an extension to Civic Square, staff recommend a maximum 17 storey building, in line with the Council approved vision in Grow Bold. A technical 18<sup>th</sup> floor for amenity space and mechanical penthouse is permitted as it will not impact the overall massing of the building. A terraced built form and slim tower profile will help minimize the mass of the building and maintain skyviews.

#### Other Official Plan Policy

##### *Cultural Heritage Resources*

Part II, section 8.3.3 (e) of the OP states that “pursuant to the provisions of the Ontario Heritage Act, the City may enter into heritage conservation easement agreements with private property owners to ensure the long-term maintenance and conservation of cultural heritage resources”. In accordance with this policy, the City will require the applicant to enter into a conservation easement agreement as a condition of approval. Such conservation easement agreement shall be customized to facilitate any development approvals while establishing a strategy to conserve the built heritage resources prior to, during, and after construction activities. The applicant will be required to provide a Conservation Plan on which the heritage easement will be based.

The OP further states that “the designation of individual cultural heritage properties and cultural heritage landscapes under the provisions of the Ontario Heritage Act shall be pursued to implement the cultural heritage conservation objectives and policies of this Plan” (OP Part II, 8.3.4a).

Part II, section 8.4.1 of the OP specifically addresses development affecting cultural heritage resources, and includes the following policies:

- a) *All development shall consider cultural heritage resources and wherever feasible, incorporate these resources into any development plans in a way that conserves the character-defining elements of the cultural heritage resource (Part II 8.4.1a).*

Comment: As described above, the retention of facades only does not suffice to conserve the character-defining scale of the subject resources.

- c) *Approval of development on lands with significant cultural heritage resources may be subject to conservation of the cultural heritage resources. Should Council, in consultation with its municipal heritage committee (Heritage Burlington), determine that the proposal to alter, demolish or erect a structure that would detract from, or indirectly impair the character, quality, heritage attributes or stability of a cultural heritage resource, the proposal shall be subject to the recommendations of a heritage impact statement*

Comment: The proposed development would significantly alter the heritage buildings. The current proposal to retain only the facades would impair their character, heritage attributes, and stability.

- d) *Cultural heritage resources that are to be significantly altered, removed, or demolished shall be recorded for archival purposes with a history, photographic record, and measured drawings before alteration, removal, or demolition.*

Comment: The proposed development will significantly alter the buildings. Heritage staff will therefore require the submission of a photographic record and measured drawings of the buildings prior to alteration. Heritage staff additionally request a photographic record of the exteriors of 448-450 John Street, 409 Brant Street, 413 Brant Street, 2002 James Street, and 2012 James Street.

## **Opinion**

Heritage staff believe that the 444 John Street and 401 Brant Street are worthy of designation under Part IV of the Heritage Act; however, staff propose that at the current time a heritage conservation easement agreement is sufficient to ensure the long-term conservation of the subject properties. Designation should occur after draft site plan approval has been issued and the final form of the proposed development has been established; this will allow the designation by-law to be developed and structured in such a way as to accurately reflect the built form of the subject lands. The modified approval which requires a Residential Development Agreement to be entered into prior to development will address conservation and retention of the structures.

## *Compatibility*

The Official Plan defines compatibility as development or redevelopment that is capable of co-existing in harmony with, and that will not have an undue physical (including form) or functional adverse impact of, existing or proposed development in the area or pose an unacceptable risk to environmental and / or human health. Compatibility should be evaluated in accordance with measurable / objective standards where they exist, based on criteria such as aesthetics, noise, vibration, dust, odours, traffic, safety and sun-shadowing, and the potential for serious adverse health impacts on humans or animals. This definition is part of deferral D53, so it is not in force and effect at this time. However, this definition helps guide the City's view of compatibility and is similar to the definition of compatibility that has been similarly endorsed by the Ontario Municipal Board in a significant number of decisions.

#### *Pedestrian Scale*

As mentioned above, the 3m setbacks to the proposed building provide the opportunity for widened sidewalks and enhanced streetscaping. Staff would recommend that as only the facades of the heritage buildings are proposed to be retained and the buildings will have to be moved during the construction of the parking garage, that enhanced setbacks be continued to provide an uninterrupted widened sidewalk into the Elgin Promenade.

The podium of the building integrates well with the Elgin Promenade to the south by providing second storey terraces and amenity space which overlooks the promenade and provides visual interest and 'eyes on the street'.

The proposal incorporates a 4 storey podium along Brant Street. Which does not meet the Tall Building Guidelines. It is the opinion of staff that a three storey podium is in keeping with the primarily 1-2 storey character along Brant Street, meets the intent of the planned streetscape, and relates to the 1 ½ storey heritage buildings on the site more effectively and is in accordance with the Mobility Hub Precinct Plan.

Although an improvement to the public realm and the civic node, as discussed above, the proposed public square is not of a size or configuration that is acceptable to Staff.

#### *Noise Study*

The applicants submitted a noise study which assessed the potential impacts of the environment on the proposed development. The focus of which was to assess the potential for transportation noise impacts from nearby roadways, as there are no significant stationary industrial or commercial sources of sound in the area. The report concludes that noise control measures are not required; however, warning clauses are recommended for all units as sound levels may change due to increasing road traffic.

Capital Works staff have reviewed the Noise Study and finds that the report appropriately addresses the noise impacts for the future residents living in the proposed development. As typically required, a more detailed noise assessment will be required at the subsequent site plan review stage.

#### *Pedestrian Wind Study*

The Pedestrian Wind Study prepared by Gradient Wind Engineering Inc. completed a screening level assessment using computational fluid dynamics. According to the report, this tool is useful in identifying potential wind issues and employs a comparable analysis methodology to that used in wind tunnel testing. This is a means of identifying relative changes in wind conditions associated with different site configurations or with alternative built forms. Wind comfort conditions for areas of interest were predicted on and around the development site to identify potentially problematic windy areas. The report does not provide a picture of predevelopment wind conditions, as such staff has reviewed the Wind Study submitted in support of the development at 421 Brant Street for information.

The report establishes pedestrian wind comfort in terms of being acceptable for certain pedestrian activities and range on a scale of different activities. For example, the most comfortable activity category is “sitting” and the least comfortable is “uncomfortable” with the activities of “standing”, and “walking” falling in between the two ends of the spectrum. Generally speaking, the activities of “walking” and “uncomfortable” indicate that the wind speeds are not ideal for activities like sitting and reading a book, enjoying a meal on a patio or having a conversation while waiting at a bus stop.

The Pedestrian Wind Study identifies that the proposed development will increase the wind conditions at various locations on and surrounding the proposed development. The seasonal extremes of summer and winter are discussed in the report. Of particular note are the increased wind speeds:

- Summer:
  - South west corner of building and entrance to the Elgin promenade, wind speeds are increased from sitting to standing.
  - North sidewalk along James Street increased from sitting to standing
- Winter:
  - James Street sidewalks increased from standing to walking. Including the existing bus stop on the north side.

- A small portion of the centre of James Street would reach uncomfortable levels.
- Brant Street, John Street and Elgin Promenade increased from sitting to walking.
- Easterly portions of civic square increased from sitting to standing.

The report concludes that the two retail entrances are comfortable for standing or better throughout the year, the residential lobby entrance would be suitable for sitting throughout the year. On the sidewalks and public spaces surrounding the proposed development, wind conditions are generally increased and are comfortable for walking or better throughout the year. It anticipated that much of the sidewalk/setback area would be used for patio area which should be suitable for sitting for much of the year. Off site, wind speeds on the Elgin Promenade in the fall and winter are identified as suitable for walking. Staff disagrees with the conclusions of the report which state that these wind levels are acceptable, as it is anticipated that public events and festivals would occur in this space, wind levels that exceed standing would be considered unacceptable by Staff. Again, staff disagrees with the findings of the report which states that wind levels are acceptable on the north side of James Street, where the bus stop wind level is increased to a comfort level of walking. Staff does not find this acceptable for the proposed use.

### **Opinion**

It has not been demonstrated that pedestrian comfort has been adequately considered. If approved, additional wind mitigation measures should be incorporated at the site plan stage to enhance pedestrian comfort surrounding the building especially the new public square and Elgin Promenade. Staff recommend that the submission of an updated Wind Study be required as a part of the Residential Development Agreement incorporated into Holding Provision.

### **Sun Shadowing Study**

The applicants have submitted a Shadow Impact Assessment for the proposed development to ensure compliance with the City's Tall Building Guidelines dealing with sun shadowing. According to the Tall Building Guidelines, the height and massing of the podium (not including the tower) should ensure a minimum of five consecutive hours of sunlight on the opposite side of the street at the equinoxes (March 21 and September 21) except where existing conditions preclude.

The proposed building will put the north side of James Street into shadow from 9:30am -1:30pm. The sidewalk would again be in shadow from City Hall and 421

Brant Street from 4:30pm until sunset at 6:30pm. Additional terracing to the east (away from Brant Street) would help to alleviate impacts; however it is unlikely that even under the 8 storey permissions of the Official Plan, that the shadow impacts would be entirely eliminated.

Under existing conditions the east side of John Street receives over 5 hours of consecutive sunlight. Shadow from the 5 storey office building at 440 Elizabeth Street falls on the sidewalk from 9:30-10:30am, while shadow from existing building on the subject site falls from 5:30pm until sundown. Shadow from the proposed building would fall on the opposite sidewalk from 2:30 pm. Again, even under the existing Official Plan permissions, it is unlikely that a full 5 hours of consecutive sunlight would be achievable under the existing zoning on the site. Due to the angle of the sun and the orientation of the blocks, it is reasonable to expect reduced sunlight on this sidewalk.

The Tall Building Guidelines also set out that the massing and height of the podium shall ensure a minimum of five consecutive hours of sunlight over more than 60% of a park or playground area or a public open space at the equinoxes. Planning staff have assessed compliance with this guideline and have concluded that the public open spaces adjacent to City Hall (i.e. Civic Square and the War Memorial) and the Elgin Promenade would continue to receive over seven consecutive hours of sunlight over more than 60% of the open space areas on the equinoxes, post development.

Staff have also assessed shadows on June 21, a time of year that would be likely for residents to be enjoying patio spaces on the sidewalks and taking advantage of public spaces. Staff are satisfied that impacts to surrounding open spaces are satisfactory on June 21<sup>st</sup>. However, at the solstice, the north side of James Street will only receive 2 consecutive hours of sunlight. The proposed building casts shadow from 9:30 am until 12:30 pm, from 3:30pm until sunset the building at 421 Brant Street casts shadow on this sidewalk. Under proposed conditions the east side of John Street will only get 4 consecutive hours of sunlight on the solstice. The proposed building casts shadow on the sidewalk from 2:30-4:30pm, after 4:30 shadow from 421 Brant Street is covers the sidewalk..

**Opinion:**

Staff are not satisfied that shadow impacts on the public realm have been mitigated to the extent possible.

*Housing Intensification*

The Mixed Use Centre policies of the OP set out that proposals for residential intensification shall be evaluated on the basis of the objectives and policies of the Housing Intensification section of the OP. The Housing Intensification section of the OP

provides thirteen criteria which are to be assessed to ensure that established neighbourhoods are protected from any potential negative impacts associated with intensification proposals.

The objective of the housing intensification policies is to encourage residential intensification as a means of increasing the amount of available housing stock including rooming, boarding and lodging houses, accessory dwelling units, infill, re-development and conversions within existing neighbourhoods, provided the additional housing is compatible with the scale, urban design and community features of the neighbourhood.

The housing intensification policies are intended to encourage residential intensification within existing neighbourhoods with the caveat that the additional housing must be compatible with the scale, urban design and community features of the neighbourhood.

#### *Intensification Evaluation Criteria*

The Housing Intensification policies of the City's Official Plan contain thirteen criteria to ensure that compatible intensification takes place. Staff have reviewed each evaluation criterion carefully with respect to the subject applications and provides this analysis below.

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

The development application was circulated for comment to Halton Region, the City's Capital Works Department and the school boards. Technical comments are discussed in more detail at the end of the report.

The Halton District School Board and the Halton Catholic District School Board have indicated that they have no objections to the application.

Halton Region advised that there is adequate water or wastewater capacity available to support the development of the subject lands at this time; however, servicing capacity will be reassessed as this development progresses.

Site Engineering staff have outlined outstanding information required to determine if the property is uncontaminated and suitable for the intended use and that the site can be adequately serviced by storm sewers.

Lastly, Parks and Open Space staff have highlighted the proximity of parkland in proximity to this site, including Lions Park, Apeldoorn Park, Spencer Smith Park and the Centennial bike path. As such, cash-in-lieu of parkland is recommended for this development.

As such, adequate municipal services exist to accommodate the proposed development including the provisions of water, wastewater, school accommodation and



parkland. A holding provision will be put on the property to ensure that adequate storm servicing can be provided prior to redevelopment. This criterion is met.

***ii) Off-street parking is adequate;***

The applicants are proposing a parking ratio of 0.93 parking spaces per residential unit to be provided below grade, one loading space at grade internal to the building. The 'Downtown Core (DC)' zone parking requirements are a minimum of 1.25 parking spaces per apartment dwelling unit. The DC zone does not require designated parking spaces for the proposed retail / commercial uses, office uses or for residential visitors. The City's Transportation Services section has reviewed the application and does not support a reduction in parking.

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

The applicants were required to complete a traffic impact study to determine whether the additional traffic generated by the proposed development could be satisfactorily accommodated by the surrounding road network. The traffic impact study concluded that the additional traffic generated could be accommodated by the surrounding road network. The City's Transportation Department has reviewed these conclusions and concurs with the assessment. Staff have indicated that the proposed development would generate full-build out of the development is projected to generate approximately 66 new vehicle trips during the weekday AM peak hour and 89 new vehicle trips during the weekday PM peak hour. With full development and occupancy of the property, all of the intersections in vicinity of the proposed development are forecast to operate at acceptable levels of service during the weekday peak hours. The traffic generated by the proposed development can be accommodated by the adjacent road network and therefore is supported by the City's Transportation Services staff.

The municipal transportation system can accommodate the increased traffic flows and the orientation of ingress and egress as well as potential increased traffic volumes to Brant Street, James Street and John Street. The proposed development will increase the volume of traffic on adjacent streets, but the increased traffic flow can be accommodated, particularly considering the downtown environment, through the provision of bicycle stalls, the multi-use trail (Elgin Street Promenade and Centennial Pathway) and the proximity of the Downtown Burlington bus terminal.

The City's Transportation Department has reviewed this application and has indicated that the surrounding road network has adequate capacity to handle additional traffic associated with this development. This criterion is met.

***iv) The proposal is in proximity to existing or future transit facilities;***

The proposed development is located approximately 60 metres northwest of the John Street Downtown Bus Terminal (less than a five minute walk) which provides service to multiple Burlington Transit bus routes. In addition, several bus stops are located within a short distance of the proposed development. The site is well serviced by existing transit routes. This criterion is met.

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

*Scale*

Scale refers to the apparent size or massing of a building as created by the placement and size of the building in its setting in comparison with the size of adjacent buildings and as perceived from the street in relation to human scale. People tend to evaluate the physical size and massing of built elements in relationship to their perception of objects that are the approximate height and size of other people.

The podium height is not consistent with the Tall Building Guidelines and is higher than the existing 1-2 storey streetwall along the east side of Brant Street north of the Pine Street south of Caroline Street, with the exception of 421 Brant Street. The existing height permissions in the zoning bylaw allow for development up to 4 storeys in this area. The 1 ½ storey heritage buildings located within the 4 storey podium appear to be out of scale with the proposed podium and appear 'dwarfed' by the proposed building. Recognizing the existing and planned character along the east side of Brant Street, it is Staff's opinion that a 3 storey podium is more appropriate for this development.

The proposed development proposes increased setbacks along Brant Street, James Street and John Street which will open up the street, however the proposed building does not contain terracing above podium stepback which is out of scale with the low rise character of Brant Street.

*Massing*

The City's Official Plan defines massing as the overall bulk, size, physical volume, or magnitude of a structure or project. As per the Tall Building Guidelines, a properly designed tall building would include three distinct components being the building base (podium), building tower (middle) and building top, each of which can contribute to or mitigate building massing.

With respect to the podium design, massing can be reduced by ensuring the height is reflective of the adjacent road width; including appropriate setbacks; providing a generous first floor height and ensuring that a podium does not hinder the amount of sunlight that the adjacent streets receive.

The tower of a tall building is the most substantial and impactful component. The massing of a tower should recognize and reflect this important role and should be carefully considered to minimize adverse impacts. The height of the tower and its location on the building base shall provide a gradual and appropriate transition in height to help mitigate potential impact on the surrounding context. Limiting the tower floor plate ensures the tower would be slender and would maximize sky views and sunlight.

As mentioned above, the podium height of 4 storeys, fails to meet the existing or planned heights along Brant Street. While the proposed tower does maintain the 750m<sup>2</sup> floor plate recommended in the Tall Building Guidelines, the building fails to terrace the buildings height away from Brant Street to maintain a wide-open main street feel.

### *Height*

The proposed building is taller than other tall buildings in the immediate vicinity, with the exception of the Council approved building 421 Brant Street, and higher than the Council adopted vision for the Downtown in Grow Bold.

Within 150 metres of the subject site, there are three existing buildings (equal to or greater than 12 storeys) being the 18 storey Wellington Place (478 Pearl Street), the 15 storey Elizabeth Manor (477 Elizabeth Street) and the 12 storey Upper Canada Place (505 Locust Street). In addition, the 17 storey Berkeley Building is under construction at 2025 Maria Street.

As mentioned above, Grow Bold envisions maximum heights in the majority of the Downtown to be in the range of 11-17 storeys. There are only two areas which are proposed to exceed this. The Upper Brant Precinct provides for the tallest buildings in the downtown north of Ghent Avenue, as it reflects the precinct's location within walking distance to higher order transit at the Burlington GO station. The Cannery District will establish a height maximum for the Downtown outside the Upper Brant Precinct.

Staff recognize that this site is suitable for buildings taller than currently permitted by the Official Plan in exchange for the provision of a publically accessible extension to Civic Square. As set out earlier in this report, the policy framework encourages higher intensity, transit-supportive and pedestrian-oriented development where compatibility is provided with surrounding land uses and a sense of pedestrian scale is provided. However, staff are not satisfied that the proposed building maintains the intent of the precinct, provides a high level of design or sufficiently enhances the public realm to justify an increase in height to 23 storeys plus roof top amenity area.

### *Siting/Setbacks*

The development would include increased setbacks along Brant Street, James Street and John Street. These increased setbacks allow for wider sidewalks, landscaping, patios, etc. which all contribute to an improved public realm adjacent to this

development. These greater building setbacks would be located along all three of the frontages of the development site and provide for architectural interest; improved pedestrian amenity space; tree planting; wider sidewalks; and other publicly accessible open space. Zero meter setbacks to the existing heritage buildings have been maintained, additionally a 1 storey podium extension has been provided north of the buildings. Staff are of the opinion that, as only the facades are being maintained, the planned 3m setback should be provided to the heritage buildings to provide for continuity of sidewalk width and to provide visibility from the Elgin promenade to Brant and John Street

### *Parking*

As discussed above, it is the opinion of staff that the proposed parking rate is insufficient to service the site.

Staff are satisfied that all parking and loading is located below ground in an enclosed parking structure.

### *Amenity Area*

This development would include both indoor and outdoor amenity areas. The indoor amenity areas would consist of amenity rooms on the 2<sup>nd</sup> floor while the outdoor amenity area would consist of communal outdoor space on the 2<sup>nd</sup> floor and rooftop as well as private balconies for each of the residential units. The total amenity space provided is 823m<sup>2</sup> or 3.6m<sup>2</sup> per unit. The Zoning By-law requires 20 m<sup>2</sup> of amenity area for each apartment unit. Additional amenity space should be provided on the site to serve future residents, however as the site is located in an area well served by parks an amenities a slight reduction from the Zoning By-law standard is appropriate. Additional terracing of the building would provide the opportunity for larger outdoor amenity areas.

### *Transition Between Existing and Proposed Buildings*

Tall buildings should respect the scale of the local context and display an appropriate transition in height and intensity especially when adjacent to areas of differing land use or lower-scale built form. In general, appropriate fit and transition is achieved when tall buildings respect and integrate with the height, scale and character of neighbouring buildings, reinforce the broader city structure, provide sufficient horizontal separation and transition down to lower scale buildings and open space.

As discussed above, the proposal does not maintain the intent of existing or planned uses in the area The Tall Building Guidelines recommend a minimum 25m tower separation. The proposed setbacks along with the road right-of-way and the Transnorthern Pipeline/Elgin Promenade to the south will provide sufficient buffer to future development.

The proposal sets the heritage buildings into the podium of the building. The four storey podium is out of scale with the existing 1 ½ storey structures. The proposal retains the front facades of the buildings however, alters the roof line by providing a 1 storey projection of the podium. Additionally 444 John Street appears to be incorporated into the loading/driveway space inside the building losing the original commercial function of the building. The podium should be sufficiently setback from the heritage buildings to retain their prominence in the streetscape.

Based on the above it has not been shown that compatibility has been achieved in regard to scale, massing, height, siting, setbacks, coverage, parking, amenity area and transition between existing and proposed buildings.

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

There are three City trees along Brant Street and one City tree along John Street that would be impacted by the proposed development, and as such, are proposed to be removed. A detailed landscape plan would be required at the subsequent site plan stage.

Pursuant to Tree By-law 68-2013, Council approval is required to remove trees located on City property. Staff have reviewed the plans submitted with the rezoning application, conducted site visits and discussed site plan options with the applicant. To permit redevelopment to occur, staff are supportive of the applicant's request to remove three City trees subject to compensation being provided by replanting trees within the City's boulevard and / or providing cash-in-lieu, where the opportunity for replanting is not available. The total value of compensation shall be \$4,100, as indicated in the Recommendations Section of this report.

The impacts on existing vegetation on the site will be minimal since the site contains buildings and surface parking areas at the rear. This criterion is met.

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

Staff are not satisfied that shadow impacts on the public realm have been mitigated.

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

Located within the City's downtown, the subject site provides access to a wide variety of employment, shopping, leisure and tourism opportunities. There are specialty retail, community retail, services and other businesses located in walking distance to this site. There are a range of facilities such as City parks; elementary schools and a secondary

school; commercial areas; and a hospital all within a 1.5 km radius of the site. This criterion is met.

***ix) Capability exists to provide adequate buffering and other measures to minimize any identified impacts;***

Although the public realm has been expanded, as discussed above staff recommend providing additional setbacks to the heritage buildings to provide for a continuous streetscape. As identified, staff are not satisfied that impacts relating to sun-shadowing and wind impacts have been mitigated to the extent possible.

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

The subject lands effectively comprise a self contained block bounded by Brant, James and John Streets with a city parking lot and Elgin Promenade to the south. As such there is ample room for potential redevelopment on surrounding sites. The City's Tall Building Guidelines set out that proposed towers should be set back 12.5 metres from adjacent property lines to protect a future 25 metre separation distance (split between each property). Due to surrounding road rights-of-way the proposed tower would be setback over 25m from surrounding properties. This criterion is met.

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

There are no natural heritage features or natural hazards within proximity to the site. As such no impacts are anticipated.

Two heritage facades have been incorporated into the building design. As discussed above, staff are not satisfied that these features have been adequately protected.

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

The subject policies have been considered are not applicable because there are no floodplains or watercourses located on the subject property and the proposed development is not located in the South Aldershot Planning Area. This criterion is not applicable.

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

This criterion is not applicable in the Downtown Core Precinct.

**Opinion:**

Based on the above, Staff are of the opinion development as submitted is not compatible with the surrounding neighbourhood and does not meet the objectives of the housing intensification policies.

The recommended modified approval of the applications would permit intensification in a high-rise building form within the City's Downtown Core, where access to transit and community services is available, while ensuring the development is compatible with surrounding properties. Staff's modified approval recommends:

- A building of 17 storeys plus roof top amenity area with additional terracing away from Brant Street would help achieve the City's objectives of providing an enhanced public realm and Civic square function while ensuring that the main street scale along Brant Street is maintained, sky views can be provided and shadow impacts can be mitigated.
- The continuation of a 3m setback along Brant Street and James Street would provide a continuous streetscaping and improved visibility.
- A three storey podium is compatible with the 1-2 storey built form along the east side of Brant Street south of Caroline Street, the 4 storey zoning permissions in the DC zone, the Tall Building Guidelines, and the direction of Grow Bold. A three storey podium is also more sympathetic to the retained heritage facades.
- Increasing the amount of amenity space provided and maintaining city standards for parking will mitigate off-site impacts of development.

**Urban Design**

The OP sets out that design is an increasingly important part of the planning process. To that end, the City of Burlington is committed to a high standard of design and architecture and will bring these expectations to the development approval process. The City has prepared and will continue to prepare Design Guidelines for use within the Downtown and relating to various building typologies. Design guidelines will be referred to through the development process and there is an expectation that the City and development proponents adhere to the Guidelines and that their proposals will be made to conform to the vision that the guidelines seek to achieve.

One of the objectives of the Design section of the OP is to ensure that the design of the built environment strengthens and enhances the character of the existing distinctive locations and neighbourhoods, and that proposals for intensification and infill within existing neighbourhoods are designed to be compatible and sympathetic to existing neighbourhood character. The OP also sets out that preference will be given to

community design containing more compact forms of development that support higher densities, are pedestrian oriented and encourage increased use of public transit.

Another objective is to achieve a high quality of design within the public realm. Design opportunities to enhance the quality of the public realm shall be encouraged.

Improvements to existing streetscapes shall be encouraged when reconstruction occurs. Planning staff have completed the following review of the applicable Design Guidelines to assess the proposed development against the City's design objective and policies. If approved, further review will be completed through a future Site Plan application. As a part of the site plan process, this application will be required to present to the Burlington Urban Design Advisory Panel.

### **City of Burlington Downtown Urban Design Guidelines (2006)**

The Downtown Urban Design Guidelines (hereafter referred to as "the Guidelines") are intended to supplement the Official Plan and Zoning By-law by providing property owners, developers and City staff with additional detail on what constitutes desirable built form in the Downtown. The Urban Design Guidelines are a component of the City's planning framework and provide an additional tool for municipal planners in which to assess development applications and inform the City's expectations for built form in a specific area.

The Guidelines provide a set of recommendations to ensure that new development protects the most crucial aspects of Downtown Burlington's existing character, which includes, among other things:

- the relationship of buildings to streets and open spaces;
- the articulation of facades;
- the relationship of buildings to one another;
- the protection of important views;
- the fine-grained pedestrian network with its shortcuts and urban paths; and
- the palette of materials.

In this document, the subject property is identified as being located within the Downtown Core Precinct area, which is consistent with the existing Official Plan designation.

The Guidelines address a number of topics including:

- public realm;
- loading and service areas;
- setbacks;
- street wall;
- entrances;
- design of the first floor;



- heights; massing;
- separation between tall elements;
- high rise design and architectural quality; and
- high rise building massing, articulation and detailing.

### ***Specific Guidelines Relevant to the Proposed Development***

The following guidelines are relevant to the proposed development.

#### ***Public Realm***

##### *Views*

View to Lake Ontario from the public realm and many Downtown buildings and landmarks (i.e. City Hall, Knox Presbyterian Church) are important to protect and frame through new development. View termini resulting from T-intersections (such as Brant and James) are also important view termini to be considered in the placement and design of the built form.

Views to Civic Square from James street will be maintained and enhanced.

##### *Open / Civic Spaces and Pedestrian Networks*

Throughout the Downtown, opportunities exist to strengthen existing public and semi-public spaces such as the City Hall plaza, and the Cenotaph parkette north of City Hall. Opportunities for new patios and plazas will also arise from new public and private development. Generally, pedestrian comfort could be further improved by extending existing tree lines along sidewalks, encouraging further plantings on public and private properties and adopting a palette of high quality, consistent streetscape treatments.

The proposed public plaza at the corner of James and Brant Street is not of a size or configuration that is acceptable to staff. Staff recommend that a 16mx16m visibility triangle be provided to ensure the plaza is of a size and shape that is programmable.

The increased setbacks along the new building will provide opportunities for new patios and plazas, which would increase pedestrian comfort along all three street frontages. Staff recommend that the podium projection be removed and enhanced setbacks be provided to the heritage buildings.

##### *Sidewalks*

Where possible, sidewalks should be widened to a minimum of 4 – 5 metres in width. The additional width creates a safer pedestrian zone and may accommodate public benches, sidewalk cafes, and street trees. At corners, boulevards should widen to provide planting areas, seating areas, and other pedestrian amenities that beautify the street and create a public buffer from vehicular traffic. The increased building would be setback at least 5 – 6 metres from the street curbs, which would create better streetscapes along all three street frontages.

### ***Built Form***

Built form elements such as height, mass, setbacks, parking, servicing, access, sun penetration and visual condition at the street level are crucial to fostering and maintaining a positive pedestrian experience.

#### *Quality of Frontages*

Building setbacks generally should be sensitive to the location of existing built form, sun angles and the intended use of the sidewalk (patio, gathering space, etc.). Stepbacks of upper storeys should be provided so that building bulk is minimally perceived from the vantage of a pedestrian on the street. Stepbacks should be provided above the third floor.

As discussed above, the building provides a stepback above the fourth floor. It is recommended that a 3 storey podium be provided along with additional terracing of the upper storeys on the Brant Street frontages to ensure a comfortable pedestrian experience.

#### *Heritage*

In general, buildings should be retained or removed. Retaining the façade is not an acceptable substitute to the retention of the whole structure. New buildings constructed adjacent to heritage structures should not mimic the heritage structure but use sympathetic massing, height, alignment of windows, roofline, location of entrances, treatment of the ground floor and materials.

As discussed above, the heritage buildings should more be incorporated into the design in a more meaningful way. Through the Holding provision and Residential Development Agreement heritage conservation will be addressed at future stages of planning.

#### *Building Heights*

The Guidelines recognize that the Official Plan and Zoning By-law determine the allowable height of developments while the Guidelines recommend how the height should be articulated and address a variety of issues and conditions regarding future infill and new site development.

The Guidelines state that existing or approved building heights generally follow a logical pattern that has a “peak” around the Lakeshore-Brant intersection and descends along “ridges” towards low-rise areas.

#### *Building Stepbacks*

The Guidelines set out that stepbacks of upper storeys should be provided so that building bulk is minimally perceived from the vantage of a pedestrian on the street. Stepbacks should be considered for buildings above three storeys.

Stepbacks have not been provided above the podium. Staff recommend that above the podium the building should be stepped back.

### *High Rise Design and Architectural Quality*

A section of the Downtown Urban Design Guidelines focuses on High Rise Design and Architectural Quality. However, City Council approved updated Tall Building Design Guidelines in July 2017, which are more current and detailed than the high rise design guidelines that were implemented in 2006. Staff have included a detailed review of the City's Tall Building Design Guidelines in the Section below.

### **City of Burlington Tall Building Guidelines (2017)**

In 2017, Council approved Tall Building Guidelines (TBG) as a way to guide the development of new buildings over 11 storeys. The TBGs are intended to ensure new tall buildings promote design excellence, support vibrant streets and provide a positive addition to the City's skyline. The TBGs provide guidance for developers and architects designing tall buildings in the City of Burlington, and will be used by City staff as one tool in evaluating development applications. The objective of the guidelines is to provide best practices related to building height, massing, transitions, sun / shadowing, and building articulation to promote and encourage high-quality tall building proposals.

The guidelines are broken down by the components of a tall building being the Building Base (Podium); Building Middle (Tower); and the Building Top. Staff have completed a review of these components and guidelines of particular relevance in relation to the proposed development, as discussed below:

#### ***Building Base (Podium)***

The podium of a tall building anchors the tower and defines the pedestrian experience at the street. Its location and height should frame and create a positive relationship to the street. It should be carefully designed, including a mix of horizontal and vertical elements, to reinforce the human scale. There should be a visual connection between the public and private realm, which promotes vibrancy and activity throughout the day.

- i. The podium location shall be located to frame the street. On corner lots, the podium shall be located to frame both streets.*

Comment: The podium addresses the public streets.

- ii. On retail streets (i.e. Brant Street), and other streets where a strong streetwall exists, the location of the podium should reinforce the established streetwall.*

Comment: The abrupt transition in setbacks between the podium and the heritage buildings/1 storey podium projection creates an awkward

interruption in the rhythm of the storefronts along the street. This transition will funnel pedestrians from the widened sidewalks that will be provided at the north portion of the site to a narrow public realm.

- iii. *Where no streetwall has been established, podiums should be setback at grade to create wide boulevards that accommodate pedestrians, street trees and landscaping, and at-grade active uses. A 6 metre boulevard measured from curb is preferred, except where existing conditions preclude.*

Comment: The podium building has been setback approximately 6 metres from the Brant Street, James Street and John Street curbs. These setbacks provide for architectural interest; improved pedestrian amenity space; tree planting; wider sidewalls and other publicly accessible open space. Again an increased setback to the heritage building and 1 storey podium projection is recommended.

- iv. *Where no established streetwall exists, the minimum height of the podium shall be 10.5 metres (3 storeys) to frame the streetscape and reinforce a human scale.*

Comment: The proposed building base would have a height of approximately 15.1 metres (4 storeys). As in earlier sections of the report, a 3 storey podium would be more appropriate on the site considering existing and planned uses in the area and the relationship to the Brant Street right-of-way.

- v. *The maximum height of the podium shall be 80% of the adjacent right-of-way width. A maximum height of 20 metres is recommended to maintain a human scale.*

Comment: Brant Street has an 18 m right-of-way in front of the site, and therefore the maximum podium height (80% of road width) would be 14.4 metres. The proposed podium height would be approximately 15.1 which exceeds the guidelines. As discussed above, a 3 storey podium would be more appropriate on the site considering existing and planned uses in the area.

- vi. *The floor-to-ceiling height of the ground floor should be a minimum of 4.5 metres to accommodate internal servicing and loading, and active commercial uses.*

Comment: The proposed floor-to-ceiling height of the ground floor would exceed 4.7 metres, which would maintain the flexibility of this space and reinforce the human scale of the podium.

- vii. *The height and massing of the podium (not including the tower) should ensure a minimum of five consecutive hours of sunlight on the opposite side of the street and over more than 60% of a park or public open space at the equinoxes (March 21 and September 21).*

Comment: The height and design of the podium (not including the tower) would ensure an appropriate amount of sunlight on the public realm and open spaces.

- viii. *On corner lots, articulation of the podium shall acknowledge its important location through corner entrances, chamfering (and associated public space), and/or other architectural features.*

Comment: Developments adjacent to the Brant Street / James Street intersection need to recognize and enhance the prominent role that this intersection has. The podium does provide public space however, not in a size or configuration that would be appropriate to staff. Staff recommend enlarging the space to match the size of space provided at 421 Brant.

- ix. *Publicly-accessible privately owned open space, including courtyards, plazas, and parkettes should be encouraged where appropriate within tall building sites through applicable planning tools (i.e. Section 37 of the Planning Act). Publicly-accessible privately owned open spaces shall be designed and located to encourage public use, provide connections to the broader open space network, and / or highlight important site characteristics (i.e. plazas at corner sites).*

Comment: Developments adjacent to the Brant Street / James Street intersection need to recognize and enhance the prominent role that this intersection has. Staff recommend that the publically accessible open space at the corner of Brant and James Street be enlarged and reconfigured to serve as a significant extension of the civic function in this area and provide enhanced view corridors towards City Hall and the adjacent open spaces (i.e. Civic Square and the Cenotaph).

### ***Building Middle (Tower)***

The tower is the most substantial and impactful component of a tall building. It can enhance the skyline and provide a defining landmark throughout the City. The design and massing should recognize and reflect this important role, and should be carefully considered to minimize adverse impacts on adjacent neighbourhoods, parks and open spaces. The tower should maximize sky views and access to sunlight through slender floor plates and spacious setbacks.

- i. *Proposed towers should be set back 12.5 metres from adjacent property lines to protect for a future 25 metre separation distance (split between each property).*

Comment: The proposed tower has sufficient setbacks for surrounding properties.

- ii. *The tower should be stepped back at least 3 metres from the podium to differentiate between the building podium and tower, and to ensure useable outdoor amenity space (i.e. patios).*

Comment: The proposed tower has been stepped back at least 3 metres from the podium on all sides, with increased setbacks along south side setback.

- iii. *For design flexibility, a portion of the tower (i.e. up to 20%) may extend to the edge of the podium without a stepback provided it can be demonstrated that there are no adverse wind and shadow impacts.*

Comment: The 3<sup>rd</sup> and 4<sup>th</sup> floors propose to cantilever over the publicly accessible space to frame the area, mitigate any wind impacts and provide weather protection in this area.

- iv. *The tower portion of a tall building should be slender and should not exceed 750 square metres, excluding balconies.*

Comment: The tower would slightly exceed the 750 square metre maximum floorplate size by 10 square metres, which would maintain the general intent and purpose of this guideline. Towers with smaller floor plates and regular shape perform better with respect to shadow impacts, access to sky views, wind conditions and overall impressions of whether the building is too massive or slim and less imposing. Through detail design, shadow and wind impacts will be further refined.

- v. *The massing of the tower, and its relationship to the building base, shall not result in adverse wind effects at the street level.*

Comment: Pedestrian comfort has not been adequately considered. Mitigation techniques should be refined as part of the subsequent site plan process

- vi. *The design, height, and placement of the tower shall be compatible with adjacent established residential neighbourhoods, parks, open spaces, or natural area.*

Comment: As discussed above, the height of the tower, height of the podium, stepbacks provided, and incorporation of the heritage buildings are

not compatible with existing and planned surrounding uses and does not support Official Plan policy.

- vii. *The widest edge of the tower should generally be oriented to minimize the impacts of shadows.*

Comment: Due to the lotting pattern, it is not possible to orient the narrow portion of the tower in a north-south direction. As such, shadow impacts are seen on surrounding sidewalks. By reducing the height and terracing the building, shadow impacts can be lessened.

### ***Building Top***

The top of a building defines the tower while further distinguishing a unique and interesting skyline. A variety of elements, including stepbacks, material variations, lighting, and other architectural elements are recommended to reinforce a strong presence at the top of the building. Where possible, rooftop amenity space is recommended to reinforce a strong presence at the top of a building. Structural elements, such as the mechanical penthouse and elevator shafts should not be visible from ground level.

- i. *Design the upper floors of tall buildings to clearly distinguish the top of the building from the tower, to further reduce the building profile, and to achieve a distinct skyline. This may include stepbacks, material variation, and / or unique articulation.*

Comment: No additional stepbacks have been proposed above the 4<sup>th</sup> floor.

- ii. *Where located at a gateway intersection or terminating view, the tower top is encouraged to act as a recognizable landmark with signature features defining its importance.*

Comment: As outlined elsewhere in this report, staff are of the opinion that this site acts as a significant civic node, and encompasses an important viewshed within the City. No defining top feature has been proposed. Building features and materiality can be refined through a future site plan application.

- iii. *Where possible, outdoor amenity space should be included within the top of the building, including balconies and patios, terraces, rooftop gardens, pools, etc.*

Comment: The building is proposed to have a roof top amenity area.

## Zoning By-law 2020

The subject lands are zoned 'Downtown Core (DC)' The DC zone permits a range of retail, commercial, service commercial, office, community, hospitality, entertainment / recreation and residential uses. The DC zone permits residential dwelling units in a commercial / office building and also permits an apartment building so long as the ground floor of any building within 15 metres of a public street is only used for retail or service commercial uses.

The DC zone sets out a maximum height of 4 storeys (15 metres) and a maximum floor area ratio of 4.0:1.

The regulations for the DC zone are listed below. For comparison, Table 1 lists the DC zone requirements and the recommended modified zoning for the 18-storey mixed use building.

Zone Regulation	DC Requirements	Proposal by Applicant	Modified Proposal Recommended by Staff	Relief Amendment Required
<b>Minimum Lot Width</b>	7.5m	40m		<b>No</b>
<b>Minimum Lot Area</b>	No minimum	0.2ha		<b>No</b>
<b>Yard Abutting a Street</b>	Floors 1 to 4:  <u>Minimum:</u> 2m from Brant Street 1.5m from James Street 1m from John Street  <u>Maximum for 1<sup>st</sup> floor:</u> 3m from Brant Street	Yard Abutting Brant Street  Floors 1 to 2: 0.0 metres Floors 3 to 5: 3.0 metres Floors 6 to 23: 6.0 metres Floor 24: 10.0 metres  Yard Abutting James Street Floors 1 to 5: 3.0 metres Floors 6 to 23: 6.0 metres Floor 24: 7.0 metres	Yard Abutting Brant Street  Floors 1 to 3: 3m Floor 4: 7 m Floor 5-17: 10 m Floor 18: 13 m  Yard Abutting James Street Floors 1 to 3: 3m Floor 4-17: 6 m Floor 18: 9 m  Yard Abutting John Street	<b>Yes</b>



	2.5m from James Street 2m from John Street	Yard Abutting John Street Floors 1 to 2: 0.0 metres Floors 3 to 5: 3.0 metres Floors 6 to 23: 6.0 metres Mechanical 11.0 metres	Floors 1 to 3: 1.8 m Floor 4-17: 4.8 m Floor 18: 7.8 m	
<b>Rear Yard and Side Yard</b>	None required for lots abutting Brant Street, James Street or John Street	Side Yard (South) Floors 1 to 2 0.0 metres Floor 3 1.2 metres Floors 4 to 5 5.5 metres Floors 6 to 23 12.5 metres Mechanical 16.0 metres	Side Yard (South) Floors 1 to 17: 0 m Floor 18: 3 m	<b>No</b>
<b>Building Height</b>	Minimum: 2 storeys Maximum: 4 storeys and 15m	24 storeys up to 81m including mechanical penthouse	18 storeys up to 65 m including mechanical penthouse	<b>Yes</b>
<b>Height of 1<sup>st</sup> and 2<sup>nd</sup> Storey</b>	4.5m	2 <sup>nd</sup> storey: 3.8m	2 <sup>nd</sup> storey: 3.8 m	<b>Yes</b>
<b>Floor Area Ratio (FAR)</b>	Maximum: 4.0:1	10:1	8.2:1	<b>Yes</b>
<b>Parking</b>	Minimum: 1.25 parking spaces per unit	0.93 spaces per unit	No amendment	<b>No</b>
<b>Bicycle Parking</b>	Minimum Retail, Service Commercial, Office, Institutional: 2 spaces plus 1 space / 1000m <sup>2</sup> GFA	3 spaces provided at grade	No amendment	<b>No</b>

<b>Amenity Area</b>	Minimum 20m <sup>2</sup> per unit	3.6m <sup>2</sup> /unit	18 m <sup>2</sup> /unit	<b>Yes</b>
<b>Built Form</b>	The 1 <sup>st</sup> floor elevation of any building facing a street shall have a minimum of 60% glazing			<b>No</b>
	Maximum Floor Area		760m <sup>2</sup> above the 7 <sup>th</sup> floor	<b>Yes</b>
<b>Below Grade Parking Structure Setbacks</b>	An enclosed parking structure below grade shall be setback 3m from a street line	0m, 1.2m south side	Abutting a street: 0.5 m  Abutting all other lot lines: 1.2 m	
<b>Parking Ramp Setbacks</b>	Entrance and exit ramps to below-grade parking structures shall be setback 7.5m from a street line.	6 m	6 m	<b>Yes</b>
<b>Visibility Triangle</b>		None	Brant Street x James Street: 16 m x 16 m  James Street x John Street: 5 m x 5 m	<b>Yes</b>

Staff also requests that a holding provision be applied to the site the Holding Symbol shall be removed from the zoning designation by way of an amending zoning by-law when the following has been completed:

- A Phase 2 ESA has been submitted to the satisfaction of the Director of Capital Works and Halton Region;
- A geotechnical report and Functional Servicing study has been submitted to the satisfaction of the Director of Capital Works; and
- The owner enters into a Residential Development Agreement, to the satisfaction of the Director of the City Building Department.

### **Technical Review**

The Official Plan and Zoning By-law amendment and supporting documents were circulated to internal departments and external agencies for review. Written responses to the technical circulation have been received from Halton Region, Halton District School Board, Halton Catholic District School Board, Burlington Hydro, the Transportation Department, the Capital Works Department, Burlington Economic Development Committee and the Sustainable Development Committee. Comments received are contained in Appendix F. The Sustainable Development Committee's comments have been included in Appendix E, and will be addressed at future stages of planning (i.e. site plan).

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### **Financial Matters:**

In accordance with the Development Application Fee Schedule, all fees determined to date have been received.

At the site plan stage, the City will require securities to ensure the works associated with the proposed development will be completed to the City's satisfaction. The applicant will also be required to provide cash-in-lieu of parkland and pay development charges as required by the Development Charges By-law.

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### **Public Engagement Matters:**

The applications were subject to the standard notification requirements to owners and tenants within 120 metres of the site following submittal of complete applications and prior to the statutory public meeting. Public notice signs were also posted on the subject site. A further notice was distributed in February 2018 advising individuals of the date Committee will consider this recommendation report. All revised plans and reports submitted by the applicant, as well as planning staff notices and reports were posted on the project webpage ([www.burlington.ca/409-Brant](http://www.burlington.ca/409-Brant)) as they became available.

The City conducted a neighbourhood meeting on May 1, 2018 that was attended by approximately 60 residents, Mayor Goldring, Councillor Meed Ward (Ward 2 Councillor, declared Mayoral candidate), Councillor Taylor (Ward 3), Councillor Dennison (Ward 4 & declared incumbent), Lisa Kerns (Ward 2 candidate), Rory Nissan (Ward 3 candidate).

Staff have received 15 emails, two letters and two neighbourhood comment sheets.

A summary of the issues raised by the community and staff's consideration of these comments is provided below.

Topics of Concern	Comments/Concerns	Staff Response
Parking	<ol style="list-style-type: none"> <li>1. Not enough parking is provided.</li> <li>2. Why is underground parking so deep?</li> <li>3. Why isn't there any commercial parking?</li> <li>4. Currently, there is not enough parking downtown, especially during special events.</li> </ol>	<p>Staff's modified approval proposes no reduction to parking. This will provide a parking rate of 1 space per unit for residents and 0.25 spaces per unit for visitors. As the subject site is located within the Downtown Parking Levy area boundary and as such is exempt from providing commercial parking spaces on site.</p>
Community Benefits	<ol style="list-style-type: none"> <li>1. What benefits are for the complete community? Can you list some specific elements?</li> <li>2. What features will be incorporated into the community square?</li> <li>3. How will this development provide a sense of vibrancy in the downtown core?</li> <li>4. How will events and festivals held in the City of Burlington impact pedestrian traffic? Will there be excessive pressure on the downtown core? Are there any plans in place to alleviate this?</li> <li>5. How will the height of this building directly benefit the surrounding community?</li> <li>6. Will affordable housing be provided?</li> </ol>	<p>The modified approval has provided for a significantly improved public realm including space for wider sidewalks, patios and street trees. The modified approval also includes the provision of a 16 m x16 m extension to Civic Square. Through the future site plan stage the design and programming of this space will be determined. These features will accommodate increased pedestrian traffic and will promote a sense of vibrancy in the Downtown.</p> <p>As a part of the approval, community benefits in accordance with Section 37 will be secured. These negotiations are beyond the considerations of this report.</p>

<p>Building Design</p>	<ol style="list-style-type: none"> <li>1. What are the prescribed setbacks for the next project?</li> <li>2. What are the sizes of the units proposed in the condominium?</li> </ol>	<p>The Tall Building Guidelines require a 25 m tower separation, with 12.5m to be provided on each site. As discussed, due to the width of the road right of ways, the increased setback and the City owned property and pipeline to the south, no issues are anticipated with regard to building spacing.</p> <p>Units ranging from 1 to 3 bedrooms are proposed.</p>
<p>Height</p>	<ol style="list-style-type: none"> <li>1. If the restriction on height 4-8 storeys how is 24 storeys appropriate?</li> <li>2. Height will change the feel of Brant Street.</li> </ol>	<p>As discussed above, Staff has recommended a modified approval which meets the objectives of the current Official Plan, and the direction of the Council adopted Official Plan by allowing additional height up to 17 storeys, plus 1 storey of outdoor amenity area in exchange for a significant civic enhancement of the corner of Brant and James Street, and provides additional setbacks for building terracing and public realm improvements in order to align with the vision for Brant Street.</p>
<p>Development Application Process</p>	<ol style="list-style-type: none"> <li>1. Have the conditions from the 421 Brant building affected the submission and potential approval of this development?</li> <li>2. Will this project be put on hold until all downtown area specific plan studies are completed?</li> <li>3. What is the intensification target listed in the provincial legislation? How close are we to meeting this target?</li> </ol>	<p>Each development application is reviewed by it's own merits. 421 Brant Street was submitted and reviewed in the early stages of the creation of the Downtown policies within Grow Bold. On Sept. 28 2017, the draft new Downtown Mobility Hub Precinct Plan was presented to Council for the first time for discussion and feedback at a Council Workshop at the Committee of the Whole. On November 13, the</p>

		<p>421 Brant Street applications were approved in principle.</p> <p>Currently, there is not a mechanism in place to halt development applications in the Downtown. However, the applicant was made aware of the direction of Grow Bold prior to submission and was advised that due to the changing context they would be submitting an application at their own risk.</p> <p>The minimum intensification target for the Downtown UGC is 200 people and jobs per hectare. As mentioned, the revised Precinct Plan in Grow Bold is the City's vision for how to meet these targets while ensuring that the unique aspects of downtown are preserved. The modified approval complies with this vision.</p>
Commercial Space	<ol style="list-style-type: none"> <li>1. Will there be a significant reduction in commercial space as a result of the building being hallowed out for underground parking?</li> <li>2. Currently there is 39,000 sq.ft of commercial space combined on the existing site. This proposal reduces this space to nearly one third, what is required in terms of commercial space on this site?</li> <li>3. How has 421 Brant retained more commercial space than this site?</li> <li>4. How will businesses be retained?</li> </ol>	<p>Staff think that a more efficient internal lay out for waste and parking is possible. This would provide the opportunity for more commercial space on the site. Commercial is required along the street frontages, however a specific amount is not specified. Staff's modified approval provides 760m<sup>2</sup> of commercial at grade and 365m<sup>2</sup> of commercial or office space allowed on the second floor.</p> <p>The number of commercial units and layout of these units will be determined through a future site plan application.</p>
Noise		<p>The applicant has provided a noise study to address noise</p>

	1. Will this development go beyond what is acceptable in terms of code? How will noise impacts be addressed (post construction)?	impacts on outdoor amenity areas. Noise will be further examined as a part of the site plan stage, the building must meet Provincial noise standards.
Heritage	1. How will the applicant preserve the existing heritage sites?	As a part of the Residential Development Agreement which is to be registered on title prior to development, staff requires a heritage easement to be put on the properties to protect them through development. Staff recommends that the properties be designated under the heritage act after the completion of construction and restoration.

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## Conclusion:

The subject applications have been reviewed in accordance with applicable Provincial, Regional, and Municipal planning policies.

It is the opinion of staff that the application as submitted fails to meet Provincial and municipal policy on the basis that:

- the Downtown UGC is well positioned to meet its density targets by 2031;
- a comprehensive vision for the Downtown UGC has been vetted by Council and the public. The proposal as submitted fails to meet the objectives of the current Official Plan, and the policy direction within Grow Bold for the Brant Main Street Precinct Special Planning Area and the downtown as a whole;
- The two heritage resources have not satisfactorily been conserved;
- The proposal does not support healthy communities by providing insufficient amenity space and level of urban design.
- The proposal does not support creating complete communities by removing a significant amount of commercial Gross Floor Area from the major Downtown spine of Brant Street.
- Staff is of the opinion development as submitted is not compatible with the surrounding neighbourhood and does not meet the objectives of the housing intensification policies.

It is staff's opinion that the modified high-density development recommended by staff represents an appropriate form of intensification and an efficient use of land. It is staff's

opinion that the modified proposal satisfies the City's objectives to develop downtown as a mixed use community; provide housing opportunities that encourage use of public transit and active transportation; achieve design excellence and provide development that is compatible with surrounding properties.

Staff recommend a modified approval of the subject applications to amend the Official Plan and Zoning By-law on the basis that that the proposal supports the policies of Official Plan, is compatible with surrounding land uses, and satisfies the technical and servicing requirements of the affected City Departments and external agencies. This report recommends approval of an Official Plan Amendment No. 113 and approval of the Zoning Bylaw amendment, as contained in Appendix C.

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Respectfully submitted,

Lisa Stern RPP, MCIP

Senior Planner – Development Review

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**Appendices:**

- A. Location/Zoning Map
- B. Official Plan Amendment 113
- C. Draft Zoning Bylaw
- D. Draft Residential Development Agreement
- E. Technical Comments Received
- F. Sustainable Development Comments
- G. Public Comments

**Report Approval:**

All reports are reviewed and/or approved by Department Director, Director of Finance and Director of Legal. Final approval is by the City Manager.





