



Community Planning Department

**SUBJECT: Proposed Settlement for 2082-2090 James Street -
Official Plan and Zoning By-law Amendment Applications**

TO: Blake Hurley, Assistant City Solicitor

FROM: Thomas Douglas, Senior Planner

1.0 Background:

1.1 Purpose of report

This report concerns a proposed settlement in relation to the appeal of site-specific applications for Official Plan Amendment, Zoning By-law Amendment, and Site Plan by Mattamy (Monarch) Limited for the lands known as 2082, 2086, 2090 James Street. This report provides planning analysis of the settlement offer.

It is understood that through this settlement proposal, the appellant has agreed to defer LPAT's consideration of the appealed Site Plan application until some point after the Tribunal's consideration and determination of the appealed Official Plan Amendment and Zoning By-law Amendment applications, and the concept plan associated with those instruments. Accordingly, this report provides analysis at the Official Plan Amendment and Zoning By-law Amendment level only and defers Site Plan-level design matters to the future consideration of the Site Plan application.

Application Summary

ADDRESS:		2082, 2086, 2090 James Street	Ward No.:	2
Application Details	APPLICANT:	Glenn Wellings, Wellings Planning Consultants Inc., on behalf of Mattamy (Monarch) Limited		
	OWNER:	Mattamy (Monarch) Limited		
	FILE NUMBERS:	505-07/17, 520-16/17, 535-007/20		
	TYPE OF APPLICATION:	Official Plan, Zoning Bylaw Amendment, Site Plan		
	CURRENTLY PROPOSED USE:	Single-use residential apartment building, 13 storeys, comprising 150 units, 180 parking spaces + 2 short-term parking spaces		
Property Details	PROPERTY LOCATION:	Southwest corner of James Street and Martha Street		
	MUNICIPAL ADDRESSES:	2082, 2086, 2090 James Street		
	PROPERTY AREA:	0.23 hectares		
	EXISTING USE:	Three 2-storey residential/commercial buildings		
Documents	OFFICIAL PLAN (1997, as amended) existing:	Downtown Medium/High-Density Residential Precinct		
	OFFICIAL PLAN proposed:	Same as existing designation, with site-specific exception		
	ZONING Existing:	DRM & DRM-3 Downtown Residential Medium-density zones with site-specific exception		
	ZONING Proposed:	DRH Downtown Residential High-density zone with site-specific exception		

1.2 Site Description

The subject lands consist of three assembled properties known as 2082, 2086, and 2090 James Street, located at the southwest corner of James Street and Martha Street in Downtown Burlington. Current uses on the subject lands consist of three two-storey house-form buildings containing a mix of residential and office/commercial uses. The rear yards of all three buildings are used for surface parking, with two driveways on James Street and one on Martha Street.

The subject lands have a combined area of 0.23 hectares with 80 metres of frontage on James Street and 40 metres of frontage on Martha Street. The subject lands have an irregular shape, with the west and south lot lines aligning with the watercourse of Lower Rambo Creek. As a result of the creek alignment, the subject lands narrow from the north (80m frontage on James Street) to south (50m lot width).

Lower Rambo Creek and its associated hazard lands are located partially within and partially adjacent to the subject lands. Lower Rambo Creek is not regulated by Conservation Halton.

The intersection of James Street and Martha Street is distinct in its design. Martha Street runs roughly north-south with a consistent right-of-way width of 20 metres. Within 40 metres of Martha Street (half of the James Street frontage of the subject lands), the James Street right-of-way widens from 20 metres in the west to over 40 metres in the east, as James Street traffic lanes curve northward to meet New Street. Traffic islands are located within the intersection for pedestrians. The intersection is signalized, with traffic signals and a formal crosswalk located 60m north of the subject lands where James Street and Martha Street meet New Street.



Figure 1: Air photo (2019) with subject lands outlined

Surrounding uses:

- North: James Street, beyond which is a privately-owned community centre/recreation building (Lions Club Reach-Out Centre for Kids) with a surface parking lot. To the north of the Lions Club building, a public park with a playground and playing field is operated by the City on private land.
- East: Martha Street, beyond which are low-rise residential uses including townhouses and 3.5-storey apartment buildings
- South: Lower Rambo Creek and a surface parking lot. A pipeline operated by TransNorthern Pipeline Inc. runs beneath the surface parking lot. The City of Burlington is planning to redesign the parking lot to include a pedestrian pathway that would link the existing Elgin Promenade (west of Pearl Street) and Centennial Bikeway (east of Martha Street), creating a continuous active transportation corridor from Downtown Burlington to the City's eastern boundary at Burloak Drive.
- West: Lower Rambo Creek, beyond which is a four-storey apartment building.

1.3 Application History

On February 24, 2016, the proponents met with City, Halton Region, and Conservation Halton staff in a preconsultation meeting to determine the requirements of a complete application under the Planning Act to facilitate the development of a high-density apartment building on the subject lands. The applicant was advised that an Official Plan Amendment and Zoning By-law

Amendment would be required, as well as being advised what supporting reports, studies, and plans would need to be submitted as part of a complete application.

On April 12, 2017, the proponents met with City staff to discuss engineering considerations associated with their proposed redevelopment of the subject lands. Engineering requirements determined through this meeting were communicated to the proponents by City staff in a letter dated June 16, 2017 from Cary Clark, Manager of Stormwater and Site Engineering.

On December 12, 2017, the proponents again met with City, Halton Region, and Conservation Halton staff for a second preconsultation meeting to discuss a revised development concept for a high-density apartment building. The proponents were informed of the applicable policies and relevant ongoing studies to develop a new Official Plan and an area-specific plan for the Downtown. City staff informed the proponents of the required studies, plans, and drawings that would need to be submitted as part of a complete application for the necessary Official Plan Amendment and Zoning By-law Amendment.

On February 2, 2018, City staff acknowledged receipt of complete applications for Official Plan Amendment and Zoning By-law Amendment to facilitate the development of an 18-storey apartment building consisting of 153 residential units and 185 parking spaces with the opportunity for ground-floor commercial uses.

Staff initiated the public and technical circulation of the applications in February 2018. The City held a neighbourhood meeting on March 27, 2018 at the Burlington Art Gallery that was attended by approximately 100 residents. City staff provided a brief presentation on the planning process and the applicant presented their development concept to the public, after which there was an opportunity for the public to ask questions and provide comments.

On October 16, 2018, the applicant attended a meeting of the Burlington Urban Design (BUD) Panel, a panel consisting of external experts in urban design, architecture, and landscape architecture who provide technical advice to City staff. The purpose of the meeting was to seek technical feedback on the design of the proposed development. The applicant's planner and architect gave a presentation on the proposed development and the panel provided discussion and advice to City staff.

On February 1, 2019, the applicant submitted a revised application to address outstanding technical comments. The revised application included an increased setback to the creek block, increased amenity space, a 17-storey building height, 351 m² of office space, 164 residential units, and 205 parking spaces. This revised application (second submission) was circulated by City staff for technical review.

On March 5, 2019, the City held a statutory public meeting at a meeting of the Planning and Development Committee of Burlington City Council, in the Council Chambers at Burlington City Hall. At this meeting, staff presented report PB-17-19, which gave information on the application and provided an opportunity for members of the public to learn about the proposal, and delegate before Committee.

Also on March 5, 2019, Burlington City Council enacted an Interim Control By-law affecting lands that included the subject property. As a result of the enactment of the Interim Control By-law, it became the practice of City staff to continue to circulate Planning Act applications for technical review and public comment, but not to provide planning analysis or present recommendation reports to Council until the Interim Control By-law Land Use Study was completed and any resultant Official Plan Amendments and Zoning By-law Amendments were approved and came into effect. At the time of writing this report, the resultant Official Plan Amendment (OPA) 119 and Zoning By-law Amendment 2020.418 are under appeal and have not yet come into effect.

On December 13, 2019, the applicant submitted another revision of the application to the City to address outstanding technical comments from the second circulation. This resubmission provided increased setbacks from the daylight triangle, and modified the rear service area to minimize encroachment into the 6m creek buffer setback among other minor technical revisions.

On February 26, 2020, the City received a letter from the applicant providing notice of appeal to LPAT of the subject Official Plan Amendment, Zoning By-law Amendment, and Site Plan applications. The appeals were filed on the basis that the City had not made a decision within the allotted timeframe in accordance with subsections 22(7), 34(11), and 41(12) of the Planning Act.

On March 13, 2020, the City deemed the submitted Site Plan application complete.

In January 2021, the applicant proposed a settlement of the appeals. The proposed settlement involves a 13-storey building concept, which is discussed in this report.

1.4 Outstanding technical issue from 17-storey proposal: Police telecommunications conflict

The subject applications for Official Plan Amendment and Zoning By-law Amendment originally proposed an 18-storey building which was then revised to a 17-storey building through resubmissions in February 2019 and December 2019. The technical review of these applications revealed that the proposed 18- or 17-storey building comes into conflict with a line of sight between two police telecommunication towers used for communications by emergency services such as Halton Regional Police Service and Burlington Fire Department, as well as by Burlington Transit and City of Burlington. It remains unclear to City staff whether it is possible or feasible on the subject lands to develop a 17-storey building that satisfactorily resolves or avoids any conflict with the telecommunication line-of-sight while still achieving an appropriate built form and design that conforms to City policies and meeting the intent of applicable design guidelines.

The current settlement proposal reduces building height from 17 storeys to 13 storeys, which appears to support the objective of avoiding conflict with police telecommunication lines of sight. City staff recommend that Halton Regional Police Service should provide written confirmation as to whether this height reduction is sufficient to eliminate the potential for telecommunications conflict prior to LPAT making a final determination in respect of the subject applications.

1.5 Description of proposed settlement

The proposed settlement revises the proposed development by reducing the building height from 17 storeys to 13 storeys, not including rooftop outdoor amenity area and mechanical penthouse. The proposed 13-storey building comprises a 4-storey podium/streetwall, above which most of the street-facing building façades step back by 3 metres from James Street and Martha Street, except at the northeast corner of the building where there is no stepback. There are no additional stepbacks above the fourth floor. In the upper building (floors 5-13), balconies project 1.5 metres into the 3 metre stepback along James Street and Martha Street. There are no stepbacks at any level on the west or south creek-facing sides of the building. The proposed floor plate is approximately 1000m² in the lower building (storeys 1-4) and approximately 890m² in the upper building (storeys 5-13).

The number of residential units is reduced from 164 to 150, and ground-floor commercial uses are no longer proposed, making this a single-use residential building. Three-bedroom residential units are no longer included in the proposed housing mix. The number of parking spaces is reduced from 205 to 180, representing a reduction in parking rate from 1.25 spaces per unit to 1.2 spaces per unit.

Submitted Materials

The following documents have been submitted by the applicant/appellant in support of the proposed settlement and have been reviewed by staff alongside the previous submissions associated with the subject applications:

1. Planning Justification Addendum for 13 Storey Proposal, prepared by Wellings Planning Consultants Inc., dated January 15, 2021;
2. Site Plan, Floor Plans, and Statistics for 13-storey proposal, prepared by Graziani & Corazza Architects, dated January 14, 2021;
3. Renderings for 13-storey proposal, prepared by Graziani & Corazza Architects;
4. 13 Storey Shadow Study letter and drawings, prepared by Graziani & Corazza Architects, dated January 15, 2021;
5. Addendum to Pedestrian Level Wind Study – James Street at Martha Street, Burlington, prepared by Gradient Wind Engineers & Scientists, dated January 8, 2021;
6. Review of Visitor Parking Requirements for James/Martha, prepared by BA Group, dated December 10, 2020.

2.0 Policy Review

2.1 Provincial and Regional Policy

Provincial and Regional Policy Framework

The subject applications for Official Plan Amendment (OPA) and Zoning By-law Amendment (Rezoning/ZBA) are Planning Act applications assessed against a hierarchy of provincial, regional, and City policies, as well as City guidelines and regulations. The applicable provincial and regional policy framework is described in this section.

The Provincial Policy Statement (2020) (PPS) came into force and effect on May 1, 2020 and applies to decisions concerning planning matters occurring after this date. The PPS provides broad policy direction on matters of provincial interest related to land use planning and development and supports improved land use planning and management, which contributes to a more effective and efficient land use planning system. 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.

A Place to Grow: Growth Plan for the Greater Golden Horseshoe (the Growth Plan) came into effect on May 16, 2019, with Amendment 1 to the Growth Plan taking effect on August 28, 2020. The Growth Plan provides a growth management policy direction for the defined growth plan area. The policies in the Growth Plan intend to build on the progress that has been made towards the achievement of complete communities that are compact, transit-supportive, and make effective use of investments in infrastructure and public service facilities. They also continue to ensure the protection of our agricultural and natural areas and support climate change mitigation and adaptation as Ontario moves towards the goal of environmentally sustainable communities.

Halton Region’s Official Plan (ROP) is intended to provide broad policy directions on strategic matters such as management of land and natural resources, growth strategies, housing, economic development, water and wastewater services, solid waste management, transportation, and health and social services. Accordingly, local municipalities like Burlington are to deal with their local environments to best express their own individualities, while ensuring that Burlington’s local Official Plan conforms to the ROP.

Provincial and Regional Policy Analysis

The subject lands are appropriate for redevelopment at higher intensity in consideration of their location within the Urban Growth Centre and their access to transit services, pedestrian infrastructure, parks and open spaces, infrastructure, and community amenities. The proposed development, if approved, will contribute to the provision of a range of housing in Burlington in a pedestrian-oriented, transit-supportive, compact urban form that supports the efficient use of land, infrastructure, and public service facilities.

The proposed development is an appropriate type and scale of development in a strategic growth area and contributes to the achievement of the minimum density target of 200 residents and jobs per hectare within the Urban Growth Centre by 2031 or earlier. For the purposes of the subject applications, the proposed 13-storey building maintains the physical character of the surrounding area. The reduction of height in the proposed building, from 17 to 13 storeys, supports the objective of eliminating conflict with the efficient use of existing police telecommunications infrastructure and helps to avoid potential health and safety impacts that could occur if this infrastructure were disturbed.

Through the provision of bicycle parking, reduced but adequate on-site vehicle parking rates, and close access to multiple transit routes and pedestrian trails, the proposed development offers a balance of transportation choices to reduce automobile dependence and promote the use of public transit and active transportation.

The proposed creek channelization has been assessed by the City, Region, and Conservation Halton and provides adequate buffers and setbacks to ensure the long-term protection of natural hazards and avoid risks to public health and safety. Ongoing detailed design review through the Site Plan stage will ensure the development is designed to prepare for the impacts of a changing climate through the effective management of storm water.

The applicant has undertaken a process to determine whether there is potential soil contamination on the subject lands and ascertain any steps necessary to bring the site to a condition that is suitable to its intended use. If the development is approved, an “H” Holding Symbol can be applied to the site’s Zoning to ensure that this process is completed before development occurs.

In consideration of the foregoing, staff are of the opinion that for the purposes of the subject Official Plan Amendment and Zoning By-law Amendment applications, the proposed development is consistent with the Provincial Policy Statement (2020), conforms to the Growth Plan for the Greater Golden Horseshoe (2019, as amended) and Regional Official Plan, and has regard for matters of provincial interest.

2.2 City of Burlington Official Plan (1997, as amended) (“the Official Plan”)

The Official Plan was adopted by City Council in 1994 and approved by Halton Region on March 5, 1997. It has since been amended over 100 times, notably including Official Plan Amendment (OPA) 55, which was adopted by Council in 2006 to implement a City-initiated 5-year Official Plan review. The effects of OPA55 included amendments to policies for Downtown Burlington to conform with the 2006 Growth Plan for the Greater Golden Horseshoe.

Part 1 of the Official Plan sets out guiding principles and a land use vision for the City of Burlington. The guiding principles include the promotion of efficient land use through intensification within appropriate areas of the City, such as the Downtown, in accordance with provincial growth objectives. The land use vision anticipates significant population growth over the horizon of the Plan, which will be directed to appropriate locations including the Downtown in the form of transit-supportive, compact development. The Downtown is envisioned

maintaining its role as the city centre and being revitalized as a “people place” where appropriate re-development and intensification are encouraged.

Downtown Mixed Use Centre

As shown on Schedule B, “Comprehensive Land Use Plan – Urban Area”, the subject lands form part of the Downtown Mixed Use Centre. The Downtown Mixed Use Centre is a vibrant people place with a distinct identity within the City. It is the City’s pre-eminent centre for public gatherings, festive and civic occasions, and social interaction. It is an objective of the Official Plan to create a compact Downtown city core with a mix of residential, commercial, and other uses. Development within the Urban Growth Centre, which includes the subject lands, will contribute to achieving the minimum gross density target of 200 people and jobs per hectare in accordance with the Growth Plan for the Greater Golden Horseshoe (Part III, 5.5.2-3).

Downtown Residential Medium and/or High-Density Precincts

Schedule E, “Downtown Mixed Use Centre – Land Use Plan” shows the subject lands designated as Downtown Residential Medium and/or High Density Precinct. The objective of the Downtown Residential Medium and/or High-Density Precincts is to recognize the variety of existing development that currently exists within these precincts and to provide for future medium or high-density residential development/redevelopment that is compatible with the existing development. This Precinct permits ground or non-ground oriented housing ranging between 26 and 185 units per net hectare, offices, and existing uses. All development and redevelopment shall be compatible with the existing character of these precincts and neighbouring precincts with respect to such matters as heights, setbacks, massing, design, and community features. (Part III, 5.5.5).

In order to permit the proposed development, the Official Plan would need to be amended to include a site-specific permission increasing permitted density from 185 units per net hectare to 655 units per gross hectare (or net equivalent after factoring in creek dedication).

Design Policies

Part II, section 6 of the Official Plan is concerned with Design. This section outlines the City’s objectives to ensure that the design of the built environment strengthens and enhances the character of existing distinctive neighbourhoods within the City, and that intensification developments are compatible with and sympathetic to existing neighbourhood character, among others. The City may give preference to designs that contain more compact forms of development that support higher densities, are pedestrian-oriented, and encourage increased use of public transit. Section 6.5 states that the density, form, bulk, height, setbacks, spacing, and materials of development are to be compatible with the surrounding area, and that the design of all buildings must recognize pedestrian scale, safety, and the perception of safety and access, and the preservation of public vistas and views. The urban design implications of the proposed development, including bulk/massing and scale, have been assessed and are discussed in the Housing Intensification and Tall Building Guidelines sections of this report.

Housing Intensification Criteria

Part III, section 2.5.2 (a) of the Official Plan provides criteria that shall be considered when evaluating proposals for housing intensification in established neighbourhoods. In accordance with Part III, section 2.2.2(f) and Part III, section 5.4.2 (k), these criteria are also applicable to housing intensification proposals in other land use designations including Mixed Use Centres. The following is an evaluation of the proposed 13-storey development using these criteria.

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

A Functional Servicing and Stormwater Management Report was prepared by Condeland Engineering Ltd. on November 6, 2017, and revised November 8, 2019 in support of what was then a proposed 17-storey development. This report outlines proposed means of managing stormwater and servicing the site with water and wastewater services. It concludes that the proposed development can be supported by existing municipal services.

The Functional Servicing and Stormwater Management Report was reviewed by Halton Region staff, who deemed it satisfactory for the purposes of the subject Official Plan Amendment and Zoning By-law Amendment applications. Regional staff identified some additional matters that will need to be addressed at the Site Plan stage.

The Functional Servicing and Stormwater Management Report was also reviewed by Site Engineering staff in the City's Capital Works Department. Stormwater implications of the proposed development are discussed below under Housing Intensification Criterion (xi).

Halton District School Board and Halton Catholic District School Board provided comments on the 17-storey proposal in February and March 2019, respectively, and both school boards indicated that students generated from the proposed development could be accommodated at existing schools (with the addition of portables in the case of Halton District School Board) and that they have no objections to the proposed development.

Staff in the Parks & Open Space division of the City's Capital Works Department commented on the 17-storey proposal in March 2019 and advised that adequate parkland is available to accommodate this development as Lions Park and Apeldoorn Park are both located within 0.8km distance for a neighbourhood park, and Spencer Smith Park and Central Park are both located within 2.4km distance for a City/community park. As such, Parks & Open Space staff recommend cash-in-lieu of parkland dedication be applied to this development proposal. Parks & Open Space staff also provided comments on the integration of the proposed creek works and associated retaining wall with the proposed final phase of the Elgin Promenade on the adjacent lands to the south of the creek. Parks & Open Space staff provided additional comments to this effect in January 2020. These design matters can be addressed at the Site Plan stage.

The proposed development satisfies criterion (i) which requires the provision of adequate municipal services including water, wastewater, stormwater management, school accommodation, and parks.

ii) off-street parking is adequate;

A Transportation Impact Study was completed by BA Group, dated November 2017, in support of the original subject applications (18-storey version). A revised Transportation Impact Study was completed by BA Group in January 2019 in support of the revised proposal for 17 storeys, and submitted in February 2019. Additionally, BA Group prepared a letter dated December 3, 2019 to respond to staff comments on the revised study.

Staff in the City's Transportation Department reviewed and commented on the original and two revised submissions and provided comments dated June 1, 2018; June 14, 2019; and January 16, 2020. These comments indicated that Transportation staff agreed with and supported the parking supply proposed by BA Group for the 17-storey, 164-unit proposal. As submitted in February 2019, this proposed supply consisted of 205 parking

spaces (164 resident spaces + 41 resident visitor spaces + 1 potential car parking space) within a five-level below-grade parking garage, which amounted to a combined rate of 1.25 parking spaces per residential unit. No office or commercial parking spaces were proposed for what was then proposed to be a mixed-use development.

Transportation staff advised that the subject lands are located within the Downtown Parking Exemption Area and therefore appropriate steps would need to be taken to ensure compliance with the regulations of this defined zone.

The current settlement proposal (13 storeys, 150 units) proposes a reduced parking rate of 1.0 resident parking space per unit and 0.2 resident visitor parking spaces per unit, for a combined rate of 1.2 parking spaces per residential unit which amounts to a total 180 parking spaces. This rate is supported by analysis provided by BA Group in a letter dated December 10, 2020. Transportation staff have reviewed this submission including the Visitor Parking Review letter by BA Group and have no objections to the currently proposed parking rate of 1.2 parking spaces per unit.

Staff are therefore satisfied that the settlement proposal meets the evaluation criterion of providing adequate off-street 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;

Traffic impacts are addressed in the Transportation Impact Study and subsequent correspondence from BA Group described above. Transportation Department staff have reviewed the submissions and advised in comments dated June 14, 2019 and January 16, 2020, that their trip-generation concerns have been addressed by BA Group and that they are satisfied that the roadways can acceptably and appropriately accommodate the proposed 17-storey, 164-unit development with no additional improvements needed. The current settlement proposal comprises fewer residential units (150) and no office or commercial uses and is therefore a less intense use of the subject lands; staff are satisfied that the current proposal satisfies the criterion that the municipal transportation system has capacity to accommodate traffic flows generated from the proposed development.

The subject lands are located at the intersection of James Street and Martha Street, which are identified as a minor arterial street and collector street, respectively, on Schedule K of the Official Plan. The subject applications propose vehicular access to the site via a driveway on Martha Street, which satisfies the criterion for ingress and egress to be directed to an arterial or collector street rather than local residential street.

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

A bus stop is located directly in front of the subject property on James Street, served by Burlington Transit routes 4 and 10. The subject lands are located less than 300 metres from the Downtown Bus Terminal on John Street, which is served by Burlington Transit routes 2, 3, 4, 10, 50, and 52, as well as Hamilton Street Railway (HSR) route 11.

Additionally, the Downtown Bus Terminal is identified in the Regional Official Plan as a Major Transit Station. Staff are satisfied that the proposed development is in proximity to existing transit facilities.

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

The Official Plan defines compatibility (or compatible development) 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 on, existing or proposed development in the area or pose an unacceptable risk to environmental and/or human health. Compatibility should be evaluated in accordance with measurable/objective standards where they exist, based on criteria such as aesthetics, noise, vibration, dust, odours, traffic, safety and sun-shadowing, and the potential for serious adverse health impacts on humans or animals”.

Compatibility is also emphasized in the precinct-specific policies of the Downtown Residential Medium and/or High-Density Precinct in Part III, section 5.5.5 of the Official Plan, which apply to the subject lands. The land use and built form policies for this Precinct do not set out a specific maximum height or floor area ratio for development within this precinct. Rather, the policies provide for appropriate land use and built form in this precinct to be shaped by a maximum density of 185 units per net hectare and by the requirement that “all development and re-development shall be compatible with the existing character of these precincts and the neighbouring precincts with respect to such matters as height, setbacks, massing, design, and community features” (5.5.5.c).

The following is a discussion of the compatibility of the proposed development in terms of the criteria cited in the above-quoted policies and definition:

- Height, Setbacks, Siting, Coverage, Massing, and Scale

The objectives of the Downtown Residential Medium and/or High-Density Precinct recognize that a variety of existing residential forms currently exist in the precinct, including townhouses and apartment buildings of between three and twelve storeys along Martha Street between James Street and Lakeshore Road. At the north end of this street segment, where the subject lands are located, existing built form does not exceed four storeys in height. To the north and west of the site in the adjacent Downtown Core Precinct, the existing physical character similarly consists of low-rise buildings not exceeding four storeys, on lots with landscaped front yards.

The currently proposed 13-storey height on the subject lands does not cause a compatibility issue in this context. Height should be considered in combination with setbacks, siting, coverage, massing, and scale.

The currently proposed 13-storey building provides building setbacks at ground level that allow for a 6 metre boulevard width measured between the street curb and the building face. This setback is lesser than the setbacks of neighbouring buildings, which generally provide spacious landscaped yards between the building and the street. While different, the building setbacks of the proposed development are appropriate for an urban environment and provide sufficient space for streetscaping in accordance with the City’s Downtown Streetscape Guidelines. Staff are satisfied that the proposed building setbacks are compatible.

The proposed building siting orients the building to frame James Street and Martha Street, which is appropriate for an urban environment, consistent with the discussion of setbacks above.

The lot coverage of the proposed building is reasonable for an apartment building on a site of this size and leaves space at grade for a vegetated creek channel and landscaped 6 metre setback from the stable top of bank as required by the policies that guide development adjacent to a watercourse and its associated natural hazards.

The 4-storey podium of the proposed development is appropriately massed and scaled in proportion to the adjacent right-of-ways and existing physical character of the surrounding area. The upper building (storeys 5-13) is stepped back 3 metres from the podium edge along Martha Street and James Street frontages, with the exception of a projecting tower mass at the northeast corner that is oriented towards the intersection over the building entrance, generally in accordance with design comments provided by the Burlington Urban Design (BUD) Panel. If the proposed settlement is approved, the projecting corner mass should be subject to further design review through the consideration of the Site Plan application, to improve compatibility by exploring design solutions to minimize perceived massing of the tower and of the corner mass in particular. For the purposes of the subject applications for Official Plan Amendment and Zoning By-law Amendment, staff are satisfied that the height, setbacks, siting, coverage, massing, and scale of the proposed development are compatible with the existing neighbourhood character.

- **Aesthetics and Design**
 - The finer details of building aesthetics and design will be considered in the review of the Site Plan application.
- **Sun-shadowing**

A detailed discussion of shadow impacts from the proposed development is provided below under criterion (vii). For the purposes of the subject Official Plan Amendment and Zoning By-law Amendment applications, staff are satisfied that the shadowing effects of the proposed development are compatible with the site's surroundings.
- **Traffic and Parking**

As discussed under criteria (ii) and (iii) above, staff do not have concerns that the parking rate or traffic generation of the proposed development will cause undue adverse impacts on the surrounding area.
- **Amenity Area**

The proposed 13-storey building provides indoor amenity area in the form of a party room and gym on the ground level (approximately 200m² combined), as well as 638m² of outdoor rooftop amenity area. At grade, there are 917m² of outdoor amenity area, mostly consisting of the creek setback, which is a 6 metre wide space that wraps around the building between the building wall and the stable top of bank. The combined area of the balconies is 799m² of private amenity area, or 5.4m² per unit that has a balcony. Combined, the various indoor and outdoor, shared and private amenity spaces amount to a total 2,587m² of amenity area, averaging out to 17.25m² per unit. This is a reduced rate relative to the 20m² per unit required for apartment buildings in the DRM zone by Zoning By-law 2020; however, staff are of the opinion that this reduced rate is appropriate for the proposed development given its proximity to public parkland and off-site Downtown amenities. Of particular note are the Centennial Bikeway and future phase 4 of the Elgin Promenade, both located within 30 metres of the subject property on the other side of Rambo Creek and directly accessible from the subject lands via Martha Street. With this in mind, staff are of the opinion that the proposed amount of amenity area will not have adverse impacts on surrounding properties and is therefore compatible.
- **Noise, Vibration, Dust, Odours, Safety and Potential for adverse health impacts**

The proposed land use is residential which is the same land use as the surrounding properties to the east and west. The recreational uses at the Lions

Club to the north are well established and compatible with both the existing and proposed residential uses in this area of Downtown. The proposed residential uses in a 13-storey building are not expected to cause vibration, dust, or odour impacts on the surrounding residential or recreational uses. A Construction and Mobility Management Plan must be provided by the applicant at the Site Plan stage to ensure the avoidance or mitigation of such impacts during the construction of the proposed development if approved.

A Noise Feasibility Study completed by HGC Engineering and dated November 3, 2017, was submitted in support of the subject applications, in relation to the original 18-storey version of the proposed development. This study concludes that the proposed development is feasible from an environmental noise perspective, and makes recommendations to mitigate, in accordance with MOECC guidelines, noise impacts caused by the proposed development to the surroundings or caused by the surroundings (in particular, traffic noise on James Street) on the proposed development. These recommendations include the provision of air conditioning and the standard of insulation and construction. The Noise Feasibility Study was reviewed by Site Engineering staff, whose comments dated March 19, 2018 indicate no concerns with the findings of the study for the purpose of the Official Plan Amendment and Zoning By-law Amendment applications. The comments notify the applicant of additional information that will be required from the noise consultant at the Site Plan review stage.

The subject lands are located within approximately 30 metres of a TransNorthern Pipeline, located to the south. TransNorthern Pipeline Inc. has reviewed the subject applications (original 18-storey proposal) and advised in comments dated March 19, 2018 that they have no objection to the approval of the proposed development.

In consideration of the foregoing, staff are satisfied that the proposed development is compatible with respect to noise, vibration, dust, odours, safety, and health impacts for the purposes of the subject applications (Official Plan Amendment and Zoning By-law Amendment). At the Site Plan stage, detailed design measures will be confirmed to ensure compatibility of the proposed development in these respects.

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

The subject applications are supported by landscape plans and a Tree Inventory and Preservation Plan completed by Baker Turner Inc., dated August 14, 2019, and Landscape Concept, completed by MBTW, dated November 2019.

The proposed development includes the removal of 66 trees, of which 10 must be removed due to conflict with the proposed building envelope and 56 must be removed to accommodate the proposed creek reconstruction. 11 trees are proposed to be retained and tree preservation measures have been identified in the submitted Tree Preservation Plan. To compensate for removed trees, a replacement caliper value of 630cm has been identified, which could be in the form of 126x5cm trees or 105x6cm trees, for example. Detailed planting plans can be finalized at the Site Plan stage.

Landscaping staff in the Capital Works Department have reviewed the submitted plans and studies and have no objections. Staff are satisfied that appropriate compensation will be provided for loss of vegetation from the proposed development.

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

Shadow studies prepared by Graziani + Corazza Architects Inc. were submitted in support of the subject applications (original 18 and 17 storey proposals) and an updated Shadow Study dated January 15, 2021, also completed by Graziani + Corazza Architects Inc., was submitted in support of the currently proposed 13-storey building. The 2021 study concludes that the proposed 13-storey building casts a reduced shadow length in comparison with the previously proposed 17-storey building due to the reduced building height. The larger tower floorplate and increased tower width of the 13-storey building create a wider shadow, which is apparent at certain times of day when the shadow cast is perpendicular to the tower face.

The City's Shadow Study Guidelines and Terms of Reference were approved in 2020, after the submission of the subject applications. Therefore, the guidelines are not applicable to the subject applications, but have been informative in staff's review of the submitted studies. For the purposes of the subject Official Plan Amendment and Zoning By-law Amendment applications, staff are satisfied with and accept the conclusion of the submitted Shadow Study that the proposed 13-storey building is acceptable from a shadow impact point of view and compatible with the surrounding area including James Street and Martha Street sidewalks, Lions Park, private outdoor amenity areas of neighbouring properties, and the Centennial Bikeway.

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

The subject lands are located in the Downtown Mixed Use Centre which provides numerous amenities within a walking distance. The subject lands are located:

- within 700 metres of a shopping plaza that includes a pharmacy and grocery store (559 Brant Street);
- within 800 metres of a YMCA community centre, a municipal ice rink, the Burlington Seniors Centre, and Central Library;
- in close proximity to multiple private medical offices throughout the Downtown;
- within 1.2km of Joseph Brant Hospital;
- within 1.2km of cultural amenities such as the Joseph Brant Museum and Burlington Performing Arts Centre; and
- within close proximity to existing parks and transit services as described above.

Staff are satisfied that the proposed development is supported by accessibility to community services and other neighbourhood conveniences, based on their proximity and their connectivity to the subject lands via active transportation routes in a walkable urban context.

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

A discussion of noise, dust, vibration, and odour impacts and mitigation measures is provided above under Housing Intensification criterion (v). Staff are satisfied that capability exists to provide adequate buffering and other measures to minimize any identified impacts of this nature.

With respect to wind impacts: Pedestrian-level wind studies prepared by Gradient Wind Engineers & Scientists were submitted in support of the subject applications (original 18 and 17 storey proposals) and an addendum to the Pedestrian-Level Wind Study dated January 8, 2021, also completed by Gradient Wind, was submitted in support of the currently proposed 13-storey building.

The City's Pedestrian-Level Wind Study Guidelines and Terms of Reference were approved in 2020, after the submission of the subject applications. Therefore, the guidelines are not applicable to the subject applications, but have been informative in staff's review of the submitted studies.

The submitted Jan. 8, 2021 study addendum acknowledges that it was not completed in accordance with the City's Pedestrian-Level Wind Study Guidelines and Terms of Reference and asserts that the overall results and recommendations would be the same if the study had been conducted in accordance with the City's methodology.

The study addendum finds that the shorter building height of the currently proposed 13 storey building will present a reduced projected area facing oncoming winds from the predominant southwesterly and northeasterly directions in Burlington, relative to the earlier tested 17-storey building. The study concludes that "wind comfort at all pedestrian areas within and surrounding the study site will be acceptable for their intended uses throughout the year. In particular, no areas are anticipated to experience conditions too windy for walking, or that could be considered unsafe." The study recommends that a 2-metre tall wind screen be installed along the west and north perimeters of the proposed outdoor rooftop amenity area atop the 13th storey to ensure comfortable conditions suitable for sitting or more sedentary activities in this space.

For the purposes of the subject Official Plan Amendment and Zoning By-law Amendment applications, staff are satisfied that the proposed development on the subject lands will not have adverse pedestrian-level wind impacts on the surrounding area.

Staff request that more detailed information be provided for consideration in the review of the Site Plan application with respect to the projected pedestrian comfort levels throughout the year at each pedestrian area within and surrounding the study site, including, for example, the bus stop on James Street in front of the subject lands. This information will inform the detailed determination of whether any further mitigation measures should be considered through the review of a Site Plan application. Staff encourage that this data be provided in accordance with the Pedestrian-Level Wind Study Guidelines and Terms of Reference.

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

The subject lands are bounded by municipal street right-of-ways to the north and east, and the proposed development will not have impacts on the intensification potential of properties across these streets. The adjacent property to the south of the subject lands is municipally owned and subject to a pipeline easement that precludes development; these lands will be redesigned by the City as an off-street pedestrian trail.

The adjacent property to the west (443 Pearl Street) is already developed with a low-rise apartment building and future intensification potential on this site is constrained by its small lot area (0.17 ha gross area) and irregular lot shape. The ability of 443 Pearl Street to assemble with other lands is uncertain as the property to its south (435 Pearl St) is identified in the report "Cultural Heritage Resource Assessment: Built Heritage Resources and Cultural Heritage Landscapes" by ASI dated September 2019, as having potential cultural heritage value. The future intensification potential of 433, 435, and 443 Pearl Street will therefore be determined after consideration of the results of a future Downtown Cultural Heritage Study. 443 Pearl Street is additionally constrained by the presence of Lower Rambo Creek and its associated hazard lands, which run along the shared boundary of this property with the subject lands and creates a buffer between the two properties.

For these reasons it is not certain to what extent the adjacent lands to the west of the subject lands have intensification potential; however, staff note that the creek creates a buffer between the two properties that will ensure a degree of separation between existing and future buildings in the long term. Staff are satisfied that the proposed

development on the subject lands will not compromise the intensification potential of the adjacent lands.

- xi) natural and cultural heritage features and areas of natural hazard are protected;
- Lower Rambo Creek runs along the western and southern property boundary of the subject lands and associated hazard lands are located on the subject lands and adjacent properties. As part of the proposed development, Lower Rambo Creek is proposed to be channelized, with the exterior wall of the proposed underground parking garage doubling as a retaining wall of the new creek channel. The proposed new apartment building will be set back 6 metres from the stable top of bank (retaining wall/garage wall), with the result that the 6 metre landscaped setback from stable top of bank will be formed by a landscaped area located at grade on top of the underground parking garage. The proposed creek works will also include channelization and the construction of a new retaining wall on the neighbouring City-owned property to the south.

The proposed development is supported by technical studies submitted by the applicant, including the following which relate to addressing issues with natural hazards:

- Conceptual Design Brief (Shoring System), prepared by Grounded Engineering, dated Dec. 9, 2019;
- Geotechnical Report, prepared by DS Consultants Ltd., dated November 27, 2018;
- Hydrogeological Investigation, prepared by DS Consultants Ltd., dated Oct. 28, 2019;
- Phase One Environmental Site Assessment (ESA), prepared by DS Consultants Ltd., dated Dec. 12, 2018;
- Phase Two Environmental Site Assessment (ESA), prepared by DS Consultants, dated Dec. 12, 2018;
- Slope Stability Assessment, prepared by DS Consultants, Ltd., dated Dec. 6, 2018;
- Environmental Impact Study, prepared by Beacon Environmental Ltd., dated Nov. 2019;
- Geomorphic Assessment – Rambo Creek Watershed, prepared by Beacon Environment Ltd., dated January 2019;
- Channelization and Floodplain Analysis for Rambo Creek, prepared by Condeland, revised dated January 15, 2019;
- Functional Servicing and Stormwater Management Report, prepared by Condeland, revised, dated Nov. 8, 2019;
- Conceptual Grading and Servicing plans prepared by Condeland, last dated Nov. 8, 2019;
- Pre- and Post-Development Storm Drainage Area Plan, prepared by Condeland, last dated Nov. 8, 2019;
- Architectural plans prepared by Graziani + Corazza Architects Inc;
- Landscape drawings prepared by MBTW Group, last dated Nov. 8, 2019;

The above-listed studies were reviewed by relevant staff at the City, Halton Region, and Conservation Halton.

The subject lands are not regulated by Conservation Halton (CH); however, CH has provided comments on the proposed development (18- and 17-storey versions) in an advisory capacity. These comments were dated May 31, 2018; October 15, 2018; May 21, 2019; and February 19, 2020. In their final comments (Feb 19 2020), CH staff indicated they have no objections to the approval of the OPA and ZBA applications, and

defer further review to Halton Region and the City. CH staff may continue to provide advisory comments through the Site Plan process as details are refined.

Halton Region staff provided comments dated June 11, 2018; June 13, 2019; and February 28, 2020. In their latest comments (Feb 28, 2020), Regional staff advised that the subject lands contain Key Features within the Regional Natural Heritage System that are not shown on Map 1 or Map 1G of the ROP. Local municipalities in their Official Plans are required to ensure that these Key Features are protected through appropriate planning studies related to development and/or site alteration applications. Regional staff recommend that the creek block, as defined in the supporting environmental studies, should be designated and zoned for its long-term protection consistent with Regional Official Plan policy. Regional staff also recommend that all natural features and their associated setbacks/buffers should be dedicated to the appropriate public agency.

Stormwater Management staff in the City's Capital Works Department have reviewed the submitted cut-fill analysis and Channelization and Floodplain analysis and have no objections for the purposes of the Official Plan Amendment and Zoning By-law Amendment applications (May 31, 2019).

Site Engineering staff in the City's Capital Works Department have also reviewed the subject applications and stated in comments dated February 24, 2020 that any part of the subject property that includes creek and/or floodplain must be conveyed to the City as part of the Site Plan application. The limits of the creek block conveyance shall be to the satisfaction of the Director of Capital Works.

Site Engineering and Stormwater Management staff in the City's Capital Works Department have reviewed the currently proposed 13-storey development and have advised that they are satisfied that:

- the 6m building setback from the face of the retaining wall is appropriate;
- the loading space turnaround bump-out that encroaches into the 6 metre setback is acceptable;
- the two exhaust shafts for the underground parking garage that are located in the 6 metre setback are acceptable;
- Burlington Hydro will need to be consulted as part of the site plan review to confirm the location of the switchgear; and
- Site Engineering details will be reviewed as part of the review of the Site Plan application.

Capital Works staff have also noted that additional technical information must be provided prior to final approval of the site and creek design at the Site Plan stage. As an example, details of the proposed retaining wall design are still outstanding, and these details have the potential to have impacts on the creek design. Capital Works further note that, as indicated in their earlier comments on the subject applications, a Construction and Mobility Management Plan must be provided prior to final site plan approval.

For the purposes of the subject Official Plan Amendment and Zoning By-law Amendment applications, planning staff are satisfied that the natural heritage features and areas of natural hazard on the subject lands and adjacent lands are protected.

With respect to cultural heritage resources, staff note that the subject lands are not designated under the Ontario Heritage Act, nor are they listed on the Municipal Register of Cultural Heritage Resources, nor are they located adjacent to any protected heritage resource. The presence of a vegetated creek along the west and south boundaries of the subject lands provides a buffer between the subject lands and the nearby potential

cultural heritage landscapes oriented around the intersection of Pearl Street and the Elgin Promenade identified by ASI in their Cultural Heritage Resource Assessment dated September 2019. Staff are satisfied that cultural heritage resources in Downtown Burlington will not be affected by the proposed development.

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

Policy 2.11.3(m) concerns South Aldershot and is not applicable to the subject lands. Policy 2.11.3(g) is applicable as it concerns development adjacent to watercourses and outlines the requirement that through development approvals, the greater of the regulatory floodplain, the valley through which the watercourse flows including a conservation setback from top of bank, or meander belt must be dedicated to the City. Such dedication shall not be considered to form part of parkland dedication. If any such lands remain in private ownership, they will be protected by zoning, agreement, or easement to protect the ecologic and floodplain function of such land. As discussed above under criterion (xi), these matters will be addressed through the dedication of floodplain lands and appropriate designation and zoning of hazard lands to the satisfaction of the City.

- 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 access to, major arterial, minor arterial, or multi-purpose arterial roads and only provided that the built form, scale, and profile of development is well integrated with the existing neighbourhood so that a transition between existing and proposed residential buildings is provided.

The proposed development is situated within the Downtown Mixed Use Centre and has frontage on a minor arterial road. This is an appropriate location for intensification.

Integration of built form into the surroundings is discussed under criterion (v) above.

Opinion

Staff have considered the proposed development in the context of the City's Official Plan. Staff are of the opinion that for the purposes of the subject Official Plan Amendment and Zoning By-law Amendment applications, the proposed development satisfies the City's housing intensification criteria and generally conforms or does not conflict with the policies of the Official Plan.

2.3 City of Burlington Official Plan (2020, under appeal) ("the new Official Plan")

Adoption and Re-examination of new Official Plan

On April 26, 2018, Burlington City Council adopted a new Official Plan ("the adopted Official Plan"), which was then submitted to Halton Region for approval. In February 2019, Council directed staff to re-examine the policies of the adopted Official Plan in relation to height and density. This re-examination ("the Re-examination") resulted in report PL-16-20 "Taking a Closer Look at the Downtown: Recommended Modifications to the adopted Official Plan", which recommended modifications to the adopted Official Plan policies for Downtown Burlington, including the subject lands. Appendix 1 of report PL-16-20 was a planning report entitled "Taking a Closer Look at the Downtown: Final Report" by SGL Planning and Design Inc. ("the SGL report").

Modification of adopted Official Plan

On October 7, 2020, City Council modified the adopted Official Plan by endorsing an amended version of the new or modified policies recommended in PL-16-20 and the SGL report. The

amended version was the result of Council-initiated amendments that introduced changes to land use and built form permissions for certain areas of the Downtown. Of relevance to the subject lands, one of the amendments resulted in the creation of a “Downtown East Cultural Heritage Study Area” overlay, as shown on Schedules D and D-2 of the new Official Plan. The intent of this amendment was to require the completion of a cultural heritage study before determining new built form permissions for certain lands within the Downtown East Precinct in the vicinity of a potential cultural heritage landscape that had been identified by ASI in their September 2019 report “Cultural Heritage Resource Assessment: Built Heritage Resources and Cultural Heritage Landscapes”. The effect of this amendment was that for lands within the new Downtown East Cultural Heritage Study Area overlay, the “Downtown Core Precinct” built form permissions of the Official Plan (1997, as amended) would be carried forward and apply to these lands on an interim basis until a cultural heritage study can be completed and inform the development of new built form permissions.

Approval and appeals of new Official Plan

On November 30, 2020, Halton Region issued a notice of decision approving Burlington’s new Official Plan (“the new Official Plan”). The appeal record submitted to the Local Planning Appeal Tribunal (LPAT) by the Region of Halton indicates that a total of 48 appeals to various parts of the new Official Plan were received during the appeal period.

Although the City is preparing a working version of the new Official Plan, it is the LPAT that will issue Orders throughout the appeal process to establish and confirm which portions of the Plan remain subject to appeal, and which portions are in effect. The City anticipates that the first of these Orders will be issued by the LPAT following the initial case management conference in this matter, which has yet to be scheduled. At the appropriate time, City staff will also bring forward a repeal by-law(s) for the former Burlington Official Plan (1997, as amended).

Applicability of new Official Plan to the subject applications

The subject applications for Official Plan amendment and Zoning By-law Amendment were submitted in December 2017, prior to the adoption, modification, and approval of the new Official Plan. As such, the weight placed on the policies of the new Official Plan is limited as they were not in effect at the time of submission of the applications. Therefore, staff have assessed the proposed settlement against the policies of the Official Plan (1997, as amended). Nonetheless, the new Official Plan represents the most up-to-date City- and Region-approved land use vision for Burlington and comprises policies that were developed through comprehensive planning studies with the intent of conforming to the 2019 Growth Plan, as amended, and achieving consistency with the PPS (2020). The new Official Plan is therefore relevant and has been considered as informative to the review of the subject applications.

Discussion of new Official Plan policies relevant to the proposed development:

The Urban Structure of the new Official Plan identifies the subject lands as being within the Downtown Urban Centre, the provincial Urban Growth Centre, and in proximity to the Downtown Major Transit Station.

Downtown Burlington is one of four Major Transit Station Areas (MTSAs) in the City of Burlington, and the only MTSA that is not located along a higher-order transit route and is not planned to be served by Regional Express Rail. All MTSAs are intended to serve as City-wide destinations and focal points for the provision of transit and will exhibit a wide variety of land uses and building types, and densities that support and facilitate transit and active transportation. MTSAs are focal points for higher intensity and mixed-use, transit-supportive development that will accommodate a significant share of the City’s future population and employment growth. It is anticipated that the majority of growth within the City’s four MTSAs will occur not in the Downtown but in the three MTSAs located along higher-order transit routes and

with planned frequent transit service by way of Regional Express Rail. In keeping with the policies of the Growth Plan, the final delineation of MTSA boundaries and the identification of minimum density targets will be established by the Region of Halton through the municipal comprehensive review and will be implemented through a future Official Plan Amendment (2.3.1h).

The City's Growth Framework, depicted on Schedule B-1 of the new Official Plan, shows that the subject lands are located within a Primary Growth Area. Primary Growth Areas shall be recognized as a distinct area within the Urban Area accommodating the majority of the City's forecasted growth, and consequently will experience the greatest degree of change. Primary Growth Areas shall be regarded as the most appropriate and predominant location for new tall buildings in accordance with the underlying land use designations, and shall support frequent transit corridors and accommodate development that is compact, mixed-use and pedestrian-oriented (2.4.2.1).

The land use objectives and policies for the Downtown Urban Centre, including the subject lands, are found in Chapter 8 of the new Official Plan. Section 8.1.1(3.1)(o) states that it is an objective of the new Official Plan to permit building heights and intensities that support the designation of the Downtown as an Urban Growth Centre while protecting the predominant low-rise character of Brant Street and providing a transition to adjacent low-rise neighbourhoods.

Downtown East Precinct

Within the Downtown Urban Centre, the subject lands are located in the Downtown East Precinct, which envisions that retail and service commercial uses will be the predominant use at grade along Mixed Use Streets and that development will be predominantly in the form of tall buildings, which will be expected to transition to, as well as achieve compatibility with, the adjacent Low-Rise Neighbourhood Precincts.

The Downtown East Precinct permits residential mid-rise buildings up to 11 storeys in height. It also permits mixed-use tall buildings with a slender tower up to a maximum height of 17 storeys, where the base permission of 11 storeys can be exceeded by an additional three storeys of residential uses for every one storey of office uses that is provided in the building podium. Retail and service commercial uses are permitted within mid-rise or tall buildings. All development, whether in a tall or mid-rise form, shall transition to adjacent Low-Rise Neighbourhood Precincts (8.1.1.3.9.1).

Opinion

Planning staff is of the opinion that the revised development proposal maintains the general intent and purpose of the new Official Plan. As mentioned, the new Official Plan supports development that is compact, mixed-use and pedestrian-oriented in the City's Primary Growth Areas. The proposed development would result in a building height and intensity that supports the role of the Downtown as an Urban Growth Centre, while being compatible with and protecting adjacent low-rise properties. While the proposed development would not result in the mix of uses or built form design standards that are envisioned by the Downtown East Precinct of the new Official Plan, the proposed height would align with the 11-17 storey range of permitted heights, as originally anticipated in Downtown East Precinct.

2.4 Tall Building Guidelines (2017)

The Tall Building Guidelines took effect in May 2017 and provide guidance for the review of tall buildings, which are defined as any building over a height of 11 storeys. The Tall Building Guidelines are therefore applicable to the review of the proposed development. The guidelines represent best practices, and where the intent of the guidelines can be met, alternative solutions

should be permitted and encouraged. The guidelines were developed to ensure design excellence, support vibrant streets, and provide a positive addition to the City's skyline.

Section 2 of the guidelines addresses the podium of the building. The guidelines encourage podium walls to be sited to frame both streets on a corner lot, and to establish a 6m boulevard where there is no established streetwall; the proposed development adheres to these guidelines. The proposed development also meets the intent of guidelines about podium height, by providing a 4-storey podium, a height that is less than 80% of the width of the adjacent street right-of-ways.

Section 3 of the guidelines deals with the building middle or tower. The design and massing of the tower 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 floorplates and spacious setbacks between towers.

The proposed 13-storey building does not satisfy some of the specific performance thresholds set out in the Tall Building Guidelines:

- Floorplate:
 - where the guidelines promote slender towers with floorplate areas of 750m² or less, the proposed 13-storey building has a floorplate area of approximately 890m².
- Northeast Corner massing:
 - where the guidelines state that up to 20% of the tower mass may extend to the edge of the podium (i.e.: not be stepped back from the podium edge), the proposed 13-storey building includes a portion of the tower that extends to the edge of the podium at the northeast corner of the site. This corner massing represents approximately 35% of the tower width as viewed from Martha Street and approximately 25% of the tower width as viewed from James Street.
- Balconies:
 - Where the guidelines discourage projecting balconies in podium levels (storeys 1-4), the proposed 13-storey building includes balconies at podium levels that project partially from the building mass. Some of these balconies are located at the second storey directly over the building entrance, set back less than 3 m from the lot line.

The guidelines state that alternative solutions should be permitted and encouraged where they can meet the intent of the guidelines. The intents of these guidelines include:

- Limiting overlook:
 - The subject lands are buffered from neighbouring properties by James Street to the north, Martha Street to the east, and Rambo Creek to the south and west. Staff are therefore not concerned with the proposed building causing unacceptable overlook or privacy concerns on neighbouring private properties. The proximity of the second storey balconies to the ground-level main entrance and public sidewalk has some potential to cause tensions between the public realm and the new private balconies. At the site plan stage, design solutions can be explored to improve this public-private interface.
- Minimizing shadow impacts on the opposite streetscape:
 - As discussed under Housing Intensification Criteria above, the proposed 13-storey building is supported by a Shadow Study that finds there will be no adverse shadow impacts on the surrounding area as a result of the proposed built form. For the purposes of the subject Official Plan Amendment and Zoning By-law Amendment applications, staff are satisfied that the proposed design

does not conflict with the intent of minimizing shadow impacts. Any design revisions that may occur during the Site Plan stage should consider the potential for shadow impacts on surrounding areas.

- Avoiding adverse pedestrian-level wind impacts:
 - As discussed under Housing Intensification Criteria above, the proposed 13-storey building is supported by a Pedestrian-Level Wind Study that finds there will be no adverse wind impacts on the surrounding area as a result of the proposed built form. For the purposes of the subject Official Plan Amendment and Zoning By-law Amendment applications, staff are satisfied that the proposed design does not conflict with the intent of avoiding adverse wind impacts. More detailed consideration of wind conditions and any relevant mitigation measures should occur at the Site Plan stage.
- Minimizing the perception of building massing:
 - The 13-storey height of the proposed building is at the lower end of the “tall building” height range and is two storeys higher than what would be considered a mid-rise building. The perception of building mass will be further mitigated by the site characteristics; namely, the natural buffer and spatial separation provided by the Rambo Creek between the subject lands and the neighbouring apartment building to the west and future public walkway (Elgin Promenade) to the south. This allows for other mitigation measures to be focused on the street-facing building facades.
 - At the Site Plan stage, detailed design solutions can be explored to minimize the perception of building massing from the public realm.

For the purposes of the subject applications for Official Plan Amendment and Zoning By-law Amendment, staff are of the opinion that while the proposed development does not comply with all of the design guidelines, the proposed 13-storey building generally conforms with the intent of the Tall Building Guidelines. If the proposed settlement is approved, then the design of the proposed 13-storey building can and should be subject to further review and improvements to bring the development into closer alignment with the Tall Building Design Guidelines as described above.

2.5 Zoning By-law 2020, as amended

The subject lands are zoned DRM, a Downtown Residential Medium Density zone. One of the three properties making up the subject lands, 2090 James Street, is zoned DRM-3, which is a site-specific exception that permits office uses in addition to the DRM regulations. The subject lands are subject to the Interim Control By-law which remains in place pending the resolution of appeals to Zoning By-law Amendment 2020.218.

The DRM zone permits a range of ground-oriented and non-ground-oriented residential uses, as well as offices in an existing building and offices on the ground floor of a residential building. In order to permit the proposed development, a Zoning By-law Amendment is required to rezone the property to DRH (a Downtown Residential High-Density zone) with a new site-specific exception to provide customized regulations for lot dimensions, height, density, building setbacks, amenity area, yards, creek setbacks, landscape areas, and parking ratios. As an example, the in-effect DRM zone for these lands permits a maximum residential density of 50 units per hectare; the DRH zone permits a maximum density of 185 units per hectare. The site-specific exception would need to permit a maximum density of 655 units per hectare (gross density) or equivalent net density after accounting for dedication of creek lands.

In order to facilitate the proposed development, the creek and associated natural hazards would need to be zoned with an appropriate Open Space zone and conveyed to the City to ensure

their long-term protection. If the proposed settlement is approved, an “H” Holding Symbol can be applied to the zoning of the subject lands pending completion of a Record of Site Condition to the satisfaction of Halton Region.

3.0 Conclusion:

Staff have assessed the proposed 13-storey building in accordance with applicable Provincial, Regional, and City planning policies. The 13-storey built form being proposed through the current settlement offer represents a reduction in building height and increase in building width from the previously proposed 17-storey built form. The viability of the 17-storey proposal was uncertain due to an identified conflict with an existing line of sight between two police telecommunication towers.

With respect to urban design, the currently proposed 13-storey built form does not perfectly align with all of the guidance in the City’s in-effect Tall Building Guidelines; however, staff are of the opinion that the proposed development generally meets the intent of these guidelines for the purposes of the subject Official Plan Amendment and Zoning By-law Amendments. This report has identified opportunities to consider design improvements to bring the proposal into closer alignment with City policies and guidelines through the review of the Site Plan application, if the settlement concept is approved. This report has also identified various technical matters that will require further detailed review through the Site Plan process, including the assessment of proposed creek channelization, soil contamination, hydro equipment location, and wind impacts.

The proposed development represents transit-supportive, pedestrian-oriented intensification in a compact built form, in an appropriate location within Burlington’s Downtown Mixed Use Centre. Staff are of the opinion that for the purposes of the subject Official Plan Amendment and Zoning By-law Amendment applications, the proposed development is consistent with the Provincial Policy Statement (2020), conforms to the Growth Plan for the Greater Golden Horseshoe (2019, as amended) and Regional Official Plan, has regard for matters of provincial interest, and generally conforms with the policies of the City’s Official Plan.