



SUBJECT: Official Plan and Zoning By-law amendment applications for 1989 Appleby Line

TO: Community Planning, Regulation & Mobility Cttee.

FROM: Community Planning Department

Report Number: PL-66-22

Wards Affected: 5

File Numbers: 505-05/22, 520-06/22

Date to Committee: September 13, 2022

Date to Council: September 20, 2022

Recommendation:

Direct staff to continue to process the submitted applications for Official Plan and Zoning By-law Amendments for 1989 Appleby Line, including evaluating and incorporating comments received by committee and the public at the statutory public meeting, as well as the comments received through the ongoing technical review of this application by agency partners and internal departments.

PURPOSE:

The purpose of this report is to provide background information to the Committee and the public for a Statutory Public Meeting for the lands known as 1989 Appleby Line and to seek direction from Council to continue processing the applications in an effort to bring forward a subsequent recommendation report.

Vision to Focus Alignment:

The subject applications related to the following focus areas of the 2018-2022 Burlington's Plan: From Vision to Focus:

- Increase economic prosperity and community responsive city growth
 - Improve integrated city mobility
 - Support sustainable infrastructure and a resilient environment
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Executive Summary:

RECOMMENDATION:		Continue to process application	Ward:	5
Application Details	APPLICANT:	1989 Appleby Latch GP Inc.		
	OWNER:	1989 Appleby Latch Limited Partnership		
	FILE NUMBERS:	505-05/22, 520-06/22		
	TYPE OF APPLICATION:	Official Plan Amendment, Zoning By-law Amendment		
	PROPOSED USE:	Two 20-storey residential towers connected by a shared 6-storey podium with retail at grade.		
Property Details	PROPERTY LOCATION:	Southeast corner of Appleby Line and Upper Middle Road (south of utility corridor)		
	MUNICIPAL ADDRESS:	1989 Appleby Line		
	PROPERTY AREA:	0.6 hectares		
	EXISTING USE:	Gas station and carwash		
Documents	1997 OFFICIAL PLAN Existing:	Uptown Commercial/Residential I		
	1997 OFFICIAL PLAN Proposed:	Uptown Commercial/Residential I with site-specific policies for height, Floor Area Ratio, and density		
	2020 OFFICIAL PLAN Existing:	Uptown Core		
	ZONING Existing:	UCR1-274		
	ZONING Proposed:	UCR1-XXX with site-specific regulations		
Processing Details	APPLICATION MADE AND COMPLETE AS OF:	July 7, 2022		
	STATUTORY DEADLINE:	November 4, 2022		
	PRE-APPLICATION COMMUNITY MEETING:	April 4, 2022		

	<i>PUBLIC COMMENTS:</i>	As of August 19, 2022, the City has received written comments from three members of the public on this application. Notices were sent on August 11, 2022 to 878 addresses within 120 metres of the subject property.
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Background and Discussion:

On July 7, 2022, the City received complete applications from 1989 Appleby Latch GP Inc. requesting Official Plan Amendments and Zoning By-law Amendments to permit a mixed-use development comprising two 20-storey residential towers connected by a shared 6-storey podium with retail at grade.

The purpose of this report is to provide an overview of the applications, an outline of applicable policies and regulations, and a summary of technical and public comments received to date.

Description of Subject Property and Surrounding Land Uses

The subject property is located at the southeast corner of Appleby Line and Upper Middle Road, south of the utility corridor. The property has an area of 0.6 hectares, with 70 metres of frontage on Appleby Line. The site is currently occupied by a gas station and carwash with driveway access to both Appleby Line and Upper Middle Road. Enbridge pipelines run along the northern edge of the property within an 18 metre-wide easement.

Surrounding uses are as follows:

- North: Hydro One corridor with a width of approximately 23 metres. To the north of the hydro corridor is Upper Middle Road. A four-storey residential building is located on the north side of Upper Middle Road.
- East: A six-storey residential building is adjacent to the subject property to the east, fronting on Imperial Way. Further east are townhouses and Sheldon Creek. Corpus Christi Catholic High School is on the other side of Sheldon Creek, approximately 350 metres from the subject property.
- Southeast: An 11-storey residential building is located to the southeast of the subject property, at the northwest corner of Imperial Way and Ironstone Drive.
- South: A 16-storey mixed-use building with ground-floor retail is located adjacent to the subject property to the south. Further to the south there is an eight-storey retirement home with ground-floor retail, and beyond this are two-storey townhouses.

- West: to the west of the subject property, on the opposite side of Appleby Line, there is a commercial plaza with one-storey retail buildings, a three-storey mixed-use building containing retail and office uses, and surface parking.
- Northwest: the Millcroft retail centre is located at the northwest corner of Appleby Line and Upper Middle Road. A CN Rail corridor runs behind the Millcroft retail centre, approximately 450 metres from the subject property.

Desjardines Park is an approximately 380-metre walking distance from the subject property, to the southeast. The Orchard Woodlot is located to the north, with the nearest trail access to this woodlot being an approximately 410-metre walking distance from the subject property.

Northbound and southbound bus stops are located within 50 metres of the subject property, served by Burlington Transit route 11, which provides connections to the Appleby GO Station and the Dundas Street-Highway 407 carpool lot, both of which are serviced by GO Transit, Burlington Transit, and Oakville Transit.

Description of Applications

The applications propose to amend the Official Plan and Zoning Bylaw to permit the development of two 20-storey residential towers connected by a shared 6-storey podium with retail at grade. The residential building use is permitted, and the Official Plan and Zoning By-law Amendments are requested for the proposed increases in density, Floor Area Ratio, and height, as well as a reduction in parking.

The proposed development includes 475 residential condominium units and 871m² of at-grade retail space. 502 vehicular parking spaces and 304 bicycle parking spaces are proposed within three storeys of underground parking and a surface parking area. Vehicle access is proposed via two driveways: one on Appleby Line and one on Upper Middle Road. Amenity space is proposed at the 7th storey within two indoor spaces (275m² in each tower) and one outdoor space (413m²) on the roof of the podium.

Application materials are posted on the City's Development Project webpage at www.burlington.ca/1989appleby.

Supporting Documents

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

1. [Architectural Plans](#) (May 2022)
2. [Burlington Urban Design Advisory Panel Meeting Minutes](#) (April 2022)
3. [Construction Management and Mobility Plan](#) (May 2022)
4. [Cover Letter](#) (June 2022)
5. [Draft Reference Plan](#) (September 2021)

6. [Engineering Plans \(Grading and Servicing\)](#) (May 2022)
7. [Environmental Noise and Vibration Feasibility Study](#) (May 2022)
8. [Environmental Site Assessment Consultant Letter of Reliance](#) (July 2022)
9. [Environmental Site Screening Checklist](#) (June 2022)
10. [Functional Servicing and Stormwater Management Report](#) (May 2022)
11. [Geotechnical Report](#) (May 2022)
12. [Housing Impact Statement](#) (May 2022)
13. [Hydrogeological Investigation](#) (May 2022)
14. [Landscape Concept Plan](#) (May 2022)
15. [Sustainable Building and Development Chart](#) (June 2022)
16. [Pedestrian Wind Study](#) (May 2022)
17. [Phase One Environmental Site Assessment](#) (July 2022)
18. [Phase Two Environmental Site Assessment](#) (July 2022)
19. [Planning Justification Report](#) (May 2022)
20. [Shadow Study](#) (May 2022)
21. [Topographical Survey](#) (September 2021)
22. [Transportation Impact and Parking Study](#) (May 2022)
23. [Tree Inventory and Preservation Plan Report](#) (June 2022)
24. [Urban Design Brief](#) (May 2022)
25. [Waste Management Plan](#)
26. Title Search and PIN Report

Application materials are posted on the City's website at www.burlington.ca/1989appleby.

Strategy/process

This section provides information on staff's ongoing review of the subject applications, including the applicable policy framework, and the comments received to date from technical reviewers and members of the public.

Policy Framework

The subject applications are subject to the policy framework described below.

Provincial Policy Statement (2020)

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

The PPS promotes the achievement of healthy, livable, and safe communities through various means including by promoting efficient development and land use patterns; accommodating an appropriate and market-based mix of land uses; preparing for the regional and local impacts of a changing climate; and promoting the integration of land use planning, growth management, transit-supportive development, intensification, and infrastructure planning to achieve cost-effective development patterns, optimization of transit investments, and standards to minimize land consumption and servicing costs.

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

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

The Growth Plan is intended to support the achievement of complete communities with access to transit networks, protected employment zones, and an increase in the amount and variety of housing available. The Growth Plan also envisions a healthy natural environment and agricultural lands, which will contribute to the region’s resilience and our ability to adapt to a changing climate. To accomplish its vision, the Growth Plan establishes policies regarding how land is developed, resources are managed and protected, and public dollars are invested.

Halton Region Official Plan

The Halton Region Official Plan (ROP) outlines a long-term vision for Halton’s physical form and community character. To achieve that vision, the ROP identifies an Urban Area and a Regional Urban Structure that are intended to manage growth in a manner that fosters complete communities, enhance mobility across Halton, address climate change, and improve housing affordability, sustainability, and economic prosperity. All planning decisions in Halton Region, which includes the City of Burlington, must conform to the ROP.

Regional Official Plan Amendment (ROPA) 48 was approved by the Minister of Municipal Affairs and Housing on November 10, 2021. This amendment is the first amendment to be advanced as part of the Regional Official Plan Review under section 26 of the Planning Act. ROPA 48 defines specific elements of a Regional Urban Structure including Strategic Growth Areas.

The subject property is located within Burlington’s Uptown Urban Centre. Map 1H “Regional Urban Structure” of the ROP, as amended by ROPA 48, identifies the Burlington Uptown Urban Centre as a Primary Regional Node. Primary Regional Nodes are “planned to accommodate growth and contain a concentration of public service facilities or transit-supportive high-density mixed uses, or which perform a regional transit network function at a scale appropriate for their context” (ROP 82.1.1). The policies of ROPA 48 are in effect and not subject to appeal.

ROPA 49 is the second amendment to be advanced as part of the Regional Official Plan Review. ROPA 49 was adopted by Regional Council on June 15, 2022 and is now with the Minister of Municipal Affairs and Housing for a decision. The purpose of ROPA 49 is to implement the results of the Region's Integrated Growth Management Strategy (IGMS), which considered how to accommodate growth in Halton to the year 2051. ROPA 49 also updates policies and mapping related to the Regional Urban Structure and Strategic Growth Areas. One of these changes is the reclassification of the Burlington Uptown Urban Centre as a Secondary Regional Node, whereas ROPA 48 had identified this area as a Primary Regional Node. As a Secondary Regional Node, the Burlington Uptown Urban Centre is intended to be a focus for growth through mixed-use intensification at a scale appropriate for its context. The policies of ROPA 49 have not taken effect, as the Minister has not yet issued a decision on this amendment to the ROP.

City of Burlington Official Plan (1997, as amended)

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

As shown on Schedule B of the OP, the subject property is located within the Uptown Mixed-Use Centre. Within the Uptown Mixed-Use Centre, the subject property is designated "Uptown Commercial/Residential I", as shown on Schedule F of the OP. This designation permits mixed-use development with a maximum building height of 35 metres and a maximum Floor Area Ratio of 2.5:1. Retail and service commercial uses are required on the ground floor along Appleby Line, and residential uses are to be located in the upper storeys.

The applicant proposes to amend the Official Plan (1997) to create a site-specific policy that permits mixed-use development on the subject property with a maximum building height of 70.5m and a maximum Floor Area Ratio of 5.7:1.

City of Burlington New Official Plan (2020)

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

The new OP outlines a long-term vision of the community and quality of life for Burlington residents through statements of objectives and policies. The new OP provides policy direction to both the public and private sectors on land use,

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

As shown on Schedule C of the new OP, the subject property is located within the Uptown Urban Centre. Within the Urban Centre, the subject property is designated as “Uptown Core”, as shown on Schedule E, Land Use – Uptown Urban Centre, of the new OP. The Uptown Core designation permits mixed-use development with a maximum building height of 20 storeys and a maximum Floor Area Ratio of 3.5:1. This designation permits residential, retail and service commercial, office, entertainment, recreation, hotel, and live/work uses.

As shown on Schedule B-1, “Growth Framework”, of the new OP, the subject property is located within a Primary Growth Area. Primary Growth Areas are planned to accommodate 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 be priority locations for investments in transit as well as other types of infrastructure and public service facilities, including parks, to support population and employment growth. Primary Growth Areas shall support the frequent transit corridors and accommodate development that is compact, mixed-use, and pedestrian-oriented in nature.

Zoning By-law 2020

The City’s Zoning By-law zones the subject property as UCR1-274 (Uptown Commercial/Residential I, with Exception 274). The UCR1 zone permits mixed-use development with a maximum building height of 35 metres, a maximum Floor Area Ratio of 2.5:1, and a maximum density of 185 units per hectare. Exception 274 contains site-specific regulations that relate to the existing gas station (motor vehicle service station) on the property. These existing zoning regulations conform to the Official Plan (1997, as amended).

The applicant proposes to amend the Zoning Bylaw to rezone the site to UCR1-XXX, creating a new site-specific exception (-XXX) that permits development with a maximum building height of 70.5m, a maximum Floor Area Ratio of 5.7:1, a maximum density of 800 units per hectare, reduced parking requirements, and other site-specific regulations to permit the proposed development.

Table 1 below summarizes the site-specific regulations that have been requested by the applicant, in comparison to the base requirements set out in the UCR1 zone. Exception 274 is not referenced in Table 1 as its regulations are specific to the existing motor vehicle service station on the site.

Table 1: Summary of site-specific regulations requested by applicant, compared to UCR1 zone regulations

	UCR1 zone requirements	Site-specific regulations requested by applicant
Maximum building height	35 metres	70.5 metres
Maximum Floor Area Ratio	2.5:1	5.7:1
Maximum density	185 units per hectare	800 units per hectare
Yard abutting a pipeline easement	7 metres	0 metres
Minimum amenity area	20 m2 per apartment unit	9 m2 per apartment unit
Minimum parking supply for apartment occupants	1.25 spaces per one-bedroom unit 1.5 spaces per two-bedroom unit 1.75 spaces per three or more bedroom unit	0.75 parking spaces per apartment unit
Minimum parking supply for visitors and for retail/service commercial uses	Visitor: 0 spaces Retail/Service Commercial uses: 5 spaces per 100 m2 of gross retail/service commercial floor area	0.12 spaces per apartment unit (shared for visitors and for retail/service commercial)
Minimum setback for below-grade parking structure	3 metres	0.1 metres (front setback) 2.7 metres (rear and side setback)

As of the time of writing this report, Zoning staff have not yet completed their review of the subject applications. Through their ongoing review of the applications, Zoning staff will confirm the extent of zoning conformity issues and the detailed amendments to the Zoning By-law that would be required to permit the proposed development. A future recommendation report will describe all zoning conformity matters and the required Zoning By-law amendments.

Urban Design Guidelines

The proposed development is subject to the following Council-approved urban design guidelines:

- Tall Building Guidelines (2017)
- Uptown Mixed-Use Centre Urban Design Guidelines (1994)
- Shadow Study Guidelines and Terms of Reference (2020)

- Pedestrian-Level Wind Study Guidelines and Terms of Reference (2020)
- Sustainable Building and Development Guidelines (2021)
- Stormwater Management Design Guidelines (2020)

The subsequent recommendation report will include an assessment of the proposed development against the applicable urban design guidelines.

Technical Comments

A request for comments has been circulated to external agencies and relevant City departments. A future recommendation report will provide a summary of technical comments received.

Public Comments

Members of the public who wish to provide comments on the subject applications should submit their written comments to the Planner on file, using the contact information provided at www.burlington.ca/1989appleby. Public input will be considered by staff in the review of the subject applications.

As of August 19, 2022, Planning staff have received written comments via email from three members of the public. These comments are appended in Appendix B of this report. Concerns expressed in these comments are summarized in Table 2 below.

Any written submissions received after August 19, 2022 will be appended to a future staff report for consideration by Council.

Table 2: Summary of public comments received by Planning staff as of August 19, 2022

Row #	Public comment theme	Staff response
1	<u>Traffic congestion</u> Concerns were expressed that the proposed development would cause traffic congestion problems, particularly in relation to the intersection of Appleby Line and Upper Middle Road	A Transportation Impact and Parking Study was submitted with the applications and is available online at www.burlington.ca/1989appleby . This study will be reviewed by Transportation staff at the City and at Halton Region.
2	<u>Parking Impacts</u> Concerns were expressed about the availability of parking and the potential for customers to be driven away from local businesses if there	A Transportation Impact and Parking Study was submitted with the applications and is available online at www.burlington.ca/1989appleby . This study will be reviewed by Transportation staff at the City and at Halton Region.

	is insufficient parking in the area	
3	<u>Density</u> Some concerns expressed that the proposed development may contribute to the area becoming overpopulated beyond the capacity of what local businesses and services can accommodate	The subject property is located within Burlington's Uptown Urban Centre, which is identified in the City's new Official Plan as a Primary Growth Area, and in the Halton Region Official Plan as a Strategic Growth Area. Accordingly, this area is planned to experience growth over the coming decades. With this in mind, planning staff at the City and Halton Region will review the subject applications and determine whether the proposed level of density is appropriate for the subject property.
4	<u>Shadow Impacts</u> One commenter raised concerns about shadow impacts from the proposed development on neighbouring properties, including impacts on an existing solar panel array on a neighbouring property	A Shadow Study was submitted with the subject applications and is available online at www.burlington.ca/1989appleby . Planning staff at the City will review this study in accordance with the City's Shadow Study Guidelines and Terms of Reference.
5	<u>Impacts to neighbouring property values</u>	Property values are not a planning consideration.

Financial Matters:

All application fees have been received in accordance with the Development Application Fee Schedule.

Climate Implications

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

Engagement Matters:

A virtual Pre-Application Community Consultation Meeting was held by the applicant on April 4, 2022. This meeting was attended by approximately 50 members of the public as well as by City staff, Mayor Marianne Meed Ward, and ward 5 Councillor Paul Sharman. At this meeting, the applicant sought feedback from the public on the proposed development.

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

- A webpage with information about the subject applications was published on the City's website at www.burlington.ca/1989appleby;
- Notice signs were erected on the subject property in August 2022;
- A notice was mailed to all property owners and tenants within 120 metres of the subject property (a total of 878 addressees) on August 11, 2022;
- A Statutory Public Meeting will be held on September 13, 2022. This report has provided information about the subject applications to inform discussion at the Statutory Public Meeting.
- Notice of the Statutory Public Meeting was published in the City Update section of the Burlington Post on August 18, 2022. Notice of the meeting was also posted on the website and sent by mail to owners and tenants within 120 metres of the subject property.

Interested members of the public can continue to provide written comments to City staff using the contact information provided on the webpage linked above or by contacting the Community Planning Department.

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

Conclusion:

This report provides a description of the subject applications, an update on the technical review that is underway, and a summary of technical and public comments received to date. Planning staff recommend that Council direct staff to continue to process the subject applications for 1989 Appleby Line in an effort to bring forward a subsequent recommendation report.

Respectfully submitted,

Thomas Douglas MCIP RPP

Senior Planner

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Appendices:

- A. Zoning and Concept Plans
- B. Public Comments

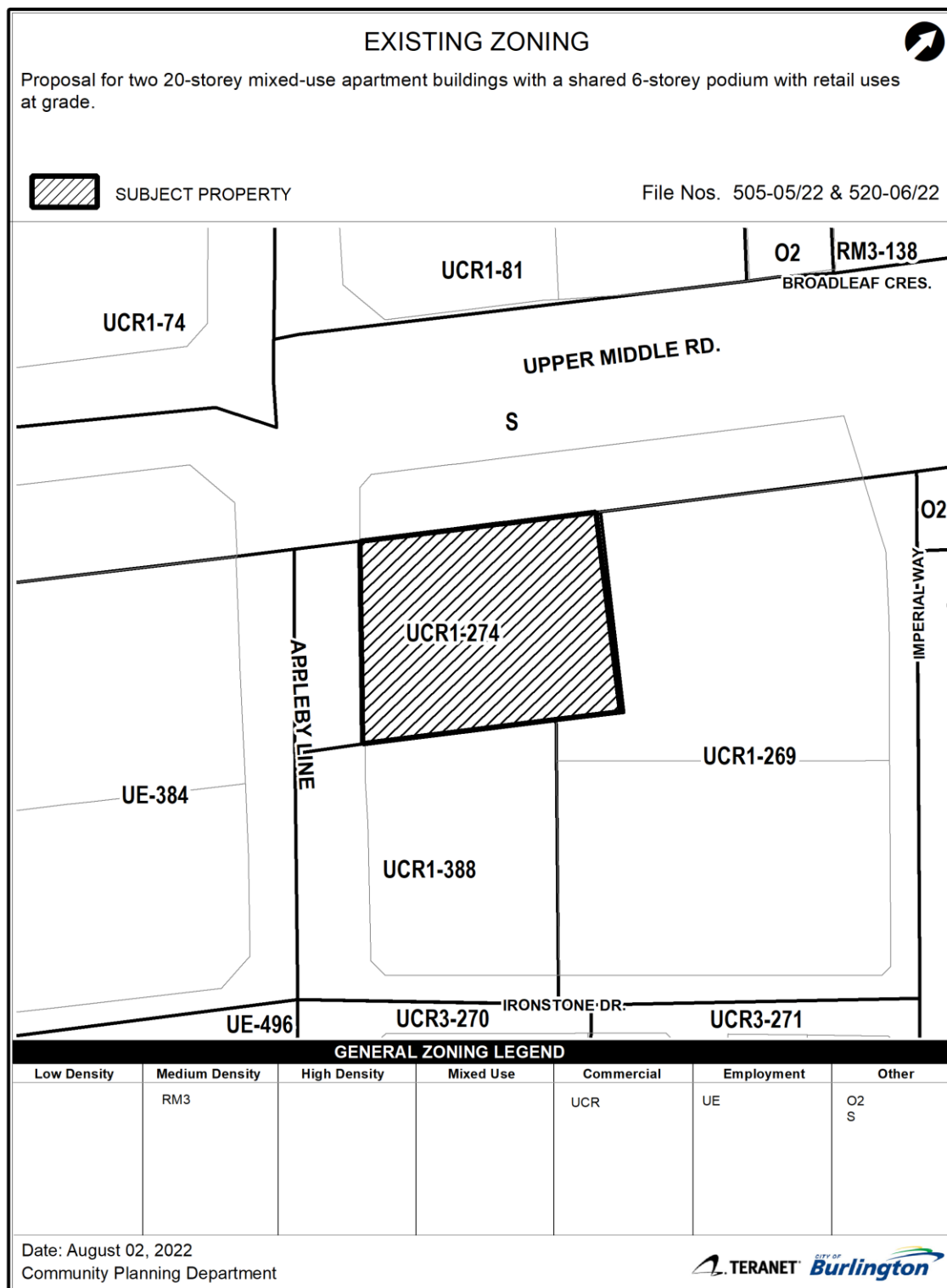
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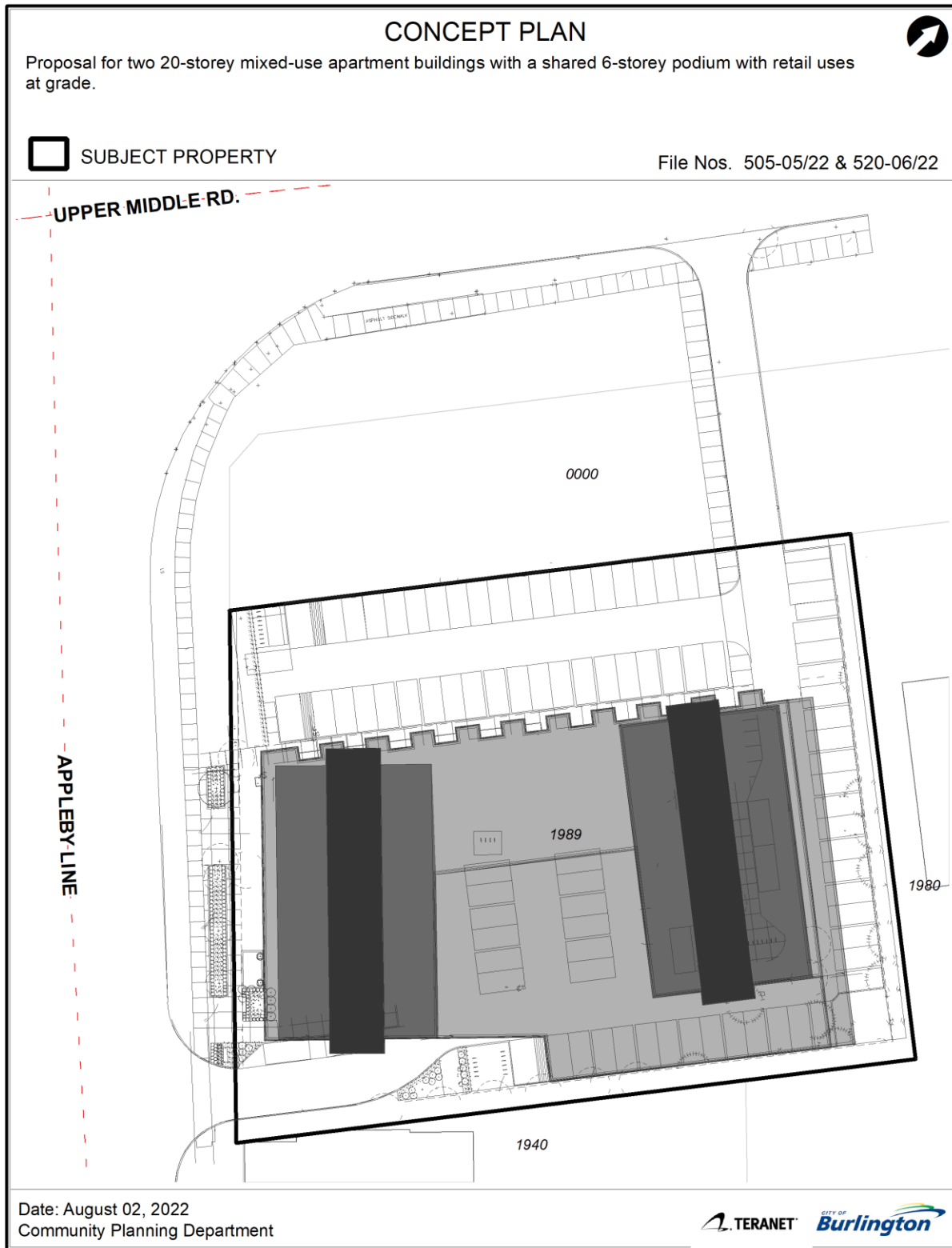
1989 Appleby Latch GP Inc. c/o Marc Nufrio
MHBC Planning c/o Gerry Tchisler

Report Approval:

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

Appendix A: Zoning and Concept Plans





Appendix B: Public Comments

Comment 1

From: Jessica Paiva

Date: August 16, 2022

To whom it may concern,

I feel it is important as a resident of the corporate area to share my thoughts regarding the proposed plans for 1989 Appleby Line.

To keep this short and simple, this proposal is completely and utterly absurd. The Appleby area around Upper Middle Road is already a disaster when it comes to traffic. The area is also already a nightmare for street parking. Appleby and Uppermiddle is becoming so overly populated that traffic is beginning to be atrocious and parking is a complete nightmare.

Many people rave about the Appleby and upper middle intersection because of the options it holds in terms of food, coffee and bakeries. People come from all around Burlington to enjoy dinners at industria or turtle jacks or anchor bar and other establishments in the area. I know people who travel from Oakville to come here because of the diversity of options this area holds.

By continuing to build high density buildings in this type of area, it would be completely destroying the culture that Appleby and upper middle has obtained. You would be over populating the already too populated area and deterring people from traveling to this area because of the chaos and traffic this proposal would create.

I highly ask that this proposal is carefully thought out because if this were to pass, it would be a sad day for the Appleby and upper middle area as well as the current residents and outside travellers who often visit the popular area.

The intersection is perfect the way it is with easy access to the gas station for everyone traveling in that area with the convenience of the Tim Hortons for people in the area to enjoy and completed with the abundance of other businesses close by.

I highly urge you to reconsider this proposal and vision what it would do to such a popular area

Thank you for your support,

Jessica Paiva

Comment 2

From: Mark Marot

Date: August 18, 2022

Good Day

I am writing to voice my displeasure at the idea of the above names plans. I specifically moved into the area which I believed to be well developed and suitable for someone during their retirement years. I live at [REDACTED] and feel strongly that the above numbered development would yield the below effects:

- Drastic effect on our buildings ability to capture Solar power as per Applby Woods plan
- Drastically reduce the afternoon sunlight to adjacent buildings
- Drastically increase an already busy intersection with regards to traffic
- Drastically overcrowd local businesses and service facilities
- Drastically decrease the appeal for retirees to come to the area
- Drastically reduce the current and future values of already existing condo buildings in that intersection

If the area does need to develop, why not select an existing open piece of land that would not add to more congestion.

I hope this plan does not get approved.

Kind regards

Mark Marot

Comment 3

From: Diana Exner

Date: August 19, 2022

Thomas

My husband and I are not in favor of this project. We live at [REDACTED] and have been here since 2007.

Over the years numerous condos/retirement buildings have been built in the vicinity. The congestion is already problematic.

The addition of this project would compound the issue tremendously.

If this project proceeds, we would seriously considering moving.

Thank you.

Diana Exner