

Appendix B of Staff Memo dated June 18, 2024: Staff Responses and proposed policy modifications to submissions received.

The following is a summary of submissions received between May 29 to up to and including the June 11th Statutory Public Meeting related to the Official Plan Amendment 2 (OPA No. 2).

As noted in the staff memo, some submissions included comments on the CPP By-law that will be responded to at a later date.

Submission	OPA related Comments	CPP By-law related Comments
Sarah Turney, Faskin on behalf of Brant-Plains Holdings Letter dated June 7 Delegation on June 11 Statutory Public Meeting		X
Michelle Diplock, WEHBA Delegation on June 11 Statutory Public Meeting		X
Martin Quarcoopome, Weston Letter dated June 7 Delegation on June 11 Statutory Public Meeting	X	X
Adam Layton, Goldberg Group (141-153 Plains Road W.) Letter dated June 7 Delegation on June 11 Statutory Public Meeting		X
Arun Anand, Infinity Development Group Delegation on June 11 Statutory Public Meeting		X
Noah MacLaren, MHBC for Lafarge Canada Inc. (800 Appleby Line) Letter dated June 7	X	X
Kevin Nunn, Weston for Rosseau Development Corp (849 and 855 Brant St.) Email on May 30		X
Nanni Bucci, Brant Cycle 892 Brant Street Letter dated May 31		X
Cindy Powell	X	X
Rick and Julie		X
Conservation Halton Letter dated June 6		X

Submission	OPA related Comments	CPP By-law related Comments
Alinea (4450, 4480 and 4500 Paletta Court) Letter dated June 10	X	X
Patrick Duffy, Stikeman Elliot for Sofina Foods Inc. (821 Appleby Line) Letter dated June 10		X
Denise Baker, Weirfoulds for 1602211 Ontario Limited, Branthaven 735 Oval Inc, Branthaven 740 Oval Inc., S&G Consulting Inc., 5135 Fairview Holdings Inc and Branthaven Development Corporation Letter dated June 10	X	
David Aston and Stephanie Mirtitsch, MHBC For Losani Homes (127 Plains Road W.) Letter dated June 10		X
David Falletta, Bousfields Inc. for 1000555724 Ontario Inc.; 2731115 Ontario Inc.; F. K Deals on Wheels Inc.; 2731119 Ontario Inc.; and Manor Care Homes Inc. (1376 and 1382 Plains Road East) Letter dated June 10 Delegation on June 11 Statutory Public Meeting	X	X
Oz Kemal, MHBC for Wal-Mart Canada Corp. (2065 Fairview Street) Letter dated June 10	X	X
Dr. Michael Shih, Emshih Developments Inc. Letter dated June 10	X	X
Wayne Coutinho, Korsiak Urban Planning for 546636 Ontario Inc., P & L Livestock Limited, 2362302 Ontario Inc., and 546636 Ontario Limited (4415 Fairview Street, 4445 Fairview Street, 4460 – 4490 Fairview Street and 666 – 676 Appleby Line, and 750 Appleby Line) Letter dated June 10	X	X
Denise Baker, Weirfoulds LLP for Camarro Developments Inc., (789-795 Brant Street) Letter dated June 10	X	X
Denise Baker, Weirfoulds LLP for Camarro Developments Inc., (1062 and 1074 Cooke Boulevard) Letter dated June 10	X	X

Submission	OPA related Comments	CPP By-law related Comments
Denise Baker, Weirfoulds LLP for Bull Moose Tube Limited (2170 Queensway Drive) Letter dated June 10	X	X
David Bronskill, Goodmans LLP for Presidio Construction Limited (c/o the Remington Group) – 5200 Harvester Road Letter dated June 10	X	X

Comments related to only recommended OPA No.2 received between May 29 to June 11 and staff response

Submission	Comments/Issue	Staff Response	Changes made to OPA2
<p>Martin Quarcoopome, Weston on behalf of Valour Capital (5041 Fairview St.)</p> <p>Letter dated June 7</p> <p>Delegation on June 11</p>	<p>Concerns regarding the Tertiary Plan implementation policies within OPA 2. While OPA2 does provide policies for managing non-participating landowners and to waive the need for a tertiary plan for proposed development, Valour is of the opinion that these policies should be reinforced given the size and context of their lands. 5041 Fairview Street is a small parcel of the Tertiary Planning Area compared to the other properties, fronts directly onto Fairview St and has access to available servicing. This should be taken into consideration when development applications are filed with the City. It is recommended that the mandate for Tertiary Planning not be applied for smaller properties under 1 ha. as long as the items outlined in Section 8.1.2 (10.1.1) are satisfactorily addressed.</p>	<p>The intent of tertiary planning is to ensure the collaboration, coordination and shared delivery of identified key infrastructure elements such as streets, parks and open spaces, public realm and streetscapes and public service facilities. In the tertiary planning areas, OPA 2 (Section 8.1.2(10.1) has identified a number of community elements that must be considered in a Tertiary Plan including location of new public parks, new transportation connections, public service facilities and others.</p> <p>Tertiary planning is important to ensure that the costs and phasing associated with the provision of parkland, parking, infrastructure and servicing are distributed in an equitable and fair manner among the landowner and is coordinated among multiple landowners in an urban, intensification context.</p> <p>Section 8.1.2 (10.1) in OPA 2 includes the following policies to provide flexibility:</p> <p style="padding-left: 40px;">d) that if the landowners can demonstrate that proposed development is delivering on elements achieved elsewhere, City may consider waiving.</p>	<p>No changes made to OPA 2</p>

Submission	Comments/Issue	Staff Response	Changes made to OPA2
		i) Landowners are encouraged to work together to complete a Tertiary Plan, however, an individual landowner may complete entire plan if other landowners decide not to participate	
Noah MacLaren and Dana Anderson, MHBC for Lafarge Canada Inc. (800 Appleby Line) Letter dated June 7	Recommendation for further edit to 8.1.2(6) (b) of OPA2: b) Where avoidance is not possible, development containing sensitive land uses shall demonstrate how land use compatibility has been evaluated and addressed through a Land Use Compatibility Screening Assessment and where required, a Land Use Compatibility Study in accordance with 8.1.2(6) c). Development of new sensitive land uses shall only be permitted where the impacts to existing and planned industrial, manufacturing or other major facilities and potential new major facilities, as permitted through the Community Planning Permit By-law, have been minimized and mitigated to the satisfaction of the City.	Updated as recommended to add the words “and planned”.	Section 8.1.2(6) (b) of the revised recommended OPA 2 in Appendix A of Staff Memo dated June 18, 2024, has been revised to include the words “and planned” to b).
Cindy Powell	Concerns with proposed growth. Appleby GO MTSA cannot support such growth and the infrastructure is not in place. Traffic studies of the present flow would show it is in gridlock most of the time.	Comments have been noted. OPA 2 and the CPP By-law is being implemented in conformity with Regional Official Plan Amendment 48. The Minister	No change to OPA 2

Submission	Comments/Issue	Staff Response	Changes made to OPA2
	<p>Stress that we should be meaning open space and plazas for resident's quality of life.</p> <p>Concerned about affordable housing and rental.</p> <p>Requests that staff will reconsider downsizing some of the MTSAs in order to limit the impact on the community.</p>	<p>of Municipal Affairs and Housing approved ROPA 48 in 2021.</p> <p>ROPA 48 identified the Protected MTSA boundaries and minimum density targets, and proportional resident and job targets that municipalities are required to plan as established in the Province's Growth Plan. The targets are minimums.</p>	
<p>Alinea (4450, 4480 and 4500 Paletta Court) Letter dated June 10</p>	<p>Concerned with Off-Street Trail proposed through the subject lands. Does not align with the conditionally approved site plan and cannot support.</p>	<p>An Off-Street Trail is shown on Schedule H-1 (Appleby MTSA Transportation Network) in OPA 2 to help enhanced connectivity in the area and create an active transportation connection between Zelco Drive and Appleby Line which is identified as a higher order transit corridor in regional studies.</p> <p>Staff have further clarified that Off-street Trails are conceptual.</p>	<p>Section 8.1.2 (5.2) b) and Section 8.1.2 (5.4) b) of the revised recommended OPA 2 in Appendix A of Staff Memo dated June 18, 2024, has been revised to include the words "off-street trail"</p>
<p>Denise Baker, Weirfoulds for 1602211 Ontario Limited, Branthaven 735 Oval Inc, Branthaven 740 Oval Inc., S&G Consulting Inc., 5135 Fairview Holdings Inc and</p>	<p>For clarity, it is recommended that the exemption be included in two locations within OPA 2. The first is within Section 12.1.14 which sets out the Major Transit Station Area CPP policies as a new section (u), and the second is within Section 8.1.2 Major Transit Station Area policies as a new paragraph in that section. It is requested that that a new policy be added in those locations</p>	<p>New language added.</p>	<p>Section 12.1.14 (3) v) and 8.1.2 (4.2) g) [new] of the revised recommended OPA 2 in Appendix A of Staff Memo dated June 18, 2024 has been revised to exclude the lands at 720,735,740 Oval Court and 5135, 5155 Fairview</p>

Submission	Comments/Issue	Staff Response	Changes made to OPA2
<p>Branthaven Development Corporation</p> <p>Letter dated June 10</p>	<p>which states:</p> <p><i>The lands at 720, 735, 740 Oval Court and 5135, 5155 Fairview are exempt from the Community Planning Permit policies and any Official Plan policies to be implemented through the Community Planning Permit process.</i></p>		<p>from any OPA 2 policies and the CPP By-law.</p>
	<p>We also note that OPA 2 does not incorporate the approved site specific Official Plan policies set out within our Minutes of Settlement. It is our opinion that the site specific Official Plan amendment for the Lands should be incorporated into OPA 2 at this time and not have to wait for a subsequent Official Plan amendment process.</p>	<p>As per the Minutes of Settlement for these lands, policy language has been incorporated into OPA 2 to exclude these lands from OPA 2 and the CPP By-law. The incorporation of the site-specific policies as outlined in the Minutes of Settlement to the City's 1997 Official Plan will be incorporated by modification through a future city-led process.</p>	<p>No change to OPA 2.</p>
<p>David Falletta, Bousfields Inc. for 1000555724 Ontario Inc.; 2731115 Ontario Inc.; F. K Deals on Wheels Inc.; 2731119 Ontario Inc.; and Manor Care Homes Inc. (1376 and 1382 Plains Road East)</p> <p>Letter dated June 10 Delegation on June 11</p>	<p>Do not believe the Mid-Rise Residential designation appropriate reflects the provincial direction that greater levels of intensification should be directed to MTSA's, which are intended to be developed at higher densities than lands outside of the MTSA area.</p> <p>The Mid-Rise Residential designation should be modified to permit tall buildings of up to 20 storeys on the subject site, subject to City Staff review and CPP By-law regulations.</p>	<p>Heights have not been included in OPA 2. The maximum heights for Class 1 and 2 applications in the CPP By-law reflect the overall vision of highest heights generally closest to the GO Station and transitioning down to the edges of the MTSA boundaries. These heights have also been envisioned and informed by extensive community engagement since the start of the MTSA Project and supported by Council through the Recommended Preferred Precinct Plans as presented in Interim Report (2022) and the MTSA ASP Study &</p>	<p>No change to OPA 2</p>

Submission	Comments/Issue	Staff Response	Changes made to OPA2
		<p>Final Report (2022).</p> <p>Through a Class 3 Community Planning Permit application, there is the ability for applicants to propose heights above Class 1 and 2 limits. Since OPA 2 does not include maximum heights, heights above a Class 1 and 2 will not require an OPA. The Community Planning Permit By-law has identified that a Class 3 height variation will be subject to City Council approval. As with all CPP applications, the application will be processed within 45 days and the provision of services, facilities and matters proportionate to the proposed height will be required, in accordance with the CPP By-law.</p> <p>Staff also note that there will be continued opportunity to discuss through further consultation on the CPP By-law, specifically as it relates to Class 1 and Class 2 permit structure.</p>	
<p>Oz Kemal, MHBC for Wal-Mart Canada Corp. (2065 Fairview Street)</p> <p>Letter dated June 10</p>	<p>Permitted Uses</p> <p>Given that Wal-Mart has operated its commercial use on Fairview Street for the past two decades, OPA 2 does not contain any supportive policies that support and maintain such established economic uses.</p>	<p>New subsection e) has been included in 8.1.2(2.1), 8.1.2 (3.2) and 8.1.2 (4.2) f) to recognize existing uses remain as permitted from the date of the enactment of OPA 2.</p>	<p>New subsection e) in 8.1.2(2.2), 8.1.2 (3.2) and 8.1.2 (4.2) f) of the revised recommended OPA 2 in Appendix A of Staff Memo dated June</p>

Submission	Comments/Issue	Staff Response	Changes made to OPA2
	<p>The proposed OPA 2 recommends the repealing of, and replacement of section 12.1.14 of the new City of Burlington Official Plan that is currently before the Ontario Land Tribunal. Within the proposed amendment, s.12.1.14(h) states that the CPP By-law “may” outline provisions for the issuance of a permit for the extension/enlargement of a non-conforming use, building or structure as a discretionary use subject to the policies of OPA 2 and the criteria set out in the CPP By-law. Proposed policy 12.1.14.h should be deleted and replaced with a policy that recognizes the continuation of Wal-Mart’s commercial use, such as:</p> <p>“notwithstanding 8.1.2(2.1)d) and 8.1.2(2.1)e) regarding minimum density and minimum floor area ratio for the Downtown Burlington UBC/Burlington GO MTSA, existing uses as of the date of enactment this OPA will remain as permitted uses, and nothing in this Plan shall prevent the use, replacement, extension, or enlargement of a lawfully existing use of land, buildings or structures which lawfully existed on the date of the approval of this Plan.”</p>		<p>18, 2024 has been included as follows:</p> <p>e) <u>The enlargement or extension of a legal non-conforming use shall be permitted provided that the expansion or enlargement is used in the same manner and for the same purpose as it was used on the day OPA 2 was passed or is more compatible with the uses permitted.</u></p>
	<p>Shared Distribution of Responsibility As the Wal-Mart lands are not within the required area for Tertiary Planning that requires the preparation amongst landowners for a cost-sharing agreement under Tertiary Plans Policies, s.8.1.2(10.1.1)</p>	<p>The word “where applicable” has been added to policy 8.1.2 (8.1) d) to reflect that some sites may not have elements such a new public streets or new parks shared with other landowners and may not be required to pursue a shared</p>	<p>See revised policy 8.1.2 (8.1) d) of the revised recommended OPA 2 in Appendix A of Staff Memo dated June 18, 2024.</p>

Submission	Comments/Issue	Staff Response	Changes made to OPA2
	<p>c), the OPA 2, s.8.1.2(8.1)d) Public Realm policy, indicates that, “shared distribution of the responsibility among landowners to provide street infrastructure, active transportation connections and parks to contribute to the public realm is required through the comprehensive planning of contiguous lots based on good planning principles.” This policy is unclear regarding what ‘shared distribution’ means, therefore it is recommended that this policy be further clarified as to how the coordination and cost share for roads and parks shall be determined.</p>	<p>distribution of responsibility with other landowners.</p>	
<p>Dr. Michael Shih, Emshih Developments Inc.</p> <p>Letter dated June 10</p>	<p>Concerned with the north-south linear park identified on Schedule G in OPA2 and Schedule C-4 in the CPP By-law. Request that the linear park be removed.</p>	<p>A Potential Linear Park and Greenway was identified on Schedule G in the draft OPA2 released in October 2023 and also shown on the Public Realm and Active Transportation Plan in the draft CPP By-law (previously shown on Figure 2a in the draft October 2023 version).</p> <p>The Potential Linear Park and Greenway continues to be shown on Schedule G in OPA 2 and Schedule C-4 in the CPP By-law to help enhance connectivity in the area and connect to the Potential Linear Park and Greenway located east-west along the identified Masonry Court extension street between Howard Road and Waterdown Road.</p>	<p>No change to OPA 2.</p>

Submission	Comments/Issue	Staff Response	Changes made to OPA2
		<p>Staff note that OPA 2 contains the following policy 8.1.2 (8.5) to clarify that the specific location, size and function will be established through a Community Planning permit application or tertiary planning process:</p> <p>b) New parks shall be designed and planned within the areas generally shown as the “New Park” and “Potential Linear Park & Greenway” symbols on Schedule F: Land Use- Downtown Burlington Urban Growth Centre/Burlington GO Major Transit Station Area, Schedule G: Land Use- Aldershot GO Major Transit Station Area and Schedule H: Land Use- Appleby GO Major Transit Station Area, of this Plan. The specific location, size and function of a park shall be established through a Community Planning Permit application process or through a Tertiary Plan as set out in Section 8.1.2 (10.1) of this Plan and in accordance with other City plans.</p>	

Submission	Comments/Issue	Staff Response	Changes made to OPA2
<p>Wayne Coutinho, Korsiak Urban Planning for 546636 Ontario Inc., P & L Livestock Limited, 2362302 Ontario Inc., and 546636 Ontario Limited (4415 Fairview Street, 4445 Fairview Street, 4460 – 4490 Fairview Street and 666 – 676 Appleby Line, and 750 Appleby Line)</p> <p>Letter dated June 10</p>	<p>MIN. Densities: The minimum densities proposed in the MTSA-ASP are area wide and are not specific to proposed precincts, nor does it differentiate between north and south area of the MTSA divided by the rail corridor. These minimum densities are very low for Appleby GO MTSA, which does not adequately support intensification of a MTSA as intended by the Government of Ontario and is reflected in the Halton Region Official Plan (ROPA 48).</p> <p>• 8.1.2 (4.1) b)c)d) - MIN Density Targets of 120 residents and jobs per HA</p> <p>Ratio of Jobs to People: The proposed ratio of people and jobs does not support increased density and intensification within the Appleby GO MTSA, south of the Rail Corridor as intended in Provincial Growth Plan and ROPA 48. A suggestion would be to have different ratios for lands to the south similar to Aldershot GO MTSA at 80% people and 20% jobs.</p> <p>• 8.1.2 (4.1) d) - Appleby GO MTSA = 40% people and 60% jobs</p>	<p>OPA 2 and the CPP By-law is being implemented in conformity with Regional Official Plan Amendment 48. The Minister of Municipal Affairs and Housing approved ROPA 48 in 2021 which identified an alternative target for the Appleby GO MTSA per Provincial policy direction (Growth Plan). ROPA 48 identified the Protected MTSA boundaries and minimum density targets, and proportional resident and job targets that municipalities are required to plan to achieve. The targets are minimums and subject to ongoing monitoring.</p> <p>A Class 3 CPP By-law application would provide the opportunity to apply for increased height subject to Council approval, still within a 45-day approval timeline.</p> <p>Staff also note that there will be continued opportunity to discuss through further consultation on the CPP By-law, specifically as it relates to Class 1 and Class 2 permit structure.</p>	<p>No change to OPA 2.</p>

Submission	Comments/Issue	Staff Response	Changes made to OPA2
	<p>Floor Area Ratio (FAR) / Floor Space Index (FSI): The proposed OPA 2 policy states the minimum FAR or FSI is to be ensured through minimum heights established in the Draft CPP Bylaw.</p> <ul style="list-style-type: none"> • CPP Bylaw Schedules D-2 and D-3 only references MAXIMUM heights. • There are no Minimum Heights proposed or required in the Appleby GO MTSA. 	The heights identified on schedules D-2 and D-3 are maximums that can be approved through a Class 1 or 2 delegated to staff. Council can approve through a Class 3 application heights higher than what is identified on the Schedule.	Sections 8.1.2(2.1) f, 8.1.2 (3.1)f) and 8.1.2 (4.1) f) has been modified to remove the word “minimum” and replace with the word “permitted”.
	<p>O.Reg 173/16: COMMUNITY PLANNING PERMITS: The Draft OPA 2 & CPP Bylaw does not appear to meet the requirement of O.Reg 173/16 for the provision of specified facilities, services and matters in exchange for a specified height or density of development. Refer to O.Reg 173/16 sections below, which states this must be established in the Official Plan and not in a future CPP By-law.</p> <p>Conditions re official plan <i>(5) The official plan may contain policies relating to the application of paragraph 5 of subsection 4 (5), respecting conditions requiring the provision of specified facilities, services and matters in exchange for a specified height or density of development, which may be within the ranges set out under clause 4 (2) (c) or outside those ranges as set out under clause 4 (3) (f).</i></p>	<p>12.1.14(3) t) [re-lettered from s) includes the types of conditions that may form part of a decision on a Community Planning Permit Application. Subsection vii) includes a condition requiring the provision of specified facilities, services and matters in exchange for height or density as identified in the CPP by-law.</p> <p>Staff note that the O.Reg specifies clause 4(2)(c) allows for the ranges for height and density to be set out in the Community Planning Permit By-law.</p>	No change to OPA 2.
Denise Baker, Weirfoulds LLP for Camarro	It is noted that there is no site-specific exception identified for the Subject Lands. It is also noted that within the Downtown Urban Growth Centre/Burlington GO MTSA	The submission notes that the final order from the OLT is being withheld pending additional steps being taken regarding the Heritage matters. Incorporation of	No change to OPA 2.

Submission	Comments/Issue	Staff Response	Changes made to OPA2
Developments Inc., (789-795 Brant Street) Letter dated June 10	that residential uses excluding single detached dwellings, and semi-detached dwellings are permitted. The existing building at 795 Brant Street is a designated heritage building and is a single detached dwelling and therefore isn't sufficiently addressed through the permitted uses.	this site-specific exception will be done through a future city-led process following final order from the OLT.	
Denise Baker, Weirfoulds LLP for Camarro Developments Inc., (1062 and 1074 Cooke Boulevard) Letter dated June 10	In a review of the May 21, 2024 released final draft OPA 2 and CPP By-law, it is noted that there is not yet a site-specific exception for the Subject Lands as a decision has not been formally issued by the OLT. In light of the current and ongoing OLT matters, it is requested that the City of Burlington include a site-specific exception into the Official Plan and CPP By-law for the Subject Lands to ensure the settlement for the Subject Lands is properly incorporated.	The submission notes that matter is currently before the OLT and a decision has not been issued. Incorporation of this site-specific exception will be done through a future city-led process following final order from the OLT.	No change to OPA 2.
Denise Baker, Weirfoulds LLP for Bull Moose Tube Limited (2170 Queensway Drive) Letter dated June 10	Ontario Regulation 173/16 Section 3(1) of O. Reg. 173/16 requires that the council <u>shall not pass a community planning permit by-law for any area in the municipality unless, before the passing of the by-law, the official plan in effect in the municipality.</u>	At the June 11 th Committee meeting, the Report PL-03-24 recommendation to Council was amended. The recommendations continue to recommend that OPA 2 be adopted, and the record sent to the approval authority for approval. The recommendation related to the CPP By-law now states that it is to be "approved in principle". Should Council approve the amended recommendations on June 18 th , the CPP By-law will not come into effect until OPA 2 has been approved by the appropriate approval authority.	N/A

Submission	Comments/Issue	Staff Response	Changes made to OPA2
	<p>Section 3(1) of O.Reg. 173/16 (b) sets out the scope of the authority that may be delegated and any limitations on the delegation, if the council intends to delegate any authority under the community planning permit by-law; and</p> <ul style="list-style-type: none"> • It is submitted that OPA 2 does not meet this requirement. The only reference to delegation in the OPA is a reference to the CPP By-law. The purpose of OPA 2 having to set out the delegation requirements is to ensure that the CPP By-law conforms to the delegation authority identified in the Official Plan. This needs to be added to OPA 2 as it is not sufficient to only have this included in the CPP By-law. 	<p>Section 12.1.14 (3) provides the implementing policies for the Community Planning Permit By-law. This section has been updated to reflect the O.Reg 173/16.</p>	<p>Section 12.1.14 (3) m) [re-lettered] has been modified to include specific language for the delegation of approvals to and the limitations of that delegation.</p>
	<p>(c) for each proposed community planning permit area identified under clause (a), (i) contains a statement of the municipality's goals, objectives and policies in proposing a community planning permit system for the area,</p> <ul style="list-style-type: none"> • This requirement has not been met in OPA 2. There are no identified goals and objectives in OPA 2 for proposing a CPP system for each of the identified areas. It is noted that there are objectives for the MTSAs set out in 8.1.2, but that is not what is required by this section of the Regulation. Instead, the Regulation is related to the goal and objectives in order to propose a CPP 		<p>Section 12.1.14 (3) b) [new] has been included to identify the goals and objectives of a Community Planning Permit System for each of the MTSAs.</p>

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	<p>System.</p> <ul style="list-style-type: none"> • The failure to set out the goals and objectives as required by the Regulation is problematic because the criteria and conditions associated with the establishment of the CPP By-law shall be in accordance with the goals, objectives and policies described pursuant to this section of the Regulation. Therefore, if there are no goals and objectives established, it is not possible to assess whether the criteria and conditions to be set out in the CPP By-law are appropriate and therefore the CPP By-law cannot be passed by Council. <p>(ii) sets out the types of criteria that may be included in the community planning permit by-law for determining whether any class of development or any use of land may be permitted by community planning permit, and</p> <p>This requirement has not been met in OPA 2. The Regulation requires OPA 2 to set out the criteria that may be included in the CPP By-law. It is not adequate for only the CPP By-law to set out the criteria.</p>		<p></p> <p>Section 12.1.14 (3) g) [re-lettered from f) includes the criteria for determining the consideration of a discretionary use or variation to a provision in the CPP By-law.</p> <p>Section 12.1.14 (3) k) [re-lettered from j) includes an additional modification that the CPP By-law may allow for variations to a development standard subject to the criteria outlined in 12.1.14(3) g).</p>

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	<p>(iii) sets out the types of conditions that may be included in the community planning permit by-law in accordance with clause 4 (2) (i) and subsections 4 (4), (5) and (6).</p> <ul style="list-style-type: none"> • This condition is only partially met. It is acknowledged that the suggested conditions in O.Reg. 173/16 are set out in OPA 2, however O. Reg. 173/16 also states that if the City intends to use a condition which requires the provision of specified facilities, services and matters in exchange for a specified height or density of development, then the OPA has to set out policies relating to the application of paragraph 5 of subsection 5 of O. Reg. 173/16. It is submitted that OPA 2 does not meet this requirement. • In addition, it is submitted that neither OPA 2 nor the CPP By-law has established what the proportional relationship between the quantity or monetary value of the facilities services or matters that may be required and the height and density of development that may be allowed. The intention of this requirement is to provide absolute certainty to landowners as to what the cost of required facilities services or matters vis a vis the additional height requested. 		<p>Section 12.1.14 (3) t) [re-lettered from s] includes the types of conditions that a Community Planning Permit application may consider.</p>
	<p>(2) The types of criteria described in subclause (1) I (ii) and the types of conditions described in subclause (1) I (iii) shall be in accordance with the goals,</p>		<p>Section 12.1.14 (3) b) [new] has been included to identify the goals and objectives of a</p>

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	<p>objectives and policies described in subclause (1) I (i).</p> <ul style="list-style-type: none"> • As noted above, OPA 2 doesn't set out any goals or objectives as required by the Regulation and therefore it is not possible to assess the criteria and the conditions against the goals and objectives of the CPP System. 		Community Planning Permit System for each of the MTSA's.
	<p>Definitions</p> <p>With respect to the definition of development, while it is appreciated that the "removal of vegetation" is part of the definition included in O. Reg. 173/16, it is submitted that the requirement for a CPP for the removal of vegetation is far too onerous for any landowner. It is appreciated that the removal of trees has been exempted from this requirement as a result of Burlington's private tree by-law, however OPA leaves in places the need for a CPP for the removal of any other vegetation. Therefore, it is requested that, given the definition of <i>development</i> in OPA 2, a detailed list of exemptions to the mandatory requirement for a CPP for the removal of vegetation, should be added to 12.1.14 m).</p>	<p>Staff are implementing the direction of O'Reg 73/16 with respect to the definition of development.</p> <p>Staff note that 12.1.14m) ii) states that a CPP will not be required for a use or development that is explicitly listed as exempt in the CPP By-law. Section 3.2 of the CPP By-law currently exempts tree removal subject to the City's Private Tree Protection By-law from the CPP requirement, along with other exemptions. Staff will consider the suggestion to broadly exempt vegetation removal when finalizing in the CPP By-law.</p>	No change to OPA 2.
	<p>Policy 8.1.2</p> <p>Under OPA 2, the Property is designated Queensway Commons, Low to Mid-Rise Residential and Burlington GO Central. It is submitted that the westerly portion of the Property should be more appropriately designated Burlington GO Central and the southeastern portion of the property as 'Mid-</p>	<p>Heights have not been included in OPA 2. The maximum heights for Class 1 and 2 applications in the CPP By-law reflect the overall vision of highest heights generally closest to the GO Station and transitioning down to the edges of the MTSA boundaries. These heights have</p>	No change to OPA 2.

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	<p>Rise Residential' as set out on Figure 2 attached hereto, to ensure that sufficient heights and densities on the Property can be achieved to support the Property's role immediately abutting the identified Transit Station Area.</p> <p>The Property, being in the Downtown Burlington Urban Growth Centre/Burlington GO Major Transit Station Area, plays a vital role in helping the City meet its growth targets. It is of note that there are many other properties which are in close proximity to existing residential areas and are further from the Transit Station Area than the Property, which are designated for greater heights and densities than the subject Property.</p>	<p>also been envisioned and informed by extensive community engagement since the start of the MTSA Project and supported by Council through the Recommended Preferred Precinct Plans as presented in Interim Report (2022) and the MTSA ASP Study & Final Report (2022).</p> <p>Through a Class 3 Community Planning Permit application, there is the ability for applicants to propose heights above Class 1 and 2 limits. Since OPA 2 does not include maximum heights, heights above a Class 1 and 2 will not require an OPA. The Community Planning Permit By-law has identified that a Class 3 height variation will be subject to City Council approval. As with all CPP applications, the application will be processed within 45 days and the provision of services, facilities and matters proportionate to the proposed height will be required, in accordance with the CPP By-law.</p> <p>Staff also note that there will be continued opportunity to discuss through further consultation on the CPP By-law, specifically as it relates to Class 1 and Class 2 permit structure.</p>	

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	<p>With respect to policy 8.1.2 (6), OPA 2 is establishing the land uses designations and permitted uses on the site. Therefore, in this context, the inclusion of 8.1.2 (6)(b) is difficult to understand. This exercise of whether avoidance is possible should be done at the OPA 2 stage, not leave it to the specific development application stage. At the application stage, mitigation techniques can be explored, but the threshold question of “avoidance”, should be resolved through this OPA. As such it is suggested that 8.1.2 (6)(b) should be reconsidered or deleted in its entirety.</p>	<p>Section 8.1.2 (6) b) and the term avoidance is consistent with Provincial plans and policies. The intent of b) is to trigger the need for a Land Use Compatibility study to ensure impacts to existing industries have been minimized and mitigated. Staff note there is an existing industry operating in the Employment precinct of the Burlington GO MTSA that the policies of OPA 2 should ensure the continued operation and economic viability of that facility with the introduction of sensitive uses.</p>	
	<p>The requirement for Tertiary Planning should be deleted from OPA 2.</p> <p>A Tertiary Plan is not required to ensure the shared delivery of streets and blocks, land use, parks and open space, public realm and streetscapes, parking, site access and pedestrian connections and public service facilities. There are other existing mechanisms for those results to be achieved. The mechanism for the delivery of each of those elements has already been established through the <i>Planning Act</i>, the <i>Development Charges Act</i>, draft OPA 2 or the draft CPP By-law.</p> <p>To now require a Tertiary Plan over and above all of the studies that the City indicates in the staff report that it has already</p>	<p>The intent of tertiary planning is to ensure the collaboration, coordination and shared delivery of identified key infrastructure elements such as streets, parks and open spaces, public realm and streetscapes and public service facilities. In the tertiary planning areas, the OPA 2 (Section 8.1.2(10.1)) has identified a number of community elements that must be considered in a Tertiary Plan including location of new public parks, new transportation connections, public service facilities and others.</p> <p>Tertiary planning is important to ensure that the costs and phasing associated with the provision of parkland, parking, infrastructure and servicing are distributed in an equitable and fair</p>	<p>No change to OPA 2.</p>

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	<p>undertaken, will delay the much need delivery of housing for no purpose. The intent of proceeding with OPA 2 and the CPP By-law is to expedite the delivery of housing.</p> <p>The Tertiary Plan requirement directly contracts that goal, and entirely undermines the Pipeline to Permit process that the City has established. If the true goal of the Tertiary Planning is to ensure that cost sharing agreements are in place that could be identified in OPA 2 and the CPP By-law as a type of condition that the City will seek to impose as part of a CPP By-law, and therefore no Tertiary Plan is required. The City is limited in what it can require as developer contributions as set out in the <i>Planning Act</i>, the <i>Development Charges Act</i> and the CPP By-law. A Tertiary Plan is not an appropriate mechanism for the City to try to secure what it is otherwise permitted to secure. It is therefore submitted that Policy 8.1.2(10.1) should be deleted.</p> <p>Specific to the Property, all of the elements set out in 8.1.2(10.1.1) i should either been established by the City's own transportation. Active Transportation Master Plans of the Development Charge Background Study. For example, requiring an individual landowner to prepare a Tertiary Plan to address a grade separated rail crossing is entirely inappropriate. The assessment of grade</p>	<p>manner among the landowner and is coordinated among multiple landowners in an urban, intensification context. Section 8.1.2 (10.1) in OPA 2 includes the following policies to provide flexibility:</p> <p>d) that if the landowners can demonstrate that proposed development is delivering on elements achieved elsewhere, City may consider waiving.</p> <p>i) Landowners are encouraged to work together to complete a Tertiary Plan, however, an individual landowner may complete entire plan if other landowners decide not to participate.</p> <p>As identified on Schedule F-1 and subject to policy 8.1.2 (5.2) p) a Municipal Class Environmental Assessment shall be required to determine the need, feasibility and location of major grade separated crossing connections that support the goals and objectives of the City's Integrated Mobility Plan and consider rebalancing the transportation</p>	

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	<p>separated rail crossing is to be completed as part of the municipal Transportation Master Plan and implemented through the Development Charge By-law.</p> <p>In addition, the requirement for a Tertiary Plan for the Property is further complicated by the fact that Metrolinx is a landowner directly abutting the Property to the west and individually owned townhouses are abutting the Property to the east. This ownership to the east and the west will, in our experience, render the achievement of a Tertiary Plan in a timely fashion virtually impossible, and will only serve to delay the development of the Property.</p>	<p>network and required people movement capacity in the following areas:</p> <p>i) a north-south Major Collector grade separated crossing connecting the north Burlington GO Central precinct to the south Burlington GO precinct to Fairview Street shall be required and the lands shall be dedicated to the in accordance with the Tertiary Plan.</p> <p>The Municipal Class Environmental Assessment is a city-led process.</p>	
	<p>Implementation Guidelines</p> <p>The City is proposing to prepare implementation guidelines for many elements associated with the MTSA. It is submitted that these implementation documents should be available prior to the passage of OPA 2 and the CPP By-law for consideration by the public.</p>	<p>The certainty afforded with the direction from Council through the adoption of OPA 2 allows additional time to work through refinements and clarity on additional implementation guidance.</p>	<p>No change to OPA 2</p>
	<p>Complete Application Requirements</p> <p>It is submitted that a number of the requirements to have an application deemed complete are not appropriate. Among others, the requirement for the Construction and Mobility Management Plan would be difficult to submit at the outset of an application process. For example, this policy would require written confirmation from a qualified</p>	<p>Section 8.1.2 (10.4) c) has been revised to clarify that requirements will be scoped on case-by-case basis.</p> <p>The CPPS framework replaces the zoning, minor variance and site plan application processes requiring detailed design information to be obtained through the CPP By-law application process.</p>	<p>A modification has been made to 8.1.2(10.4) c) as follows:</p> <p>c) In addition to the policies of 12.1 of this Plan, the following complete application requirements for</p>

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	<p>vibration consultant of study limits and locations of vibration monitoring during construction.</p> <p>However, it is highly unlikely that the locations of vibration monitoring during construction would be known at the time of the submission of an application. In addition, it is submitted that such information is neither important nor necessary in order to assess a CPP By-law application. It is acknowledged that this is something that might be important at building permit or detailed design stage but is not needed in order to assess a CPP By-law application. It is submitted that many by requiring unnecessary studies and reports simply leads to more costs and delays in the delivery of much needed homes.</p>	<p>The purpose of the Construction and Mobility Management Plan (CMMP) requirement is to provide staff and the applicant an opportunity to discuss implementation as early in the process as possible, as the CMMP (and any related Engineering permit) may inform a Community Planning Permit application.</p>	<p><i>development</i> within the Major Transit Station Area Community Planning Permit System <u>will be scoped on a case-by-case basis with consideration to scale and elements that have the potential to impact the permit application and the identification of conditions and may</u> include, but <i>shall</i> not be limited to the following:</p>
<p>David Bronskill, Goodmans LLP for Presidio Construction Limited (c/o the Remington Group) – 5200 Harvester Road</p> <p>Letter dated June 10</p>	<p>Still have concerns regarding the appropriate designation for the Lands, protection for existing permitted uses on the Lands, the introduction of permissions for sensitive uses in proximity to the Lands, and the process for review of compatibility assessments.</p> <p>Client is in favour of a deferral and would appreciate the opportunity to continue discussions with City staff and other stakeholders.</p>	<p>Modifications to OPA 2 have been made to ensure major facility industry involvement in land use compatibility screening and assessments.</p> <p>At the June 11th Committee meeting, the Report PL-03-24 recommendation to Council was amended. The recommendations continue to recommend that OPA 2 be adopted, and the record sent to the approval authority for approval. The recommendation related to the CPP By-law now states that it is to be “approved in principle”. Should Council approve the amended</p>	<p>Modifications to Section 8.1.2 (6) d) [new] to require that the City consult with operators and landowners of existing major facilities when preparing a Terms of Reference for a Land Use Compatibility study</p>

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		<p>recommendations on June 18th, the CPP By-law will not come into effect until OPA 2 has been approved by the appropriate approval authority.</p>	