

**Appendix E – Detailed Planning Analysis**

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## **1.0 The Provincial Policy Statement (PPS)**

The subject applications were submitted in July 2024, when the Provincial Policy Statement 2020 was in effect. During the review of the subject applications, the province introduced the Provincial Planning Statement (2024), which came into force and effect on October 20, 2024, and applies to decisions concerning planning matters occurring after this date. The PPS 2024 replaces the Provincial Policy Statement (2020) and A Place to Grow: Growth Plan for the Greater Golden Horseshoe (The Growth Plan) (2019). The PPS 2024 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 2024 & 2020 recognize that Official Plans are the most important vehicle for implementation of the PPS; however, all Council decisions affecting planning matters are required to be consistent with the PPS (PPS 2024, Chapter 1 & PPS 2020, Policy 4.6).

The PPS 2024 & 2020 identify settlement areas as the focus of growth and development, and that within settlement areas, growth should be focused in strategic growth areas, including major transit station areas (PPS 2024, Policy 2.3.1.1 & PPS 2020, Policy 1.1.3.1).

The Provincial Planning Statement (2024) states that land use patterns within settlement areas should be based on densities and a mix of land uses which:

- efficiently use land and resources;
- optimize existing and planned infrastructure and public service facilities;
- support active transportation;
- are transit-supportive, as appropriate; and
- are freight-supportive (PPS 2024, Policy 2.3.1.2 and PPS 2020, Policy 1.1.3.2)

Planning authorities shall support general intensification and redevelopment to support the achievement of complete communities, including by planning for a range and mix of housing options and prioritizing planning and investment in the necessary infrastructure and public service facilities (PPS 2024, Policy 2.3.1.3).

Planning authorities are encouraged to establish density targets for designated growth areas, based on local conditions. Large and fast-growing municipalities are encouraged to plan for a target of 50 residents and jobs per gross hectare in designated growth areas (PPS 2024, Policy 2.3.1.5).

Planning authorities are encouraged to identify and focus growth and development in strategic growth areas (PPS 2024, Policy 2.4.1.1).

To support the achievement of complete communities, a range and mix of housing options, intensification and more mixed-use development, strategic growth areas should be planned:

- to accommodate significant population and employment growth;
- as focal areas for education, commercial, recreational, and cultural uses;
- to accommodate and support the transit network and provide connection points for inter- and intra-regional transit; and
- to support affordable, accessible, and equitable housing (PPS 2024, Policy 2.4.1.2).

The PPS 2020 & 2024 state that planning authorities shall provide for an appropriate range and mix of housing options and densities to meet projected needs of current and future residents of the regional market area by:

- a) establishing and implementing minimum targets for the provision of housing that is affordable to low and moderate income households, and coordinating land use planning and planning for housing with Service Managers to address the full range of housing options including affordable housing needs;
- b) permitting and facilitating:
  1. all housing options required to meet the social, health, economic and wellbeing requirements of current and future residents, including additional needs housing and needs arising from demographic changes and employment opportunities; and
  2. all types of residential intensification, including the development and redevelopment of underutilized commercial and institutional sites (e.g., shopping malls and plazas) for residential use, development and introduction of new housing options within previously developed areas, and redevelopment, which results in a net increase in residential units in accordance with policy 2.3.1.3;
- c) promoting densities for new housing which efficiently use land, resources, infrastructure and public service facilities, and support the use of active transportation; and
- d) requiring transit-supportive development and prioritizing intensification, including potential air rights development, in proximity to transit, including corridors and stations (PPS 2024, Policy 2.2 and PPS 2020, Policy 1.4.3).

The PPS 2024 states that development shall be directed away from areas of natural hazards where there is an unacceptable risk to public health or safety or of property damage, and not create new or aggravate existing hazards (PPS 2024, Policy 5.1).

Planning authorities shall, in collaboration with conservation authorities, identify hazardous lands and hazardous sites and manage development in these areas, in accordance with provincial guidance (PPS 2024, Policy 5.2.1).

Development shall generally be directed to areas outside of:

- a) hazardous lands adjacent to the shorelines of the Great Lakes - St. Lawrence River System and large inland lakes which are impacted by flooding hazards, erosion hazards and/or dynamic beach hazards;
- b) hazardous lands adjacent to river, stream and small inland lake systems which are impacted by flooding hazards and/or erosion hazards; and
- c) hazardous sites (PPS 2024, Policy 5.2.2 and PPS 2020, Policy 3.1.1).

The applications are not consistent with the natural hazards policies of the PPS 2024 & 2020 as they would permit:

- a) the development of a new 28-storey mixed use building within hazardous lands adjacent to a watercourse impacted by flooding hazards, whereas the PPS 2024, Policy 3.1.1 b) requires development to generally be directed outside of such areas;
- b) new development within a floodway for which flooding can be expected to occur during both Regional storm and the 1:100-year design storm flood events (PPS 2024, Policy 3.1.2 d)), which the PPS does not permit; and,

- c) development within an area which would be rendered inaccessible to people and vehicles during times of flooding (PPS 2024, Policy 3.1.2 c)) as the flood hazards surrounding the site do not meet the criteria outlined within the provincial Technical Guide (MNR 2002) for safe access, which the PPS does not permit.

Planning authorities shall prepare for the impacts of a changing climate that may increase the risk associated with natural hazards (PPS 2024, Policy 5.2.4 and PPS 2020, Policy 3.1.3).

Development shall not be permitted to locate in hazardous lands and hazardous sites where the use is:

- a) an institutional use including hospitals, long-term care homes, retirement homes, preschools, school nurseries, day cares and schools;
- b) an essential emergency service such as that provided by fire, police, and ambulance stations and electrical substations; or
- c) uses associated with the disposal, manufacture, treatment or storage of hazardous substances (PPS 2024, Policy 5.2.6 and PPS 2020, Policy 3.1.5).

Further to policy 5.2.7, and except as prohibited in policies 5.2.3 and 5.2.6, development and site alteration may be permitted in those portions of hazardous lands and hazardous sites where the effects and risk to public safety are minor, could be mitigated in accordance with provincial standards, and where all of the following are demonstrated and achieved:

- a) development and site alteration is carried out in accordance with floodproofing standards, protection works standards, and access standards;
- b) vehicles and people have a way of safely entering and exiting the area during times of flooding, erosion and other emergencies;
- c) new hazards are not created and existing hazards are not aggravated; and
- d) no adverse environmental impacts will result (PPS 2024, Policy 5.2.8 and PPS 2020, Policy 3.1.7).

Planning staff are of the opinion that the proposed application is not consistent with the PPS 2020 and PPS 2024 as the property is currently located within hazardous lands. Further, the proposed development is likely to negatively affect the flood hazard and create conditions which could jeopardize the health or safety of persons or result in property damage or destruction.

## **2.0 A Place to Grow: Growth Plan for the Greater Golden Horseshoe (the Growth Plan)**

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. As previously mentioned, the PPS 2024 replaces both the PPS 2020 and the Growth Plan. At the time of the submission of the applications, the Growth Plan was in effect and all planning decisions in Burlington were to conform to the Growth Plan. The PPS 2024, which came into force and effect on October 20, 2024, applies to decisions concerning planning matters occurring after this date.

### **3.0 Halton Region Official Plan (ROP)**

The Regional Official Plan (ROP) provides “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” (Section 44). The Planning Act requires that Burlington’s Official Plan and Zoning By-law be amended to conform with the ROP.

#### Urban Area (Map 1), Built Boundary (Map 1H), Secondary Regional Node (Map 1H) (Regional Official Plan 2009, as amended)

The Urban Area (Section 72) policies of the ROP identify that the goal of the Urban Area and the Regional Urban Structure is to manage growth in a manner that fosters complete communities, enhances mobility across Halton, addresses climate change, and improves housing affordability, sustainability, and economic prosperity.

The ROP states that uses are permitted as specified for each land use designation provided that the site is not considered hazardous to life or property due to conditions such as flooding (Section 58).

Within the Urban Area, the Regional Urban Structure as shown on Map 1H implements Halton’s planning vision and growth management strategy to ensure efficient use of land, amongst other matters. Further, Table 2 of the Regions Official Plan identifies intensification and density targets for each respective municipality.

Section 72.1 (6) identifies a Regional Urban Structure that directs growth to Strategic Growth Areas. Staff note that the Subject Lands are in the area that is generally identified as a Secondary Regional Node on Map 1H of the ROP. The purpose of such identification is to promote growth in these areas through mixed-use intensification at a scale determined by the Area Specific Plans for the Regional Nodes.

Secondary Regional Nodes are historic downtown areas or villages and are intended to be a focus for growth through mixed use intensification at a scale appropriate for their context (Section 82.1(2)). The identification of the downtown as a Secondary Regional Node acknowledges that the downtown has an existing development pattern supportive of active transportation and public transit and that the downtown is an area intended to be a focus for growth through mixed use intensification at a scale appropriate to its context. Growth and change will continue in the downtown. Through amendments to the Official Plan (2020, as amended), the scoped re-examination of the downtown set out a framework for accommodating new growth in the downtown in a manner that reflects the existing context and identifies potential for growth in accordance with Regional and Provincial policies. Overall, only minor changes and relocation of policies were required to the Downtown Urban Centre to bring the policies into conformity with the Regional Official Plan.

Section 79.2 outlines the hierarchy of the seven strategic growth areas and Secondary Regional Nodes are listed sixth. Policies 51.3 and 79.2 state that Strategic Growth Areas are not land use designations and their delineation or identification does not confer any new land use designations nor alter any existing land use designations. Development on lands within Strategic Growth Areas is subject to the applicable policies of the Regional Official Plan and is to occur in accordance with Local Official Plans and Zoning By-laws. Therefore, the property is subject to the policies of

the City of Burlington Official Plan (1997, as amended) and Zoning By-law 2020 and are not superseded by the Strategic Growth Area.

The Planning Justification Report prepared by Bousfields Inc. dated June 28, 2024, identifies four buildings taller than 17-storeys in the surrounding area. These buildings are located at 421-431 Brant Street (City Approved, applied for in 2017), 535-551 Brant Street at 27-storeys (OLT Approved, applied for in 2021), 2107 Old Lakeshore Road and 2119 Lakeshore Road at 27-storeys (OLT Approved, applied for in 2020), and 2093, 2097 and 2101 Old Lakeshore Road, 2096 and 2100 Lakeshore Road at 27-storeys (OLT Approved, applied for in 2019). The four properties with buildings that are 27-storeys and 23-storeys in height in the downtown were applied for when the downtown was within the Urban Growth Centre, which was much higher on the hierarchy of Strategic Growth Areas. Regional Official Plan Amendment 48 removed the downtown from the Urban Growth Centre. Urban Growth Centres are the highest order of intensity for development in the Regional Official Plan while Secondary Regional Nodes are sixth out of seventh in the hierarchy indicating a lower order of intensity.

Planning staff are of the opinion that the proposed application is not consistent with the Halton ROP (2009, as amended) as the property is currently located within hazardous lands. Further, the level of intensity proposed on the site and mix of uses do not conform to the ROP.

#### **4.0 City of Burlington Official Plan (1997, as amended)**

Part 2, Subsection 2.3 a) (iv) states that new development and significant redevelopment is not permitted in areas that would be rendered inaccessible to people and vehicles during times of flooding hazards, erosion hazards and/or dynamic beach hazards, unless it has been demonstrated that the site has safe access appropriate for the nature of the development and the natural hazard.

Part 2, Subsection 2.0 states that sustainable development is development that meets the needs of the present without compromising the ability of future generations to meet their needs. New development and significant redevelopment shall generally be prohibited within natural heritage features unless it can be deemed suitable through the provisions of Part 2, Subsection 2.5 of the OP (1997, as amended). New development and significant redevelopment is not permitted in areas that would be rendered inaccessible to people and vehicles during times of flooding hazards, erosion hazards and/or dynamic beach hazards, unless it has been demonstrated that the site has safe access appropriate for the nature of the development and the natural hazard.

Part 2, Subsection 2.10.1 c) considers watershed management and states that in cooperation with Conservation Halton, the City will work to protect lands subject to flooding or erosion hazards from development or site alteration.

Part 2, Subsection 2.11.2.1 a) states that an objective of stormwater management in relation to flooding is to ensure that future development does not increase the risk of property damage and danger to life from flooding. As stated through the review of the PPS 2024 & 2020, the proposed development is within hazardous lands and a floodway, The proposed development within these lands would be rendered inaccessible to people and vehicles during flooding. Therefore, the application as submitted does not conform to the Official Plan (1997, as amended).

Section 6.0 – Design of the Official Plan (1997, as amended) refers to the organization and appearance of functional elements in three dimensions so as to achieve a coherent and aesthetically pleasing visual character and form. The City of Burlington has prepared and will

continue to prepare design guidelines for use within the Downtown and other neighbourhoods and planning districts of the City. Part 2, Subsection 6.5 a) states that the density, form, bulk, height, setbacks, spacing and materials of development are to be compatible with its surrounding area. Planning staff is of the opinion that the proposal does not meet the design guidelines as the proposal represents an overdevelopment of the site as the proposed development does not meet parking, servicing, shadow or wind standards as submitted.

Part 2, Subsection 6.5 d) states that the creation of a continuous and harmonious streetscape environment shall be encouraged with emphasis on maintaining the continuity of grade-related activity areas, both inside and outside of buildings. Planning staff is of the opinion that the proposal does not provide continuity of grade-related activity areas as non-residential space is only proposed along John Street and a portion of Caroline Street.

Planning staff are of the opinion that the proposed application does not conform to the Functional Policies of the Official Plan (1997, as amended) as the proposed development fails to meet the policies related to hazardous lands and design.

#### **4.1 Mixed Use Centre (Part 3, Subsection 5.4)**

The subject property is designated 'Mixed Use Centre' in Schedule B, Comprehensive Land Use – Urban Planning Area.

The intent of the 'Mixed Use Centre' designation is to permit mixed use developments on individual sites where residential, retail, office and other uses are located, or on different sites where residential, retail, office and other uses are located next to one another.

The following uses may be permitted in a 'Mixed Use Centre' and include a wide range of retail, service commercial and personal service uses; financial institutions and services; a broad range of office uses; employment, entertainment, recreation and other community facilities such as day care centres; and medium and high density residential uses, and to a limited extent, low density residential uses.

#### **4.2 Downtown Mixed Use Centre (Part 3, Subsection 5.5)**

The principles of the 'Downtown Mixed Use Centre' include that:

- this area shall accommodate a significant share of population and employment growth within the City; and
- this area shall accommodate high density employment (Part 3, Subsection 5.5.1 a)).

As stated in the submitted Economic Analysis prepared by KPEC Planning + Economics dated July 1, 2024, the proposed development is anticipated to result in 464 persons and 11 jobs. This does not conform to the principles of the 'Downtown Mixed Use Centre' as it does not support a significant proportion of jobs.

Part 3, Subsection 5.5.1 e) states that specialty retail, community retail, and government and institutional, service and other business office development, as well as residential uses should be located in the Downtown. Although residential use is heavily represented through this proposal, Planning staff are of the opinion that the proposed 382 square metres of non-residential space does not conform to the 'Downtown Mixed Use Centre'.

Part 3, Subsection 5.5.2 o) states that an objective of the 'Downtown Mixed Use Centre' is to ensure that the density, form, bulk, height and spacing of development is compatible with the

surrounding area. Planning staff is of the opinion that the density and height of the proposed development does not conform to the policies of the 'Downtown Mixed Use Centre' as the intensity of the site exceeds those within Major Transit Station Areas which are the highest order of strategic growth areas as well as the failure to provide tested mitigation measures to mitigate unacceptable shadow and wind conditions.

Part 3, Subsection 5.5.3 h) includes a general policy that retail stores, offices, hotels, institutional and entertainment uses shall be integrated with residential uses, community facilities and open space. Planning staff are of the opinion that the proposed development has not sufficiently integrated non-residential space within the proposed development which consists of 302 residential units and 382 square metres of non-residential space.

Planning staff are of the opinion that the proposed development does not conform to the policies of the 'Downtown Mixed Use Centre' due to the density, height, and mix of uses.

#### **4.3 Downtown Core Precinct (Part 3, Subsection 5.5.8)**

The property is further identified within the Downtown Core Precinct which permits the following uses:

- commercial activities including local service and retail uses to office and administration uses;
- high-density residential apartment uses, including the residential use of upper storeys of commercial buildings;
- cultural uses of all types;
- recreation and hospitality uses;
- entertainment uses;
- community facilities (Part 3, Subsection 5.5.8.2 a)).

As per Part 3, Subsection 5.5.8.2 b) the minimum density of residential buildings shall be 51 units per net hectare. The minimum height of buildings shall be 2-storeys and the maximum height shall be 4-storeys. Taller buildings up to a maximum height of 8-storeys and 29 metres may be permitted where they provide compatibility with surrounding land uses and a sense of pedestrian scale by the use of terracing above the second floor. The maximum floor area for any individual site shall be 4.0:1 (Part 3, Subsection 5.5.8.2 c)). The applicant is proposing a building with the maximum height of 28-storeys and 100 metres with a maximum floor area ratio of 10.0:1.

Part 3, Subsection 5.5.8.2 d) states that retail or service commercial uses are required continuously at-grade along public streets in residential or office buildings and in parking garages, except where bordering residential precincts. The proposed development only borders residential precincts along Elizabeth Street. The applicant is proposing non-residential use along John Street and a portion of Caroline Street. Caroline Street does border a residential precinct, therefore, the propose fails to provide non-residential use continuously at-grade.

The subject lands are subject to site specific policies that provide different standards for uses, height, and floor area ratio in the entirety of the block. The site specific policy states that notwithstanding Part III, Subsections 5.5.8.2 b) and c) of this Plan, development located within the block bounded by Caroline Street, Elizabeth Street, Maria Street and John Street shall permit one 17 storey (55 m) apartment building on Maria Street, and a maximum floor area ratio of 6.7:1



for the entire site is permitted. The application submitted is proposing a building with the maximum height of 28-storeys and 100 metres with a maximum floor area ratio of 10.0:1.

Provided the development is not proposed within hazardous lands, a revised proposal should address the intensity of the development in Secondary Regional Nodes, and policies of Secondary Regional Nodes in relation to mixed use development as well as the shadow and wind impacts which are currently considered unacceptable.

### **5.0 City of Burlington Official Plan (2020)**

On Nov. 30, 2020, the City's new Official Plan (Burlington Official Plan, 2020) was approved by Halton Region. All parts of the Burlington Official Plan, 2020 that were not appealed came into effect the day after the end of the appeal period, Dec. 22, 2020. For the list of the appeals filed with the Ontario Land Tribunal (OLT), see the Dec. 23, 2020 update under "Burlington Official Plan, 2020 appeals process".

On Jan. 4, 2023, the OLT formally confirmed which parts of the Burlington Official Plan, 2020 came into effect on Dec. 22, 2020 and which parts did not. The OLT also confirmed that no parts of the Official Plan (other than policies where appeal rights are limited by the Planning Act) are in effect on lands with site-specific appeals. For a list of policies in effect as of Dec. 22, 2020, see the May 16, 2023 update under "Burlington Official Plan, 2020 appeals process". This update also includes a list of site-specific appellants.

Until all broad appeals to the Region's approval of the Burlington Official Plan, 2020 are resolved, parts of the old Official Plan (Burlington Official Plan 1997, as amended) will stay in effect. Parts of the Burlington Official Plan, 2020 that are broadly appealed may be considered on an informative, but not determinative, basis.

The interim working version of the Burlington Official Plan, 2020 is provided for information only. For legal purposes, reference the original certified documents on file with the City Clerk, including the April 26, 2018 City of Burlington adopting bylaw and the Nov. 30, 2020 Halton Region Notice of Decision.

As the OLT process continues, the Burlington Official Plan, 2020 may change and need to be updated. Readers of the Plan must satisfy themselves as to the legal status and applicability of the policies by reviewing all Orders and Decisions from the OLT. You can view these documents by visiting the Ontario Land Tribunal's webpage for case no. OLT-22-002219: "OP - New Official Plan – City of Burlington".

Subsection 8.1.1(3.16.1) e) states that the City will undertake a Phase 2 Flood Hazard Study using more detailed topographical survey data to facilitate future development applications. That information is now available and was communicated to the applicant prior to the submission of the application.

Subsection 8.4.1(1) states that development is to be directed to locations outside hazardous lands and hazardous sites. As the property and surrounding road continue to be located within the floodplain, the proposal does not conform to the Official Plan (2020).

Subsection 4.2 outlines the policies for natural heritage systems and directs development to locations outside of hazardous lands. The proposed development is currently located within hazardous lands, therefore, the proposed development does not conform to the Official Plan (2020).

Chapter 13 defines hazardous lands as property or lands that could be unsafe for development due to naturally occurring processes. Along river, stream and small inland lake systems, this means the land, including that covered by water, to the furthest landward limit of the flooding hazard or erosion hazard limits.

Planning staff are of the opinion that the proposed development does not conform to the Official Plan (2020) as the proposed development is located within hazardous lands.

### **5.1 Mixed Use Intensification Area (Chapter 8, Subsection 8.1)**

The property is within a 'Mixed Use Intensification Area' in Schedule B, Urban Structure. These lands are where a range and intensity of employment, shopping, public service facilities, residential uses, and complementary uses such as open space and parks, institutional, and cultural uses will be developed with transit supportive densities in a compact built form.

### **5.2 Downtown Urban Centre (Chapter 8, Subsection 8.1.1 (3))**

The property is within the 'Downtown Urban Centre'. Lands identified as Urban Centres provide for a broad range and mix of uses in areas of higher, yet appropriate, intensity in relation to the surrounding neighbourhoods, designed in a compact built form, oriented to support transit and facilitate active transportation in accordance with the underlying land use designations.

The Downtown Urban Centre will continue to develop as the city's centre, taking advantage of the unique qualities that contribute to its distinct identity.

Multi-unit residential developments in Urban Centres should incorporate a mix of unit sizes to accommodate a diverse range of household sizes and incomes (Subsection 8.1.1 (2) g)). The applicant is proposing a unit mix of 38 studio units (13%), 137 1-bedroom units (45%), 14 1-bedroom plus den units (5%), 108 2-bedroom units (36%), and 5 3-bedroom units (2%). Planning staff is of the opinion that this does not represent a diverse range of household sizes as only 2% of units are 3-bedroom.

### **5.3 Downtown East Precinct (Chapter 8, Subsection 8.1.1 (3.9))**

The City of Burlington's Official Plan (2020) designates the subject property as "Downtown Urban Centres" and is within the "Downtown East Precinct", which permits:

- office uses;
- residential uses with the exception of single detached dwellings, semi-detached dwellings and other forms of stand-alone ground oriented dwellings;
- retail and service commercial uses;
- hotel uses;
- entertainment uses;
- and; recreation uses (Subsection 8.1.1 (3.9.1) a)).

Schedule D-2 – Maximum Building Heights permits a maximum height of 11-storeys. The 'Downtown East Precinct' also states that development shall not exceed a maximum building height of 17-storeys. Any building containing residential units above the height of a mid-rise building, shall provide one floor of office space in a podium for every three additional floors to a maximum of 17-storeys. The applicant is proposing a maximum building height of 28-storeys and 382 square metres of non-residential use. The applicant has not provided additional floors of non-residential use.

As per site-specific policy 8.1.1 (3.9.2) a), the block comprising 2030 Caroline Street, 510 Elizabeth Street and 2025 Maria Street: Notwithstanding Sections 8.1.1(3.9.1) (b) and (c) of this Plan, the properties located at 2030 Caroline Street, 510 Elizabeth Street and 2025 Maria Street, in keeping with the intent of the precinct, shall contain, in the mid-rise buildings located at 2030 Caroline Street and 510 Elizabeth Street, a substantial floor area of office development and publicly accessible parking commensurate with the development of a 17 storey residential building at 2025 Maria Street and mid-rise buildings on the block. A minimum of five storeys of office development in the northern mid-rise building at 2030 Caroline Street and a minimum of five storeys of publicly accessible parking in the central mid-rise building at 510 Elizabeth Street, or equivalent amount of office development and publicly accessible parking provided on the block, will be considered substantial.

The Planning Justification Report prepared by Bousfields Inc. dated June 28, 2024, in Section 4.6 – New City of Burlington Official Plan (Partially in Force) states that the height map in Schedule D-2 – Maximum Building Heights appears to be arbitrary with no clear pattern of height hierarchy. However, Schedule D-2 – Maximum Building Heights portrays the existing and planned heights of the Downtown Urban Centre. Generally, the Downtown Urban Centre comprises of low- to mid-rise buildings closer to Lake Ontario and the heights increase further north on Brant Street towards the Burlington GO Major Transit Station Area. There are few sites that permit tall buildings (greater than 11-storeys) in the Downtown Urban Centre as previous planning approvals (majority OLT approved) have existing tall buildings with Exception zoning and site-specific Official Plan policies. Therefore, the general vision of the City of Burlington Official Plan (2020) reflects low- to mid-rise development towards Lake Ontario and taller buildings further north of Brant Street.

The Planning Justification Report prepared by Bousfields Inc. dated June 28, 2024, states that the subject property is in walking distance to a Major Transit Station referring to the Downtown Burlington Bus Terminal (Section 4.6 – New City of Burlington Official Plan (Partially in Force) of the Planning Justification Report). However, this area is not referred to as a Major Transit Station Area in the Regional Official Plan as the Urban Growth Centre and Burlington GO Major Transit Station Area does not extend to this site. The distance to the Burlington GO from the subject property is 1.9 kilometers which would be an approximate 26-minute walk.

Provided the development is not proposed within hazardous lands, a revised proposal should appropriately address the intensity of the development in relation to the Secondary Regional Node policies, as well as the shadow and wind impacts which are currently considered unacceptable.

#### **5.4 Official Plan (2020) Conformity**

The Planning Justification Report prepared by Bousfields Inc. dated June 28, 2024, states that the Official Plan (2020) should not be given significant weight in the review of the subject applications as the applicant has appealed the Official Plan (2020) (Section 4.6 – New City of Burlington Official Plan (Partially in Force) in the Planning Justification Report). Planning staff acknowledge the status of the New Official Plan; however, would note that the Official Plan (2020) reflects Council's vision for the downtown under the former Urban Growth Centre designation, which has since been removed from the downtown. Further, this proposal far exceeds in the envisioned height and land use expectations (i.e. lack of non-residential space) for the former Urban Growth Centre. The Regional Official Plan defines Secondary Regional Nodes as areas that provide a mix of uses, which this proposal fails to adequately provide. The site-specific policies relating to the subject lands also reflect the intent for the mix of uses as the entirety of the original site was intended to provide medical office use, residential use, and parking. The non-

residential use previously provided through the medical office use has now been reduced through this proposal to 382 square metres which staff do not consider to be an adequate mix of uses. Although policies of the Official Plan (2020) are not in force and appealed by the applicant, they inform the vision for the area, which this proposal far exceeds and does not meet the intent of the Official Plan (2020).

### **6.0 Shadows Study Guidelines and Terms of Reference (2020)**

The applicant submitted a Sun/Shadow Study prepared by Ralph Bouwmeester, P. Eng., dated June 21, 2024, which was reviewed against the Shadow Study Guidelines and Terms of Reference (2020). The guidelines consider shadowing on Key Civic and Cultural Spaces, Private Outdoor Amenity Spaces, Parks and Open Spaces, Places Where Children Play, and Public Realm and Sidewalks. The impact of shadowing on these spaces are reviewed below:

- Key Civic and Cultural Spaces: There are no Key Civic and Cultural Spaces impacted by the proposed development in the surrounding area, and therefore, not applicable.
- Private Outdoor Amenity Spaces: These spaces include rear yards, decks, and (rooftop) patios. As per the guidelines, shadows from proposed developments should not exceed 2 hours in duration, between 9:00 and 18:00 on March 21st. In reviewing drawings 4.3-1 to 4.3-5, these areas are predominately shadowed for a period exceeding 2 hours (townhouses are shadowed between 4 p.m. to 6 p.m. and the proposed private amenity space is shadowed between 9 a.m. to 1 p.m.). However, the Sun Access Factor on all of the surrounding townhouses and proposed private amenity is at least 0.22 which meets the criterion.
- Parks and Open Spaces: These are lands designated or used for Parks and Open Spaces and must allow for either: a) full sunlight 50 per cent of the time; or b) 50 per cent sun coverage at all times during March 21 (09:00 to 18:00), September 21st (09:00 to 18:00), and December 21st (11:00 to 15:00). Lions Park is in the vicinity of the proposed development. As per the drawings provided, the shadow reaches Lions Park at 6 p.m. on March 21st and September 21st. The Sun Access Factor was not provided by the applicant and a revised Shadow Study should include this calculation.
- Places Where Children Play: There are no Places Where Children Play (ex. School yards, playgrounds, and park features such as wading pools or other outdoor features) impacted by the proposed development in the surrounding area, and therefore, not applicable.
- Public Realm and Sidewalks: Shadows cast onto the full extents of the boulevard and sidewalk on the opposite side of the adjacent right-of-way must allow for either: a) full sunlight 50 per cent of the time; or b) 50 per cent sun coverage at all times between 9:00 and 18:00 on March 21st. On March 21st, the shadow is cast between 17:00 to 18:00 on the opposite side of the adjacent boulevard. The Sun Factor is 0.58 on the opposite boulevard on Caroline Street March 21st, 0.84 on the opposite boulevard on John Street March 21st, and 0.35 on the opposite boulevard on Elizabeth Street March 21st. The criterion for the Sun Access Factor is only met on Caroline Street and John Street as the Sun Access Factor is greater than 0.5 on each test date. The Sun Access Factor is 0.35 on the opposite boulevard on Elizabeth Street which does not meet the criterion. The submitted Sun/Shadow Study prepared by Ralph Bouwmeester, P. Eng.,

dated June 21, 2024 states that there is very little if any, new shadow on this sidewalk and that the existing shadow shown is from the previously approved building on the subject site. However, this does not exempt the proposed development from meeting the Sun Access Factor. As per Section 5.1 of the Shadow Study Guidelines and Terms of Reference (2020) requires that mitigation strategies be developed and tested where shadow impacts are considered unacceptable. The applicant has not proposed any mitigation strategies through the submitted study.

Planning staff is of the opinion that the proposed development does not meet the Shadow Study Guidelines and Terms of Reference (2020) due to the criterion not being met on the opposite boulevard on Elizabeth Street.

### **7.0 Sustainable Building and Development Guidelines**

The purpose of the Sustainable Building and Development Guidelines is to encourage sustainable design approaches through Planning Act applications, in keeping with the City's declaration as a sustainable community, and in alignment with Burlington's Strategic Plan 2015-2040. Burlington's Strategic Plan encourages energy efficient buildings and other on-site sustainable features and sets a net carbon neutral goal for the community. Sustainable design is an integrated design process that helps to reduce infrastructure demands and costs, environmental impacts, greenhouse gas emissions, long-term building operating costs, and contributes to the City's goal of being a prosperous, livable and healthy community. The guidelines address sustainability approaches related to site design, transportation, the natural environment, water, energy and emissions, waste and building materials, and maintenance, monitoring, and communication.

In accordance with the Site Design guidelines in Section 1, on previously developed sites, a minimum of 50% of the site area (excluding the building footprint) should be restored by replacing impervious surfaces with native or adapted vegetation. The applicant has only provided two trees at grade within the boundaries of the subject property along Caroline Street as shown on the submitted Conceptual Landscape Plan prepared by the mbtw group dated June 21, 2024. The applicant has also provided additional trees on the green roof of the 6-storey parking structure. The DC-397 zoning requires a 1000 square metre green roof be provided on the roof of the parking structure. The proposed green roof is significantly reduced (less than half) from the existing DC-397 zoning as the applicant has proposed hard surfaces through the implementation of an amenity area. Planning staff are of the opinion that this guideline has not been met.

In accordance with the Transportation guidelines in Section 2, the proposed site design should provide pedestrian and cycling connections, and bicycle parking. Also, a Transportation Demand Management Plan is required for the reduction in parking. The applicant has provided pedestrian connections to Elizabeth Street, Caroline Street and John Street. The proposal includes 100 bicycle parking spaces. Transportation Planning Staff have reviewed the number of bicycle parking spaces and are requiring 164 bicycle parking spaces as per the Burlington City-Wide Parking Standards. This guideline has not been met.

In accordance with the Natural Environment guidelines in Section 3, the applicant should maintain all existing on-site trees and complete and implement a restoration and/or enhancement plan that demonstrates net gain for Natural Heritage System areas. The City's Landscaping and Urban Forestry staff have reviewed the proposal and have identified items to be addressed at Site Plan. Further, the applicant submitted an Absence of Trees Letter prepared by the mbtw group dated

June 21, 2024. The Conceptual Landscape Plan prepared by the mbtw group dated June 21, 2024 also provides for further plantings primarily located on the green roof of the parking garage. Overall, the applicant is proposing to enhance the vegetation on the site through the green roof. This guideline has been met.

In accordance with the Water Conservation and Quality guidelines in Section 4, the applicant should achieve enhanced stormwater treatment for all stormwater runoff. Development Engineering have reviewed the Functional Servicing & Stormwater Management Report prepared by S. Llewellyn & Associates Limited Consulting Engineers dated June 2024 and have stated that the report has demonstrated that on-site stormwater controls can meet the City of Burlington's stormwater management criteria. This guideline has been met.

In accordance with the Energy and Emissions guidelines in Section 5, applicants are required to provide vegetated landscape areas in hard surface areas as per the Zoning By-law. The Zoning By-law does not require a landscape buffer or area when the property line abuts a street. The applicant has provided two tree plantings at grade within the boundary of the subject property. The applicant has also proposed a green roof combined with an outdoor amenity area. The property is zoned DC-397 which requires a 1000 square metre green roof. The proposal represents a 43% reduction in the green roof (approximately 570 square metres). The applicant requires an increase in the green roof to meet the intent of the Zoning By-law. This guideline has not been met.

In accordance with the Waste and Building Materials guidelines in Section 6, a Waste Management Plan in accordance with Regional requirements is required. The applicant is proposing private waste collection. Halton Region has reviewed the plan and due to safety concerns, Halton Region will not provide waste collection, nor would Halton Region recommend this proposed approach for private waste collection. This guideline is not met.

In accordance with the Innovation guidelines in Section 8, innovative design or performance features should be considered. The applicant has identified that they are not pursuing innovative design or performance. Staff would recommend that this is considered in a future concept.

Staff is of the opinion that the proposed development does not comply with the required sustainable and design guidelines.

### **8.0 Pedestrian Level Wind Study Guidelines and Terms of Reference (June 2020)**

The applicant submitted a Pedestrian Level Wind Study prepared by SLR Consulting (Canada) Ltd. dated June 21, 2024 which has been reviewed against the Pedestrian Level Wind Study Guidelines and Terms of Reference (2020). A quantitative wind assessment was required as the proposed maximum building height is 28-storeys. Planning staff have completed a full review of the Pedestrian Level Wind Study submitted by the applicant.

The submitted study states that the north façade of the building found that conditions were uncomfortable in the winter. The submitted study recommended the applicants design team include a canopy along the entire west façade of the building, wrapping around the southwest corner, to deflect the downwashing flows from the tower. The submitted study also states that, alternatively, a larger step back could be included at the podium on the west side of the tower. It is also stated that the main entrance to the proposed development is directly exposed to the southwesterly prevailing winds and in addition to the canopy. The submitted study recommends a vestibule at the main entrance to minimize airflow into the building. With these recommended

alterations, planning staff would recommend that a revised Pedestrian Level Wind Study be submitted with the most effective mitigation measure prior to any approval of an Official Plan Amendment and Zoning By-law Amendment.

The retail entrances and exits along John Street are suitable for standing in the summer and leisurely walking in the winter. It is suggested that if calmer wind conditions are desired at the retail entrances and exits, recessing the entrances from the main façade and/or including local wind screens on either side of the door. With these recommended alterations, planning staff would recommend that a revised Pedestrian Level Wind Study be submitted with the most effective mitigation measure prior to any approval of an Official Plan Amendment and Zoning By-law Amendment.

The proposed green roof on the top of the 6-storey parking structure includes outdoor amenity area as well. The submitted study found that the wind conditions for the outdoor amenity area on the top of the 6-storey parking structure is uncomfortable throughout the year. Multiple recommendations were made by the submitted Pedestrian Level Wind Study which include mitigation options including, but not limited to:

- Wind screens on the north and south edges of the space.
- Pergolas and/or trellises over passive activity areas.
- Local wind screens throughout the space, to the north and south of passive activity areas.

Again, it is recommended that a revised Pedestrian Level Wind Study be submitted with the mitigation measures identified through the report prior to any approval of an Official Plan Amendment and Zoning By-law Amendment.

The sidewalks surrounding the subject property were also considered and the wind conditions range from fast walking to uncomfortable. The submitted report recommends that mitigation measures for the sidewalks be addressed at the Site Plan stage of development to deflect and disrupt the downwashing flows from the prevailing southwesterly winds and that the details of the features can be determined at that time. However, Section 5.1 of the Pedestrian Level Wind Study Guidelines and Terms of Reference (2020) states that where wind conditions are considered unacceptable for the intended pedestrian use or unsafe, wind control mitigation strategies must be developed and tested. Test results must demonstrate that the resultant conditions meet the wind comfort category intended for the proposed function of an area, and/or the safety criterion.

The closest bus stops at the intersection of Brant Street and Caroline Street were also considered by staff. Based on the submitted study, the existing conditions and proposed conditions are generally the same at wind conditions for standing and sitting. The only change is at the south bus stop at the intersection of Brant Street and Caroline Street which changes from sitting to standing in the winter.

The submitted study concludes with a section titled 5.0 Updated Architectural Information that discusses the changes made from the study being completed to the submission of the proposal. This included the increase in height from the reviewed 26-storeys and 87 metres to 28-storeys and 95 metres. It was stated that the changes did not impact the review of the proposal. This section of the study also stated that the adverse wind conditions identified in Section 4.0 be addressed at Site Plan. However, throughout the submitted study, only the sidewalks are specifically identified as an item to be addressed at Site Plan. Further, as stated, Section 5.1 of the Pedestrian Level Wind Study Guidelines and Terms of Reference (2020) states that where

wind conditions are considered unacceptable for the intended pedestrian use or unsafe, wind control mitigation strategies must be developed and tested. Test results must demonstrate that the resultant conditions meet the wind comfort category intended for the proposed function of an area, and/or the safety criterion. Therefore, planning staff are recommending the mitigation measures be addressed at the Official Plan Amendment and Zoning By-law Amendment stage.

### **9.0 Downtown Streetscape Guidelines (September 2019)**

The Downtown Streetscape Guidelines (2019) establish a new vision, framework, and a set of design principles and strategies, which will provide guidance for the consistent application and renewal of the various downtown streetscapes. This may include the reconstruction of surface works such as sidewalks, curbs, crosswalks, and roadways together with the replacement or refurbishment of streetscape elements such as street trees, streetlighting, and furnishings (e.g. benches, waste receptacles, bike racks, bus shelters, and bollards). The guidelines are intended to help enhance and strengthen the public realm and contribute to the Downtown as an accessible, cohesive, identifiable, and vibrant destination within the city.

The Downtown is Burlington's historical commercial core, developed along two main streets, Brant Street and Lakeshore Road. Within the Downtown there are also two distinct districts and are characterized by a mix of business and higher density residential buildings or established residential neighbourhoods primarily of lower-scale buildings with a few medium- and high-density buildings. It is also important to note that in 2019, the downtown was located within the Urban Growth Centre and has now been identified as a Secondary Regional Node in the Region's Official Plan which is a lower order Strategic Growth Area.

Streets, and by extension the 'streetscape', consist of elements including travel lanes, transit routes, bikeways, greenways, sidewalks, parking and sitting areas, and meeting places. In an urban setting such as the downtown, the design and treatment of its streets is critical to the safe movement of people.

There are four zones that play a role in contributing to a high-quality streetscape which are the marketing zone, clear path zone, furnishing zone, and edge zone. A description of the zones is as follows:

- The marketing zone functions as an extension or spill-out of the adjacent building and its uses, whether it is for signage, the display of goods or a café or restaurant patio. This zone is typically located on private property and encourages businesses to use this portion of the boulevard as part of the downtown experience. A minimum 2m wide marketing zone is encouraged along streets that require at-grade retail and service commercial uses.
- The clear path zone provides an unobstructed and accessible public path of travel dedicated for pedestrians. This zone ensures a safe and comfortable walking experience and should be a minimum of 1.8m wide [complying with the minimum Accessibility for Ontarians with Disabilities Act (AODA) standards for two-way travel for people using mobility devices]. This width should increase – where space permits – along streets with heavy pedestrian volumes.
- The furnishing zone defined as the section of the boulevard between the back of curb and the Clear Path Zone. This zone is where street furnishings, trees, and utilities are provided. Typical streetscape furnishings include, but are not limited to, benches, bike racks, bollards, bus shelters and transit stops, pedestrian and traffic signal poles and street



lighting, newspaper kiosks, mailboxes, street trees, utilities, and waste receptacles. This zone may also include green infrastructure elements such as bioretention facilities. This zone should be a minimum of 1.2m wide.

- The edge zone defined as the area immediately next to the Furnishing Zone and edge of roadway. This zone may include a variety of different elements including curb and gutters, corner and mid-block bump-outs, curb extensions, parklets, pop-up installations, green infrastructure, flexible pedestrian spaces, parking, and/or cycling infrastructure. It varies in width depending on which of the above strategies are employed. For example, this zone will generally be a minimum of 0.5m to accommodate a standard or modified curb and wider when accommodating parking as part of a flexible street design.

The applicant has submitted a Conceptual Streetscape and Landscaping Plans prepared by the mbtw group dated June 21, 2024. The plans show a minimum 0.5 metre edge zone, a minimum 2.5 metre clear path zone, and a minimum 1.2 metre furnishing zone along Elizabeth Street, Caroline Street, and John Street. The marketing zone is provided on a portion of John Street and Caroline Street where a portion of the non-residential space is located on the corner. Planning staff require additional justification to demonstrate why the marketing zone was not provided along the entirety of John Street to include the space identified as commercial/community space. Further, planning staff is of the opinion that the proposal fails to provide a sufficient amount of non-residential space at-grade. Therefore, additional marketing zones should be provided along any additional at-grade non-residential space.

### **10.0 Downtown Urban Design Guidelines (2006)**

The Burlington Downtown Urban Design Guidelines (2006) are intended to supplement the Official Plan and Zoning By-law by providing property owners, developers and City staff with additional detail on what constitutes desirable built form in the Downtown. Often, the Official Plan OP and Zoning By-Law define the type of buildings, uses and densities that are acceptable or desirable, but do not provide details on how these buildings can be articulated and programmed to achieve the goals outlined in the Official Plan.

It is important to stress that the intent of the Guidelines is not to prevent all development, restrict development to low rise buildings or make any new building adopt a “heritage style”. Instead, the Guidelines provide a set of recommendations to ensure that new development protect the most crucial aspects Downtown Burlington’s existing character including - among other elements:

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

The largest and most diverse precinct, the Downtown Core Precinct encompasses many of the uses that make Downtown Burlington an important destination for all Burlington residents. Development should respect the character of the existing built form to ensure that this area retains its attractiveness. New development should also be designed sensitively to ensure proper transitions to surrounding stable low-density neighbourhoods. Transportation and access, both

pedestrian and vehicular, are important issues in this precinct to achieve a balance between accessibility and local quality of life.

Section 3.2.3 of the Guideline states that public parking facilities are essential in attracting visitors to the Downtown and through the Defined Parking Area framework, encourages non-residential development in the Downtown by allowing individual projects to rely on public parking facilities instead of providing on-site parking, thus improving the viability of projects and increasing the efficiency of parking facilities as they can be used throughout the day and the week. The proposal includes a 6-storey parking structure with a green roof. The parking garage is proposed to support the residential use of the 28-storey mixed use residential building. However, the DC-397 zoning requires 201 additional parking spaces to support non-residential use. Additionally, the purchase agreement for a portion of the subject property to facilitate this development required 60 public parking spaces. Therefore, to meet the previous requirements that facilitated the development of the existing 17-storey residential building and to meet the Guidelines, planning staff are of the opinion that the proposal should include the additional 261 parking spaces (201 for non-residential and 60 for public parking).

The quality of the streets is considered in Section 3.2.5 of the Guideline and provides three categories of streets:

- “A” Street
  - Stores and animated sidewalks;
  - Park frontage or consistent tree line;
  - Wide sidewalks, outdoor patios;
  - Slow traffic buffered by trees or parked cars;
  - High quality materials with refined details.
  - Pedestrians will make a detour to walk on such a street
- “B” Street
  - Some of the above attributes;
  - Not necessarily less attractive than an “A” Street, but less unique or animated;
  - Can contain a few undesirable features such as a single entrance in a building that occupies a full block or some blank façades;
  - Can be a quieter street with deeper setbacks and a more significant residential component;
  - Good quality materials with some refined details.
- “C” Street
  - Fast traffic;
  - Narrow sidewalks;
  - No buffering from traffic by trees or parked cars;
  - Blank façades with few details;
  - Unscreened parking lots;
  - Frequent service entrances;
  - Rears of buildings;
  - Hydro poles with poor lighting – either too high or too low;

- Pedestrians will make a detour to avoid such streets or will prefer to drive if a significant proportion of the route is on “C” streets.
- Opportunities for improving private and public spheres when redevelopment takes place.

Through public realm improvements and redevelopment, the objective should be to turn “C” streets to “A” or “B” streets. The Guideline points to John Street as a high priority street to turn into an “A” or “B” street. The applicant has proposed non-residential use along John Street through commercial and community space. However, only the commercial space on the corner of John Street and Caroline Street provides a setback to the building. The commercial space further down John Street is proposed at a zero-metre setback. To provide wider setbacks and outdoor patios as described in the “A” Street, staff would recommend a setback to all non-residential areas.

Section 7.4 of the Guideline discusses the vision for the block bounded by Caroline Street, Elizabeth Street, Maria Street, and John Street (identified as Block 4 in the Guideline). John Street is envisioned to have street-oriented frontages and businesses that are supported by on-street parking. Elizabeth Street is envisioned to be defined by low-rise buildings (2-4 storeys) to transition with the residential building forms on the other side of Elizabeth Street and the north where single-family residences will be maintained. Caroline Street is envisioned to have retail at-grade with prominent facades. Further buildings should accommodate the opportunity for either office and/or residential use above grade level. Wider sidewalks are also envisioned to support a consistent tree line. Corner bump outs should also be used to delimit on-street parking and act as a traffic mitigation measure and shorten crosswalks.

The applicant is proposing a mixed-use building with 302 residential units and 382 square metres of non-residential space at grade. As envisioned in this Guideline, John Street and Caroline Street are envisioned to have non-residential uses at-grade. Although non-residential uses are proposed along John Street at grade, only a portion of Caroline Street is proposed to include non-residential use at grade. Staff is of the opinion that any subsequent proposal should provide an increase of non-residential space at grade along Caroline Street. Further, the proposal only provides a for a bump out on Elizabeth Street, not John Street. Planning staff would also recommend that a future proposal provide a bump out along John Street as well. The applicant has provided a tree line along the perimeter of the subject property. Overall, planning staff is of the opinion that the proposal should be revised to provide better alignment with the Downtown Urban Design Guidelines (2006).

### **11.0 Tall Building Guidelines (2017)**

The Tall Building Guidelines (2017) apply to buildings over 11-storeys in height. Therefore, the buildings in this proposal are defined as a tall building (28-storey mixed use building) and a mid-rise building (6-storey parking garage). In reviewing the 28-storey building, the guidelines are broken down by components of a tall building as follows:

- Building Base (Podium)
- Building Middle (Tower)
- Building Top

#### Building Base (Podium)

The Guidelines call for podiums to frame the street. On retail streets, and other streets where a strong streetwall exist, the location of the podium should reinforce the established streetwall (Guideline 2.1 b). John Street has an established podium in this block and has a setback of 0.1 metres from John Street. The proposed development will maintain the same setback. Caroline Street has an established streetwall and the proposed development will provide a 2.14 metre setback.

Guideline 2.2 a) states that the height of the podium, and the tower setbacks above, should generally reflect the established and planned streetwall. The building at 2025 Maria Street within the same block as the proposed development has a podium height of 3-storeys. The applicant is also proposing a 3-storey podium which reflects the established streetwall. However, the setback from the podium to the tower is not appropriate as the balcony projects to the walls of the podium which visually does not distinguish the difference between the podium and the tower. It is recommended that through a new submission that the applicant provide a greater tower setback.

Guideline 2.2 d) states that the floor-to-ceiling height of the ground floor should be a minimum of 4.5 metres to accommodate internal servicing and loading, and active commercial uses (where permitted). The proposed development has met the minimum height of 4.5 metres for the ground floor.

Guideline 2.4 j) states that on corner lots, articulation of the podium should acknowledge its important location through corner entrances, chamfering (and associated public space), and/or other architectural features. The proposed development does not include chamfering on either corner; therefore, it is recommended that through a new submission that this design element be implemented.

Guideline 2.4 k) states that mixed-use buildings with retail at grade should incorporate vestibules, frequent building entrances, canopies and structural overhangs to provide weather protection for the length of the street. The submitted Urban Design Brief prepared by Bousefields Inc. dated June 2024 states that canopies are proposed, however, these canopies are not shown in the Architectural Plans and Statistics prepared by Chamberlain Architects dated June 21, 2024. It is recommended that the canopies be included in the drawings.

Guideline 2.4 m) Projecting balconies should not be provided in podiums. Inset and/or Juliette balconies are appropriate within the podium. The proposal shows terraces that project out from the residential units within the podium. Planning staff recommend that a new submission remove the terraces from the 3-storey podium and use inset or Juliette balconies.

Guideline 2.5 b) states that access to parking, servicing and loading shall be provided from the rear of the building, or a laneway where possible. On corner sites, access may be provided from secondary streets provided the entrance facilities are well integrated into the rest of the frontage. The access to the underground parking is proposed from John Street and the ramp to the above grade parking is located along Elizabeth Street.

#### Building Middle (Tower)

Guideline 3.1 b) states that a minimum separation distance of 25 metres should be provided between towers to maximize privacy and sky views, and to minimize the cumulative shadow and pedestrian level wind impacts of multiple tall buildings. Balconies may be provided within this separation distance provided they do not excessively contribute to a building's massing. The tower

separation distance at the 7th storey is 27.4 metres and increases to 39.47 metres for the 9th to 27th storeys. All distances exceed the minimum 25 metre separation distance.

Guideline 3.1 d) states that the tower should be stepped back at least 3 metres from the podium to differentiate between the building podium and tower, and to ensure usable outdoor amenity space (i.e. patios). A 3 metre stepback is provided to the tower, however, the balconies/terraces project significantly into the stepback (2.2 metre to 3 metre projections) which does not allow for the appearance of a stepback. Planning staff are of the opinion that a greater stepback should be provided.

Guideline 3.2 b) states the tower portion of a tall building should be slender and should not exceed 750 square metres, excluding balconies. The proposed tower does not exceed 750 square metres.

Guideline 3.2 c) states that the massing of the tower, and its relationship to the building base, shall not result in adverse wind effects at the street level. The mitigation measures have not been implemented at this time and the Pedestrian Level Wind Study Guidelines and Terms of Reference (June 2020) require these mitigation measures to be tested. Therefore, a revised Wind Study is recommended.

Guideline 3.3 a) states the design and placement of the tower shall be carefully considered to minimize the size of shadows on the opposite streetscape. A revised Shadow Study is required as mitigation measures are recommended to reduce shadow impacts.

Guideline 3.4 e) states that Balconies are encouraged within the tower to provide amenity space and additional articulation. They may be inset or extruding but should be a minimum of 1.5 metres to provide usable outdoor amenity space. Balconies/terraces have been provided, however, they project almost fully into the tower stepback. The balconies/terraces are recommended to remain in the tower, however, a greater stepback to the tower is recommended to visually distinguish the tower from the podium.

#### Building Top

Guideline 4.2 c) states that the rooftop mechanical equipment should be stepped back on all sides, no less than 3 metres from the edge of the floor below. Equipment should be screened from view. No stepback has been provided along Elizabeth Street, Caroline Street, and John Street. It is recommended that the mechanical penthouse be revised to provide a 3 metre setback from the edge of the floor below for all sides. Further, the Architectural Plans and Statistics prepared by Chamberlain Architects dated June 21, 2024 show corridors and doors that lead to the roof top. Planning staff request an explanation for this in the drawing to understand if further outdoor amenity area is proposed to be provided on the rooftop. If so, the roof top would be considered an additional storey.

Overall, planning staff is of the opinion that the proposal does not meet the Tall Building Guidelines (2017) and recommend further revisions to the plan.

#### **12.0 Zoning By-law**

The following table outlines the requirements of the 'Downtown Core Zone' (DC) and 'Downtown Core Zone' DC-397 as well as what is being proposed.

Zoning Regulation	DC	DC-397	Proposed
<b>Permitted Uses</b>	Apartment Building	An apartment building with ground floor retail and service commercial uses within 35 m of Maria Street	Apartment Building with 382 square metres of ground floor non-residential space

**Staff Comment:**

As per Table 6.2.1 of Part 6 of the Zoning By-law an apartment building is subject to footnote (g) which states the ground floor of any building within 15 metres of a public street shall be used only for retail or service commercial uses. The proposed development includes residential use at-grade along Caroline Street and Elizabeth Street. An increase in non-residential space should be provided in a revised proposal provided the subject lands are no longer located within hazardous lands.

Further, DC-397 only permits an apartment building within 35 metres of Maria Street. That apartment building has been constructed and is municipally known as 2025 Maria Street.

Zoning Regulation	DC	DC-397	Proposed
<b>Yard abutting a street</b>	Floors 1 to 4: Caroline Street: 1 m Elizabeth Street: 1 m John Street: 2.5 m	Caroline Street: Floors 1 and 2: 2 m Floors 3 and greater: 4 m Underground parking garage: 0 m Elizabeth Street: Office building: Floors 1 and 2: 0.1 m Floors 3 and greater: 1.5 m Underground parking garage: 0 m Parking structure ramp: 1 m Parking garage: 0.1 m	Caroline Street: Floors 1 to 3: 2 m Floors 4 to 28: 5 m Underground parking: 0 m Elizabeth Street: Apartment Building: Floors 1 to 6: 0 m Floors 7-27: 3 m Floor 28: 13 m Underground parking: 0 m Parking Garage: 0 m Parking Garage Ramps: 0 m John Street: Apartment Building: Floors 1 to 6: 0 m Floors 7 to 28: 3 m

		<p>John Street: Office Building: Floors 1 and 2: 0.1 m Floors 3 and greater: 1.5 m Underground parking garage: 0 m Parking Structure ramp: 2 m Parking garage: 0.1 m</p>	<p>Underground parking: 0 m Parking Garage: 0.1 m Parking Garage Ramps: 0 m</p>
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**Staff Comment:**

Staff have considered the applicant’s Planning Justification Report prepared by Bousfields Inc. dated June 2024, which states that the proposal includes a 3-storey podium. However, a step back above the 3<sup>rd</sup>-storey only occurs on Caroline Street. On Elizabeth Street and John Street a step back only occurs above the 6<sup>th</sup>-storey. Staff would recommend that a revised Planning Justification Report accurately address the proposed podium height. Further, staff have also noted that the massing of the balconies/terraces in combination with the step back does not provide the podium and tower to be visually distinguished. Therefore, a revised proposal should provide a podium that is visually distinguished from the podium.

Additionally, along Elizabeth Street and John Street the DC-397 exception zoning only permits an office building at the reduced setback of 0.1 metres. Therefore, an apartment building would be held to the standards in the DC zone which is 1 metre on Elizabeth Street and 2.5 metres on John Street. A revised proposal should provide justification for the reduction in setback.

The parking structure ramp has been reduced from the DC-397 zone to 0 metres. Further, Transportation Planning staff have identified revisions required for the ramp. Planning staff would recommend that the parking ramp meet the setbacks of the DC-397 zone so that the ramp is not as prominent in the façade of the building.

Zoning Regulation	DC	DC-397	Proposed
<b>Building Height</b>	<p>First and Second Storeys: 4.5 m each 4-storeys and 15 m The floor area of the second, third and fourth storeys of a building</p>	<p>Office Building: 6- to 8-storeys Parking Garage: 6- to 8-storeys Apartment Building: 12-storeys to 17-storeys and 55 m</p>	<p>First Storey: 4.5 m Second Storey: 3.05 m Apartment Building: 28-storeys and 94.6 m Parking Structure: 6-storeys and 22.8 m</p>

	containing more than one storey must be at least 50% of the floor area of the first storey		Parking Structure: Less than 50%
<b>Staff Comment:</b>			
<p>In staff's opinion, the second storey of the proposed building should be increased in height to accommodate non-residential uses that may be proposed.</p> <p>Only one apartment building at 17-storeys is permitted within the block bounded by Caroline Street, Elizabeth Street, Maria Street, and John Street as per Subsection 5.5.8.2 l) the Official Plan (1997, as amended). The applicant is proposing a building height of 28-storeys and 94.6 m. Staff is of the opinion that the total proposed building height exceeds what is considered appropriate in the context of a Secondary Regional Node. A future submission should appropriately address the policies for intensity within Secondary Regional Nodes which is a lower order strategic growth area.</p> <p>Staff have no concerns with the parking structure having a floor area less than 50% of the floor area of the first storey provided that the proposed development is not located on hazardous lands.</p>			
<b>Zoning Regulation</b>	<b>DC</b>	<b>DC-397</b>	<b>Proposed</b>
<b>Maximum Floor Area Ratio</b>	4.0:1	6.7:1	10.0:1, however, the underground parking for 2025 Maria Street has not been accounted for which would contribute to this site as it is located under the proposed above grade parking structure
<b>Staff Comment:</b>			
<p>The applicant is proposing a Floor Area Ratio of 10.0:1, however, this number may be larger when considering the existing underground parking below the proposed location of the above grade parking structure which is currently used for 2025 Maria Street. Planning staff are not supportive of the proposal as the development is proposed on hazardous lands. Further, the applicant should consider that the property is within a Secondary Regional Node which is a lower order strategic growth area.</p>			
<b>Zoning Regulation</b>	<b>DC</b>	<b>DC-397</b>	<b>Proposed</b>
<b>Separation Distance</b>	15 m between a standard restaurant	15 m between a standard restaurant	TBD



	and a residential or DRL zone  30 m between a fast food restaurant and a residential or DRL zone  45 m between a night club and a residential or DRL zone	and a residential or DRL zone  30 m between a fast food restaurant and a residential or DRL zone  45 m between a night club and a residential or DRL zone	
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**Staff Comment:**

It is unknown what the proposed commercial uses are at this time, however, there is a DRL zone immediately north of the subject lands. Planning staff would require more information from the applicant to understand if an amendment to this section is being sought.

<b>Zoning Regulation</b>	<b>DC</b>	<b>DC-397</b>	<b>Proposed</b>
<b>Parking</b>	Apartment Dwelling Units: 1.25 spaces per unit	Apartment Dwelling Units: 1.25 spaces per unit	0.71 spaces per unit

**Staff Comment:**

The applicant is proposing a reduction in parking to 0.71 spaces per unit. Planning staff note that the parking does not include the previous approvals which included an additional 201 parking spaces and 60 publicly accessible parking spaces. Transportation Planning Staff are unable to support the proposed parking rates.

<b>Zoning Regulation</b>	<b>DC</b>	<b>DC-397</b>	<b>Proposed</b>
<b>Parking Space Size &amp; Accessibility</b>	Width: 2.75 m Area: 16.5 m <sup>2</sup>	Width: 2.75 m Area: 16.5 m <sup>2</sup>	Unclear

**Staff Comment:**

It is unclear if the applicant's proposal meets the parking space stall sizes. Planning staff would recommend that the applicant meet the minimum parking space sizes. Further, larger parking space sizes are required for accessible parking spaces. The City's Accessibility Coordinator has not provided comments at this time; however, planning staff is of the opinion that the required accessible parking spaces be provided.

<b>Zoning Regulation</b>	<b>DC</b>	<b>DC-397</b>	<b>Proposed</b>
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<b>Bicycle Parking Space</b>	60 cm x 1.8 m	60 cm x 1.8 m	Vertical Space: 0.6 m x 1.2 m Stackable space: 0.46 m x 1.8 m
<b>Staff Comment</b> Transportation Planning Staff have provided comments that the number of bicycle parking spaces required is 169 and only 100 are proposed. It is also mentioned that the bicycle parking space size should be 60 cm by 1.8 m.			
<b>Zoning Regulation</b>	<b>DC</b>	<b>DC-397</b>	<b>Proposed</b>
<b>Amenity Area</b>	20 m <sup>2</sup> per unit	Part 6 Subsection 4.11, Amenity Area, does not apply  Additional Amenity Area: 1000 m <sup>2</sup> of green roof located above the adjacent parking garage.	19 m <sup>2</sup> per unit
<b>Staff Comment:</b> Planning staff could be supportive of a slight reduction of amenity area from 20 square metres per unit to 19 square metres per unit. However, the previously agreed to green roof has been decreased through hard surfacing for the proposed outdoor amenity area. Without the green roof the proposed amenity area would decrease to approximately 17 square metres. Planning staff would recommend a redesign of the green roof to incorporate more impervious surfaces and relocate the amenity area in the development.			
<b>Zoning Regulation</b>	<b>DC</b>	<b>DC-397</b>	<b>Proposed</b>
<b>Daylight Triangles</b>	5 m x 5 m daylight triangle	5 m x 5 m daylight triangle	None
<b>Staff Comment:</b> Transportation Planning Staff have provided comments requiring daylight triangles. City Transportation Planning Staff are not supportive of the proposal.			
<b>Zoning Regulation</b>	<b>DC</b>	<b>DC-397</b>	<b>Proposed</b>
<b>Visibility Triangles</b>	6 m x 6 m visibility triangle	6 m x 6 m visibility triangle	None
<b>Staff Comment:</b> Transportation Planning Staff have provided comments requiring visibility triangles. Transportation Planning Staff are not supportive of the proposal.			

Zoning Regulation	DC	DC-397	Proposed
<b>Encroachments</b>	A bay window, balcony, vestibule, fire escape or open stairway may project 50 cm maximum into a required side yard and 1.6 m maximum into any other required yard	A bay window, balcony, vestibule, fire escape or open stairway may project 50 cm maximum into a required side yard and 1.6 m maximum into any other required yard	2.2 m projection
<p><b>Staff comment:</b></p> <p>Staff have noted that the massing of the balconies/terraces in combination with the step back does not provide the podium and tower to be visually distinguished. Therefore, a revised proposal should provide a podium that is visually distinguished from the podium.</p>			