

## **Detailed Planning Analysis**

### **Conservation Authorities Act and Ontario Regulation 41/24**

Conservation Halton (CH) regulates all watercourses, valleylands, wetlands, Lake Ontario Shoreline, hazardous lands including unstable soil and bedrock, as well as lands adjacent to these features. The subject land is regulated by CH as it is adjacent the Lake Ontario shoreline. CH regulates 15 metres from the greatest hazard associated with the Lake Ontario shoreline.

Permits are required from CH prior to undertaking development activities within CH's regulated area and applications are reviewed under the *Conservation Authorities Act* (CA Act), Ontario Regulation 41/24, and CH's *Policies and Guidelines for the Administration of Part VI of the Conservation Authorities Act and Ontario Regulation 41/24 and Land Use Policy Document* (last amended, June 21, 2024).

### **Shoreline Engineered Development Setback (EDS)**

When shoreline protection works are provided to meet current standards and a permanent minimum five (5) metre unobstructed access allowance is provided to and along the shoreline, a 35-year credit is applied to the erosion allowance, allowing for a ten (10) metre reduction in the development setback. This results in an Engineered Development Setback (EDS), consisting of a twenty (20) metre erosion allowance plus stable slope allowance as determined by a geotechnical assessment. Note that the EDS is for development setback purposes and does not result in a change to the CH regulation limit.

All habitable development must be landward of the EDS. Other types of development (e.g. major, non-habitable accessory structures, pools) require different development setbacks as detailed in the comments.

The ZBA application includes technical studies to determine the development setbacks associated with the shoreline. As detailed in the comments, additional information is required to confirm these setbacks.

### **Drainage Feature**

Based on the Preliminary Hydrology and Hydraulics Report (Water's Edge, December 17, 2024), the drainage feature along the eastern property limit originates at a stormwater outfall north of the subject land. It conveys stormwater to Lake Ontario from approximately 55 hectares of sewered urban residential area that extends north to New Street, west to Wilson Avenue, and east almost to Appleby line.

As stormwater flows are associated with the urban drainage system and not a riverine system, the feature is not regulated by CH. Any technical review associated with this feature as part of the ZBA application is deferred to City staff.

## **Planning Act**

### **1.0 The Provincial Planning Statement, 2024 (PPS)**

The PPS came into force and effect on October 20, 2024, and applies to decisions concerning planning matters occurring after this date. This replaces the Provincial Policy Statement (2020) and A Place to Grow: Growth Plan for the Greater Golden Horseshoe (The Growth Plan) (2019). The PPS provides broad policy direction on matters of provincial interest related to land use planning and development and supports improved land use planning and management, which contributes to a more effective and efficient land use planning system.

In accordance with Section 2.1. (Planning for People and Homes) and 2.2 (Housing), Planning authorities should support the achievement of complete communities and provide for an appropriate range and mix of housing options and densities to meet projected needs of current and future residents.

The PPS directs that growth and development be focused in ‘Settlement Areas’ which include built-up urban areas where development is concentrated, and which have a mix of land uses and lands which have been designated in an Official Plan for development over the long term. The subject land is therefore considered to be located within a Settlement Area.

In accordance with Section 2.3 (Settlement Areas and Settlement Area Boundary Expansions), Settlement Areas shall be the focus of growth as well as development and should be based on densities and a mix of land uses which:

- a) efficiently use land and resources;
- b) optimize existing and planned infrastructure and public service facilities;
- c) support active transportation;
- d) are transit-supportive, as appropriate; and
- e) are freight-supportive.

Furthermore, in accordance with Section 2.3, Planning authorities shall support general intensification and redevelopment to support the achievement of complete communities, again by planning for a range and mix of housing options and prioritizing planning and investment in the necessary infrastructure and public service facilities.

The subject land is located within the ‘Residential Area’ designation under Schedule A – Settlement Pattern and ‘Residential – Low Density’ designation under Schedule B of the City of Burlington Official Plan 1997 (OP 1997) and are currently occupied by a two (2) storey, single-detached dwelling. The subject land is envisioned as an ‘Established Neighbourhood Area’ under Schedule B-1: Growth Framework and ‘Residential – Low Density’ under Schedule C of the City of Burlington Official Plan 2020 (OP 2020). The proposed Zoning By-law amendment proposes to rezone the subject land from a split zoning of an ‘O2’ (‘Open Space’) and ‘R1.2-520’ (‘Residential – Low Density’) zone to an

'O2' (Open Space) and 'R1.2-561' zone ('Residential – Low Density') with site-specific exceptions, to allow for development of a three (3) storey, single-detached dwelling. Staff are therefore of the opinion that the proposed development aligns with what is envisioned for the efficient use of land and resources and optimizes existing and planned infrastructure through required upgrades to:

- connect to municipal servicing is appropriate for the existing infrastructure; and
- channel rehabilitation works and culvert replacement will optimize existing infrastructure

In accordance with the energy conservation, air quality and climate change policies, Section 2.9 describes that planning authorities shall plan to reduce greenhouse gas emissions and prepare for the impacts of a changing climate through approaches that:

- a) support the achievement of compact, transit-supportive, and complete communities;
- b) incorporate climate change considerations in planning for and the development of infrastructure, including stormwater management systems, and public service facilities;
- c) support energy conservation and efficiency;
- d) promote green infrastructure, low impact development, and active transportation, protect the environment and improve air quality; and
- e) take into consideration any additional approaches that help reduce greenhouse gas emissions and build community resilience to the impacts of a changing climate.

The proposed Zoning By-law Amendment application and development proposal contemplates redeveloping the existing subject land whereby the existing two (2) storey single-detached dwelling would be demolished to allow for construction of the larger, proposed three (3) storey single-detached dwelling. Through this redevelopment, the existing private well and private septic system would be decommissioned, with the proposed three (3) storey single-detached dwelling serviced by way of full municipal services extended from Avondale Court.

#### 4.1 Natural Heritage

As it pertains to natural heritage the City has responsibility for provincial expectations related to the diversity and connectivity of natural features in an area, and the long-term ecological function and biodiversity of natural heritage systems, should be maintained, restored or, where possible, improved, recognizing linkages between and among natural heritage features and areas, surface water features and ground water features. Staff are of the opinion that to proposed development seeks to improve both surface and ground water features through connection to municipal servicing and infrastructure channel rehabilitation works and culvert replacement.

#### 5.2 Natural Hazards

In addition to CH's regulatory responsibilities (described above), CH also has provincially delegated responsibilities under Ontario Regulation 686/21: Mandatory Programs and Services, including acting on behalf of the Province to ensure that decisions under the *Planning Act* are consistent with the Natural Hazards Sections (5.1.1 – 5.2.8) of the Provincial Planning Statement (PPS).

The PPS and CH policies direct development away from hazardous lands associated with the Lake Ontario shoreline. CH staff will continue to work with the applicant and City to ensure no new development will be allowed within the flooding and erosion hazards that would be contradictory to PPS natural hazards policies (5.1.1 – 5.2.8).

CH staff recommended updates to the proposed ZBA to incorporate the stable slope allowance associated with the shoreline plus the five (5) metre maintenance access in the O2 (Open Space) zone. This approach would contain the proposed dwelling, major accessory structures and pool within the R1.2-561 (Low Density Residential) zone. City Staff have modified the extent of the O2 zone provided for the applicant to incorporate the five (5) metre maintenance access setback.

Planning staff is of the opinion that the proposed development, as modified by staff, is consistent with the PPS.

## **2.0 Halton Region Official Plan (2009, as amended)**

Section 44 of 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”. The Planning Act requires that Burlington's Official Plan and Zoning By-law be amended to conform with the ROP. In accordance with Map 1H – Regional Urban Structure of the ROP, as amended, the subject lands are designated 'Urban Area'.

### **Urban Area**

The Urban Area (Section 72) policies of the Regional Official Plan (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.

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*. The policies of the ROP provide for a structure and hierarchy in which to

direct population and employment growth. The Subject Lands are not located within a Regionally identified Strategic Growth Area.

Section 84 of the ROP speaks to the goal of housing to supply the Region with an adequate mix of housing types. Additional housing policies in the ROP speak to making efficient use of serviced lands to increase the supply of housing, and encouraging Local Municipalities and the development industry to be innovative in housing designs.

The ROP Urban Area and housing policies encourage, promote and permit intensification of land for residential purposes, such as infill, redevelopment and conversion of existing structures provided that the physical character of existing neighbourhoods can be maintained. The general policy direction and language supports intensification of uses within the Urban Area.

### **Regional Natural Heritage System**

In accordance with Section 115.2 (2) of the ROP, the shoreline along Lake Ontario forms part of the Region's Natural Heritage System (RNHS).

The Subject Property shares the shoreline along Lake Ontario and thus is part of the Regional Natural Heritage System (RNHS) as per Section 115.2 (2) of the 2009 ROP. Furthermore, in accordance with Section 118 (3) & (3.1) c) of the 2009 ROP, the proponent is required to carry out an Environmental Impact Assessment (EIA) for the proposed development.

In lieu of an EIA, and based upon the materials provided as part of the previous development applications, the subject lands contain identified SAR (Butternut Trees). Accordingly, and Arborist Report, a Butternut Tree Assessment and Ministry of Environment, Conservation, and Parks (MECP) direction is required. Staff are recommending a holding provision requiring the applicant to obtain a tree permit for all work (including removal) proposed around public and private trees inclusive of supporting from the MECP to confirm exemptions from the provisions of the Endangered Species Act for the two (2) Butternut trees proposed for removal.

In accordance with Section 118 (15) for properties immediately adjacent to Lake Ontario that is the subject of a development or redevelopment application:

- Require, as a condition of approval, the proponent to investigate and implement as necessary shoreline erosion protection measures to the satisfaction of Conservation Halton, and the Local Municipality
- Require the Local Municipality to establish, in consultation with Conservation Halton, building setbacks sufficient to assure the long-term safety of the structure(s)

- Encourage the Local Municipality to obtain, through dedication, agreement or purchase, suitable waterfront property along Lake Ontario or Burlington Bay, for public access and as part of a continuous trail system along or adjacent to the waterfront.

Staff are recommending the use of a holding provision to address the requirement for Conservation Halton to issue permits and accept as-constructed drawings from the Applicant, for all works relating to the:

1. Lake Ontario shoreline works required to facilitate the Lake Ontario shoreline protection and confirmation of the Engineering Development Setback (EDS); and
2. Culvert replacement, channel rehabilitation and drainage feature works along the east side lot line

Further, staff are recommending modifying the approval, in consultation with the Conservation Halton, to amend the limits of the proposed O2 zone incorporate the stable slope allowance associated with the shoreline plus the five (5) metre maintenance access. Finally, the lands to be zoned open space have not been proposed for dedication by the applicant. Staff are of the opinion, given the lands are not proposed to remain in private ownership that the O2 zone as well as maintenance access easements requested by way of holding provision provide necessary protection to ecologic and floodplain functions.

As per the analysis provided, Planning Staff are of the opinion that the proposed Zoning By-law Amendment with modifications recommended by Planning Staff conforms with the ROP.

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

The subject site is designated “Residential – Low Density” on Schedule B, Comprehensive Land Use Plan – Urban Planning Area of the Official Plan. This designation permits single-detached and semi-detached housing units with a maximum density of 25 units per net hectare. The calculation of density excludes the proposed public road, park, shoreline maintenance access and stormwater management blocks. (Official Plan, Part III, 2.2.2 & 2.9.2)

The applicant is proposing to replace the existing single-detached dwelling with a much larger single-detached dwelling. This represents proposed development, as defined, in terms of both the construction of a building, as well as the change in intensity of a permitted use requiring approval under the Planning Act. The proposed re-development meets the definition of *Intensification* in that it is proposes at an intensity that is currently higher than permitted under the existing zoning.

### **Criteria for Residential Intensification within Established Neighbourhoods**

Part III, Section 2.5.2 of the Official Plan provides criteria to be considered when evaluating proposals for residential intensification within established neighbourhoods, as discussed below:

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

Adequate municipal services are available to accommodate the proposed development. The Region has no objections to the proposed development and has advised that, in general, there is adequate water and wastewater capacity available to support the proposed development. Regional staff noted that to extend a private forcemain on Avondale Court, the Region will require the following:

- A detailed engineering submission.
- Regional servicing agreement.
- A Regional Services Permit.
- Approval from the City of Burlington to allow private infrastructure in their roadway including obtaining all municipal consents, agreements, permits, etc.

Staff are recommending the use of a holding provision in to ensure the above requirements of the Region as it pertains to wastewater servicing are met.

Further, upgrades are required to the unregulated drainage feature along the easterly limits of the proposed development with respect to channel rehabilitation and culvert replacement works. Staff are recommending the use of a holding provision to ensure the following are provided to the City:

- All final reports, drawings and as constructed certifications
- A draft reference plan identifying the regulated shoreline hazard and setback to be zoned open space, and part(s) for the drainage feature, up to stable top of bank and including a 5.0m wide maintenance access easement along the east side of the property within the limits of 105 Avondale Court, from the north side lot line to Lake Ontario for staff to review and approve prior to depositing at the Land Registry Office
- A letter from neighbours consenting to the works to be completed on their properties or revised Channel Rehabilitation and Culvert Replacement report and drawings from a qualified person redesigning the works to be entirely on the Owner's Property

Staff are of the opinion that subject to assurances provided through the holding provisions of municipal services exist to accommodate any increased demands of the proposed development.

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

Off-street parking is adequate; the applicant proposes has no requested relief to the base parking provisions requirements in the zoning bylaw.

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

Staff does not anticipate any change in traffic as a result of the replacement of the existing single-detached dwelling with a larger single family-detached dwelling.

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

Transit stops for Burlington Transit routes 10 (New-Maple) and 25 (Walkers), are located 970 m and 1.7 km from the subject site, at Lakeshore Road and Appleby Line, and New Street and Shoreacres Road. The stops are accessible via a connected network of sidewalks and crosswalks on Lakeshore Road, Shoreacres Road, New Street, and Appleby Line. The bus routes provide connections to key transit stops such as Downtown Burlington Bus Terminal, and Appleby GO, Burlington GO, and GO 407 Carpool Lot.

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

Compatibility is defined in the Official Plan as “*development or redevelopment that is capable of co-existing in harmony with, and will not have undue physical (including form) or functional adverse impact on existing development in the area...*” Staff are satisfied that the proposed development is compatible with the surrounding neighbourhood, for the following reasons:

**Scale** – Staff are satisfied that, although proposed development will generally be larger than existing surrounding buildings, the development can co-exist in harmony with the existing neighbourhood. Existing houses in the neighbourhood are one, two, and three-storey single-detached dwellings; similarly, the applicant is proposing a three-storey storey single-detached dwelling seeking provisions for additional height, reduced lot coverage and balcony regulations of the zoning by-law.

**Massing, Height & Coverage** – Massing is controlled in the Zoning By-law through setback, height, lot coverage, and deck and patio regulations. The proposed development has acknowledged that due to the size of the property as increase to minimum setbacks is required. The proposed setbacks will not result in a building that is inappropriately



massed because the applicant also proposes to restrict building height to 3-storeys and 23.5 m. Staff are satisfied given the increased setbacks the proposed increase in height to 3-storeys and 23.5 m is compatible with the existing neighbourhood.

*Siting & Setbacks* – The proposed dwelling is of an appropriate height and is adequately sited and set back from existing abutting properties and outdoor amenity areas to maintain privacy and limit overlook onto adjacent properties. Staff are recommending a modification that will limit balcony provisions only for the rear (south) facing wall toward the lake, removing request provisions for balconies on the north facing wall potentially overlooking existing neighbouring homes and yards.

*Parking* – The applicant proposes to meet or exceed the off-street parking requirements of the Zoning By-law.

*Amenity Area* – The proposed amenity areas will be buffered from existing buildings and rear yards through fencing and the preservation of existing mature trees. Privacy for existing and proposed buildings and rear yards is maintained/provided by appropriate building heights, setbacks, fencing, and the preservation of existing mature trees along the rear yards of the proposed lots.

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

Of the 193 total trees inventoried in the submitted Tree Preservation Plan, approximately 106 of trees on the subject site are proposed to be removed. All of the trees are privately owned. The proposed removal of trees was determined by the applicant's arborist based on high potential for structural failure, poor or very poor health or dead, or trees that would require removal due to proposed site grading and other conflicts with construction activity.

The City of Burlington private tree bylaw applies to all trees recommended to be injured or removed that are greater than 20 cm in diameter. Further, two of the trees proposed to be removed due to conflict with the proposed single-detached dwelling are Butternuts classified as endangered under O.Reg. 230/08: Species at Risk in Ontario. The Arborist report indicates the 2 Butternuts proposed for removal are classified Category 2 which are exempt from the Endangered Species Act, however application materials did not provide or include any documentation from the MECP to confirm or verify this assertion. Further, there are two trees where ownership is in question and as such may be subject to consent of the owner for removal.

Staff are recommending a holding provision for the owner to obtain a tree permit with specific regard to providing written consent for tree not owned outright by the applicant (or a survey proving they are) as well as supporting documentation from the Ministry of Environment, Conservation, and Parks (MECP) to confirm exemptions from the

Provisions of the Endangered Species Act for the two (2) Butternut trees proposed for removal.

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

Staff are satisfied that given the increase to minimum required yards as well as retention of boundary trees that the development is unlikely to cause any significant sun-shadowing for extended periods of time on adjacent properties.

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

Schools, community centres and shopping centres are accessible from the subject site via sidewalks and crosswalks along Lakeshore Road, Shoreacres Road, New Street and Appleby Line. Nelson Secondary School, Nelson Recreation Centre, Breckon Park, Paletta Park, and Appleby United Church are within 1.7 km of the site. Also, transit stops for Burlington Transit route 10 are located 970 m away, providing connections to key destinations such as Burlington Seniors' Centre, Burlington GO, Appleby GO and Downtown Burlington.

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

Landscape buffers are typically used to minimize impacts where different land uses or different intensities of land use are in proximity to each other. The proposed development is of the same land use and of a similar intensity as the surrounding neighbourhood.

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

The adjacent properties are currently developed. This said there is no indication that the proposed redevelopment would compromise the ability of an adjacent property to redevelop in the future.

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

Areas affected by erosion hazards and flooding hazards associated with Lake Ontario and the drainage feature are protected through the rezoning of the blocks to an Open Space (O2) zone, development setbacks, shoreline protection works and maintenance access. The applicant will also be required to provide remedial works to the drainage feature as it relates to Channel Rehabilitation and Culvert Replacement works.

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

Part II, 2.11.3 g) states that the City will normally require the dedication of the greater of the regulatory flood plain or valley through which a watercourse flows, including a conservation setback from top of bank, regulatory flood plain, or meander belt width. The dedication of these lands shall not be considered part of parkland dedication requirements, unless the lands provide needed public recreational opportunities as identified by the City. If any of these lands remain in private ownership, the lands will be protected by zoning, agreement or easement to protect the ecologic and floodplain function of such land.

The proposed development intends to keep all of the lands on the subject site in private ownership. As such staff are recommending the use of a holding provision to obtain a draft reference plan identifying the regulated shoreline hazard and setback to be zoned open space, and part(s) for the drainage feature, up to stable top of bank and including a 5.0m wide maintenance access easement along the east side of the property within the limits of 105 Avondale Court, from the north side lot line to Lake Ontario for staff to review and approve prior to depositing at the Land Registry Office. Further, and as mentioned earlier, Staff are recommending modifying the approval, in consultation with the Conservation Halton, to amend the limits of the proposed O2 zone incorporate the stable slope allowance associated with the shoreline plus the five (5) metre maintenance access.

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

Not applicable – The proposed development is for detached dwellings, which are a form of ground-oriented housing.

Part II, 2.4 of the Official Plan (1997, as amended) speaks to Natural Heritage policies. Natural heritage features provide many benefits to the City including wildlife habitat, flood attenuation, recreational opportunities and renewable resource use such as forestry and recreational fishing. Protection of these natural heritage features in the City helps to maintain water quality and quantity, improve air quality and also contributes to improving quality of life. It is staff's opinion that the open Space (O2) zone, as modified provides sufficient consideration and protection of the natural heritage features of the subject lands. Further, replacing the existing private services (well and septic) through connections to municipal services will assist in maintaining water quantity and quality.

Part II, 2.7 of the Official Plan (1997, as amended) speaks to Sustainable Design and Compatibility. Specifically, policy 2.7.3 d) speaks to where appropriate, new development shall be designed to be compatible with and enhance existing natural features, such as

the Lake Ontario and Burlington Bay waterfronts, the Niagara Escarpment, woodlots, watercourses and stream valleys. The proposed development incorporates shoreline works intended to provide shoreline protection and mitigate erosion. Further, the proposal includes culvert replacement, channel rehabilitation and drainage feature works along the east side lot line to enhance the drainage feature to function appropriately with regard to the conveyance of water to the lake.

Part II, 2.11 of the Official Plan (1997, as amended) speaks to Storm Water Management. The policies of the Official Plan require the use of stormwater management techniques in the design of new developments to control both the quantity and quality of storm water runoff (Part II, 2.11.3a)). City Site Engineering have reviewed the supporting studies and do not have any objections to the rezoning however require finalized studies and drawings to ensure that stormwater runoff is appropriately managed and will not increase the risk of flooding of the drainage feature. Improvements to the existing drainage feature will also be required at the cost of the developer and to the satisfaction of the City. Staff are recommending holding provisions to ensure final materials required by Development Engineering are provided.

Part II, 9.0 of the Official Plan (1997, as amended) speaks to the Waterfront. Policy

9.1 e) establishes that the waterfront environment and ecosystem should be protected and enhanced. Further, 9.2.1 policies b) and d) require the maintenance of the shore and banks along the waterfront as a permanent, stable landform and protect development on or near the Lake Ontario from potential hazardous conditions related to flooding erosion and storm susceptibility. Policy 9.2.2 directs that development within hazardous lands associated with the shoreline shall only be permitted subject to a permit from Conservation Halton and, if City Council considers the development to be consistent with the waterfront objectives and policies of this Plan; set back from the stable top of bank, at a distance which is acceptable to the Conservation Halton and the City of Burlington; and that shoreline protection measures shall be designed to visually complement the waterfront and to be undertaken in a manner that will have minimum adverse impact on the environment. Staff are aware that Conservation Halton has issued a permit for the shoreline works required. Further, as noted previously, staff are recommending modifying the approval, in consultation with the Conservation Halton, to amend the limits of the proposed O2 zone incorporate the stable slope allowance associated with the shoreline plus the five (5) metre maintenance access.

The intent of 9.4.1 b) of the Waterfront policies is to ensure that development is compatible with the waterfront in terms of land use, intensity and scale, and is carried out in a manner that protects and enhances historic and natural heritage environments, and ensures pedestrian friendliness and user accessibility. Staff are of the opinion that the proposed development is compatible.

Planning staff have reviewed the Zoning By-law Amendment application and materials and are of the opinion that the proposed development conforms to the Official Plan (1997, as amended).

#### **4.0 City of Burlington Official Plan (2020, as amended)**

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.

Until all broad appeals of the Burlington Official Plan, 2020 are resolved through the Ontario Land Tribunal (OLT) process, parts of the old Official Plan (Burlington Official Plan 1997, as amended) will be applicable. The current Zoning By-law will remain in effect until a new comprehensive Zoning By-law is enacted and comes into effect. Policies of the Burlington Official Plan, 2020 that are not in effect are relevant as an indication of City Council's vision but are not determinative.

The City has prepared an annotated "Burlington Official Plan, 2020 (July 2024 Office Consolidation)" that reflects which policies are in effect and which are not, in accordance with all Decisions and Orders issued by the OLT under case no. OLT-22-002219, as of July 2, 2024. You can view this document by visiting the City's webpage for the Official Plan at [Burlington.ca/newop](https://burlington.ca/newop).

As the OLT process continues, the Burlington Official Plan, 2020 is subject to change. 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 OLT's webpage for case no. OLT-22-002219: "OP - New Official Plan – City of Burlington" at [jus-olt-prod.powerappsportals.com/en/e-status/](https://jus-olt-prod.powerappsportals.com/en/e-status/).

The Official Plan (2020) policies for Residential Neighbourhood Areas was approved by the Ontario Land Tribunal on April 2, 2024. The subject property is within the Low Density designation in Schedule B – Comprehensive Land Use Plan – Urban Planning Area in the Official Plan (1997, as amended) and the policies of the Official Plan (2020) for the Residential Low Density apply.

The criteria listed under Section 12.1.2 (2.2) c) shall be satisfied when evaluating all development applications, where applicable.

In accordance with Section 12.1.2 (2.2) c) (iii), the development shall be consistent with the intent of the Urban Structure as outlined in section 2.3 of the Plan and maintain the land use vision established in the land use designations of this Plan. The subject lands are designated as 'Residential Neighbourhood Area' under Schedule B – Urban Structure of the Plan. In accordance with Section 2.3.4 lands identified as 'Residential Neighbourhood Areas' make up a significant proportion of the Urban Area and are intended to accommodate a wide range of residential uses and forms. Any development

occurring in these areas shall be compatible and should enhance the physical character of the surrounding area, in accordance with subsection 2.4 – Growth Framework and the applicable policies of Chapter 8: Land Use Policies – Urban Area of this Plan.

In accordance with Section 2.4.2.(3) a) established neighbourhood areas shall be composed of selected lands designated Residential – Low Density, Residential – Medium Density, and Residential – High Density, and development shall be in accordance with the permissions and densities established in the underlying land use designation. Furthermore, in accordance with subsection 2.4.2 (3) b), opportunities for intensification in ‘Established Neighbourhood Areas’ may be permitted with development that is in accordance with the maximum density and/or intensity permitted under the applicable land use designation. The subject lands are currently occupied by a single-detached dwelling and the proposed development of a replacement single detached dwelling is a permitted use under the existing designation.

The subject lands are designated as ‘Established Neighbourhood Area’ under Schedule B-1 – Growth Framework of the Plan. In accordance with Section 2.4.2.(3) a) established neighbourhood areas shall be composed of selected lands including those designated Residential – Low Density. The subject lands are currently occupied by a single-detached dwelling and the proposed development seeks to build a much larger single-detached dwelling, a permitted use under the existing designation.

The subject lands are further designated as ‘Residential – Low Density’ on Schedule C – Land Use – Urban Area. In accordance with Section 8.3.3 (1) a), lands within this designation may permit single-detached and semi-detached dwellings to a maximum density of 25 units per net hectare.

In accordance with Section 12.1.2 (2.2), the following criteria shall be satisfied when evaluating all development applications, where applicable:

*Section 12.1.2 (2.2) c) (ii):* the development shall achieve built form compatibility.

*Section 12.1.2 (2.2) c) (iv):* the development shall achieve high quality urban design and is consistent with the policies contained in Chapter 7 – Design Excellence.

*Section 12.1.2 (2.2) c) (viii):* the development shall provide buffering, setbacks and amenity area so that an appropriate transition between existing and proposed buildings are provided.

In accordance with Section 7.3.2 (2) i), ‘Established Neighbourhood Areas’ are subject to the policies of Subsection 7.3.2 a) of the OP 2020, where applicable and additional considerations such as, but not limited to: the local pattern of lots; the building typologies of nearby residential properties; the heights and scale of nearby residential properties; the setback of buildings from the street; and the pattern of rear and side-yard setbacks.

These identify that development should be designed to enhance the existing physical character of the surrounding area within which it is situated.

The proposed development includes rezoning the property from 'Low Density Residential' to replace the existing R1.2-502 site-specific exception with a new site-specific exception (R1.2-561) with regulations to permit the proposed development. The Zoning By-law Amendment would require amendments to the underlying R1.2 zoning for: recognize the 16m lot width of the front lot line along Avondale Court; increase minimum yards to 38 m rear (south) yard, 24 m east side yard, 16m west side yard and 13 m north side yard; reduced setback from an O2 zone to 0 m; a height increase from 2 storeys to 3 storeys and 23.5 m; to permit balconies on the wall facing the rear (south) yard; and provide for an increase in the area of a deck and patio surrounding the proposed pool.

The subject lands are surrounded predominantly by low-density residential uses including single-detached dwellings. While the proposed development is considerably larger than other dwellings in the area, the property on which it is located is also considerably larger than other properties in the immediate vicinity. The proposal provides appropriate setbacks and mitigation measures such as screening, buffering, and landscaping to ensure that any concerns relating to overlook and privacy are appropriately managed.

*Section 12.1.2 (2.2) c) (vi):* the development shall be supported by available infrastructure and public service facilities.

*Section 12.1.2 (2.2) c) (xi):* the development where residential uses are proposed shall demonstrate the degree to which public service facilities and other neighbourhood conveniences, such as community centres, recreation, neighbourhood shopping centres and healthcare are located within walking distance or accessible by transit.

The subject lands are located within an 'Residential – Low Density' under Schedule C – Land Use - Urban Area of the OP 2020 and it is approximately 2 km away from the nearest neighbourhood centre as well as a neighbourhood commercial area. The 'Residential – Low Density' and 'Neighbourhood Centre' designations are connected by pedestrian and transit routes. Under the Zoning By-law, the 'Neighbourhood Centre' designation includes the 'Community Commercial' zones which allow for a variety of uses including convenience/specialty food stores and other retail stores, service commercial, office, community, automotive and entertainment and recreation uses that serve the greater residential neighbourhood communities. As noted earlier the subject lands are in reasonable proximity to transit stops. The closest bus routes are located along New Street, north of the site and Appleby Line or New Street, east of the site. Access to regional transit opportunities are approximately 3.8km from the Appleby GO Station, travelling along Lakeshore Road, Appleby Line and Fairview Street. Alternatively, Burlington GO Station is approximately 7.3km away travelling along Lakeshore Road, Walker's Line and Fairview Street.

*Section 12.1.2 (2.2) c) (vii):* the development shall preserve and protect trees, consistent with the policies contained in Section 4.3, Urban Forestry.

The City's Urban Forestry and Landscaping staff have reviewed the submitted materials and have indicated concerns with the proposed tree removals. As a result, planning staff have incorporated a Holding provision under the amending By-law as previously discussed in this report to address their concerns.

*Section 12.1.2 (2.2) c) (xii):* the development shall address multi-modal transportation considerations and be consistent with the policies in Section 6.2: Multi-modal Transportation, including but not limited that the development shall mitigate potential impacts on the municipal transportation system to an acceptable level with regard to transportation flow and capacity and it shall accommodate sufficient off-street parking and transportation demand management measures in accordance with the policies in Subsection 6.2.10.

City Transportation planning staff have reviewed the proposed Zoning By-law Amendment and have demonstrated no concerns with the proposed parking and potential traffic generated by the proposed use. Additionally, the proposed parking is in accordance with the requirements under the existing Zoning By-law 2020.

*Section 12.1.2 (2.2) c) (ix):* the development shall demonstrate that future development on the adjacent properties will not be compromised by the proposal and be designed to facilitate future pedestrian, cycling and/or private street.

*Section 12.1.2 (2.2) c) (xvi):* the development shall consider the relationship to existing or planned transit facilities including a frequent transit corridor, higher order transit, bus routes and/or transit shelters.

*Section 12.1.2 (2.2) c) (xvii):* the development shall complement and connect with the public realm, including walking and cycling facilities.

The proposed development fronts onto Avondale Court which is directly connected to Lakeshore Road as an 'Urban Avenue' under Schedule O-1 – Classification of Transportation Facilities - Urban Area. Further Avondale court is in close proximity to Appleby Line also classified as an Urban Avenue and identified as a Frequent Transit corridor (per Schedule B-2).

*Section 12.1.2 (2.2) c) (xiv):* the development shall provide stormwater management in accordance with the policies of Subsection 4.4.2(2) of this Plan.

As part of the required materials for the application submission, the applicant has provided a Functional Servicing Report which includes a Stormwater Management brief that Development Engineering staff have reviewed and have indicated no concerns.



Planning staff have reviewed the Zoning By-law Amendment application and materials and are of the opinion that the proposed development conforms to the City's new Official Plan, 2020.

### **5.0 Zoning By-law 2020**

The subject property is currently zoned Residential Low Density (R1.2-502) and Open Space (O2). The applicant has requested to rezone the property to a new site specific Residential Low Density zone (R1.2-XXX) to permit a single-detached dwelling with a gross floor area of 2,432.14 m<sup>2</sup> and height of 3-storeys.

The currently site specific exception, R1.2-502, implements a previously proposed subdivision for eight lots across 105 Avondale Court and 143 Blue Water Place, which has since lapsed. At this time, the applicant is proposing to change the zoning of 105 Avondale Court only. The current application would impact the configuration of the previously proposed lots 3, 4, 5, and 6 as depicted in the existing R1.2-502 zoning. These lots would not be created and would be replaced by the one single lot being advanced through this proposal. The property at 143 Blue Water Place would continue to be zoned R1.2-502 which includes the previously proposed lots 1, 2, 8, and 7. In order for those lots to be developed as previously proposed, the owners would need to re-apply for a Plan of Subdivision application, which would also require a reconfiguration of the future road. Although changes to the zoning may be required to reconfigure the future road, Planning Staff do not anticipate negative impacts through the rezoning of 105 Avondale Court. Overall, Planning Staff do not anticipate any negative impacts to the zoning of 143 Blue Water Place through the current application for 105 Avondale Court.

Staff are recommending a holding provision to be implemented on the subject property to address comments received by Conservation Halton. The subject property is regulated by Conservation Halton as it is adjacent to the Lake Ontario shoreline. Conservation Halton regulates 15 metres from the greatest hazard associated with the Lake Ontario shoreline. The comments received by Conservation Halton state that permits are required from Conservation Halton prior to undertaking development activities on the subject property. The holding provision requires that the applicant obtain the Conservation Halton permit to address the comments received. Planning Staff are of the opinion that the holding provision will appropriately address any impacts to the Lake Ontario shoreline. In addition to the holding provision addressing Conservation Halton comments, the holding provision will also address outstanding MECP, Halton Region, Engineering Staff, and Forestry Staff considerations. Overall, Planning Staff have recommended holding provisions to address matters that are required to occur first.

	<b>Residential Low Density (R1.2)</b>	<b>Site-specific regulations requested by applicant (R1.2-502)</b>
Lot Width	24 m	16 m
<b>Staff Comment:</b> <p>The subject property at 105 Avondale Court has a lot width of 16 m which is deficient from the minimum 24 m by 8 m. Planning Staff have considered that the lot area far exceeds the minimum lot area of 925 m<sup>2</sup> for the R1.2 zone at 9,130 m<sup>2</sup>. The proposed development also far exceeds the minimum required setbacks in the R1.2 zone. Planning Staff are of the opinion that the lot width meets the intent of the Zoning By-law.</p>		
Side Yard	1.6 m (10% of the actual lot width)	Side Yards: <ul style="list-style-type: none"> <li>- East Side: 24 m</li> <li>- West Side: 16 m</li> <li>- North Side: 13 m</li> </ul>
<b>Staff Comment:</b> <p>The subject property has a lot width of 16 metres and 10% of the lot width equates to a 1.6 metre side yard setback. The applicant has provided proposed setbacks in the Draft Zoning By-law in the Planning Justification Report prepared by Wellings Planning Consultants Inc, dated December 20, 2024. The applicant's Draft Zoning By-law suggests that the zoning on the property include the greater setbacks. Planning Staff are supportive of the proposed development being subject to greater setbacks due to the size of the development proposed for a 2,432.14 square metre dwelling at a linear height of 23.5 metres. The greater setbacks will mitigate any visual impacts from the large massing of the proposed dwelling as well as any privacy concerns from overlook of the proposed dwelling. Planning Staff are of the opinion that the side yard setbacks meets the intent of the Zoning By-law.</p>		
Rear Yard	9 m	38 m
<b>Staff Comment:</b> <p>The rear yard setback of the property is the setback of the proposed dwelling to Lake Ontario. The applicant has provided this setback in the Draft Zoning By-law in the Planning Justification Report prepared by Wellings Planning Consultants Inc, dated December 20, 2024. Planning Staff are supportive of the proposed development being subject to a greater setback from Lake Ontario to locate development outside of the Open Space (O2) zone and protect the shoreline of Lake Ontario from development. Planning Staff are of the opinion that the rear yard setback meets the intent of the Zoning By-law.</p>		

Maximum building height	2.5-storeys	3-storeys and up to 23.5 m
<b>Staff Comment:</b> <p>The applicant is proposing a 3-storey building with a linear height of 23.5 metres. The applicant submitted a Height Survey prepared by A.T. McLaren Limited dated October 16, 2024 which shows the heights of the surrounding buildings. The heights shown in the Height Survey show similar heights to the proposed building. Planning Staff have discussed the built form with the applicant as the rooftop includes dormers. The applicant has identified this space as an attic/mechanical area. Planning Staff would not be supportive of this space being habitable as that would make this space an additional storey leading to a 4-storey building. Therefore, staff would only permit 3-storeys with the additional attic/mechanical area.</p>		
Balconies	No balconies above first storey on wall facing side and rear yards	Balconies above first storey permitted on south side yards only. North side yard restricted to second storey.
<b>Staff Comment:</b> <p>The applicant has requested an amendment to permit the balconies facing Lake Ontario (rear yard) and facing the north side yard. Planning Staff would only be supportive of the balconies above the first storey along the rear yard facing Lake Ontario. Planning Staff have considered permitting this as the building would be located 38 metres from the rear lot line which has greater separation distance. Planning Staff do not anticipate any negative visual or privacy impacts from permitting balconies above the first storey facing Lake Ontario.</p>		
Decks and Patios	30 m <sup>2</sup>	555 m <sup>2</sup>
<b>Staff Comment:</b> <p>The applicant has proposed a 555 square metre deck associated with the pool located within the rear yard. The proposed deck does not negatively impact any privacy or compatibility concerns as it is adjacent to the Lake Ontario shoreline. The deck is also permitted to be located within the 30 metre area from the top of the long-term stable slope of the Lake Ontario Shoreline as per Part 1, Subsection 2.30 of the Zoning By-law. Overall, Planning Staff have no concerns from the increased deck size.</p>		

The property is also subject to Part 1, Subsection 2.30 of the Zoning By-law which provides regulations for lands adjacent to Lake Ontario. As per 2.30 (i), for lots located within 30 m of the top of the long-term stable slope of the Lake Ontario shoreline, all buildings and structures greater than 10 square metres in area shall maintain a setback of 30 m from the top of the long-term stable slope of the Lake Ontario shoreline. This

setback may be reduced to the applicable setback requirement contained in the base zoning, provided the approval of Conservation Halton is obtained. Conservation Halton has provided comments for this application and have not objected to the location of the single-detached dwelling or the associated pool and deck. No development is proposed within the O2 zone which also incorporates the 5 metre maintenance access setback. Overall, the proposed development meets Part 1, Subsection 2.30 of the Zoning By-law.

Planning Staff are of the opinion that the Draft Zoning By-law in **Appendix D** of this report meets the intent of the Zoning By-law.