

Barristers &amp; Solicitors

**WeirFoulds**LLP**VIA E-MAIL**

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File 16121.00001

City of Burlington  
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Dear Mr. Mayor and Members of Council

**RE: City of Burlington Proposed New Official Plan**

We are solicitors for Branthaven Development Corp. owners the property municipally known as at 720 Oval Court, Burlington. Under the February 2018 proposed Official Plan, 720 Oval Court is located in a Primary Growth Area, and is part of the Mixed Use Node and Intensification Corridor, but is proposed to be designated Urban Corridor- Employment Lands, permitting only employment uses.

In addition to 720 Oval Court, the properties at 735 and 740 Oval Court and 5155 Fairview Street, 5135 Fairview Street (collectively with 720 Oval Court, the "Properties"), are all similarly designated under the proposed Official Plan and therefore the comments in this letter should likewise apply to those properties for consistency.

The Properties have frontage onto both Oval Court and Fairview Street and abut commercial/industrial uses to the north and east, a vehicle parking lot and small creek to the west, and residential land uses to the south on the opposite side of Fairview Street. The Properties are within the designated Appleby GO Mobility Hub as they are located immediately adjacent to the Appleby Go Station.

**Policy Consideration**

The Properties are within the Primary Growth Area within the City's proposed Official Plan, where the Primary Growth Area:

- (ii) shall be recognized as a distinct area within the City's Urban Area accommodating the majority of the city's forecasted growth over the planning horizon of this Plan and beyond, and consequently will experience the greatest degree of change;

(iii) shall be regarded as the most appropriate and predominant location for new tall buildings subject to the underlying land use designations, or the land use policies of an area-specific plan;

(iv) shall be identified as priority locations for City-initiated area-specific planning and for investments in transit as well as other types of infrastructure and public service facilities, including parks to support population and employment growth; and

(v) shall support the frequent transit corridors and accommodate development that is compact, mixed use, and pedestrian-oriented in nature.

Under section 2.3.1 of the proposed Official Plan, Mobility Hubs are identified as Mixed Use Intensification Areas. Specifically policy 2.3.1(i) states in part that:

...The high level of existing or planned transit service within these areas provides an environment within which significant residential and employment growth can be supported. To further support the transit oriented nature of these areas, growth shall occur in the form of compact, mixed-use and pedestrian-friendly areas with residential and employment intensities greater than which exist in the surrounding areas. These are emerging areas in the Urban Structure that represent opportunities to intensify and develop complete communities.

It is also of note that the proposed Official Plan identifies the Appleby GO Mobility Hub as a Major Transit Station Area. Under the in force Region of Halton Official Plan (ROP), the lands are also designated as Major Transit Station Area and within the policies of the ROP, the purpose of a Major Transit Station Area is to achieve, among other things: Residential and employment densities to ensure the viability of existing and planned transit infrastructure and service; and to provide for a mix of residential, office, institutional, and commercial uses.

We also note in the proposed Official Plan policy 5.4.7 (b) which states:

b) Mobility Hubs are currently being considered through an area-specific planning process that will consider the importance of accommodating employment over the long term in areas targeted for intensification.

Additionally proposed policy 8.1.2 states:

"Upon the completion of an area-specific plan, all new objectives, policies and land use designations pertaining to individual mobility hubs will be found in this section..."

Notwithstanding all of the aforementioned policies, it remains unclear why the Properties and the Go Station parking lot remain the only lands south of the rail line within the Appleby Mobility

Hub that are designated solely for employment uses. Such a designation is, in our submission, inconsistent with the Provincial Policy Statement, contrary to the Growth Plan, contrary to the policies within the ROP and contrary to the proposed policies in the City's proposed Official Plan. It is our submission that the Properties should be designated in such a way that maximizes their residential and non-residential potential to satisfy the aforementioned policies

Further, given that the policies in the proposed Official Plan clearly contemplate further significant study for Mobility Hubs to ensure that the policies and land use designations are correct, it is wholly premature to designate the Properties only for employment uses at this time.

Finally, it is of note that the current employment function of the Properties would not be compromised as any residential use on the Properties would be required to be part of a mixed use development, thereby maintaining the employment function that currently exists on the Properties.

#### Conversion Criteria

Additionally, we note that the change in designation of the Properties meets the assessment criteria established by Council as follows:

Proposal must pass the following 7 criteria to be a candidate for conversion:

<b>Council-Approved Employment Land Conversion Policy</b>	<b>Assessment as it relates to Oval Court lands</b>
Proposal shall only be considered as part of MCR.	Being considered as part of MCR.
There is a demonstrated need for the conversion.	As the City is undertaking to convert lands, there is a demonstrated need.
The proposal shall not detrimentally affect the short and long term employment land needs of the City.	City identified demand of 149 net hectares for employment land from 2011 to 2031. Employment land supply (after re-designations proposed in Dillon's report) is 308.1 net hectares. Combined area of Oval Court Land is approx. 4.9 hectares.
The proposal will not adversely affect the achievement of the intensification/density targets.	Re-designating subject lands to high density mixed use employment/residential/commercial will help meet intensification targets.
The intensity and characteristics of the proposed non-employment uses shall not adversely impact the overall viability of the employment area, desirability, or the proper servicing of existing and future surrounding land uses.	The proposal would retain employment function and introduce mixed uses that would be complimentary to the employment uses (i.e. ground floor commercial uses) and for the residential uses (providing commercial uses for the residents, as well as a buffer from the industrial uses to the north).

	Servicing studies will be conducted to ensure non-adverse impacts to municipal/regional infrastructure.
There is existing or planned infrastructure to accommodate the proposed conversion.	The subject lands are within the built boundary of the ROP
Cross-jurisdictional issues have been considered.	The subject site is not within the Regional employment lands overlay.  The subject site does not border any other municipality.

Further, at least 2 of the following 5 criteria must be met:

<b>Council-Approved Employment Land Conversion Policy</b>	<b>Assessment as it relates to Oval Court Lands</b>
Amount of land affected is minor in area based on the projected land requirements within the planning horizon of the plan.	The projected total demand is 149 ha (2011 to 2031). Total supply is 308.1 ha  The subject site is 4.9 ha in size (1.6 % of total supply)
The development of the site is not feasible for employment uses within the planning horizon of the Plan	The proposal for mixed use employment/residential/commercial is compatible with existing and planned future uses, as commercial uses will be complimentary to the employment and residential uses and the mixed use aspect will provide a buffer for the sensitive residential uses to the south.  The site's current use is employment, however it is under-utilized and can be put to greater use – a "Transit-supportive" use.
There are no alternative sites, designated and approved for the proposed use elsewhere in the City	As the site is located directly adjacent to Appleby GO Station and Sherwood Forest Park, there is no other site which is designated for such an advantageous use of existing amenities and infrastructure.
The proposal will have a beneficial impact on the surrounding uses and the broader community.	Complimentary commercial uses will have a positive impact on the employment and residential areas.  A high density employment/residential/commercial mixed use area adjacent to the GO station will allow maximum utilization of existing parks and transit, which will reduce the stress on the remainder of the community's infrastructure.
The development of the lands for non-employment uses will meet a public need identified by City Council Resolution.	Staff Report PB-30-16 states "The Official Plan will include policies that identify that a future area specific plan will be required to support the planning of this future GO Station. The policy will recognize the opportunity for

	the creation of an employment intensification node within the existing employment lands north of the rail. <u>The policy will also highlight the role of the mixed use corridor along Fairview Street as a means to support the employment area to the north of the rail with amenities and a wide range of uses and transit oriented development to support the station.</u>
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### Resident Input

We reached out to 99 of the most affect homes located at 5090 and 5110 Fairview Street. Of those 99, 39 responded. Of those 39, 21 provided signed a petition indicating that they were in support of a motion to re-designate the Oval Court Lands from employment to permit a mix of uses in the area, rather than only allowing employment uses. 6 indicated that they opposed such a motion. In addition to the 21 who signed the petition, 3 others indicated that they were supportive, but didn't want to sign. 9 others indicated that they were indifferent or that it wasn't a good time to learn more about the uses on the Properties.

### Requested Motion

Given the foregoing, we are requesting that Council reconsider its decision with respect the designation of these lands. We are requesting that the following motion for reconsideration be put forward to Council at the earliest opportunity:

"Direct the Director of Planning to amend the proposed Official Plan to designate the lands municipally known as 720, 735 and 740 Oval Court and 5135 and 5155 Fairview Street as Urban Corridor on Schedule C of the City of Burlington Official Plan and to direct that the Appleby GO Mobility Hub Area Specific Plan consider and develop appropriate policies for these lands to allow the employment function to be retained, in conjunction with other uses."

### Summary

The City is undertaking a Municipal Comprehensive Review at this time and therefore it is appropriate to ensure that the designation of the Properties is appropriate for the long term. It is submitted that the most appropriate designation for the Properties is Mixed Use which will support and enhance the role of the Mobility Hub.

In our submission, the Properties are among the best in the City to be designated for a full range and mix of uses. Currently the Properties are underutilized in achieving population and employment targets under provincial policy. It has to be recognized that the future of Burlington employment will be clean employment uses (ie. office uses) which are compatible with

residential uses in the surrounding neighborhood and any the dwellings that would be constructed on the Properties.

Further, this area is rich with parkland and adjacent residential uses which are not compatible with heavy industry. Further, the Properties abut the GO station which would allow workers and residents to flow into and out of the area, morning and evening. The proximity to the GO is but one transportation consideration, given that many key bus routes also converge at the GO station which would allow proposed residents to travel via Burlington Transit throughout the City.

The redesignation of the Properties will in no way impact the employment land needs of the City as the existing employment function will proposed to be maintained. The redesignation will instead assist the municipality in achieving density and intensification targets in the Mobility Hubs, an area which has been identified as the Primary Growth Area.

Please do not hesitate to contact the undersigned if you have any questions.

Yours truly,

**WeirFoulds LLP**



Denise Baker

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Encls.

cc Client