

DEVINE PARK LLP

PLANNING AND DEVELOPMENT LAWYERS

Adrian Frank
adrian.frank@devinepark.com
D 416.645.4582

Devine Park LLP
250 Yonge St., Suite 2302
P.O. Box. 65
Toronto ON M5B 2L7

T 416.645.4584
F 416.645.4569

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DELIVERED VIA EMAIL (cityclerks@burlington.ca; jo-anne.rudy@burlington.ca)

Community Planning, Regulation and Mobility Committee
Committee Services, Clerks Department
426 Brant Street, PO Box 5013
Burlington, ON L7R 3Z6

ATTENTION: Jo-Anne Rudy, Committee Clerk

Dear Members of the Community Planning, Regulation and Mobility Committee:

**RE: Written Submission to Community Planning, Regulation and Mobility Committee
respecting Interim Control By-law Land Use Study (PL-01-20)**

We are the solicitors for Northgate Properties Inc. (c/o Fengate Asset Management), the owner of the lands municipally known as 920 Brant Street and 850 Legion Road in the City of Burlington (the "**Properties**"). The Properties are located within the area subject to Interim Control By-law No. 10-2019 (the "**ICBL**"), and are also currently under consideration for redevelopment by our client. As such, our client has an interest in the matters set out below.

Our client and its consultants have monitored the process with respect to the ICBL, and have reviewed the report and materials submitted in support of the ICBL Land Use Study (the "**Report**") for consideration by the Community Planning, Regulation and Mobility Committee on January 14, 2020. We wish to provide our comments and concerns respecting the Study and the submitted materials, as outlined below.

We are concerned about the potential impacts that the proposed policies and provisions put to the Committee may have on our client, were they to be adopted by Council.

1. **The policies put forward in the Report were developed without public engagement.** The Report recommends that these policies form the foundation for further planning in the area, and notes that it is unclear when a longer-term policy approach will be finalized due to uncertainty with higher-tier policy instruments and local policy development. Despite the significance of these policies, staff have refused to undertake consultation with key stakeholders, including the landowners whose rights are most directly affected. This approach is particularly problematic where, as here, the new policies depart from prior policy directions which benefited from stakeholder engagement, like the Burlington GO Mobility Hub Study.

2. **The policies have not been adequately justified in the Report or its supporting materials.** The policies introduce stringent limitations on potential redevelopment, and depart from prior policy directions recommended by staff, without sufficient justification. Two examples follow:
 - a. **Mandatory requirements for affordable housing:** Section 7.2 of the Draft Official Plan Amendment introduces mandatory requirements for affordable housing for all redevelopment applications which propose residential uses. The policies do not provide clear guidance on how this requirement will be applied, nor is any consideration given to the size or scale of redevelopment. We understand and agree that this is a pressing and important objective, however the Report and its supporting materials do not demonstrate that these policies have been analyzed for feasibility, nor for why they are required in this situation. Without such justification, and absent a clear strategy for how the policies may be implemented through cooperation between the municipality and stakeholders, these policies may in fact threaten to undermine the municipality's objectives, by reducing incentives for residential development in the area.
 - b. **Specific policies for the Burlington GO Major Transit Station Area:** While the policies provided for this area offer generally high-level direction, it is clear that many of the specific directions represent a departure from results of Burlington GO Mobility Hub Study, as released in July 2018. For the area to the east of the Properties, at the north east corner of Brant Street and Fairview Road, the recommended policies impose stringent limits on height for development near this major intersection, but offer no clear justification for such prescriptive limitations. This lack of justification is particularly problematic: both as a marked reduction from earlier policy direction recommended and advocated by staff from the Hub Study, but also as a significant degradation of development potential for affected sites. There is a higher onus to provide justification for policies of this nature and in this context, and such justification is not found in either the process or the materials put forward by staff.
3. **The proposed policies and the method of their development set a bad precedent.** Our concern is that, if this approach to policy development is accepted in the present situation, it sets a precedent for similar planning approaches in the future. These policies would effectively undermine any effort to implement the detailed work and high-level foundation established by the Burlington GO Mobility Study, including the precinct Plan put forward by staff in July 2018, to the detriment of landowners like our client.

For the reasons set out above, we strongly urge the Committee and Council to dismiss the recommendations of staff, to direct staff to undertake further community consultation, and to request a further report either recommending policies in keeping with the prior direction staff recommended following the Burlington GO Mobility Study, or demonstrating the necessity for this significant shift in policy direction.

We respectfully request notification of any further actions or decisions made by City Council respecting this matter.

If you have any questions or concerns about the matters discussed above, please contact the undersigned.

Yours very truly,

Devine Park LLP



Adrian Frank

AGF/JIP

cc: Samantha Romlewski, Community Planning, City of Burlington
Northgate Properties Inc. (c/o Fengate Asset Management)
Dana Anderson, MHBC