



**FOTHERGILL PLANNING & DEVELOPMENT INC.**

62 DAFFODIL CRES. • HAMILTON, ON L9K 1E1 • PHONE: (905) 577-1077 • FAX: (905) 546-0545 • E-MAIL: edf@nas.net

January 10, 2020

Ms. Jo-Anne Rudy  
Clerks Department  
City of Burlington  
426 Brant St.  
Burlington, ON L7R 2G2

Dear Ms. Rudy:

**Re: Public Meeting - Burlington Interim Control By-law Land Use Study  
- The Molinaro Group - Paradigm-Fairview Street**

On April 17, 2019, I submitted the attached correspondence to the Mayor and members of Council on behalf of The Molinaro Group requesting an exemption from the Interim Control By-law for the Paradigm development site on Fairview Street adjacent to the GO Station. The request was made on the basis that while the site plan process was to be implemented in two stages, the development represents one integrated project and that construction of the project was partially completed. The concern at the time was, in part, due to the time delay associated with this exercise, as well as a concern about a review process arriving at a conclusion which could be contrary to the development form that was already approved and partially constructed.

The delay in the process has created significant hardship for the proponent who was forced to postpone the continuation of a successful project which provided a desirable housing option in a prime intensification area adjacent to the GO Station. Despite wanting to proceed with the successful momentum of the first part of the project, the owners have had to delay further implementation for an entire year as staff were not prepared to accept a site plan application.

Upon review of the documentation and draft planning documents associated with the Burlington Interim Control By-law Land Use Study, we note that the proposed Zoning By-law recognizes the existing Special Exception No. 386 on the property, which is very helpful. We do however have a concern with respect to the proposed new by-law regulations for the number of bicycle parking spaces per unit and the size of these spaces. The existing three buildings which have been registered, do not comply with these requirements. Therefore, if the By-law is approved in its current form, the existing buildings would become legal non-conforming. In addition, attempting to accommodate these regulations in the two remaining buildings will be problematic. We therefore would request that the By-law be amended to exempt the site from these regulations and recognize the existing Paradigm development form.

There is a concern about the policies in the proposed official plan amendment: in particular, Policy 7.2.3.1(h), which provides development criteria for lands within the area bounded by Brant Street, Drury Lane, Fairview Street and the rail corridor. A number of the design elements within this subsection cannot be met, either by the existing form of development or the final stage of the site plan process.

In particular, the following policies do not conform to the approved development:

- (ii) Minimum distance separation of 30 metres from other tall buildings;
- (iii) Maximum floor plate of 750 metres;
- (v) Establishment of new parks and open spaces;
- (vi) Establishment of public parks and open spaces potentially within the site and the implications for a previously approved built form;
- (vii) Requirement for 3-bedroom units;
- (x) Requirement for dedication of public right-of-way to facilitate walkway;
- (xi) Proposed setbacks from mid-block right-of-way; and
- (xiv) Building setbacks from Fairview Street.

As a result, to avoid conflict with the approved form of development, it is recommended that these policy provisions not apply to the Paradigm site. Alternatively, we would ask that the provisions be amended so that they are consistent with the approved built form.

Given that the Interim Control By-law process has been completed, we would ask that staff be directed to accept the site plan application for the final phase of the Paradigm project. We have reviewed the process requirements with staff and are ready for a site plan submission within the next few weeks. In order to allow that to occur, we would ask that either the provisions of the Interim Control By-law be lifted for the Paradigm site, or alternatively, the property be provided with an Exception to the Interim Control By-law.

We look forward to bringing these matters to the Public Meeting on January 14, 2020.

Sincerely,

**FOTHERGILL PLANNING & DEVELOPMENT INC.**



E.J. Fothergill, MCIP, RPP  
President

Encl.

c.c. Mr. Vince Molinaro, Mr. Sam Di Santo, Mr. Rob Molinaro, Mr. Barry Graziani, Ms. Rosa Bustamante



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April 17, 2019

Mayor and Members of Council  
City of Burlington  
426 Brant St.  
Burlington, ON  
L7R 2G2

Dear Mayor and Members of Council:

**Re: The Molinaro Group - Paradigm - Fairview Street  
- Request for Exemption from Interim Control By-law**

We understand there is a concern that the exemption of the Paradigm site from the Interim Control By-law could set a precedent which would make it easy or attractive for other projects to claim similar exemptions. We believe that there is no basis for concern regarding precedent for a number of reasons.

First, any decision made by Committee and Council is an independent stand alone decision. Council is not bound by a decision associated with one project based on previous approval of another, particularly when there are very few similarities between the two projects. Each development application has its own unique characteristics and stands on its own merits.

Even if there were a concern about setting a precedent in the general sense, this line has already been crossed given that a number of projects have already been provided with exemptions. Therefore, it is our position that the merits of considering site specific exemptions has already been established.

We would agree that there could be a concern about precedents if there were any projects of a similar form and/or at the same stage of the approval process as the Molinaro Paradigm project. We reviewed ongoing development projects in Ward 2 and have found that those listed on the City website all involve ongoing applications for official plan amendment and rezoning. None of them have been subject to a site plan application nor has construction been initiated on any of these sites. Therefore, we do not believe that the continuation of an ongoing site plan approval process for the Paradigm site, which was initiated in 2012 under the direction of staff, will in any way affect the ongoing applications for official plan amendment and rezoning on any of these projects.

The only other comparable which has been brought to our attention is the Holland Park site on Fairview Street where we understand some preliminary discussions have taken place with staff. However, no development applications have been submitted. We understand that this site could be considered more comparable than the others, given that it may be able to proceed directly to the preparation and submission of an application for site plan approval. Even if that did occur, the situation with Holland Park is different from Paradigm in a number of ways:

1. There has been no application for site plan approval submitted to the City.
2. There has been no comprehensive staff review of a development proposal as has taken place with Paradigm.
3. There has been no assessment by staff of the merits of a development proposal within the context of existing zoning regulations and official plan policies.
4. There has been no consideration of staging of development on Holland Park lands.
5. There has been no construction of buildings or the installation of servicing infrastructure on the Holland Park site.

The consideration of an exemption for the Paradigm property does not either weaken or compromise the position of the City as it goes through a study exercise, nor does it compromise the outcome of the study. Given that the importance of developing a high density built form around mobility stations, which has strengthened since the original Paradigm has been constructed, it is unlikely that a study will recommend down-zoning of lands around a mobility hub. We do not believe that an exemption with respect to the Paradigm site will be affected in any way by the outcome of the study in that we do not believe anything will change with respect to the design elements of the approved plan as a result of the study.

The Paradigm project has been the subject of an eleven year planning process which included an extensive site plan review process which was initiated on December 11, 2012 ultimately for the approval of five buildings within an integrated development. A planning process prescribed by staff directed that the development should be implemented in stages. That process was respected by all parties and has proceeded since 2012 on that basis, as outlined in planning report PB-04-14, dated March 24, 2014, in the material that was provided to Committee on April 2, 2019. The completion of the last phase of site plan approval, which has already been initiated through contact with staff, represents the last phase of an extensive planning approval process which has continued in an uninterrupted fashion for the past eleven years. There is no other site which has progressed through a similar process.

At a presentation on April 2, 2019 to Committee, we identified a number of public benefits to the continuation of this project, including the following:

- the completion of access amenity areas for the residents of the first phase of the project;
- cleaning up and animating the Fairview Street frontage with attractive landscaping and service commercial uses;
- the construction of office space to create employment opportunities;
- the implementation of a strong Provincial policy for transit-supported development in close proximity to mobility hubs;
- maintaining a reasonable level of affordability as has been experienced in the first three phases; and
- need to respond to market demand as evidenced by a significant list of prospective purchasers.



While our preference is for this project to be exempt from the Interim Control By-law, we are prepared to not pursue this request at this time, provided that we can move forward and continue with the site plan approval process as has been initiated through our discussions with staff. We would expect this would include receipt of the application, deeming it complete, and circulating it for review and comment, providing those comments back to us, as well as possibly a second round of submission and comments. We would therefore ask that Council direct staff to continue to work with us through this exercise in a manner to that being pursued with ongoing rezoning applications.

The Molinaro Group has a very rich, successful history of producing excellent projects through an open, collaborative process which has resulted in a long and successful working relationship with staff and Council through all of its projects. What we are asking at this point is to respect the integrity of the process and the many players involved in this site over the last eleven years, including not only the Ontario Municipal Board, but also City Council, staff, neighbours, and existing residents in the first three buildings.

We would like to continue down the path we began in 2012 under the direction of staff and feel that the continuation of collaboration is the best way to achieve good planning outcomes for all parties.

Mr. Scott Snider of Turkstra Mazza Associates will be appearing at the Council meeting of April 23, 2019 to speak to this matter.

Thank you for this consideration.

Sincerely,

**FOTHERGILL PLANNING & DEVELOPMENT INC.**



E. J. Fothergill, MCIP, RPP  
President

cc. Mr. Vince Molinaro, Mr. Sam Di Santo, Mr. Rob Molinaro, Ms. Ashley White,  
Heather MacDonald, Scott Snider

**FPD**

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Dear Ms. Rudy:

**Re: Public Meeting - Burlington Interim Control By-law Land Use Study  
- The Molinaro Group - 747, 767, 769, 779 Brant Street and 2023 and 2027 Ghent Avenue**

The Molinaro Group, who owns property at the intersection of Brant Street and Ghent Avenue, would like to request either removal of the provisions of the Interim Control By-law from these sites, or an exemption to the Interim Control By-law to allow the owner to prepare and submit an application for rezoning and official plan amendment to permit development on their property.

From a review of the technical study and staff report, there do not appear to be any specific development issues or constraints associated with this site arising from the Report. We do not believe there is any public interest in retaining Interim Control By-law on these properties.

Thank you very much.

Sincerely,

**FOTHERGILL PLANNING & DEVELOPMENT INC.**



E. J. Fothergill, MCP, RPP  
President

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