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January 13, 2020

City of Burlington
Community Planning, Regulation and Mobility Committee
426 Brant Street, P.O. Box 5013
Burlington, ON. L7R 3Z6

Attn: Committee Chair and Members
c/o Jo-Anne Rudy, Committee Clerk

Dear Chair Stolte & Members:

**Re: Interim Control By-law Land Use Study and Proposed
Official Plan and Zoning Bylaw Amendments (Report No. PL-01-20)
Carriage Gate Homes and Related Companies:
2069-2079 Lakeshore Road & 383-385 Pearl Street (Lakeshore (Burlington) Inc.)
2107 & 2119 Old Lakeshore Road (Old Lakeshore (Burlington) Inc.)
535-551 Brant Street (Rennimob)
Our File No. 13540**

We are counsel to Carriage Gate Homes and related companies (hereinafter “Carriage Gate”) in this matter. Carriage Gate owns sites at 2069-2079 Lakeshore Road and 383-385 Pearl Street, 2107 and 2119 Old Lakeshore Road and has an interest in 535-551 Brant Street, all of which have been directly affected by the Interim Control Bylaw and study. Carriage Gate has participated actively in the planning process and has made previous submissions to Committee and Council regarding the City’s planning initiatives that would impact these important sites in the City’s Urban Growth Centre (“UGC”).

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Concerns with the Recommendations and Proposed Official Plan Amendment

There is considerable frustration with the imposition of an interim control by-law that has delayed development in the City's UGC. The Study and the proposed OPA focus on the concept of Major Transit Station Areas ("MTSAs") and creating an MTSA "typology". Yet the Report, staff report and OPA all recognize that the Region is responsible for the final delineation of the MTSA boundaries and the identification of minimum density targets through its municipal Comprehensive Review. This was known before the passage of the interim control bylaw and raises considerable doubt about the efficacy of the City's interim control bylaw exercise.

Setting that issue aside, our client has a number of concerns with the conclusions and recommendations set out in Report PL-01-20. These concerns include, but are not limited to, the following:

1. The proposed MTSA Special Planning Area policies in Section 7.2 purport to provide "transitional" criteria to guide the evaluation of development applications until the completion of secondary plans for the MTSAs. Given the specific reference to the "transitional" function of the policies, this provision should clearly indicate that these policies should only apply to applications received following the final approval of the proposed OPA. As a matter of law and fairness, it should be clear that the proposed criteria do not apply to applications submitted prior to the final approval of this OPA.
2. Despite repeatedly recognizing that the delineation of the MTSAs boundaries and the identification of minimum density targets will be established by the Region through its MCR, the OPA purports to introduce an MTSA "typology" and policies that speak to the role of the MTSA's in "driving" intensification and further require that development applications be "consistent with" the overall role and function of the MTSAs. (for instance, proposed policy 7.2.2(a)). This is clearly inappropriate prior to the completion of the Regional work in respect of the MTSAs.
3. The proposed MTSA Special Planning Area appears to apply to the entire area within the IC By-law which, in turn, includes the entire UGC. Proposed Section 7.0 ("Major Transit Station Areas") appears to effectively supplant the policy direction unique to UGCs whether or not the lands are also part of an MTSA. This is not appropriate. Policies 7.2.2(o) and (p), as well as 7.2.4.2(b), indicate that population and employment growth distributions and the optimization of land and infrastructure are policies intended to apply

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across the City or to development patterns and should not be applied or considered on a site specific property basis. The clear intent of these policies is to suggest that the minimum population targets and directions to optimize land and infrastructure should not be considered in evaluating site specific applications. This is simply wrong. While it is true that population and employment targets apply across geographic areas, these targets and the optimization of land and resources can and will only be achieved through each development application. These important concepts and objectives must be considered in the evaluation of individual projects. Frankly, this is the only way that these broad and important policies will actually be achieved. Furthermore, this approach is inconsistent with other proposed policies that require the incorporation of other planning policies on a site specific basis – eg. Policy 7.2.2(g) with respect to the mix of unit sizes.

4. Proposed Policy 7.2.4 indicates that the downtown Burlington MTSA does not function as a major bus depot and “...this is likely to continue into the future, unless improvements and/or enhancements are undertaken...” The Dillon Report makes recommendations in this regard. However, there is little indication in the Staff Report of any interest in moving forward with the long-term planning requirements for the downtown MTSA. This serves no one.
5. It is unclear how the proposed “New Green Spaces” policies (7.2.2(j)) are intended to relate to the parkland dedication requirements of the *Planning Act*. The Province is currently reviewing these issues and new City policy initiatives are premature until the Province concludes that work.
6. The OPA proposes to shrink the size of the UGC by eliminating Spencer Smith Park from the UGC area. This would represent a reduction of approximately 11% in the UGC land area. This is contrary to provincial policy. A UGC is to include all major focal points, including recreational uses. All this change would do would be to artificially increase the density of the UGC. The Report claims that this is in response to Regional ROPA 38. In our respectful submission, this is not an appropriate interpretation of ROPA 38.
7. The proposed minimum distance separation between tall buildings is contrary to the existing City of Burlington *Tall Building Guidelines* and is unnecessary and inappropriate given the importance of optimizing the use of land and infrastructure in these areas.

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8. Requiring (through the use of the word “shall”) incorporation of affordable housing or related community benefits in every development is inappropriate.
9. In effect, some of the proposed OPA seeks to convert matters that are appropriately dealt with in guidelines into legally binding official plan policy. This is not appropriate.

Conclusion

Taken as a whole, the proposed OPA appears to be directed to discouraging the efficient and effective intensification of the UGC. This is contrary to fundamental provincial and regional policy and represents bad planning.

There has been very little opportunity to comment on the details of the recommendations and the proposed OPA. Certainly the OPA should not be adopted at this time.

We respectfully request to be placed on a mailing list to receive copies of all notices, meetings, minutes, reports and any Notices of Decision respecting the above matter. All future notices should be directed to this office and directly to Carriage Gate Homes as follows:

Carriage Gate Homes
Attn: Mark Bales
2069 Lakeshore Road
Burlington, ON L7R 1E2
Email: mark@carriagegatehomes.com

Yours truly,



Scott Snider

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