

January 13, 2020

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VIA E-MAIL

File 20378.00001

City of Burlington
426 Brant Street
Burlington, ON
L7R 3Z6

Attention: Mayor Meed Ward and Members of Council

Dear Mayor and Members of Council:

Re: City of Burlington ICBL Study, Downtown Burlington & Burlington GO

We are solicitors for Landform Development Group Inc. and 2413350 Ontario Inc. regarding the redevelopment of property located at 401-417 Martha Street, in the City of Burlington.

Together with our client's land use planners, we have reviewed the City of Burlington's Interim Control By-law Land Use Study and proposed Official Plan Amendment ("**OPA 119**") and Zoning By-law Amendment 2020.XX and have concerns with a number of policies contained therein including:

Proposed Official Plan Amendment

- Proposed OPA 119 adds a policy framework for *Major Transit Station Areas* ("**MTSA**"). In this regard, we are generally supportive of the proposed amendments to Parts I and II of the existing Official Plan.
- The OPA adds Section 7.0 (Part III), which describes the different types of MTSA's. A greater emphasis is placed on Burlington GO since it is located on a Priority Transit Corridor. However, proposed OPA 119 also de-emphasizes the importance of the Downtown Burlington MTSA. Notwithstanding the fact that the Downtown MTSA is within the Urban Growth Centre, it appears that the impetus for de-emphasizing the Downtown MTSA is to reduce density within the Downtown. It is submitted that this is contrary to not only the Growth Plan, but also doesn't conform with the Region's Official Plan.
- Proposed OPA 119 includes policies to guide development applications in advance of secondary plans. New Policy 7.2.1 (b) states that to direct an appropriate scale and intensity of transit-supportive development at each MTSA, development should be consistent with

Province's Transit Supportive Guidelines and Mobility Hub Guidelines. Based on our review, it appears that the intent of this policy is to de-emphasize the Downtown Bus Depot and reduce the density targets related to it, since the Transit Supportive Guidelines identify a "suggested minimum density" of between 22 uph/50 people & jobs per hectare to 45 uph/100 pjh, which is well below the UGC targets, which as noted in the Growth Plan are minimums.

- Proposed Policy 7.2.2 c) states that "Development in MTSA should be planned to achieve transit-supportive densities in accordance with the Province's Transit Supportive Guidelines and the existing and planned level and type of transit service". In our opinion, this proposed policy is creating a density target based on an outdated (2012) provincial guideline, which will result in the reduction of densities in the Urban Growth Centre.
- Proposed Policy 7.2.2 f) states that MTSA's will be priority locations for "new public service facilities", among other elements. In our opinion, this proposed policy is vague regarding public service facilities and should clearly identify a process that describes a review and analysis of the need for these facilities.
- Proposed Policy 7.2.2 j) states that new green spaces such as trees and landscape areas, parks and open spaces shall be provided as part of development applications, which may include parkland, POPS, landscaping, etc. to the satisfaction of the City. In our opinion, this is an overreaching policy that goes beyond the City's authority under the *Planning Act*.
- Proposed Policy 7.2.2 l) states that Major office, cultural and institutional uses should be located within the MTSA Special Planning Area. Based on our review, the intent of this policy is to expand the specialty downtown functions beyond the Downtown and to include the Burlington GO MTSA. In our opinion, this policy conflicts with Part I, 3.0 d) of the existing OP, which states that the Plan will support the downtown as the cultural and entertainment centre of the City while fostering cultural activities throughout the City.
- Proposed Policy 7.2.2 o) states that the population and employment growth distributions established in the Regional OP are intended to apply at a city-wide level and cannot be applied on a site-specific basis as a rationale for approving or refusing a development application and "any targets established by this Plan shall not be applied on a site-specific basis, and shall only be applied to the entire geography to which the targets apply". Again, it is submitted that the intent of this policy is to reduce the actual densities in the Downtown. Further, proposed Policy 7.2.2 p) states that development patterns shall have regard for optimization of land, resources and public investment in infrastructure and public services. It continues and clarifies that the "concept of optimization shall be applied to development

patterns over the entirety of the MTSA's, not on a site specific property basis". In the opinion of my client and their consultants, this policy does not conform to the 2019 Growth Plan.

- Proposed Policy 7.2.2 q) provides development criteria for evaluating development applications within the MTSA Special Planning Area (Downtown & Burlington GO MTSA's). Based on our review, we are concerned with the following:
 - Item iii) which requires that development be consistent with the vision and intent of the MTSA typology established in Section 7.0, which de-emphasizes the Downtown Bus Depot and applies a lower density target based on an out dated provincial guideline;
 - Item vi) which requires development to preserve and protect trees. This policy is overreaching and in our opinion is vague and uncertain as it relates to compensation for tree removal prior to the filing of development applications;
 - Item viii) which requires development to facilitate future pedestrian, cycling and/or private street connections as determined by the City and to demonstrate to the satisfaction of the City that appropriate phasing of development where existing retail and service commercial uses are being redeveloped. This policy grants the City additional authority to require connections and phasing beyond the normal "orderly development" test, and beyond what they are otherwise authorized to require under the *Planning Act*.
 - Item x) which requires residential developments to demonstrate that public service facilities and other neighbourhood conveniences are located within walking distance or accessible by transit. This policy creates a potential issue for areas within the downtown that do not have existing public service facilities.
- Proposed Policy 7.2.2 r) requires development in the MTSA Special Planning Area to provide affordable housing elements and community space or public service facility space for "major comprehensive development". In our opinion, there is an existing policy framework in the existing OP for affordable housing and no justification in the land use study for this additional policy.
- Proposed Policy 7.2.4 provides policies for the Downtown MTSA and Policy 7.2.4.2 a) states that the City shall undertake a major planning study to ensure that the Downtown MTSA is planned to implement mixed use transit-supportive development over the long term, while ensuring compatibility with the surrounding area is achieved. There is no timing associated when such a study will take place.

We thank you for your consideration of these comments and we look forward to hearing from staff in connection with the above. Please do not hesitate to contact the undersigned in connection with this matter.

Yours truly,

WeirFoulds LLP

A handwritten signature in black ink, appearing to read "DBaker", with a stylized flourish at the end.

Denise Baker

DB/mw

cc Client

Heather MacDonald, Executive Director of Community Planning, Regulation & Mobility, City of Burlington

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