January 21, 2020

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File 20508.00001

via E-mail

City of Burlington
426 Brant Street
Burlington, ON
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Attn: Mayor Meed Ward and Members of Council

Dear Mayor and Members of Council:

RE: Submissions on the Proposed OPA 119 and Related Zoning By-law and Taking a Closer Look at the Downtown: Preliminary Preferred Concept

We are solicitors for Arya Properties Ltd. (the "Client"), owners of property located at 1381 Lakeshore Road, in the City of Burlington (the "Site"). Under the current in force Official Plan, the Site is designated Downtown Residential - Medium and/or High Density Precincts.

We have reviewed both the City of Burlington's ICBL Land Use Study and proposed Official Plan and Zoning By-law Amendments as well as the Taking a Closer Look at the Downtown Report ("SCL Report"), and have a number of concerns with respect to how the proposed OPA and ZBA flowing from the ICBS will impact the Site, as well as how the Preferred Concept in the SGL Report is proposed to impact the Site. Below are a number of identified concerns as they relate to the Site, however, this is not intended to be an exhaustive list of concerns.

Proposed OPA 119 and Zoning By-law

We have an overall concern with the manner in which the City is seeking to reduce densities in the Urban Growth Centre by de-emphasizing the Downtown Bus Terminal. It is our submission that in accordance with the Province's RTP 2041, the Region's DMTR Study and the Growth Plan which recognizes the Downtown, including the Bus Station as being within the Urban Growth Centre, it is submitted that proposed OPA 119 must be revised to include policy directives for transit improvements along Brant Street to facilitate a link and enhance connectivity between the Downtown MTSA and the Burlington GO Station MTSA. This will have the positive effect of contributing to a broad public interest to achieve long term sustainability for Burlington's Downtown for future generations. It will also enhance the role of downtown

Burlington as the City's Urban Growth Centre. More specific concerns with OPA 119 and the proposed zoning by-law include, but are not limited to:

- The proposed OPA identifies a revised Downtown Urban Growth Centre Boundary. It is unclear how the determination was made as to the limits of the "new" Urban Growth Centre boundary and the rationale for such an amendment.

- Proposed Policy 3.11.2 e)- we submit that the policy reference to the guidelines is not appropriate as guidelines can be changed at any time without consultation. This policy attempts to enshrine the guidelines into policy, which is inappropriate. Guidelines are designed to provide guidance and which development proposals shall have regard for. If this policy is to remain, it should require that development applications have regard for the guidelines given the manner in which they are approved.

- Policy 7.2.1(b)- we submit that this policy is contrary to the Growth Plan in that it seeks to reduce density targets within the Urban Growth Centre.

- Policy 7.2.2(c)- Based on our review, this proposed policy is creating a density target based on a dated 2012 provincial guideline. Again, the intent appears to be the de-emphasis of the importance of the Downtown Bus Depot for the purpose of reducing densities within the Urban Growth Centre.

- Proposed Policy 7.2.2 j)- we submit that this policy goes beyond the City's authority to require parkland and community benefits, under the provisions of the Planning Act.

- Policy 7.2.2p)- we submit that this policy 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 MTSAs, not on a site specific property basis", and doesn't conform to the 2019 Growth Plan.

- Policy 7.2.2 q)- provides development criteria for evaluating development applications within the MTSA Special Planning Area (Downtown & Burlington GO MTSAs). Based on our review of this subset of policies, we have significant concerns 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 a dated provincial guideline;
- Item iv) which applies a test of consistency for the Urban Design Guidelines;
- Item vii) which is entirely ambiguous and impossible to measure

- Policy 7.2.2r)- In our opinion, there is an existing policy framework in the existing OP for affordable housing and it is not clear in what is meant by "affordable housing elements" in this proposed Policy. Furthermore, the proposed Policy should, at minimum, define what a major comprehensive development is to which this Policy would be applied.

- 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. It is unclear what a major planning study entails and how that fits with the Interim Control By-law Study process.

The SGL Report

Under the SGL Report, it appears, although it is uncertain given the scale of the mapping, the lack of clarity in the text and the lack of consultation with the Client, that the Site is proposed to be down designated to Low Rise Neighbourhood Precincts-St Luke's/Emerald. Such a down designation may materially impact the ability to redevelop the Site for the purpose it was purchased.

It is submitted that such a down designation, if that is indeed what is proposed for the Site, has not been justified in the work undertaken by SGL Planning. Further, it is submitted that such a proposed down designation of lands within Burlington's Urban Growth Centre is entirely contrary to the Provincial Policy Statement and the Growth Plan, and decisions from the Local Planning Appeal Tribunal that have previously dealt with this very issue within Burlington's Urban Growth Centre.

Moreover, if it is only the properties to the east of the Site, between the Site and Burlington Avenue that are proposed for the down designation, we are similarity concerned that such a down designation for those properties will impact our ability to develop the Site as a result of issues of adjacency and policies pertaining to transitioning to low rise neighbourhoods.

As always, we would welcome the opportunity to dialogue with staff in connection with the aforementioned matters. As such, please do not hesitate to contact the undersigned should you have any concerns.

Yours truly,

WeirFoulds LLP



Denise Baker

DB/mw

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

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