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January 30, 2020  
File No.: 12794.1025

**By E-mail**

City of Burlington  
426 Brant Street  
PO Box 5013  
Burlington, ON L7R 3Z6

Attention: Mayor Meed Ward and Members of Council

Dear Sirs/Mesdames:

**Re: City of Burlington Interim Control By-law Land Use Study  
Proposed Official Plan Amendment 119**

We represent Sofina Foods Inc. ("Sofina"), the owner and operator of the meat processing facility (the "Facility") located at 821 Appleby Line, Burlington (the "Subject Lands"). We write to express our client's concerns with Burlington's Interim Control By-law Land Use Study and Proposed Official Plan Amendment 119 that is the subject of Staff Report PL-01-20 and the Staff Memo dated January 30, 2020, that is proceeding to the January 30, 2020 Council Meeting.

**Insufficient Notice for Statutory Public Meeting**

Landowners within a 500 – 800 metre radius of a Major Transit Station Area ("MTSA"), external to the area of land that is subject to the Interim Control By-law ("ICBL"), are likely not aware that the proposed Official Plan Amendment 119 may have an impact on their lands.

The Notice of the Statutory Public Meeting (copy attached) clearly indicates the purpose of the meeting is for the public to comment specifically on the following:

*...the proposed Official Plan (OP) Amendments to the city's in-force-and-effect OP, and Zoning Bylaw Amendments that are the result of the findings of the ICBL Land Use Study.*

There is no indication on the face of the Notice that the proposed Official Plan Amendment arising out of the ICBL Land Use Study will address anything beyond the boundaries of the ICBL area. Based on a plain reading of the Notice, landowners in the vicinity of MTSA's that are outside of the ICBL area do not know that their lands may be impacted by proposed Official Plan Amendment 119 that is now before Council.

For lands outside of the ICBL area, the City of Burlington has failed to provide sufficient notice of the Statutory Public Meeting and the Committee of Council and Council meetings at which the proposed Official Plan Amendment has been and is now being considered. Consideration of Official Plan Amendment 119 should be deferred and sent back to staff with direction to undertake further consultation.

## **Concerns with the Proposed Official Plan Amendment**

### 1. Lack of Land Use Compatibility Requirements for Existing Uses in MTSAs

One of the fundamental objectives for mobility hub planning in Burlington (June 2014) was to:

*... address issues of land use compatibility by mitigating potential adverse impacts of rail and employment uses on sensitive uses and inversely, protecting employment uses from the intrusion of sensitive land uses which could limit their viability.*

Notably absent in all of the proposed Official Plan Amendment 119 policies is a requirement for secondary plans and major planning studies to undertake land use compatibility assessments and to consider the compatibility of proposed land uses with major facilities, including industry, within an MTSA. There are also no policies for development applications to consider land use compatibility within an MTSA. This is particularly critical for the lands around the Appleby GO station given the City, Regional and Provincial commitments to protect Employment Areas.

We understand that several technical compatibility and capacity studies were carried out last year by the City Planning Department in the vicinity of the Sofina Facility and that these studies have been submitted to the Region of Halton. We would request that these studies be made public to ensure a transparent planning process.

There are several examples in the proposed Official Plan Amendment 119 where the policies are contrary to the Provincial Policy Statement, 2014 ("PPS") and do not conform with A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2019 ("Growth Plan") in terms of land use compatibility as between existing major facilities (particularly industry) and proposed "transit supportive" development. By way of one example, the proposed Official Plan Amendment proposes to protect only "compatible" employment functions within MTSAs [Policy 7.2.1 g)], whereas the PPS and Growth Plan seek to protect major facilities without qualification.

More specifically, land use compatibility within an MTSA must be a consideration for all development approvals including the planning processes leading to the determination of the boundaries and densities of the MTSAs and secondary planning process and major planning studies undertaken for specific MTSA GO station areas. Specific criteria should be included in Official Plan Amendment 119 to ensure the compatibility of any proposed land uses in proximity to existing employment uses in an MTSA, as part of the City's process to determine the appropriate boundaries, land uses, densities and heights for such MTSAs.

### 2. Policies Encouraging "Transit Supportive" Development are too Restrictive

Proposed Official Plan Amendment 119 defines "transit supportive" development and only permits such development in the MTSAs. The Official Plan Amendment does not consider that manufacturing, agri-food businesses and other traditional industries can also support the planned service levels of MTSAs on Priority Transit Corridors.

For example, Sofina is one of Burlington's top employers with close to 1,000 employees on its 5.5 ha Property. Sofina exceeds the minimum density target of 150 jobs per ha in an MTSA located on a Priority Transit Corridor served by the GO Transit rail network, according to policy 2.2.4.3 of the Growth Plan. There is also potential for expansion of the Facility on the Property, which may increase the employment density on Sofina's Property.

Policies in Official Plan Amendment 119 should encourage the maintenance and growth of existing traditional industries located in MTSAs and should not discourage or prohibit new industries from locating in Employment Areas within MTSAs.

### 3. Planning for MTSAs Fails to Consider Road Capacity Constraints

Road capacity is a fundamental development constraint that must be considered and addressed in all development approvals including the planning processes leading to the determination of the boundaries and densities of the MTSAs and secondary planning process and major planning studies undertaken for specific MTSA GO station areas.

The PPS requires planning authorities to protect major goods movement facilities and corridors for the long term and to ensure that the necessary infrastructure is provided to support current and projected Employment Area needs. These very broad brush Provincial requirements must be translated into a fine-grained policy direction that is added to proposed Official Plan Amendment 119 to direct all future studies and secondary plans for MTSAs to analyze and consider development constraints, like road capacity, as threshold or feasibility issues to be addressed upfront in the planning process for MTSAs.

### Request of Council

**On behalf of Sofina, based on the comments and concerns outlined above we respectfully request that Council not adopt the Staff and Community Planning, Regulation and Mobility Committee recommendations to approve the proposed Official Plan Amendment 119 [attached as Appendix D to the Staff Report PL-01-20 and amended and attached as Appendix D to the Staff Memo, dated January 30, 2020], and that the entirety of this matter be sent back to Staff for further public consultation and consideration. We also request Council to direct that the several technical compatibility and capacity studies that the City has undertaken for the MTSAs be made available to the public to increase the transparency of the process.**

We reserve the right to bring forward additional concerns as they may arise. We would be pleased to work with City staff to resolve the concerns raised in this letter above. Please provide us with a copy of Council's decision on this matter.

Yours truly,

Stikeman Elliott LLP

Per:



Calvin Lantz  
Partner

CL/na

cc. Sajida Mehdi, Sofina Foods Inc.  
Robert Lehman, Lehman and Associates

## Notice of Statutory Public Meeting - Jan. 14, 2020

In accordance with Section 17 and Section 34 of the *Planning Act*, R.S.O 1990, c.P.13, as amended, members of the public are invited to attend a Statutory Public Meeting to ask questions and provide comments on proposed Official Plan (OP) Amendments to the city's in-force-and-effect OP, and Zoning Bylaw Amendments that are the result of the findings of the ICBL Land Use Study.

The purpose of the Statutory Public Meeting is to provide the public with the opportunity to provide comments to City Council on the proposed Official Plan Amendments and Zoning Bylaw Amendments, and for Council to consider the feedback prior to making a decision on the proposed amendments.

### Statutory Public Meeting Details

Tuesday Jan. 14, 2020

9:30 a.m.

City Hall, 426 Brant St., Council Chambers, 2nd floor

NOTE: Following the Jan. 14 Statutory Public Meeting, a Special Council meeting is scheduled for:

Thursday, Jan. 30, 2020

9:30 a.m.

City Hall, 426 Brant St., Council Chambers, 2nd floor

The purpose of the Special Council meeting on Jan. 30 is for Council to make a decision on the staff recommendations outlined in staff report PL-01-20, including the approval of the proposed Official Plan and Zoning Bylaw Amendments as a result of the ICBL Land Use Study.

### Purpose of the proposed Official Plan (OP) and Zoning Bylaw Amendments

The purpose of the proposed amendments is to:

- Strengthen the integration between land use and transit by introducing policies related to transit-supportive development
- Introduce the concept of Major Transit Station Areas and a policy framework
- Introduce development criteria for development applications within the study area
- Update or add definitions to the OP to align with Provincial policy documents and/or assist in the interpretation of OP policies
- Introduce additional permitted uses and heights on lands in proximity to the Burlington GO Station.

Staff Report and Appendices - Jan. 14, 2020

Please see below to view a copy of report PL-01-20 that will be presented to Council on Jan. 14:

- [Staff Report PL-01-20 Interim Control By-law Land Use Study](#)
- [Appendix A - Overview and Timeline of Local, Regional and Provincial Planning Processes](#)
- [Appendix B - Interim Control By-law Land Use Study prepared by Dillon Consulting](#)
- [Appendix C - Overview of Proposed Official Plan Amendments](#)
- [Appendix D - Proposed Official Plan Amendments with Proposed Schedules](#)
- [Appendix E - Proposed Zoning By-law Amendments](#)

A copy of the report will also be available for viewing at Community Planning counter on the second level of City Hall between 8:30 a.m. and 4:30 p.m., Monday to Friday.

[Speaking to Council at the meeting on Jan. 14, 2020](#)

[Notification of Council decisions](#)

[Personal information collection notice](#)