

January 29, 2020

Our File No.: 173167

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

Attention: City Clerk

Dear Sirs/Mesdames:

**Re: Special Meeting of Council (January 30, 2020)
Items 5.1, 6.1, 8.1 (Interim Control By-law Land Use Study)
Proposed Official Plan Amendment No. 119**

We are solicitors for Reserve Properties Ltd. (“**Reserve**”) in respect of the properties known municipally as 401-413 Brant Street, 444-450 John Street and 2002-2012 James Street in the City of Burlington (the “**Properties**”). We are writing to provide our client’s comments regarding the outcome of the City’s interim control by-law land use study and the resulting proposed official plan amendment (“**OPA 119**”).

Background

At its meeting on July 16, 2018, Burlington City Council adopted Official Plan Amendment No. 113 and enacted By-law 2020.399 to permit the redevelopment of the Properties for an 18-storey mixed-use building (the “**Development**”). This approval was based on a positive staff report recommending approval of the 18-storey mixed-use building as an appropriate form of intensification for the Properties that would be consistent with the Provincial Policy Statement (2014), conform with the Growth Plan for the Greater Golden Horseshoe (2017) and conform with the Region of Halton Official Plan.

Our client has appealed this decision to the Local Planning Appeal Tribunal on the grounds that the Development does not represent sufficient optimization of the Properties in accordance with our client’s original applications to the City.

Comments

As indicated to the City on multiple occasions, our client’s overall concern is that the City intends to use OPA 119 to evaluate current applications, including our client’s appeal of City Council’s decision to approve the Development. As you know, this would be clearly contrary to the policy-

led system required by the *Planning Act*, which requires any applications to be evaluated pursuant to policies and guidelines in place at the time of submission of the application.

In any event, our client has specific concerns with OP 119. In particular:

- OPA 119 is premised on a misguided characterization of the downtown Burlington MTSA. In particular, proposed Policy 7.2.4 suggests 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”. Setting aside whether this is an accurate description of the current function of the downtown Burlington MTSA, the proposed policy approach is to discourage investment in the downtown Burlington MTSA, despite recommendations to the contrary in the background report. All levels of planning policy direct optimization of existing infrastructure and the City should be exploring opportunities to improve and enhance this important infrastructure rather than suggesting little to no interest in long-term planning requirements for the downtown Burlington MTSA.
- The proposed minimum distance separation between tall buildings is not based on sound planning or urban design. Not only is the recommended separation distance contrary to the existing City Tall Building Guidelines and best practices from other jurisdictions but also it does not enable the optimization of land and infrastructure in accordance with provincial policies.
- Proposed policies 7.2.2(o) and 7.2.2(p), when combined with proposed policy 7.2.4.2(b), result in an incorrect approach to the use of population and growth targets in the City. Our client acknowledges that such targets have City-wide (and Region-wide) application, but it is not appropriate to ignore these targets when considering the optimization of land through site-specific development applications.
- OPA 119 proposes new policies related to green spaces, and yet these policies provide no reference to the new legislative regime for parkland dedication. These policies should be reviewed in light of ongoing work at the Provincial level to implement recent amendments to the *Planning Act*.

These are just some of our client’s comments in respect of OPA 119 based on the limited time available to review the draft document.

Please also accept this letter as our request for notice of any decision by City Council regarding this item.

Yours truly,

Goodmans LLP

A handwritten signature in blue ink, appearing to read 'DJB', with a stylized flourish at the end.

David Bronskill

DJB/

cc: Client

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