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City of Burlington
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West End Home Builder's Association | Taking a Closer Look at the Downtown Reports – Staff Report PL-16-20: Recommended Modifications to the Adopted Official Plan

Attn: Alison Enns, Project Manager - Official Plan, Community Planning Department

The West End Home Builders' Association (WE HBA) has been actively invested in the entirety of the process towards the development of a new Official Plan, the consecutive updates to the adopted Official Plan, and most particularly the re-examination of the policies related to the Downtown and the Urban Growth Centre. We have appreciated all opportunities to comment on the work being conducted by the City and its consultants in relation to the proposed modifications, and welcomed the additional engagement efforts provided recently related to the downtown modifications to the OP that are presently up for discussion.

We have continuously maintained involvement in the process to ensure that the goals of the City, its residents and members of the development industry were all sufficiently incorporated. We have made every effort to provide comments, written submissions, and feedback via delegations, as well as attended various public engagement sessions and workshops in order to have input and a role in the process to develop a new Official Plan, and the corresponding policies for the downtown intensification area.

Throughout the process of creating the new Official Plan and in response to the coinciding statement of non-conformity by the Region of Halton with respect to their Regional Plan, Council voted to re-examine the policies of the OP specific to the Downtown of the City of Burlington in 2019. Commencing in the summer of 2019, the City initiated a number of public engagement sessions and workshops. WE HBA made every effort to attend these opportunities and provide feedback and comment on the concepts being presented for discussion. We have been supportive of the efforts of the City to create a new overarching planning document that would guide development into the future, focused on the reality that going forward, growth can only occur through intensification as opposed to the previous method of greenfield development, and that the City must, at a minimum, meet the growth targets imposed by the Province and determine the proper means to effectively accommodate this growth.

While WE HBA has been actively involved in the entirety of the OP process, to date, the submissions, and comments we have provided have generally not been addressed, recognized, or responded to. The release of the preferred concept for the downtown in January 2020 was further evidence of this, as it disregarded



any and all perspective of the development industry in terms of the actual feasibility of the building out of this concept in reality. The purpose of this submission is to once again take the opportunity to outline the concerns of the home building industry regarding the proposed direction for the Downtown. While some concerns are a reiteration of those that we have identified in the past, we have also identified new issues throughout the assessment of the documents during the re-evaluation process.

Throughout the process leading up to the adopted OP, WE HBA was engaged and committed to the review; we have made several requests for information, background research and supplementary studies. Over the past number of years, WE HBA and various persons from our membership had repeatedly requested copies of the background studies and technical work that has been done which contributed to the adopted Official Plan, and subsequently the concepts and policies that have arisen from the re-evaluation process of the downtown. Our Association was pleased to see the release of several technical studies and background information on June 8, 2020, to support our review of the recommended modifications to the Downtown.

However, with this being said, the land use vision and built form concept recommended for the Downtown was initially endorsed by Council on January 27, 2020. While we recognize that the timeline for the release of any documents was impacted by the global COVID-19 pandemic, this delay effectively provided a number of extra months for the documents for review and comment to be released and provided to stakeholders for evaluation prior to the commenting deadline. The release of documents in June provided the recommended modifications, a staff report, consultant report and a number of technical studies for review. We were advised that in July 2020, two additional documents would be provided in order to have ample time to review these prior to the submission deadline of August 28th.

As of the time of finalizing this submission letter to the City, the date today being August 28, 2020, these comments have been prepared still in the absence of two key studies associated with the scoped re-examination of the Official Plan – the Fiscal Impact Analysis and Draft Downtown Burlington Placemaking and Urban Design Guidelines – as these have yet to be released. Despite a number of asks and conversations with staff requesting these documents, it remains unclear why these two studies are outstanding and unavailable for public viewing as they both should have been prepared in advance of and used to inform the development and formulation of the revised policies. WE HBA is continuously left questioning throughout the entirety of the process how such a significant and impactful design concept can be supported for incorporation into the Official Plan that has had limited basis in transparent and available research and rationale.

WE HBA has retained MHBC Planning Consultants to provide an assessment of the background work and resulting recommended policy modifications for the Downtown in relation to the current required policy and regulatory framework as well as a review from an implementation and planning policy perspective. Altus Group Economic Consulting has also been retained to prepare an analysis of the City of Burlington's approach to planning in Downtown Burlington, including a peer review of the City's analysis of development potential in the Downtown Urban Growth Centre (UGC). Their reports are attached and form part of our submission on this issue.



Some of the key issues that we would like to highlight include:

- The removal/relocation of the Downtown Urban Growth Centre. WE HBA has been advised by staff that the intended timing for any proposed changes to the UGC will occur after this OP has been approved and adopted, and that any changes will happen via an amendment to the adopted OP after the Region has completed its municipal comprehensive review. We would like to confirm this to be the case, and that it should not be a point of contention in this process or part of the discussion at this time.
- The outstanding justification required to substantiate assumptions that the UGC has met the minimum growth target requirements. The industry has not been provided with the information required to understand how the City has met our requirements to accommodate growth.
- The overly prescriptive and rigid policy language found throughout the Official Plan. An Official Plan is meant to be a high-level, overarching planning document that guides and directs future growth and development in a municipality, with flexible policies able to adapt and shift in response to the ever-changing planning environment of the City but also the Region and Province.
- The consequences of the proposed prescriptive policies in achieving market-based housing. In a number of instances throughout the modified policies, which are further discussed in the attached consultant reports, the overly prescriptive policies are indicative of an unachievable built form and suggest the very real possibility of sterilizing lands from development altogether. In the absence of a housing strategy or housing needs assessment, the ability to deliver adequate and affordable housing to meet the growth target demands is justifiably under question.
- The additional requirement for parkland space in the Downtown. The additional documents and technical studies fail to provide sufficient justification or background that warrants a need for additional park space in the Downtown. While we appreciate the value of parkland and open space, and that public commentary and feedback demonstrates a want for it, a technical assessment demonstrating need is warranted.
- The strict urban design policies, without the urban design guidelines being made publicly available to justify the requirements. Many of the urban design policies being prescribed, including a policy that requires the tower of high-rise buildings to be setback a minimum of 20 metres from the front façade of the podium, and a minimum separation distance policy requiring a minimum of 30 metres between tall buildings (conflicting with the City's own Tall Building Guidelines), are inappropriate and have not been adequately considered as to their applicability in the actual construction of these developments.
- There are several concerns that the amount of development potential in Downtown Burlington is being significantly overstated, as will be further evidenced in the submission from Altus Group. The conclusions from the assessment indicate that several adjustments are necessary to the estimates of development potential in the Downtown of the City.



WE HBA, in partnership with our consultants, have provided the above and subsequent commentary to the City on the recommended modifications to the OP, by the submission deadline. This said, we are disappointed that all reports promised to the stakeholders in the OP review process have not been provided, especially considering the significantly expanded timelines that have already been experienced in 2020. We look forward to receiving the final two documents, as well as receiving a formal written response in reaction to the submission that we and our consultants have provided at this time. WE HBA will be providing additional commentary on the recommended modifications to the Downtown policies of the OP in turn.

Sincerely,



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 Manager of Planning & Government Relations
 West End Home Builders' Association

c.c. Mayor Marianne Meed Ward
 Members of Council
 Heather MacDonald, Director & Chief Planner
 Robert Molinaro, President, West End Home Builders' Association
 Suzanne Mammel, CEO, West End Home Builders' Association
 Dana Anderson, MHBC Planning
 Daryl Keleher, Altus Group Economic Consulting
 Denise Baker, WeirFoulds LLP



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To:	Suzanne Mammel CEO, West End Homebuilders' Association
From:	Dana Anderson
Date:	August 27, 2020
File:	18389A
Subject:	Comments on City of Burlington Scoped Re-Examination of the Downtown Policies in Burlington's Adopted Official Plan and Proposed Modifications

MHBC Planning has been retained by the West End Homebuilders' Association (WE HBA) to provide a review and assessment of the proposed modified Official Plan policies for the City of Burlington's Downtown which is the City's Urban Growth Centre ("UGC"). The proposed draft modifications to the City's Adopted Official Plan (Grow Bold, April 26, 2018) are the result of a Scoped Re-Examination of the Official Plan which has focused on Downtown Burlington. It is noted that these comments have been prepared in order to meet the City's established deadline for comments without the benefit of having reviewed the two key studies associated with the scoped re-examination of the Official Plan (Fiscal Impact Analysis and Draft Downtown Burlington Placemaking and Urban Design Guidelines) as these have yet to be released to the public as of August 26, 2020. It is unclear why these two studies remain outstanding and unavailable for public viewing as they both should have been prepared in advance of and used to inform the development and formulation of revised policies.

The purpose of this review is to assess the background work and resulting recommended policy modifications for the Downtown in relation to the current required policy and regulatory framework as well as a review from an implementation and planning policy perspective.

This review and assessment also includes an overview of the process and work completed to date by the City and identifies key planning and policy issues which arise from the proposed modified policies and the supporting studies and reports, or lack thereof. Some of these key issues identified include:

- The lack of an evidence-based approach to inform, support and defend the formulated planning policies;
- The implications of the proposed prescriptive and detailed regulatory approach in achieving the Provincial and Regional intensification objectives and requirements;
- The implications of the proposed prescriptive policies in achieving market-based housing; and,
- The lack of a comprehensive plan for the Downtown to support and appropriately implement the planning policies to achieve the minimum intensification targets and housing supply.

Background and Planning Process

A. Official Plan Review/New Official Plan Process

In preparing a review and assessment of the proposed modifications to the Official Plan policies for Downtown Burlington, it is important to understand the work completed to assess the physical context of the Downtown, its constraints and opportunities, as well as informative studies related to population and employment growth, servicing, infrastructure and transportation.

The City of Burlington first initiated their Official Plan Review ("OPR") process in 2011, with the scope and work plan of the review endorsed by Council in 2012. At that time, the vision for the OPR was an update of the existing Official Plan, under Section 26 of the *Planning Act*. The work undertaken by the City, through the OPR, continued from 2012 until 2016, with studies for various components of the review being undertaken by staff and consultants (e.g. Employment Lands, Commercial Policy Review, and Residential Character Areas).

In 2016, staff brought forward a report to Council (PB-84-16) which identified that numerous changes at the Provincial, Regional and City level necessitated an expanded scope of work for the OPR and resulted in a shift in approach from an update of the existing Official Plan to the preparation of a new Official Plan under Section 17 of the *Planning Act*. Following endorsement of the report, on October 31, 2016 Council closed the OPR process and transitioned the project as the preparation of a new Official Plan.

Following endorsement by Council of the recommended approach to begin the preparation of a new Official Plan, staff proceeded with launching the 'Grow Bold' work program and community engagement initiatives, which included a number of corporate projects including the Transportation Plan, Integrated Transit Mobility Plan and Mobility Hub Studies. All of these initiatives were launched in order to provide a set of documents which would align with and implement Council's Strategic Plan and the core principles contained therein (A City that Grows, A City that Moves, A Healthy and Greener City and An Engaging City).

With respect to the New Official Plan staff, through presentations and reports to Council, identified that the Plan was drafted to be a modern planning tool reflecting the City's decision to Grow Bold. It was to establish a firm urban boundary; introduce a growth framework which prioritizes growth around mobility hubs and direct growth to appropriate parts of the City; clarify priorities within urban and rural areas; and, be reflective of Provincial and Regional legislation and regulation.

The first draft of the Official Plan was released for public comment in late March 2017, with a presentation and report to Council (PB-01-17) provided at the April 6, 2017 Committee of the Whole Workshop meeting. The first Draft of the Official Plan did not contain any policies for the Downtown and Mobility Hub areas and instead indicated that these detailed policies would be incorporated into the Official Plan at a later date following the completion of Area Specific Plans ("ASP") for each identified Mobility Hub.

Following the initial release of the first draft of the new Official Plan, staff continued work on the ASPs for the City's Mobility Hubs, reviewed comments submitted by residents and stakeholders and continued to engage with the community through a variety of outreach events in order to inform revisions to the Plan. In September 2017, staff provided an update to Council on the consultation and engagement component of the Official Plan project and included a summary of comments received on the first draft (PB-47-17). Additionally, the Downtown Mobility Hub ASP draft precinct plan and policy framework was presented to Council at the Committee of the Whole Workshop meeting on September 27, 2017. Once this work was completed, a second draft of the Official Plan was released in November 2017, with a report to Council (PB-50-17) and statutory public meeting held on November 30th. This draft of the Official Plan contained new policies for the Downtown which were established through the Downtown Mobility Hub ASP work (PB-81-17), as well as changes made to other sections of the Plan based on feedback received.

Further opportunities for comments and input on the second draft Official Plan were provided, and in February, 2018, a third draft of the new Official Plan was released and a second statutory public meeting was held. The staff report accompanying the third draft of the Official Plan (PB-14-18) identified that between November 9, 2017 and January 31, 2018 staff received considerable comments from the community as well as 13 motions passed by Council directing specific revisions to the Official Plan and/or other actions for follow up. Staff identified that the third draft contained edits to the Plan to respond to public feedback and Council motions, to address conformity, improve clarity, correct editorial issues and address technical concerns. Staff concluded their report by stating that the proposed Official Plan had been prepared with consideration of community feedback and Council motions received to date and that it had been prepared to conform to the Region's Official Plan, Places to Grow, the Niagara Escarpment Plan and the Greenbelt Plan.

Finally, in April of 2018, staff brought forward a final version of the Official Plan recommended for adoption by Council (PB-04-18). In this report, staff provided a detailed chronology of the Official Plan Project, highlighting key milestones; outlined the research and analysis undertaken to inform the new Official Plan; identified technical issues and mapping matters related to the Official Plan throughout the process and how they were addressed in the final draft; and, summarized the community consultation efforts undertaken throughout the process.

In the report, staff noted that they had completed an assessment of the final version of the Official Plan to determine whether it conformed and/or was consistent with Provincial and Regional planning policy and legislation. This review was appended to the staff report in the form of conformity analysis tables which provided key sections of the Provincial planning document and corresponding policies contained within the new Official Plan. Through their review, staff determined that they were "satisfied the new Official Plan did not conflict with the Provincial plans and either conformed to provincial legislation and policy or would achieve conformity following the Region's Official Plan Review. This version of the Plan was adopted by Council, with additional modifications, on April 26, 2018 and subsequently sent to the Region for approval.

On December 18, 2018, the Region of Halton released a statement of opinion of non-conformity with the Regional Plan with respect to the City of Burlington's adopted Official Plan. The Region identified four areas of non-conformity: proposed employment land conversions and permitted uses within the employment areas and lands; the identification of and permitted uses within agricultural lands; the identification of and permitted uses within the Natural Heritage System; and transportation matters, including road classifications. The proposed policies for Downtown Burlington were not one of the areas deemed not to conform to the Regional Official Plan.

On February 7, 2019, Burlington City Council voted to re-examine the policies in the City's new Official Plan, which had been adopted in April 2018.

At the Committee of the Whole workshop held on March 18, 2019, City Staff and members of City Council discussed the scope of the work for a further study of the Official Plan. While Council supported the majority of policies in the adopted Official Plan, through discussions at the workshop it was determined that the Downtown required targeted reconsideration. City Staff presented Staff Report PB-47-19 Work Plan for the Scoped Re-examination of the adopted Official Plan. The report identified details of the work and timing that needed to take place in order to bring modified policies back to Burlington City Council for approval by March 2020. Report PB-47-19 was approved by Burlington City Council at its meeting on May 27, 2019.

Throughout the summer and fall of 2019, the project team at the City undertaking the scoped re-examination of the downtown policies conducted a series of public engagement opportunities, including Citizen Action Labs, online engagement and pop-up events. A Background Report was prepared by SGL Planning and Design Inc. (Taking a Closer Look at the Downtown: What You Need to Know, August 2019) and a Feedback Report summarizing the August engagement period was prepared by City staff.

In October of 2019, a second report was prepared by SGL Planning and Design Inc. (Taking a Closer Look at the Downtown: Themes, Principles and Land Use Concepts, October 2019), which presented an updated vision for Downtown Burlington and a Land Use map with revised precincts. Additionally, the report provided two concepts for how the downtown vision could be achieved through different development approaches. A number of community engagement sessions were held to obtain feedback on the concepts a formal commenting period was provided, and a public meeting was held on December 5, 2019, at the Planning and Development Committee Meeting (PB-89-19).

The preliminary preferred concept for the Downtown was presented to Council in January 2020 which was indicated by staff to be based on the evaluation of the two preliminary concepts as well as the community input received (PL-02-20). The report recommended endorsement of the land use vision and preliminary preferred concept for Downtown. The land use vision and built form concept were subsequently endorsed by Council on January 27, 2020.

While there were plans for a public meeting to receive comments on the recommended policies for the Downtown on April 14, 2020, the timeline for the release of the documents for review and comment and subsequent meeting were revised as a result of the global COVID-19 Pandemic. The revised timeline provided by staff on the project website at that time was as follows:

- End of May 2020: recommended changes, staff report, consultant report and technical studies to be released;
- July 2020: two more documents to be shared;
- August 28, 2020: comments to be submitted for consideration as feedback in advance of public meeting;
- September 30, 2020: public meeting; and,
- October 7, 2020: special Council meeting to consider September 30 recommendations.

While the website noted this time frame, the actual release of these documents was as follows:

- June 8, 2020: recommended changes, staff report, consultant report and technical studies.
- As of August 25, 2020, the “two more documents”, being the urban design guidelines and financial analysis, have yet to be released, even though staff are requesting comments by August 28, 2020. As noted previously, it is unclear why the release of these studies have been delayed as they are two key documents which should have been completed in the advance of the formulation of any revised policies and should have been used to inform said revised policies.

In addition to the Scoped Re-examination process, a number of other studies have been undertaken that address planning in the Downtown. However, these studies and reports which respond to Council directions, have been carried out as separate studies with separate processes in a disjointed manner making it very unclear as to how or what work has been used to inform the recommended modified policies.

B. Interim Control By-law (ICBL)

On March 5, 2019, Burlington City Council voted in favour of a staff report recommending an interim control by-law (ICBL) to restrict the development of lands within the Urban Growth Centre and on lands in proximity to the Burlington GO Station in order to complete a land use study to:

- Assess the role and function of the downtown bus terminal and the Burlington GO station on Fairview Street as Major Transit Station Areas;
- Examine the planning structure, land use mix and intensity for the lands identified in the study area; and,
- Update the Official Plan and Zoning bylaw regulations as needed for the lands identified in the study area.

According to the staff report, the ICBL and associated land use study came about as a result of “*cumulative growth pressures in the Urban Growth Centre... that are requesting intensities that are well in excess of those anticipated by the current and in force Official Plan (or the 2018 adopted Official Plan)*”.

In January, 2020 the consultants retained by the City for the ICBL study had completed the study and provided a summary of the findings and recommendations in the form of a report (Interim Control By-law Land Use Study Report, Dillon Consulting, 2020). The report contained a series of recommendations with respect to the Downtown MTSA and Burlington GO Station, including recommendations for Official Plan and Zoning By-law Amendments.

The resulting Official Plan Amendment (OPA 119) contained policy amendments to the in-force Official Plan (no recommended changes to the Adopted Official Plan) that apply to the Urban Growth Centre and Burlington GO MTSA. The purpose of the policy amendment, as stated by staff in their report, was 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; and,
- Introduce additional permitted uses and heights on lands in proximity to the Burlington GO Station.

It was unclear why OPA 119 only applied to the in-force Official Plan and not be introduced through policy modifications to the Adopted Official Plan as part of the City’s ongoing work through the scoped Re-examination of the Downtown policies.

Further, the resulting Zoning By-law Amendment 2020.418 amended the zoning regulations only for lands within the MXT Zone surrounding the Burlington GO Station and did not amend any of the downtown zones.

Both OPA 119 and Zoning By-law 2020.418 are now under appeal before the LPAT.

Included in the ICBL study is a growth analysis. However, this work has not been included in the supportive work as part of the scoped Re-examination of the Downtown.

C. Recent Staff Report on Removal of UGC

On August 11, 2020, staff brought forward Report PL-33-20 in relation to the Downtown UGC and MTSA Designations, which recommended the adjustment of the Downtown Burlington Urban Growth Centre to generally align with the lands in proximity to the Burlington GO Station.

The report notes that this recommendation is a result of the ICBL study and other work completed for the Official Plan (2018), the Scoped Re-examination of the Official Plan (focused on the Downtown), and the April 2020 letter from the province with respect to MTSA designations. While this may be noted in the staff report, the contents of the documents made available to date related to the Scoped Re-examination of the Downtown do not appear to suggest that the Urban Growth Centre boundary should be adjusted to align with the lands in proximity to the Burlington GO Station, nor does the consultant report prepared for the ICBL study recommend any boundary adjustment.

In this report, staff identified that *"The UGC in its existing configuration has been a benefit to the City as it generated investments in amenities, culture, parks, and infrastructure to support intensification. The UGC is forecast to meet its growth target by 2031 and has served its original intended purpose."*

Further, it noted that the Burlington GO Station is an "emerging area" that is well positioned to accommodate an adjusted UGC boundary and concludes by stating that *"Given the policies from the Growth Plan regarding UGCs, the existing Zoning already in place around the Burlington GO Station, the Region's MCR, and the City's pending work for an area specific plan in this area (MTSA), it is staff's opinion that the objectives of the Province, Region, and City can be planned to be met, subject to the appropriate respective processes outlined in the recommendations of this report."*

At the Committee meeting of August 11th, the following motions were carried:

- Request the Region of Halton, through its Municipal Comprehensive Review of the Regional Official Plan, to adjust the boundary of the Downtown Burlington Urban Growth Centre to generally align with the lands in proximity to the Burlington GO Station;
- Direct the Director of Community Planning to provide all related planning studies and background information to the Region to support the adjustment of the Downtown Burlington Urban Growth Centre boundary;
- Direct the Director of Community Planning to work with the Region of Halton through its Municipal Comprehensive Review of the Regional Official Plan to remove the Major Transit Station Area designation from the downtown and delineate the boundaries of all other Major Transit Station Areas in Burlington;
- Direct the Director of Community Planning to work with the Region of Halton to implement a staged approval of its Municipal Comprehensive Review of their Official Plan through Section 26 of the Ontario Planning Act to prioritize the above issues;
- Request Provincial support of the Region of Halton Municipal Comprehensive Review of its Official Plan, including the adjustment of the boundary of the Downtown Burlington Urban Growth Centre and make all necessary modifications to Provincial mapping in order to ensure all amendments are in conformity with the Growth Plan;
- Direct the Director of Community Planning to prepare the appropriate amendments to the City of Burlington Official Plan upon Provincial approval of the Region of Halton Municipal Comprehensive Review of its Official Plan to remove the Major Transit Station Area designation in the downtown and to reflect the adjusted boundary of the Downtown Burlington Urban Growth Centre; and,

- Direct the Director of Community Planning to provide an engagement plan with residents, businesses and community stakeholders to Council with respect to the proposed adjustment of the downtown Urban Growth Corridor and Major Transit Station Area to satisfy the regulatory and Region requirements at the September 15, 2020 Community Planning, Regulation & Mobility Committee meeting.

There is no work that has been made publicly available in the background work completed for the Adopted Official Plan or the Re-Examination the Downtown that supports the removal of the Downtown as the UGC. Further, there is no policy in the Provincial or Regional plans that permits municipalities to relocate the UGC in their Official Plans based on a notion of the current one “serving its purpose”. The role of the municipality is to implement the boundaries of the Urban Growth Centre as set out in the Urban Growth Plan.

Comments of the Background and Process

There is no question that the City has spent considerable resources and time to study and prepare its new Official Plan since 2011 and has undertaken extensive engagement with the community. In order to plan for and achieve the requirements for growth and the management of that growth as part the development of a new Official Plan, the planning process must be comprehensive and must build on informative and objective evidence and assessment to ensure defensibility. Policies should not be formulated in response to preferences but should be soundly based in evidence and reflect the balancing of all interests and inputs to achieve the public interest.

While direction and certainty within Official Plan policies are important, land use policies must provide for the achievement of orderly growth and compatibility among land uses. An Official Plan should not be an inflexible document that restricts development to a point in time. An Official Plan is expected to provide direction and accommodate change over time and respond to evolving economic, social, environmental during the planning period.

The process to achieve a successful Official Plan must include “ground truthing” and an assessment of the formulated policies to ensure they can achieve the direction provided and that they do not constrain the market from responding to growth needs. The clear focus of the Provincial Policy Statement is to address the layers of regulations and policies that preclude bringing market based housing supply forward. The N. Barry Lyons (“NBL”) 2017 Market Analysis reinforces this principle and states that Downtown Burlington has become a premiere location for new apartment investment and the combined effect of private and public investment has created a market for new retail and commercial services that further enhance the desirability of the Downtown. As an Urban Growth Centre, the Downtown will continue to be the primary designation within the City as it is the only area that offers all the features typically associated with a complete community. It will continue to attract a significant component of the City’s high and medium density development in the future. This is completely contrary to recent statements by staff in their report on the adjustment of the UGC that states the Downtown has served its purpose.

The City’s process in Re-examining the Downtown has resulted in policies that are highly prescriptive to control and limit redevelopment in response to the existing community’s preferences. The policies do not reflect efficient or optimal development of land to achieve the required growth in the Downtown and the policies further divide the Downtown into detailed precinct policy areas which are to be further controlled though more detailed design guidelines, block plans and eventually zoning standards.

As discussed further in this memorandum, the detailed policies, which are effectively zoning regulations, result in what would be unprecedented building forms which have not been assessed for development feasibility, simply to respond to public opinion.

The process has also precluded the study of certain precincts and areas (Old Lakeshore and Waterfront Hotel area) within the Downtown and simply carried forward policies from the current Official Plan which were the result of an OMB decision in 2012. It is unclear how these policies reflect conformity and consistency with current Provincial policy or why these critical areas of the Downtown have not been studied. Excluding these areas leaves a gap in understanding the growth and capacity of these areas, their contribution to the vision of the Downtown and how they achieve the UGC requirements.

Assessment of Conformity with Provincial and Regional Policy Framework

As part of the new Official Plan process, in the recommendation report to Council, staff undertook a conformity analysis of the new Official Plan against the Planning Act, Provincial Policy Statement (2014), Growth Plan for the Greater Golden Horseshoe (2017) and Halton Region Official Plan, which took the form of a series of 'conformity tables'.

Since the time of the adoption of Grow Bold in April of 2018, the Province has released both a new PPS (2020) and Growth Plan (2019). Unlike the previous process, the scoped Re-examination of the Downtown did not provide conformity analysis tables. The assessment of conformity and consistency with Provincial policies is in the SGL and staff reports and is provided through a high level overview. The assessment of conformity with Regional policy is also limited to a one page overview in both the SGL and staff report. It is inappropriate to put forward new policies for adoption by the Region in the absence of a detailed review under the Provincial Policy Statement, 2020 and the Growth Plan, 2019.

In order to further address the proposed modifications in relation to the Provincial and Regional policies, the following overview is provided.

PPS 2020

The 2020 PPS provides policy direction on matters of provincial interest related to land use planning and development, providing for appropriate development while protecting resources of provincial interest, public health and safety, and the quality of the natural and built environment. It recognizes the wise management of land includes accommodating appropriate development to meet the full range of current and future needs, while achieving efficient development patterns encouraging a range of housing options including new development and intensification to respond to current and future needs. In accordance with the PPS, efficient development patterns optimize the use of land, resources and public investment in infrastructure and public service facilities, which promote a mix of housing (including affordable housing), employment, recreation, parks and open spaces, and transportation choices that increase the use of active transportation and transit before other modes of travel.

With respect to the provincial intensification target, Policy 1.1.3.5 identifies that this target shall represent **the minimum target to be achieved for affected areas**. Again, as noted in other sections of this memorandum, the work completed to date has not adequately demonstrated that the minimum target **will** be achieved nor how anticipated growth is accommodated in the Downtown. Large parts of the Downtown have not been studied or are subject to further study. There are also further studies to be undertaken (Cultural Heritage Landscape Studies) which will further inform built form, height and density and will affect how the planned built form, height and density that can be achieved.

Policies specific to housing are also contained in the PPS in Section 1.4. The 2020 PPS differs from earlier versions of the PPS in that it contains specific policy language related to market-based housing

approaches, directing planning authorities to provide for an appropriate range and mix of housing options and densities to meet projected market-based and affordable housing needs of current and future residents. There has been no analysis to determine how this can be achieved. Rather, in the review of the recommended modified policies, the strict application of urban design metrics and height limits preclude the ability to achieve the policies set out in the 2020 PPS. The result of applying these regulatory policies will be fewer units overall and a constrained supply which will likely have the effect of increasing the cost of housing to the end user.

Growth Plan, 2019

A Place to Grow: Growth Plan for the Greater Golden Horseshoe (the “Growth Plan”) provides a framework for implementing the Provincial government’s vision for building stronger, prosperous communities by better managing growth in the Greater Golden Horseshoe. A Place to Grow was prepared and approved on under the Places to Grow Act, 2005, and was updated on May 16, 2019. The *Planning Act* requires that decisions affecting a planning matter conform with the policies of the Growth Plan.

The SGL report includes a brief assessment of the proposed concept and policies in relation to their conformity to the 2019 Growth Plan, specifically Section 2.2.2.3, 2.2.4.9, 2.2.4.8 and 2.2.3.2 of the Growth Plan, noting that:

“Considerable analysis and engagement has been conducted during the study to determine the appropriate type and scale of development. The recommended modifications reflect this analysis with specific policies on the appropriate type and scale of development in each precinct of the Downtown. The recommended modifications also set out specific policies on transition of built form to adjacent low-rise neighbourhoods and to lower scale development within the same precinct.... The recommended modifications support opportunities for intensification of a variety of built forms appropriate for the precinct and setting in which they are located. These intensification opportunities will result in significant population and employment growth and provide the ability to achieve the minimum density target of 200 persons and jobs per hectare by 2031.”

It is unclear what “considerable analysis and engagement” entails, given that the WE-HBA, along with other landowners and professionals, have continued to provide comments throughout the process noting that the proposed concept and recommended modifications are problematic in their applicability to actual development and noting that the level of prescription would render development infeasible from a market perspective. In fact, the City’s own consultants (NBL) noted this in their original analysis of the Downtown.

The comments provided by WE-HBA, and even the City’s own consultants, appear not to have been addressed and no further assessment of the Growth Plan policies has been completed. From a market perspective as well as from an optimization of land use perspective, no additional work has been completed. The only rationale provided in support of the regulatory policies and restrictions on development appears to be feedback received from residents stating that they prefer a low rise feel to the Downtown and do not want to see tall buildings in this area to keep Burlington’s “charm”.

Regional Official Plan (2018 Consolidation), 2014

The Region of Halton Regional Official Plan (ROP) serves as Halton’s guiding document for land use planning and is intended to manage growth across the Region’s four municipalities. The ROP establishes a broad set of land use designations as part of the Regional Urban Structure, which are intended to guide growth and development while allowing individual municipalities flexibility to further define specific land

uses within the broader designation. The ROP also provides general guidance for redevelopment, creation of complete communities, and intensification.

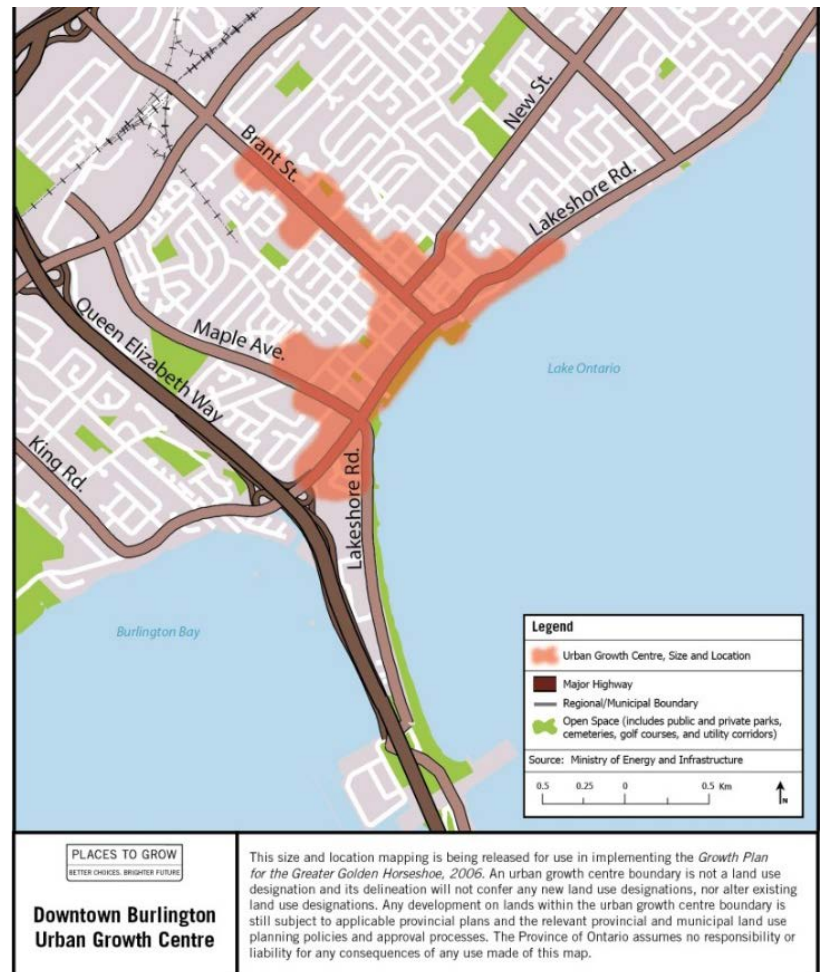
In accordance with the ROP, Urban Growth Centres are to accommodate a significant share of population and employment growth and support major transit infrastructure (78(11), 81.1, 81.2, 81.3). The ROP also speaks to the optimization of land and the provision of intensification and development on sites where services are available (72(2), 81(9)). It appears that through the modifications, the City is seeking to limit the amount of population and employment growth in this designated Urban Growth Centre. This is directly contrary to the ROP.

Assessment of Proposed Modifications and Issues

The following section of this memorandum provides an overview of some of the proposed policy modifications that are of concern to the WE-HBA and resulting planning issues.

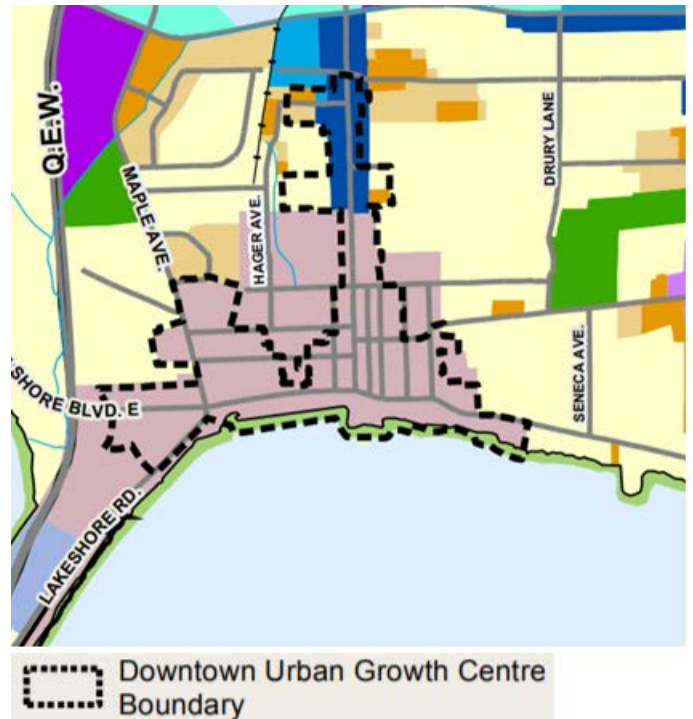
Urban Growth Centre Boundary

As part the Places to Grow Plan, 2006, the Province released a series of maps identifying conceptual Urban Growth Centre boundaries (size and location) to assist municipalities in implementing the Growth Plan at the local level through conformity exercises. The conceptual boundary provided by the Province for Downtown Burlington includes lands within the Downtown along the Brant Street spine as well as along Lakeshore Road and includes Spencer Smith Park. Additional areas between Maple Avenue and Brant Street and Pearl Street and Brant Street were also conceptually identified by the Province (see **Figure 1**, right).



The conceptual boundary for the Urban Growth Centre provided by the Province for guidance was refined by City staff and implemented through OPA 55 and was subsequently approved by the Region and the Province. This boundary includes lands within the Downtown along the Brant Street Spine, between Lakeshore Road and Prospect Street and includes Spencer Smith Park (see **Figure 2**, right).

The proposed boundary for the Urban Growth Centre conflicts with the boundary approved by the Region and Province through OPA 55. It appears that this boundary has been altered without any rationale or justification and conflicts with the prior approved boundary. Additionally, it is unclear what lands are to be included in the City's limited analysis of the ability of the Urban Growth Centre to achieve the intensification target set out in the 2019 Growth Plan.



Evidence Base and Analysis to Support Modified Policies

The approach and methodology to arrive at the recommended modified policies and schedules for the Downtown has been complex and yet disjointed. There are a number of ongoing studies, processes and matters being addressed that are either incomplete or are contrary policy directions.

As an example, SGL Planning and Design ("SGL") were retained by the City to undertake the scoped Re-examination of the Official Plan. As part of the scoped re-examination, SGL's Phase 2 Report (October 2019) notes that the proposed changes to the Downtown Precinct Plan are intended to simplify the precincts and better align with their intended function and provided two concepts based on the revised precinct and the "overall vision" for the downtown developed through public consultation.

The first concept provided for a low rise transitioning to mid-rise, to provide for "an eclectic Brant Main Street", permitting up to three storeys along Lower Brant Street and parts of Lakeshore Road with the intent of maintaining a greater number of existing buildings along Brant Street, with mid-rise buildings directed to John Street and taller buildings to precincts north of Caroline Street and the Downtown East Precinct. The second concept provided for a low-mid rise built form along Lower Brant and Mid Brant and mid-rise built form along parts of Lakeshore. The report identified that the first proposed concept would provide 1,440 retail jobs, 1,410 office/institutional jobs and 5,750 residential units, while the second concept would provide 1,675 retail jobs, 1,480 office/institutional jobs and 5,855 residential units. The Council endorsed "Preferred" concept for the Downtown (January 27, 2020), is a blended version of both Concept 1 and 2 and responds to Council and resident feedback and input. However, no population and employment yield appears to have been provided with this blended concept.

The proposed modified policies, which include reduced height and prescriptive urban design metrics, are contrary to the City's own technical market analysis (NBL 2017), which identified that six to eight storey

developments while viable would create many unintended consequences for the Downtown. In the absence of an updated market analysis on the endorsed concept (SGL 2020), it is unclear how these recommended policies, which are generally more restrictive than the previous policies included in Grow Bold Plan, could be brought forward and recommended for adoption at this time in the absence of any technical or updated market evidence to support the built form contemplated. It is also unclear how the urban design policies can be placed into the Official Plan in advance of the completion of Placemaking and Design Guidelines to inform the creation of those policies.

The Growth Plan requires that municipalities **must demonstrate** that the minimum target for the Urban Growth Centre **is achievable by 2031 and for each year thereafter**. The October, 2019 SGL report states *“Based on the 2016 population and employment, recently completed buildings, buildings under construction, approved buildings and market forecasts until 2031, the Downtown Burlington Urban Growth Centre could achieve a density of 213 residents and jobs per hectare by 2031.”* There has not been any analysis completed that has been made publicly available to justify this conclusion.

In order to “achieve” the minimum density target for the Urban Growth Centre as required under Growth Plan, a comprehensive analysis of the entire UGC is required that includes a constraints and opportunities analysis and a development feasibility analysis to ground truth or “test” the ability to achieve development to meet the UGC minimum target. Most municipalities undertake these two components through detailed massing and modelling work combined with an economic feasibility analysis given the importance of the requirements to achieve the growth as required by the Province and the Region. There is no evidence that any such work or analysis has been completed by the City. These concerns are further highlighted and supported by Altus Group, who has prepared a preliminary letter to the WEHBA in this regard, that recommends an analysis be completed, which is attached to this memo as **Appendix 1**.

Prescriptive Regulatory Policy Framework

The current structure to the proposed modified policies for the Downtown are referred to as a “made in Burlington” approach. Based on a review of the Urban Growth Centre policies for other municipalities with a similar context, while a similar precinct or district approach is applied to reflect different areas within the UGC, the policies are reflective of the need to manage growth and change with flexibility to meet intensification needs and to ensure compatibility. The proposed modified policies proposed by the City are highly regulatory and impose controls and restrictions on development beyond the need to address compatibility which results in inefficient and unachievable built forms. The layering of prescriptive and mandatory policies for each precinct with additional height restrictions creates a planning policy regime for the UGC with little to no flexibility for development. The exclusion of flexible policies also restricts the development of purpose built rental housing given the limitations on building massing, height and design.

The following list, while not exhaustive, is a summary of more specific areas of the proposed modified policies that are overly prescriptive and not supported through background studies and are not in many cases in conformity with Provincial and Regional policies:

- Minimum Density Target

Throughout the modified policies there is a reference to the minimum growth target for the UGC. A new policy has been added which states that the minimum target of 200 people and jobs per hectare shall not be applied on a site-specific basis, and shall only be applied to the entire geography to which the target applies. The additional new policy reads that the full extent of

maximum development permissions stated within all Downton Urban Centre precincts may not be achievable on every site within the precinct, due to site specific factors including but not limited to compatibility with adjacent development, negative environmental impacts, lands, transportation, stormwater management, cultural heritage resources and/or infrastructure capacity.

This policy can only be implemented in conformity with the Growth Plan, if these factors have been fully considered to inform the policies which must **“achieve”** the 200 people and jobs per hectare. Areas which are constrained by these factors should have been adequately studied to ensure the planned intensification can be achieved to meet the Growth Plan objectives. Infrastructure must be planned to accommodate the planned growth.

- A new section has been added to the preamble as follows: *“The residents and jobs associated with development in the Downtown Burlington major transit station area will contribute towards meeting the Urban Growth Centre (UGC) density target of a minimum 200 residents and jobs combined per hectare, as identified in the Growth Plan. Given the limited function of the Downtown Bus Terminal, the major transit station area is not expected to be a significant driver for intensification beyond that which is required by the Downtown UGC.”* This policy does not address the direction in the Growth Plan that 200 people and jobs per hectare is a minimum to be “achieved” and that municipalities are encouraged to exceed this amount. It is recommended that this be removed.
- Brant Street Precinct

The SGL report notes that the “made in Burlington” solution recognizes Brant Street and parts of Lakeshore Road are to be treated differently in order to maintain the low-rise main street feel of Brant Street which was a critical concern raised by the community. The restrictive built form is used to maintain the “existing character” for the Downtown while providing for intensification.

The new policy states that properties along Brant Street shall be a maximum of 3 storeys for the first 20 metres, where either a mid-rise or tall tower component can be provided at the step back, with a further terraced built form along John Street or Locust Street above a 5 storey streetwall. This is also applied in other precincts. The resulting built form from these prescriptive regulations is not reflective of the current built form in Downtown Burlington, either recent or older developments. The resulting built form is also not reflective of a feasible or marketable built form.

The SGL report does not reference any examples of where this approach has been implemented or where this form has been built in a UGC. In the SGL report it is also noted that 3 storey podiums with step backs to towers where a 20 metre ROW separates buildings provides for appropriate height transition. The section on transition goes on to state that a variety of built form and urban design tools can be used to provide transition of height including reduced building heights, varied or terraced building heights, setbacks and step back, intervening built form, smaller building and tower floorplates, separation distances and placement and orientation on a lot. It states that the Downtown Burlington Placemaking and Urban Design Guidelines will provide additional examples of possible built form and design elements that can be used for transition. Again, as noted previously, in typical practice, the Downtown Placemaking and Urban Design Guidelines should have been prepared in advance of the policies and used to inform the policy formulation of the revised downtown policies and not the other way around. The actual policies, however, for the precincts prescribe these urban design measures in mandatory metrics and refer to the design guidelines to further strengthen and control the design. It is unclear what purpose the yet-to-be-

released guidelines serve if the recommended modifications include prescriptive and mandatory urban design policies that don't allow for flexible, context-specific, consideration and evaluation through a set of guidelines. If the policies are prescriptive and mandatory, what purpose is the guideline document to serve? Ultimately, the prescriptive policies result in a complete contradiction of the report statement and an unreasonable and inappropriate policy approach to achieve intensification and optimal use of land and resources. Flexible built form policies, as are provided in the Apartment Designation, can be used to control height, maintain compatibility and provide for good urban design.

- Village Square Precinct

The modified policies include a revised Village Square precinct with new policies to provide for low and mid-rise forms of development based on the existing context. There is a lack of analysis in the SGL report as to why this area has been further revised with more prescribed height and built form regulations which further constrains the redevelopment of this area. There is also an acknowledgement that past applications for the area were not reviewed to understand the context. Past development applications should be assessed and are informative to future policies.

- Height

The proposed maximum heights are provided on Schedule D-2 to the modified policies. There does not appear to be any assessment of how these heights were derived other than the reference to the tallest buildings being in a location that is close to Burlington GO station. The maximum heights in the Downtown East Precinct are stated as recognizing the existing character of the precinct and therefore 17 storeys is appropriate. This height can only be achieved if office development is provided on two or more floors. The NBL report clearly states the challenge to providing office uses in mixed use buildings and it is unclear how the height could be achieved without further amendment to the policies.

The overly prescriptive policy approach to height with the added mandatory regulatory design requirements has the unintended consequence of possibly sterilizing land from development altogether. Without the feasibility assessment of these constraints, the City has not demonstrated that the Regional and Provincial policy directions for the provision of housing, the efficient use of land and optimization of sites is achieved.

- Cultural Heritage Landscapes

There is a new Appendix (H-2) to the Official Plan that identifies areas referred to as Potential Cultural Heritage Landscape Study Areas. However there is no information or justification as to how they have been identified as Cultural Heritage Landscape Study Areas. This work should have been completed as part of the OP exercise, especially in light of the fact that the SGL report notes that the policy framework for cultural heritage resources and for built-form transition will affect the ability to achieve the planned heights.

- Housing

As noted in other sections of the memorandum, the constraints to deliver market based housing to meet the growth needs in the UGC are compounded by regulations in the policies that result in an unachievable built form. No assessment of housing needs in relation to the prescriptive policies has been undertaken by the City and a housing strategy is not contemplated to be completed until 2022. The illustrative economic analysis prepared by NBL in 2017 provides an assessment of the feasibility of buildings at different heights and with different sized units. The study clearly states that the model assumes no three-bedroom units within the residential buildings however this is an area the City has clearly noted it is seeking in new developments and is the direction in OPA 119.

- Retail and Office Policies

The retail and service commercial policies in the modified policies are found in each of the precinct policies and also on the new Schedule D-1 which identifies mixed use and retail streets. The specific allocation of retail space along Retail Main Streets is to be appropriately defined through the zoning by-law. The modified policies also require all existing retail gross floor area to be replaced in new development. This mandatory policy is problematic as it removes flexibility to address the changing retail market.

The modified policies also include a requirement that 50,000 square metres of retail and service commercial floor area be provided on the existing site at Brant Street and Victoria Street to retain the food store function as part of the minimum floor area. While maintaining the food store function is an appropriate planning policy, the detailed metric requirement is not. More properly would be a percentage range of a future development's gross floor area so it can be appropriately implemented based on market needs.

The modified policies prohibit residential uses at grade as part of mixed use developments and prohibit residential entrances on retail streets. Instead these entrances are required to be located on side streets or at the rear of buildings where feasible. It is not clear why residential lobbies and entrances on Brant Street cannot be adequately designed to enhance the retail streetscape as they are today. The location of an entrance at the side or rear of a building may be challenging if not impossible for internal buildings and are often not appropriate from an accessibility, safety and design perspective.

There are requirements for the provision of office space in some precincts to achieve the maximum height (e.g. Any building containing residential units above the height of a *mid-rise building*, shall provide one floor of office space in a *podium* for every three additional floors to a maximum of 17 storeys.). There has been no demonstrated assessment that this is feasible and the NBL report sites that rental rates to support new office development are not where they need to be. Given the current changes to the office market over the past few years and recent unknown impacts due to COVID, the mandatory inclusion of office space is not justified.

- Parks

The modified parks and public realm policies are found in a new modified section of the Downtown policies as well as within specific precincts. The policies generally allow for both public and private parks in the form of Privately Owned Publicly Accessible Open Spaces (POPS). The modified policies are inappropriate in so far as they require additional prescribed park space in the absence of any park needs study.

- Transportation and Parking

The modified policies reference the parent Official Plan for policies related to transportation and mobility including active transportation. In relation to parking there are a number of policies that reference the objective of minimizing parking. There is a restriction in the modified policies for access to underground parking from Retail Main Streets. This is a current condition in the Downtown and a restriction should be considered based on context.

- Urban Design

The new downtown urban design section references urban design guidelines that have not yet been made publicly available. It is not clear how these policies can be provided and proposed without the guideline document being completed. Further, as is set out throughout this memorandum, the level of design prescription in the policies is not appropriate. Further regulation to tighten and shrink wrap should not be mandated in Official Plan policy but contained only within an urban design guideline document that maintains flexibility. There are many municipalities that provide excellent examples where the balance between policy and urban design guidelines have worked well to encourage and facility development and not preclude it.

As has been commented previously, there is no justification for 30 metre tower separation required in the policies. The tall building guidelines require 25 m. It is unclear why the downtown would be different from everywhere else.

- Overall Policy Language

There are a number of policies provided in the modified policies that are statements and it is unclear what the intent of the narrative is and how it informs the policies. An example is the statement that “the development of tall buildings, particularly within the Downtown, comes with more responsibility and obligations than a mid-rise or low rise buildings. Tall buildings have a greater potential to change the skyline, impact adjacent lower scale buildings and their outdoor amenity areas impact the pedestrian experience along the street. Existing and planned context informs the appropriate fit for a tall buildings to limit any impacts to the adjacent and surrounding areas.” It is unclear on what basis this statement is made.

Conclusion

Based on the analysis set out in this memo, there continue to be a number of concerns with the proposed modified policies with respect to conformity to the Regional Official Plan, Provincial Policy Statement and Growth Plan. It would be prudent for staff to consider further revising the policies to address the issues set out herein prior to bringing them forward for approval and adoption to ensure that Provincial requirements can be achieved.

Appendix 1

Altus Group Memo Regarding the Downtown

August 26, 2020

Suzanne Mammel
Chief Executive Officer
West-End Home Builders' Association (WEHBA)
1112 Rymal Road East
Hamilton, ON L8W 3N7

Dear Suzanne:

Re: Burlington Official Plan – Downtown
Our File: P-5882

Altus Group Economic Consulting was retained by West-End Home Builders' Association (WEHBA) to prepare an analysis of the City of Burlington's approach to planning in Downtown Burlington, including a peer review of the City's analysis of development potential in the Downtown Urban Growth Centre (UGC).

COMMENTARY ON BROOK MCILROY ANALYSIS

Overview of BMI September 2017 Analysis

In September 2017, Brook McIlroy provides estimates of the number of residential units and new gross floor area projected for the Downtown Burlington. The calculations presented by Brook McIlroy are "based on full build out" of the Preferred Draft Downtown Precinct Plan, with the Development Concept Plan designed to "full As-Of-Right build out of the Precinct Plan". The analysis "considers factors such as property depth, underground parking area requirements and allowable floorplates based on setbacks, stepbacks and other direction from the City's Tall Building Design Guidelines." The September 2017 version of the Brook McIlroy analysis identified 33 development blocks with mid-rise or high-rise building potential.

The assumptions used in the September 2017 analysis were a gross residential unit size of 100 square metres per unit, and 1.70 persons per unit. The analysis projected that 760,000 m² of residential GFA could be built, which would yield 7,600 new residential units, which could accommodate 13,000 new residents. Additionally, 34,000 m² of non-residential GFA could be built, which would add 1,425 new jobs.

The additional 14,425 residents and jobs estimated by Brook McIlroy are identified as "new people" and "new jobs"

Overview of BMI February 2018 Analysis

In February 2018, Brook McIlroy presented an updated projection of gross floor area, units, people and jobs capacity in Downtown Burlington.

The assumptions in the February 2018 memo were modified from what was presented in the September 2017 memo, with the average gross residential unit size reduced, and the population per unit (PPU) increased. Both of these changes would have the effect of increasing the number of units and people generated from the assumed built form that each site yields.

Figure 1

Assumption	September 2017 Memo	February 2018 Memo
Average Gross Residential Unit Size	100 square metres per unit	93 square metres per unit
Population per Unit	1.70 persons per unit	1.80 persons per unit
GFA per Employee (Retail)	42 square metres per person	38.9 square metres per person
GFA per Employee (Office)	23 square metres per person	30.2 square metres per person

The development yield in the February 2018 memo has also increased, mostly due to the addition of three (3) more development blocks, for a new total of 36. The three new development blocks relate to active development applications.

The residential GFA yielded on the 36 identified development blocks is estimated to be 794,000 square metres, and would yield 8,500 new residential units, 15,000 new residents, plus 1,260 new jobs in a total of 38,000 square metres of non-residential space.

Figure 2

	September 2017 Memo	February 2018 Memo
Development Blocks	33 sites	36 sites
Residential GFA	760,000 m ²	794,000 m ²
New Residential Units	7,600 units	8,500 units
New Residents	13,000 new residents	15,000 new residents
Retail GFA	25,000 m ²	25,000 m ²
Retail Jobs	600 jobs	630 jobs
Office GFA	9,000 m ²	13,000 m ²
Office Jobs	825 jobs	630 jobs

Summary of Concerns with BMI Analysis

1. PPU Assumptions

The assumption of a 1.80 PPU in the February 2018 memo is overstated and not in line with the City's own DC Study.

2. Unit Size Assumptions

Based on our analysis (using RealNet data) of residential condominium apartments being marketed in Burlington, the average unit size in the City is 841 square feet. Assuming a net saleable area ratio of 80%, the average gross unit size would be 1,050 square feet per unit, or 98 square metres per unit.

3. Site-Specific Development Assumptions

Based on our detailed review of the BMI Analysis and the assumed development envelopes for each site shown in their report, we have numerous concerns that the amount of development potential in Downtown Burlington is significantly overstated:

- There are numerous instances where the height of the podium assumed by Brook McIlroy exceeds what would be permitted under the adopted Official Plan;
- For nearly every assumed development that has a podium with a taller building above, the BMI Analysis ignores the requirements in the adopted OP for a 3-metre setback for portions of the building above the podium. While at first glance, this issue would appear to be a minor, but a 3-metre reduction on multiple sides of a building can have significant compounding effects on the amount of developable GFA;
- We have found 20 buildings on 15 development blocks where tall buildings are identified and the BMI Analysis appears to ignore the maximum floor plate area for tall buildings of 750 square metres;
- There are several cases where the buildings in the BMI Analysis do not conform to requirements for buildings to not exceed a 45-degree angular plane;
- The adopted OP has several site-specific policies that prospective development would have to conform to. One such policy is for a development on 535-601 Brant Street to retain all existing retail and service commercial GFA, as well as all office GFA;
- There are some identified developable blocks that may not be practical to build upon. This includes an assumed residential tower built above Burlington City Hall, a residential tower built in the middle of Village Square (retaining the existing facades), and the redevelopment of a building used for the Rock Reach Out Centre for Kids;
- The BMI Analysis assumes development on one parcel that has a significant number of registered heritage properties, which may make development impractical;
- Many of the sites in the BMI Analysis, particularly those along Brant Street, would require substantial land assemblies, which may make development on those sites difficult, particularly prior to the 2031 horizon in which the City needs to meet the Growth Plan's density targets for the Downtown;
- There are several sites where a maximum of 12 storeys is permitted, but additional height up to 17 storeys is allowable if the landowner provides office space or publicly available underground parking as part of the development. While some developers may seek the additional height, others may not

find the trade-off feasible. The BMI Analysis appears to assume that the full 17-storeys will be built for each of these development sites;

- The assumed heights for buildings in the BMI Analysis in a few cases outright exceeds what is permitted in the adopted OP.

Examples of Problematic Site-Specific Assumptions

- **Site #24** in the BMI Analysis is currently occupied by Village Square. The BMI Analysis assumes a 17-storey building constructed in the middle of the retail development, with some of the interior shops presumably needing to be demolished along with the apartment building on the northside of the block. The adopted OP includes a site-specific policy that any future development should retain the existing facades, retain cultural heritage resources, and retain an open space element internal to the site, which may be in the form of a Privately-Owned Publicly Accessible Space (POPS) and/or parkland dedication under the Planning Act. Further, the 17-storey building identified in the BMI Analysis does not meet the design requirements for a podium and setback of 3 metres for the portion of the building.
- **Site #31** in the BMI Analysis is split into two areas – the ‘west’ sector and the ‘east’ sector. The two parcels of Site #31 within the “West Sector” are identified in the adopted Official Plan as permitting up to 10 storeys. Despite this, the BMI Analysis assumes two buildings would be developable here with heights of 8 and 15 storeys. The two conceptual buildings in the west sector also do not meet the design requirements for a setback of 3 metres for the portion of the building above the podium. The three parcels within the “East Sector” would permit up to 6 storeys. Despite this, the BMI Analysis assumes that a 12-storey building could be constructed.

Conclusions Regarding Brook McIlroy Analysis

Based on our analysis, we have found that several adjustments need to be made to the estimates of development potential presented by Brook McIlroy.

- The BMI Analysis significantly overstates the development potential of the identified sites within Downtown Burlington. We estimate that the sites identified for development currently contain at least 54,800 square metres (590,000 square feet) of non-residential gross floor area, which based on Floor Space per Worker factors from the City’s 2019 DC Study, would accommodate an existing 1,533 jobs;
- We have also found that the development sites in the BMI Analysis currently contain 376 residential units, which based on average household sizes would accommodate 768 residents;
- Therefore, in total, the development of the 36 sites would displace approximately 2,300 residents and jobs. The displacement of these existing residents and jobs do not appear to have been accounted for;
- We have found that if the building envelopes assumed by Brook McIlroy were adjusted to reflect the permissions in the adopted OP, that the estimate of buildable GFA in the BMI Analysis is overstated by at least 154,400 square metres.

ADDITIONAL ANALYSIS

Analysis of Consequences of Lower Height Limits in Downtown (NBLC)

A memorandum provided from N. Barry Lyon Consultants Limited (NBLC) to Brook McIlroy commented on the potential effects of a lower height limit in the Downtown:

A lower height limit in the Downtown – while feasible – comes with the following potential unintended consequences:

- *Encouraging developers to drive pricing higher to compensate for a lack of density, as has occurred in Downtown Oakville. This does not help in diversifying the population base and range of built form in the Downtown;*
- *Constraining the viability of new rental housing development– except at the luxury end of the market;*
- *Allowing other lower density development forms and land uses to compete for land; and,*
- *Limitations in the supply of significant redevelopment opportunities are likely to delay private sector investment.*

If the overarching desire is to encourage redevelopment and intensification within the Downtown, increases to height permissions may provide greater financial flexibility for the development community in their ability to assemble properties and compete with the land values supported by other productive uses. However, if the City were to pursue a

regimented and defensible mid-rise approach to building heights in the Downtown through its review of the Official Plan, the land market will likely adjust accordingly, but the pace of redevelopment activity might temper. [emphasis added]

The opinion of NBLC that a mid-rise approach to development in the Downtown would ‘temper’ the pace of redevelopment activity is contrary to the purpose of the Urban Growth Centre to act as a focal point for population and employment growth in the Region.

Burlington’s Intensification Target and Halton Region’s Phasing

According to Table 2 of the Halton Region Official Plan, the “Minimum Number of New Housing Units to be Added to the Built-Up Area Between 2015 and 2031” in Burlington is 8,300 units, which represents roughly 26% of the Region-wide intensification units.

The City’s adopted Official Plan provides no allocation of intensification units to the Urban Growth Centre, Mobility Hub, or other identified intensification areas.

The Halton Region Official Plan requires local official plans to specify development phasing strategies within the Urban Area consistent with the policies of the Regional Plan. The Regional OP also has policies that state that Urban Area expansions can only be introduced by amendment where it has been demonstrated that the timing of the expansion and phasing of the development within the new designated greenfield area will not adversely affect the achievement of the intensification targets.

Without an allocation to the City's various intensification areas based on an estimate of the timely development potential of lands within those intensification areas, the City cannot reasonably say they are adequately planning to achieve the intensification targets, and cannot confirm whether urban area expansions are or are not required

Burlington's Record to Date in Attracting Units to Downtown Burlington

Based on the Regional Official Plan Review – Phase 1 Directions Report, building permits were issued for 4,460 new residential units in the City's built-up area, an average of 405 units per year. Substantially more units will be required in the Downtown to achieve the minimum intensification target and planned phasing. Roughly 33% more units per year will need to be developed within the built-up area than were built over the 2006-2016 period. Many of these units will need to be built in Downtown Burlington

Recent Density Calculations for Downtown Burlington UGC

According to the Technical Report on Preliminary Performance Indicators for the Growth Plan for the Greater Golden Horseshoe (2014), the area of the Downtown Urban Growth Centre is 117 hectares. Data indicates that in recent years only a small share of the City's new housing starts have been located in the Downtown. Provincial estimates of density in the Downtown Burlington UGC show a declining population and employment base between 2006 and 2011.

- Based on population and employment data from the 2006 Census, there were 8,450 residents and 5,575 jobs (14,025 residents and jobs) in the area yielding a density of 120 residents and jobs per hectare.
- Based on data from the 2011 Census, there were 8,395 residents and 5,375 jobs (13,770 residents and jobs) in the area yielding a density of 118 residents and jobs per hectare.
- The City or Province have not provided estimates of population and employment in the Downtown using 2016 Census, however, there has been minimal population growth in the broader area covering the Downtown between 2011 and 2016.¹

The policies in the City's Official Plan need to be appropriately calibrated to ensure that development is encouraged, so that the Downtown can act as a focal point for population and employment growth in the City, and particularly within the City's built-up area.

Height Limits and Development Restrictions by Downtown Burlington Precinct

The height limits in the adopted Burlington OP vary by 'precinct' and range from 2.5 storeys to 25 storeys on a select number of sites and areas within precincts. The following table shows the height limits by precinct. The areas in the Low-Rise Neighbourhood Precincts, the Neighbourhood Mixed-Use Precinct, with numerous others only allowing heights greater than three storeys if more than 20 metres away from Brant Street, with requirements for angular plane, etc.

¹ The area covered by the four Census Tracts in the Downtown area is much broader than that of the Downtown UGC. However, the cumulative population of Census Tracts 5370205.02, 5370206.00, 5370212.00 and 5370213.00 is 14,513 persons in 2016, up 572 persons from 13,941 persons in 2011.

Figure 3

Precinct	Maximum Heights
Downtown Public Service Precinct	Accessory residential uses only
Low-Rise Neighbourhood Precincts	2.5 storeys
Neighbourhood Mixed-Use Precinct	3 storeys
Brant Main Street	3 storeys immediately adjacent to Brant Street 11 storeys immediately adjacent to John or Locust Streets
James Street Node	421 Brant Street – maximum height of 23 storeys 401-431 Brant, 2012 James, 444-448 John St – maximum of 17 storeys
Lakeshore Precinct	Not to exceed 3 storeys within 20 metres of Lakeshore Road, from Lower Hager Creek to Elizabeth St. (except site specific policies for 374-380 Martha, 2069 Lakeshore)
Apartment Neighbourhood Precincts	No single limit, but can accommodate limited infill development that 'fits into and respects existing physical character of adjacent properties' Development must also fit within 45-degree angular plane from rear property line of adjacent low-rise neighbourhood precincts
Old Lakeshore Road	West Sector: 10 storeys/31.5m, except between Pearl and Martha streets: 15 storeys East Sector: 6 storeys, except certain properties 8-10 storeys South Sector: existing heights
Downtown East	17 storeys, but must provide one floor of office space in a podium for every three additional floors in excess of mid-rise building (to a maximum of 17 storeys)
Village Square Precinct	Only low-rise and mid-rise buildings permitted
Mid Brant Precinct	Not to exceed 3 storeys within 20 metres of Brant St. Not to exceed 11 storeys adjacent to existing John St., and beyond 20 metres of Brant St.
Upper Brant	Maximum heights set out in Schedule D-2 (11-25 storeys)

	Must incorporate setback above 3 rd storey, and 45-degree angular plane adjacent to residential low-density areas
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Of the 117 hectares in the Urban Growth Centre, a significant proportion of lands in the UGC have limited to no significant development permissions or are prohibited for residential development, such as the Downtown Public Service Precinct, the Low-Rise Neighbourhood Precincts, Neighbourhood Mixed-Use Precincts. Other precincts have numerous constraints, such as angular planes, office space provisions, set-backs, meeting requirements relating to physical character, etc. that limit the amount of new residential that can be built on otherwise suitable development sites in the Downtown.

It is crucial to have appropriate policies to encourage the necessary density on the remaining areas of the Urban Growth Centre.

The precincts and height limits in the recommended OP modifications have changed from the prior version that BMI would have based their analysis on. The BMI Analysis should be updated to reflect the latest version of the recommended OP modifications.

Sincerely,



Daryl Keleher, MCIP, RPP
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