

September 21, 2020

The following is the joint submission of Lynn Crosby and Blair Smith, two founding members of WeLoveBurlington, and Gary Scobie, long-time civic activist and advocate. We share a common passion for the City of Burlington and a common purpose in protecting its downtown and waterfront from inappropriate development and excessive intensification. We also have a compelling interest in preserving the integrity of local government – that level of governance closest to the citizen and most sensitive to local needs and voice. Indeed, WLB actually was created by the need to counter the provincial direction for amalgamation at the regional government level. The campaign, waged in concert by a number of ad hoc organizations, was ultimately successful and the threat of amalgamation in Halton removed. Ironically, the government that WLB fought to preserve because of its perceived sympathy to the people's will, then turned a virtual deaf ear to many of those citizens when it developed its revised plans for Burlington's downtown. It would appear that proximity to the people is no guarantee of either the ability to hear their voice or follow their wishes.

On December 5th, 2019 and January 12th, 2020, we delegated before Council. On those occasions we questioned the timing and basic process of the course that brought forward the 243-page Integrated Control By-Law Land Use report and the highly interdependent 319-page Preliminary Preferred Concept Report. We challenged the timing, the conclusions and the basic sequencing of events. At that time, we urged Council to address the relocation of the Urban Growth Centre (UGC) and the mis-designation of the John Street bus station and the downtown as a Major Transit Station Area (MTSA). We argued that these actions must be a priority before any acceptable redesign of the downtown was possible. We asked for 'no more tall buildings'. And we were not heard. Indeed, with our final delegations there was not one question posed. We raised inconvenient truths and there was no will to exchange ideas, no appetite to debate. We were politely but conclusively dismissed. We determined at that time that further delegation was pointless and the course for downtown irrevocably charted.

Today, however, we are making another statement in response to the latest documents, the Placemaking and Urban Design Guidelines and the Downtown Burlington Fiscal Impact Analysis and the latest, and apparently final, version of Report PL-16-20, Taking a Closer Look at the Downtown Recommended Modifications to the OP. We do this to bring orderly closure to our advocacy and, once again, echo the voice of Burlington citizens who deserve to be but have not been heard. Sadly, the situation remains almost exactly the same as it was nine months ago - all this time spent tinkering with the documents, but not substantially changing the position or the "vision."

On page 8 of the Guidelines, for example, the two designations that enable both the Province and the development community to force high intensity massing of people and/or jobs in Burlington's downtown remain unchanged and in force. We refer, of course, to the Urban Growth Centre (UGC) and the Major Transit Station Area (MTSA). COB recently announced that Council voted unanimously on August 24, 2020 to request removal of these designations, yet they remain the key component

of the downtown OP, the Guidelines, all Schedules and the Fiscal Impact Analysis. Coupled with this is the fact that LPAT, the 'new' dispute forum, is a high-rise developer's dream tribunal where height and massing in designated growth areas are not just supported but are actively encouraged.

The Urban Growth Centre (UGC) designation was first applied to our Downtown through the Places to Grow provincial legislation in 2005 and ratified by Burlington Council in fall 2006, just weeks before the City Election. It demanded a minimum 200 people/jobs per hectare over the area bounded by the Growth Centre and remains in place today.

The Major Transit Station Area designation arrived much later in the second decade of this century through the provincial agency, Metrolinx, based on the unsubstantiated claim that our Downtown Bus Terminal qualified as a Mobility Hub. The MTSA covers roughly the same area as the UGC and requires the same intensification minimums. Both designations support high intensity massing of people/jobs (and buildings) in the Downtown area and reinforce each other as provincial intensification tools. Moreover, both designations share three critical aspects detrimental to the popular "vision" of what constitutes "good planning" for Burlington's downtown:

1. The intensification applies over an area, not a building.
2. There is no maximum stated. Only a minimum is demanded, and municipalities are "encouraged" to go above the minimum.
3. There is no mention in the legislation of maximum building height – the sky is quite literally the limit.

So, the two most damaging factors remain unchanged and will be 'in force' and operative for the foreseeable future – at minimum, until the Regional Official Plan is revised and approved. This factor alone undermines the comforting assurances and lofty principles of the Guidelines. Indeed, the latter are almost a misdirection, intended to appease a sceptical and fatigued citizenry; false guarantees that intensification can be controlled and made amenable to the public will. But, as Guidelines, they exist simply to articulate what "should be" not what "must be" and they can be contravened by any number of higher policies and direction statements. For example, the "Core Commitment: Downtown Vision and Action Plan" (as amended) goes beyond and takes precedence over the "Placemaking and Urban Design Guidelines".

In essence, the Guidelines are unenforceable, part of an array of reports and documentation that requires a very informed and patient reader to do all the necessary cross-referencing to determine the complete context. As with the past process of last December and January, the documents are too numerous, too dense, too intricate and too complex. They are not intended to easily inform.

Truly, the devil can be in the details. There are instances in which the Guidelines don't match or conform to the main OP report. One of the best examples is Village Square. The Guidelines talk about 4 storeys "abutting Martha Street" but Village

Square, as popularly known, does not extend to Martha Street. The Guidelines state:

- “1. The maximum height of developments abutting Martha Street **shall** be 4 **storeys** and/or **shall** provide a **built form transition** to Martha Street and north of Pine Street to maintain the existing **low-rise** character.”
2. Retail frontages should be designed to complement and reinforce the unique **human scaled** and historic character of the Village Square Precinct.
3. Retail provided at-grade along Pine Street will act as a **transaction** to the Village Square development and emphasize an intimate relationship with the **public realm** by providing a minimum setback of 4 metres from the curb.
4. Development should maintain and enhance **views** of the Village Square.”

The language is intended to give the impression that the low-rise nature of the area is being protected and preserved. However, when the map (notably, only included in the revised schedules and omitted from the Guidelines) is referenced, it is clear that the north portion of Village Square allows 11 storeys. Moreover, both the Report and the Guidelines are silent on the treatment of the Square's interior. At best this is misleading; at worst, a deliberate omission. And this is characteristic of the Guidelines as a whole. They contain a treasure trove of vague, ambiguous, qualitative language that provides a sense of affirmation but does not allow for measurement or objective validation.

The Guidelines perpetuate a number of known problems and deficiencies already cited with the planning process and the downtown modifications made to the Official Plan. Most glaring, perhaps, is the fact that the Old Lakeshore Road precinct continues to be ignored. Why is this most critical of precincts, the gateway to the downtown, continually out of scope? Why are the serious issues, constraints and challenges posed not openly addressed? Why reference it as one of the 10 precincts and note that the downtown is “on a beautiful waterfront setting”, then completely ignore what is required to protect the waterfront, enhance its accessibility to the public and maintain the existing views? Indeed, Burlington has had a very uneven record over the last 20 years in terms of preserving and protecting the natural asset of the waterfront. It sold valuable waterfront property to private owners, failed to extend the waterfront trail and allowed development interests to prevail over those of public access. These Guidelines and this Official Plan do little to reverse the mistakes of the past. World class cities provide strict and enforceable measures to ensure that their waterfronts are valued as irreplaceable jewels and true public assets. Burlington, by contrast, posits a “feel good” set of principles (pp 44/45) factored around the discretionary preservation of “views” and “access”.

The same principles with the same poor expectation of effective implementation are used to preserve sightlines to landmark buildings such as City Hall, Knox Presbyterian Church and Village Square. One can reasonably argue that the view of City Hall will be obstructed by the Twin Towers approved for the northeast and southeast corners of Brant and James. Knox is located in the Downtown East Precinct that allows tall buildings and is vulnerable to demolition. Village Square

presents a series of already identified issues. In fact, we take serious issue with the whole Downtown East Precinct in which the “precedent” of existing tall buildings is used to justify an ongoing ‘tall building’ development pattern. Why is the “precedent” not anchored in the many one or two storey houses in the area? How does the allowance for 17 storeys on Elizabeth Street and 17 at the Lions Club Park conform to the existing adjacent neighbourhoods? How does it conform to that which the people have been asking and how is it feasible that that small area around tiny Martha Street and Lakeshore/James could possibly accommodate this many tall buildings and additional congestion? Where is the requirement that Carriage Gate finally, after more than a decade, build their promised parking garage and medical centre at the site of their 17-storey condo building atop a three storey “podium” (the much-touted retail portion on ground level still completely vacant) located in the East Precinct? Why is the consultant/staff recommending 22 storeys at the Carriage Gate property at Pearl and Lakeshore, beside the uniformly unwanted ADI property next door?

There is almost a complete lack of greenspace and amenities. The map in Schedule 3, Appendix D shows three green circles denoting “public parks” (viz. Ghent/Brant, No Frills parking lot and Martha near New Street). They are small, located in insignificant areas and appear as afterthoughts – not integral components of the plan. The City claims to want to create complete communities with all of the amenities, but this worthy goal appears to have been abandoned in the downtown. Indeed, there is no section in the Guidelines dealing with greenspaces and parks. Instead of needed amenities, community hubs and actual parkland, we are presented with the concept of POPS (Privately Owned Publicly Accessible Spaces) as leisure and recreational areas for the thousands of people who will populate the new buildings. The POPS were featured in the Fall 2019/Winter 2020 presentations of the preferred concepts for downtown. They were not critically acclaimed then and deserve no better treatment now. In fact, little has changed with either the concepts or the consultant’s treatment of the design for downtown. So, for example, where is the recognition that the pandemic has dramatically changed our reality? In the Fiscal Impact Analysis:

“Table 3-1 summarizes the residential growth projections for Downtown Burlington to 2031. It is anticipated that the within Downtown Burlington, the City’s population will grow by 2,787 population over the 2020-2031 forecast period. The population growth will be facilitated by the development of 1,720 additional high-density residential dwelling units. Consistent with the assumptions of the 2016 FIS, it is assumed that 75% of high-density residential development will be in the form of condominium development, with the remaining 25% comprising apartment developments.”

Remarkably, there is no updated view of the changes that COVID has made to our lives and the nature of our future living. Today, and for the foreseeable future, there is far less desire for condominium living and cloistered spaces. People want to distance and separate, want more open spaces and houses with traditional features and backyards. Accordingly, there should be fewer allowances for tall buildings and much better-defined planning for open spaces. Why is the consultant’s vision unchanged?

This speaks to our final major issue – the implicit cynicism of the consultation process and the lack of meaningful public engagement. Much has been made by the City and Council in ward newsletters and social media posts of the extensive outreach that has been undertaken. Citizens have been thanked for their time and effort reviewing an endless array of documents, helping to make the Official Plan and its policies a better, more inclusive work. However, nothing has materially changed. The preferred concepts, the vision and principles, the Official Plan itself with its myriad ancillary reports and the strategic documents ‘ad infinitum’ have not been varied or amended. The direction has not been moderated by either public comment and feedback or influenced by a differing public perception. The development scenario was essentially set during last Summer and Fall, when SGL Consulting was engaged under a directed tender to validate staff-defined outcomes. The necessary substantiating reports and studies were then concluded with predictable findings and the path forward unaltered from that framed and established at the very beginning.

Neither Council nor Planning staff should believe that a lack of new comments opposing much of these final documents means that the public now finds them acceptable. In the midst of a pandemic and at the end of a very long, quite protracted and overly tiresome process with too many documents, too many cross-references and too many versions, people are fatigued with the need for repetition; for saying repeatedly what they want and never being heard. We know that the council members are there to speak up on our behalf, convey our long-standing and unchanged positions, and to direct staff as they see fit. This is what the public expects and is counting on.

In summary, we’ve been here before – several times actually and nothing substantive has changed. It’s not that we expect that Council is under any obligation to passively comply simply because we attended and delegated. However, we did expect to be respected and to be heard. We represent a popular voice to which you have turned a deaf ear; worse, to which you have claimed an avid attention, then done nothing. We respectfully request that you provide for substantive amendments to the Official Plan, addressing the deficiencies noted in this submission and reflecting what the people of Burlington want for their downtown.

We understand that Council has worked with staff on modifications to produce a revised Official Plan for endorsement but we believe that it is seriously flawed. It leaves the waterfront vulnerable to development and permits a downtown in which tall buildings will dominate, with no real greenspace or public amenities. As we have said from the beginning, there is only one waterfront and one downtown – once gone there will be no bringing anything back and we urge the current Council, elected with such high popular expectation two years ago, to do everything needed to clearly ensure their permanent protection. Your legacy depends on it.

Blair Smith, Gary Scobie, Lynn Crosby