



File No. 2042

September 29, 2020

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

Attention: Allison Enns (newop@burlington.ca)

Dear Ms. Enns:

***Re: Burlington New Official Plan Project for
2083 and 2084 Old Lakeshore Road, 425 Pearl Street,
440-446 Elizabeth Street and 455 John Street, Burlington***

We are the planning consultants for 440 Elizabeth Street Holdings Ltd. and 2084 Lakeshore Holdings Limited (the "Owners") who are the owners of the properties known municipally as 2083 Old Lakeshore Road (the "2083 site") and 2084 Old Lakeshore Road (the "2084 site"), 425 Pearl Street (the "Pearl Street" site), and 440-446 Elizabeth Street and 455 John Street (the "John Street" site). We are writing to provide our client's comments in respect of the City of Burlington's proposed modifications to the adopted official plan.

The 2083 and 2084 Sites:

The following is a summary of the proposed designations and identifications for the 2083 and 2084 Sites:

- "Primary Growth Area" and within the "Urban Growth Centre Boundary" on Schedule B-1, Growth Framework;
- "Old Lakeshore Road Precinct" on Schedule D, Land Use – Downtown Urban Centre;
- "Mixed Use Street" on Schedule D-1, Downtown Urban Centre Retail Streets;
- "Height Subject to the Built Form Policies 8.1.1 (3.6.1) on Schedule D-2 – Maximum Building Heights;
- "Local Street" on Schedule O-3 – Classification of Transportation Facilities Downtown Urban Centre.

Based on our review, the proposed modifications will significantly impact the redevelopment potential of the 2083 and 2084 sites. In particular:

Policies 8.1.1(3.6.1) c) establishes a maximum height of 10-storeys (31.5 metres). In our opinion, this height restriction is arbitrary and not the result of a comprehensive urban design exercise that considers the surrounding built form context. Furthermore, it includes overly restrictive policies that would allow for additional height.

Policy 8.1.1(3.6.1) g) ii) is generally consistent with the existing transfer of development rights that apply to the 2084 site, which were intended to be transferred to the 2083 site. However, the proposed height restrictions and other built form policies and guidelines that are proposed to apply to the 2083 site are overly restrictive and will restrict its ability to achieve the additional density, ultimately negating the density transfer provisions.

In our opinion, Policy 8.1.1 (3.6.1) i) is overly restrictive and limits the redevelopment potential of the 2084 site and other sites on the south side of Old Lakeshore Road, since a large portion of the site would be reserved for a Waterfront Trail. This policy has the effect of limiting development and potentially deterring development altogether, which does not have the effect of extending the Waterfront Trail without the use of public funds.

In our opinion, Policy 8.1.1 (3.6.1) j) is confusing, since it calls for an Area Specific Plan for new development even if it conforms to the proposed policies. The New Official Plan project and the “Taking a Closer Look at the Downtown” project were intended to comprehensively review the Downtown, yet the proposed policies defer to another future study, the terms of reference of which are ambiguous and not clearly defined. Again, this policy has the effect of deterring development within a “Strategic Growth Area” as defined by the Growth Plan for the Greater Golden Horseshoe.

The Pearl Street Site:

The following is a summary of the proposed designations and identification for the Pearl Street Site:

- “Primary Growth Area” and within the “Urban Growth Centre Boundary” on Schedule B-1, Growth Framework;

- “Parks and Promenades” and “Village Square Precinct” on Schedule D, Land Use – Downtown Urban Centre;
- “Mixed Use Street” on Schedule D-1, Downtown Urban Centre Retail Streets;
- “Parks and Promenades”, “Up to 11 Storeys”, “Height Subject to the Built Form Policies”, and “Up to 4 Storeys” on Schedule D-2 – Maximum Building Heights;
- “Neighbourhood Connector” on Schedule O-3 – Classification of Transportation Facilities Downtown Urban Centre.

In our opinion, Policy 8.1.1(3.10.1) a) should be expanded to also allow office uses, which is consistent and conforms to provincial and regional planning policy and represents good planning.

The height restrictions in Policy 8.1.1(3.10.1) c) are arbitrary and not the result of a comprehensive urban design exercise that considers the surrounding built form context.

As you are aware, the Owners have met with City Staff, including a pre-consultation meeting to discuss the potential redevelopment of the Pearl Street site for a multi-level parking structure. The proposed policy modifications do not permit the height of the proposed parking structure, nor do they allow for the proposed overhangs that would add interest to the proposed building and provide a resource for the growing Downtown.

John Street Site

The following is a summary of the proposed designations and identification of the John Street Site:

- “Primary Growth Area” and within the “Urban Growth Centre Boundary” on Schedule B-1, Growth Framework;
- “Downtown East Precinct” and identified as fronting a “Green Connector Streets” on Schedule D, Land Use – Downtown Urban Centre;
- “Mixed Use Street” on Schedule D-1, Downtown Urban Centre Retail Streets (Potential future frontage onto “Retail Main Street” and “Elgin Promenade”;
- “Maximum 17 Storeys” on Schedule D-2 – Maximum Building Heights;
- “Main Street” and “Neighbourhood Connector” on Schedule O-3 – Classification of Transportation Facilities Downtown Urban Centre.

In our opinion, Policies 8.1.1(3.9.1) b) and d) are arbitrary and not the result of a comprehensive urban design exercise that considers the surrounding built form context.

Built Form Policies for all the sites:

Section 8.1.1(3.17) provides a new set of policies related to Downtown Urban Design. In our opinion, these policies unnecessarily deviate from the City's Mid-Rise and Tall Building Guidelines and result in performance standards that are arbitrary and not based on a comprehensive urban design exercise. Also, embedding urban design guidelines into a policy planning framework as a test for new developments is overly prescriptive and gives the Downtown Burlington Placemaking and Urban Design Guidelines weight that is inappropriate. In our opinion, giving conformity authority to a guideline is inappropriate, since it is a document that is not subject to statutory requirements and can be modified without public input. Furthermore, the guidelines have not been thoroughly assessed and reviewed by the public.

Downtown Burlington Placemaking and Urban Design Guidelines

In our opinion, the Downtown Burlington Placemaking and Urban Design Guidelines (the "DBPUD Guidelines") are overly prescriptive, unnecessarily deviate from the City's Mid-Rise and Tall Buildings Guidelines, and are not based on a comprehensive urban design exercise that considers and takes into account public input. In our opinion, the DBPUD Guidelines inappropriately refer to density targets, include guidelines that increase tower separation within the Downtown where tighter relationships typically exist, include built form transition policies that do not recognize the variety and site specific considerations within the downtown that create the need for flexibility, and provides guidelines related to views and vistas that are ambiguous and not ground in good urban design principles.

Proposed Amendments by Mayor Marianne Meed Ward and Councillor Lisa Kearns

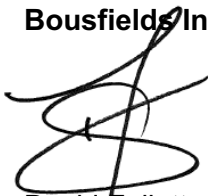
We have been made aware of proposed amendments by Mayor Marianne Meed Ward and Councillor Lisa Kearns, which propose further modifications to the Owners' lands. In our opinion, the proposed modifications are inappropriate and do not include planning and urban design rationale. Further, any proposed modifications should have been made available to the public as part of the public consultation process for review

and consideration and be supported by a detailed planning opinion upon which we can comment, especially the owners of the properties impacted.

As always, we would be pleased to meet with you to discuss these revisions ahead of the Community Planning, Regulation, and Mobility Committee of City Council on September 30, 2020. Please accept this letter as our request to be notified of any decision made in respect of this matter.

Respectfully Submitted,

Bousfields Inc.



David Falletta MCIP, RPP

/DF:jobs

cc. Owners
Denise Baker, WeirFoulds LLP