



Project No. 17323

April 4, 2022

Samantha Romlewski
Community Planning
City of Burlington
426 Brant Street, P.O. Box 5013
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Via E-mail: samantha.romlewski@burlington.ca

Dear Ms. Romlewski:

**Re: *Item 5.4 of the April 5, 2022, Community Planning, Regulation & Mobility
Committee Meeting
Waterfront Hotel Planning Study***

As you are aware, we are the planning consultants for Burlington 2020 Lakeshore Inc., the “**Owners**” of the property municipally addressed as 2020 Lakeshore Road in Burlington (“**subject site**”). We are writing in response to Staff Report PL-28-22 related to the Waterfront Hotel Planning Study (the “**Study**”).

We have significant concerns with the recommendations of the Study and Staff’s recommendation to endorse the recommended Preferred Concept Plan, draft Official Plan policies and directions for a future Zoning By-law Amendment and site-specific Urban Design Guidelines.

Lack of Notice

As the key stakeholder of the Study, we are concerned that the Study and Staff report were added to the April 5, 2022, Community Planning, Regulation and Mobility Committee (the “**Committee**”) Meeting as an addendum and the Owners were notified of the meeting only on March 31, 2022. In this regard, the timeline to review the Staff Report and appendices was constrained and did not provide sufficient time to review and provide a detailed response for the Committee’s consideration. Our client reserves the right to provide additional comments, as required, directly to City Council.

Policy Inaccuracies

ROPA 48

The Study states that it has been considered against the in force and effect policies of ROPA 48 (Page 50 of the Study). In this regard, the Study recognizes that ROPA 48 includes a transition clause wherein it only applies to new planning applications that are made following the Minister's decision of November 10, 2021. More specifically, the transition policy states:

“Sections 80 to 80.2 continue to apply to applications for official plan amendments, zoning by-law amendments and draft plans of subdivision or condominium approvals made prior to the approval by the Minister of Municipal Affairs and Housing of Amendment 48 to this Plan if the lands that are the subject of the application were within an Urban Growth Centre prior to the Minister's approval of Amendment 48.”

As applications for an Official Plan Amendment and Rezoning (City File No.'s 505-10/21 and 520-11/21) (the “**Applications**”) were made on October 21, 2021, the transition provisions apply to the Applications.

The New Official Plan

The Study states that the Preferred Concept has been more specifically evaluated against the emerging policy regimes and specifically identifies an urban design and planning approach that largely reinforces the emerging planned vision by the City for the Downtown, which is established through the New Official Plan (see Page 57 of the Study). However, the New Official Plan is under appeal and is not in full force and effect as it relates to the subject site. In addition, the Owners have appealed the New Official Plan as it relates to the Waterfront Hotel lands. In our opinion, the Study's recommendations are based on the policy framework of the New Official Plan, which is under appeal and has not been finalized. In this regard, the outcome of the appeals of the New Official Plan will likely result in significant changes to the planned context surrounding the subject site.

The Study states “the most recent changes to Burlington's urban structure through ROPA 48 (and the future ROPA 49) will be implemented through the OLT approval

process given that any OLT decision must conform to ROPA 48”. In our opinion, this reinforces our position that the Study should not rely on the New Official Plan, since it could result in significant changes to the planned context surrounding the subject site. Furthermore, we have serious concerns that the implementation of ROPA 48 will occur through an appeal process. In our opinion, a comprehensive review of the New Official Plan is required to update it in light of ROPA 48 and changes to the provincial planning policy framework.

Intensification

The Study recognizes that the site is an ideal location for intensification and the optimization of density (see Page 67 of the Study), however, the recommendations of the Study establish arbitrary height and density provisions that do not allow for the full optimization of the subject site. In our opinion, the applicable planning policy context promotes intensification, and the optimization of density is in fact a desirable planning outcome, provided that there are no unacceptable impacts either in terms of built form or the adequacy of hard and soft services. Given the increased emphasis on intensification within the existing urban areas of the Region to achieve Growth Plan population and intensification targets, it is appropriate and desirable from a planning policy perspective to optimize the use of land and infrastructure within the existing built-up area through increased density, and particularly so within the Downtown Burlington.

Landmark Exploration

The Study states that there “is no precise definition for what constitutes a landmark to the City of Burlington, nor has this concept been fully explored throughout this Study.” (Page 69 of the Study). We are concerned with this statement.

The basis for the Study is Policy 5.5.9.2 I) of the in-force Official Plan, which states:

*“Notwithstanding the above policies, the lands along the Lake Ontario shoreline, at the foot of Brant Street, (known as the Travelodge lands), represent a significant opportunity for mixed use development linking the Downtown with the waterfront. Any further development on these lands shall provide a high quality of urban design reflecting the **landmark nature** (our **emphasis added**) of this site and shall be contingent upon the completion of*

a master plan to the satisfaction of City Council. This master plan shall address the integration of these lands with the publicly owned lands to the south and west and the private development to the east, and shall address other matters such as preservation of lake views and enhancements to the public realm.”

In addition, the in-force Official Plan defines “Landmark” as:

“Landmark – A natural feature or man-made structure used as a point of orientation in locating other natural features or man-made structures, or a structure of noteworthy aesthetic interest.”

The Study’s lack of exploration of the landmark concept for the Waterfront Hotel lands is concerning, since the existing in-force Official Plan identifies the purpose for the Study is to provide an urban design framework that reflects the site’s landmark nature.

In our opinion, as a landmark site within the Downtown, redevelopment of the subject site should be taller than the existing and planned surrounding context in order to provide a point of orientation in locating the lake and Spencer Smith Park.

Lack of Supporting Information

The Study provides recommendations that call for the implementation of the Preferred Concept. However, the preferred concept has not been vetted by supporting information and studies. In this regard, the Study states that a shadow study, wind study, traffic impact study, and functional servicing report were prepared in September 2017 to inform the earlier concepts but have not been updated against the current Preferred Concept (see Page 31 of the Study). The Study also states that should the City commission an update to these studies, the project team may revisit the Preferred Concept and it is recognized that a refinement may be warranted through these technical supporting studies (see Page 31 of the Study).

In our opinion, the recommendations of the Study are arbitrary and not based on any technical input. Furthermore, the earlier technical supporting studies were utilized to support a range of different redevelopment options, including building heights of up to 30-storeys. Finally, the Study did not utilize any of the supporting documents and information provided in support of the Applications.

In this regard, the Study does not recognize the subject site's specific characteristics, such as its topography, which drops more than a storey from north (Lakeshore Road) to south (Lake Ontario). Nor does it recognize how the City's policy and regulatory framework define height and density. In this regard, the Study refers to the approved 29-storey building at 2069 Lakeshore Road. Although the study correctly describes the occupied floors in the building at 2069 Lakeshore Road, it fails to recognize that the implementing Official Plan Amendment provides for a height of 31-storeys to recognize that the mechanical penthouse design is considered 2-storeys by the Zoning By-law. Similarly, the way density is calculated, since the Zoning By-law would consider rooftop mechanical and other elements in its definition of gross floor area and these elements should be captured in the recommended floor space index. The Study has not provided any direction or explanation regarding these elements as part of the recommendations.

The draft Official Plan Amendment, which is recommended by the Study, includes a policy that requires the following view corridors to be maintained and enhanced:

- Brant Street to Lake Ontario; and,
- John Street to Lake Ontario.

In our opinion, there is a lack of rationale for this policy requirement and there are no criteria to determine how the view corridors are to be maintained and enhanced.

The Applications

We have serious concerns regarding how the City has approached the Study, which was initiated in 2017 and paused in 2018. The Applications were filed in October of 2021 and the Study was re-initiated in January of 2022. In our opinion, the Study should utilize the process for the Applications to finalize the ultimate policy and zoning for the subject site. Instead, the Study provides vague policy recommendations that establish rigid built form regulations that have not considered any site-specific characteristics, supporting technical analysis, or the subject site's ability to act as a landmark in the City. The Study also recommends that a future rezoning process would be utilized to establish zoning standards for the site, supported by technical studies and further evaluation. In our opinion, the Study relies on a future rezoning process to implement and provide the technical support for the ultimate performance standards for the subject site.

Expansion of Spencer Smith Park

The Study recommends an expansion of Spencer Smith Park along the west and south boundaries of the subject site. The basis for the expansion of the park along the west boundary of the site is described in Section 6.1.5 of the Study, which states “the east side of Spencer Smith park is not currently accessible by people of all ages and abilities and the current configuration is very constricted and the nearest access to the park is located approximately 350 metres to the west”. The Study also states that the City’s Accessibility Standards is a higher standard than the Ontario Building Code and therefore requires more land to implement an accessible connection to the waterfront particularly considering the existing grade condition and without the removal of the existing trees”. In our opinion, there is a clear desire of the City to improve access to the park and the subject site represents an opportunity to address this issue.

The Draft Official Plan Amendment included in the Study includes a policy (section 1.2.1) that requires development of the subject site to include the “construction, and dedication to a public authority, of a public waterfront access that provides a connection between Brant Street and Spencer Smith Park”. In our opinion, this policy should be made more flexible and include, as an alternative, the ability to provide a public easement for a public waterfront access. This would achieve the City’s desire to improve accessibility to the park, while maintain the site’s ability to provide efficient development of the subject site, including an efficient underground parking layout.

For the foregoing reasons, we respectfully request that the Committee **not** endorse Staff’s recommendations including the Preferred Concept Plan, draft Official Plan policies and directions for a future Zoning By-law Amendment and site-specific Urban Design Guidelines.

Respectfully Submitted,
Bousfields Inc.



David Falletta, MCIP, RPP
Partner

Cc. *Clients*
David Bronskill (Goodmans)