

October 30, 2023

West End Home Builders' Association
1112 Rymal Road East, Hamilton
Serving members in Hamilton and Halton Region

To:
Members of Community Planning, Regulation and Mobility Committee
City of Burlington
426 Brant Street

WE HBA Letter: Burlington Community Planning Permit System and Major Transit Station Area Official Plan Amendment

The West End Home Builders' Association (WE HBA) is the voice of the land development, new housing and professional renovation industries in Hamilton and Burlington. The WE HBA represents 300 member companies made up of all disciplines involved in land development and residential construction. The WE HBA would like to thank the City of Burlington, City Council, and City Staff for their ongoing commitment to close collaboration with the development industry to ensure the CPPS bylaw and accompanying OPA are viable tools for development within the City's MTSAs. It is critically important to get this bylaw right for all parties and enable Burlington's future growth.

The development industry continues to have serious concerns about the current iteration of the CPPS bylaw. While some comments provided to Staff have been addressed such as a 100% Class 3 variation limit, there are numerous policies within the CPPS bylaw that remain significant issues. The process must streamline and advance development in the MTSAs rather than creating a more complicated and confusing process which also adds substantial costs to housing. **Without collaborating to address these challenges there is a likely result of a range of appeals being filed from multiple sources against the bylaw.**

As it currently stands, the Class 1 and 2 variation limits remain too restrictive to allow for development to proceed as-of-right. While a 45-day timeline is encouraging, most, if not all, development applications will require Class 3 variations to ensure feasibility. The WE HBA believes that for the CPPS bylaw to be successful, Class 1 and 2 approvals must be more permissive to allow development applications to proceed with Staff approval and avoid unnecessary Council review. **The bylaw should function in the same manner that a "pre-zoned" site would to enable as-of-right development, while removing conditions to implement the Official Plan, simplifying the process for true streamlining of the delivery of new housing supply.** Outlined below are some of the concerns that WE HBA continues to have with the CPPS by-law; additional comments on the bylaw and the Official Plan Amendment have been provided as an Appendix, and WE HBA will aim to provide the City with a legal review of the bylaw before the November 7th deadline.

Provision of Services, Facilities, and Matters in Exchange for Height and Density

At the current proposed rates for parkland dedication, contribution towards complete communities and affordable housing requirements—and considering current economic conditions such as high interest rates and high construction and labour costs—the development industry has serious concerns about the feasibility of development within the MTSAs. By adding tens of thousands of dollars to the cost of each unit, the City will lower the feasibility of proposed developments. This may result in projects not moving

forward, and as a result, fewer new units, including affordable units, as well as fewer services and facilities secured. The proposed system creates disincentives and adds additional costs and process to advance development.

The City must take caution in finding a balance between securing necessary community benefits and incentivizing developers to invest in Burlington. We believe the proposed CPPS bylaw should not be seen as a conditional zoning tool, but rather a tool to advance the primary community benefit of ensuring sufficient housing supply for Burlington's growing population. The CPPS bylaw should be seen as an opportunity for streamlining the planning process and allowing further development as-of-right in response to the ongoing housing crisis.

Parking

Parking minimums reduce development feasibility, affordability, and contribute to automobile dependency. A single underground parking space can cost \$100,000 to build, which is a significant cost barrier for developers and is a cost that is passed on to future purchasers and renters. The WE HBA strongly encourages the City to re-examine the use of parking minimums, especially considering the transit-supported nature of development adjacent to the GO stations, where rail service is only improving. There are important trade-offs to consider through the implementation of the CPPS bylaw, and parking has a direct impact on development feasibility.

Building Transitions & Podiums

The WE HBA acknowledges that some language has been softened regarding building transition to adjacent development, including giving discretion to measures taken to reduce impacts. The WE HBA cautions the City on the impact of layering multiple building transition provisions, and ensure that building transitions do not negatively impact the feasibility of developments and ability to reach necessary heights to provide density. The use of angular planes, while not explicitly required, causes concerns over increased costs and impacts on heights and density. The WE HBA understands that the City wishes to prevent shadow, ensure sky-view, and privacy; however, caution must be undertaken to ensure development is feasible.

Like transitions and development standards, the requirements for building podium design are onerous and restrictive. The WE HBA recognizes that the language used ("shall demonstrate consideration", "should be designed") is less restrictive, but concerns remain over how the layering of the multiple design criteria will be used and may impact the ability of developers to provide density. Additionally, the bylaw should not place specifications on materials and quality, as these are subjective and not a planning matter.

Height

The WE HBA has serious concerns about the height limits subject to a Class 1 or Class 2 variation. At the current maximum height limits under Class 2, most, if not all, development applications that would be economically viable would require a Class 3 variation or a CPPS bylaw amendment. The WE HBA believes that this would defeat the purpose of the CPPS bylaw to streamline approvals and direct needed growth to the MTSAs. The WE HBA understands that the height maximums are based on the Mobility Hub and Area Specific Planning processes, which are outdated and do not reflect current economic realities and density needed to meet ambitious housing targets. The WE HBA recommends that the height limits be re-examined, especially in the context of development feasibility.



Together **WE** Build the Future

The WE HBA would like to draw attention to recent developments in Mississauga, where the Ministry of Municipal Affairs and Housing has identified that there should be no height restrictions within MTSAs. To achieve density and provide for the necessary amount of housing supply, applying height restrictions may seriously impede the industry's capacity to deliver.

Development Standards

Currently, the development standards proposed for Class 1 approvals, as well as Class 2 variation limits, are too restrictive and will result in many applications requiring Class 3 Council approval. This will put pressure on the 45-day timeline and will create an unnecessary burden on applicants and Council to facilitate approvals of variations. The WE HBA recommends the City re-examine standards such as setbacks to ensure more economically feasible applications can proceed as-of-right without the additional step of Council review and approval.

Standalone Residential Discretionary Use

The WE HBA acknowledges that there are some policies within the OPA and CPPS bylaw that allow residential lobbies to front onto Activated Streets and Major Mixed-Use Streets; however, WE HBA encourages the City to re-examine policies that do not allow for standalone residential buildings within certain precincts. While mixed-use developments are to be encouraged, some standalone apartment buildings within a larger development or precinct should be allowed. Currently, the over provision of office or commercial spaces that cannot be leased or sold ultimately pass on the costs of their construction and operation to the renters or purchasers of new homes.

Conclusion

The WE HBA appreciates that the City is looking into potential "test cases" to evaluate applications against the CPPS bylaw. This exercise will help to gain insight into the types of developments that are currently viable within the MTSAs. For a CPPS to work, the proposed land use permissions must be beyond the heights and densities currently being contemplated by the industry.

Achieving Burlington's Housing Pledge of 29,000 units through intensification is a significant undertaking that will require a focus on the economic viability of new home construction. It will also require planning policy reform alongside continued significant collaboration and participation on behalf of the local development industry.

Again, WE HBA would like to thank the City for the opportunity for collaboration between the development industry and the City. In addition to the above comments, WE HBA will be providing a more fulsome review of the CPPS bylaw and OPA in consultation with WE HBA's legal team for the November 7th comment deadline.

Sincerely,

Michelle Diplock, RPP, MCIP, MPI

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

Anthony Salemi, BURPI

Planner, Policy and Government Relations
West End Home Builders' Association

westendhba.ca



**WEST END
HOME BUILDERS'
ASSOCIATION**



Appendix A – Further Comments

OPA 2

The WE HBA would like to better understand how the amendment process for Burlington's Official Plan, 2020 will work. Is it possible for the City to better explain this, and how this Official Plan Amendment will be different than the policy that is proposed to be withdrawn? Furthermore, we would like to provide the following specific comments on the proposed policies:

- Policy in 8.1.2(5.1) phases **water and wastewater servicing** capacity improvements to Burlington GO first, then Aldershot, then Appleby- is this based on the Region having to deliver service improvements in this order? All development is limited to the Region delivering servicing – this is concerning based on the Region's current allocation program and servicing plan deferral and the indication of limitations. Will it be possible for developers to front end or advance improvements? Furthermore, why is more study of servicing needed by applicants?
- Policy 8.1.2 (5.2) provides for the **transportation network requirements**, and there appears to be a substantial number of additional streets in the MTSAs. However, the policies still require the developer to complete Traffic Impact Studies – if the proposed developments conform to the OP and CPPS bylaw why would further traffic study be needed to identify upgrades – unless substantially more density is requested than what is permitted? Furthermore, the number of additional road conveyances does not seem justified.
- Policy 8.1.2(7.1) deals with **Natural Hazards and Flood Hazards** and the new mapping is extremely concerning in that it creates a level of constraint on development that may result in no development being possible. The WE HBA recommends the City work with Conservation Halton to improve the current system and mitigate flood risks, thereby reducing the regulated flood areas and enabling new development.
- Policy 8.1.2 (8.1) sets out **Public Realm** policies and it is not clear how streetscapes are to be coordinated. The City should be responsible for these plans.
- Policy 8.1.2 (8.2) **Activated Streets** creates unrealistic expectations for retail and service commercial uses in the ground floor of all developments. A more balanced approach should be put forward.
- Policy 8.1.2 (8.4) sets out policies for **complete community elements** and it is not clear that the City has identified where it will deliver needed services to support growth. Can the City provide a community facility study as this should be an item that is addressed in a holistic manner, rather than through individual development applications.
- Policy 8.1.2 (8.5) sets out **Parks and Open Space** policies and states that POPS may be “considered”, however, POPS should be considered as an integral part of the MTSAs.
- Policy 8.1.2 (8.6) sets out additional **housing** policies requiring housing impact statements. This seems to be an unnecessary additional study. Identifying the number of units provided in a development should be satisfactory.
- Policy 8.1.2 (9) requires more detailed planning for specific areas in the MTSAs in the form of **Tertiary Plans** – this is an additional layer of planning approval that should have been addressed in the “Area Specific Plans”. The MTSAs are not significant areas of land, and this information should have been understood as part of the studies that have been ongoing since 2016.



Draft CPPS

In terms of the Permit Class System the requirements for Class 2 and 3 are very confusing and need to be broadened. The City should provide examples of how development will proceed and what the process will look like. It is not clear what it means to vary one or more of the Class 2 Variation Limits identified in the Tables (or the percentage variations) – the tables referenced are zoning provisions – there are not variations or ranges. The concept of permitted and discretionary uses is also questionable in the context of providing certainty as the application of the discretion appears to take away uses that are otherwise permitted by current zoning. This adds a layer of uncertainty into a zoning bylaw wherein uncertainty is not suitable. We would recommend the City advance clear pre-zone uses and provisions for all areas through the CPPS. The City could look to Calgary as an example of this technique used in a permit system.

In terms of process, why is there a pre-consultation required and agency circulation if the applicant meets all the requirements? This should be an application to determine if pre-consultation is needed. The City should not require studies, reports and a planning justification if a development meets the set out standards.

In terms of the provision of services, parkland and affordable housing, WE HBA has significant concerns that through the implementation of Burlington's Official Plan, 2020 the City is layering on additional housing costs in the form of added parkland over and above the Planning Act requirements, added community benefits charges over and above the Planning Act, and adding further affordable housing requirements while also identifying the right to request further costs under section 5.29.6.