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EMAIL LETTER

To: Mayor and Members of Council

cc: Steve Robichaud, Chief Planner, Director of Planning
Anita Fabac, Manager, Development Planning, Heritage & Design Planning Division
Rose Caterini, City Clerk

Re: Downtown Hamilton Secondary Plan & Downtown Hamilton Zoning By-law
163 Jackson Street West "the Property"

From: Nancy Smith

Date: April 24, 2018

INTRODUCTION

We represent Television City Hamilton Inc. ("TV City"), owners of the Property. We object to the Downtown Hamilton Secondary Plan and Zoning By-law in their current form.

As you know, we appealed our site specific applications (mixed use – commercial and residential) to the Ontario Municipal Board (OMB, now LPAT). We await the scheduling of our appeal.

OUR CONCERNS

Enclosed please find correspondence dated April 16, 2018 from TV City's planning consultants, Bousfields Inc. We raise three (3) concerns that have not been satisfactorily addressed within the proposed planning instruments before you:

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NANCY SMITH PROFESSIONAL CORPORATION
TURKSTRA MAZZA ASSOCIATES, LAWYERS

1. No placeholder for the implementation of the LPAT decision in our appeal;
2. Inappropriate conflation of Niagara Escarpment Plan (the "Plan") policy with the proposed planning instruments notwithstanding the fact that the majority of the Downtown Hamilton Secondary Plan, including the Property, fall outside the Plan and the Niagara Escarpment Commission jurisdiction;
3. Inappropriate cap on building height (thereby limiting the proper implementation of provincial policy) without justification from a publically available and vetted study.

In their present form, the Downtown Hamilton Secondary Plan and Zoning By-law are:

- Inconsistent with Provincial Policy Statements – Section 3(1) of the *Planning Act*.
- Do not conform/conflict with Provincial Plans.

THE REMEDY

The following changes will remedy the inconsistency/non-conformity noted above:

1. To remedy the lack of future implementation of the LPAT decision in our appeal, add a site specific policy that applies to the Property.
2. To remedy the NEP/NEC jurisdiction problem, add policy that defers any viewshed impacts to NEP lands only.
3. To remedy the building height cap problem (with no publically vetted supporting study), defer decision-making until the Viewshed Analysis has been presented to the public, including key stakeholder groups and peer reviewed by a third party, such as your Design Review Panel.

The changes we request are reasonable and will ensure consistency with Provincial Policy Statements and conformity/no conflict with provincial plans. We respectfully request that you press pause on your decision-making in order to address our concerns.

Yours truly,



Nancy Smith
ns/l



BOUSFIELDS INC.

Project No.: 1748

April 16, 2018

Sent VIA EMAIL

Ida Bedioui, Legislative Coordinator
Planning Committee
City of Hamilton
71 Main Street West, 1st Floor
Hamilton, ON L8P 4Y5

**Re: *Item 13.1 of the April 17, 2018 Planning Committee
Downtown Hamilton Secondary Plan
163 Jackson Street West, Hamilton***

We are the planning consultants with respect to the above-noted property (herein referred to as the "subject site"). On behalf of the ownership group (Television City Hamilton Inc.), we request that the Planning & Development Committee consider the following comments on the proposed Official Plan Amendment and Zoning By-law for the Downtown Hamilton Secondary Plan.

Existing Applications:

As you are aware, applications to amend the Urban Hamilton Official Plan (File No. UHOPA-17-027) and Hamilton Zoning By-law 05-200 (File No. ZAC-17-063) have been filed with the city for a proposed mixed commercial and residential redevelopment of the subject site and have been appealed to the Ontario Municipal Board. Given that these applications are being reviewed on a site specific basis, we request that the subject site be identified as a site specific policy area that recognizes the resolution of the current development applications.

Niagara Escarpment:

The proposed Downtown Hamilton Secondary Plan (Appendix "B" to Report PED18074) recognizes the importance of the Niagara Escarpment and incorporates a policy framework that is intended on protecting views and connections to it. In this regard, it is important to understand that the Niagara Escarpment Commission (the "NEC") is a statutory provincial body who's mandate is to develop, interpret and apply policies, including the Niagara Escarpment Plan (the "NEP"), that maintain and

enhance the vitality of the Escarpment's unique environmental and landscape features. Furthermore, the NEP includes objectives, land use designations, development criteria, and parks and open space system policies. The NEP provides a planning policy framework to ensure, among other things, that development within and adjacent to the escarpment does not negatively impact it, including negative impacts to views of the escarpment. It is important to acknowledge that the majority of Downtown Hamilton Secondary Plan area, including the subject site, fall outside of the NEP and NEC's authority.

Building Height Cap:

The proposed Downtown Hamilton Secondary Plan (see Policy B.6.1.4.14) establishes a maximum building height, where no building is to be taller than the height of the escarpment. The proposed Zoning By-law Amendment (Appendix "D" to Report PED18074) establishes a maximum building height of 77 metres for the subject site.

Provincial policy provides policy direction that supports intensification and the optimization of land on sites that are well served by municipal infrastructure, particularly higher order public transit. In this regard, the Downtown Secondary Plan Area is identified as the City's *Urban Growth Centre* and includes a number of *Major Transit Station Areas* that cover the entire Downtown Secondary Plan Area, including the subject site. In our opinion, the optimization of density on the subject site and throughout the Downtown Secondary Plan Area is consistent with both good planning practice and overarching Provincial and City policy direction. Optimization of land use in the Downtown Secondary Plan Area would support transit ridership; support regionally-significant employment, institutional, recreational, retail and entertainment uses; and, support walking and cycling as viable alternative modes of transportation. Furthermore, optimizing residential and commercial intensification on the subject site and throughout the downtown will result in population and job growth that will contribute to the achievement of forecasts in the Growth Plan and the UHOP.

In our opinion, the maximum building heights proposed in the Draft Secondary Plan and Draft Zoning By-law Amendment does not give full effect to the Growth Plan and UHOP and an increase to the proposed heights contemplated for the subject site and throughout the Downtown Secondary Plan area is appropriate. In this regard, the proposed secondary plan does not rationalize the proposed maximum building heights, however, the Staff Report (PED18074) and Summary Report (Appendix "A" to PED18074) note the following:

"Downtown Hamilton Viewshed Analysis"

Part of the review and update of the Downtown Hamilton Secondary Plan included carrying out a viewshed analysis in order to identify locations within the Downtown where additional detailed visual impact assessments should be provided in order to understand and limit the loss of views to the Niagara Escarpment to ensure that the contribution the Escarpment makes to the character of the Downtown is not impaired. The viewshed analysis was based on a 35 year build out scenario for the Plan area to determine if there were existing views to the Niagara Escarpment and Hamilton Harbour. The current views were compared to the view in the 35 year build out model to determine what views would be impacted by future development. Recommendations from the viewshed study have been implemented in the Secondary Plan."

It appears the Downtown Hamilton Viewshed Analysis (the "Viewshed Analysis") was used to rationalize and generate the maximum building heights (including the cap of the top of the escarpment) and Appendix C (Draft Viewshed Analysis), which includes *Locations where there may be impacts to views, Locations where there are impacts to views, and View corridor to Niagara Escarpment*. However, based on our review and understanding, the Viewshed Analysis was never presented at any public consultation event, made available to the public and/or stakeholder groups, and/or circulated for comment by any interested parties or third party peer reviewers.

The resulting building height cap has far reaching implications related to optimizing land in the downtown and matters of urban design related to a uniform versus a varied skyline. Given the importance of this issue, it is our opinion that the proposed secondary plan should not be approved until the Viewshed Analysis has been presented to the public, including key stakeholder groups, and peer reviewed by a third party such as the City's Design Review

In summary, thank you for the opportunity to comment on the proposed secondary plan and draft zoning by-law amendment. We respectfully request that the Planning & Development Committee consider the proposed modifications for the subject site and table the item until the Viewshed Analysis has been properly analyzed.

Also, we request to be notified of the City's decision and all future meetings related to the proposed Downtown Hamilton Secondary Plan and Zoning By-law Amendment.

Should you require any additional information, please do not hesitate to contact the undersigned.

Respectfully Submitted,
Bousfields Inc.



David Falletta, MCIP, RPP

/DF:jobs

cc. Television City Hamilton Inc. (via e-mail)

N. Smith, Turkstra Mazza Associates (via e-mail)