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March 18, 2024
File No.: 148616.1001

By E-mail
townclerk@oakville.ca

Planning and Development Council
Town of Oakville
Oakville Town Hall
1225 Trafalgar Road
Oakville, ON L6H 0H3
Attention: Town Clerk

Dear Sirs/Mesdames:

Re: Item 7.1 – Parks Plan 2031 and Draft Parkland Dedication By-law 2024-034
Distrikt Developments
Follow-up Letter of Concern

We are counsel to Distrikt Developments, who is an appellant of the Town of Oakville's current Parkland Dedication By-law No. 2022-108 which is presently proceeding before the Ontario Land Tribunal under Case No. OLT-22-004712.

By letter dated November 13, 2023, we previously expressed concerns to the Planning and Development Council regarding the new draft parkland dedication by-law—specifically with respect to ensuring that the draft by-law is fully aligned with the *Planning Act*. A copy of our prior correspondence is enclosed for reference.

We have reviewed the revised draft parkland dedication by-law (the “**Draft Parkland Dedication By-law**”) appended as Appendix “B” to the Staff Report, dated March 5, 2024, which is being received under the above-captioned agenda item. By this letter, we wish to reiterate the concerns raised in our prior letter, particularly in recognizing a landowner's ability to identify lands for the conveyance of encumbered parkland, strata parks, and privately owned public accessible spaces in satisfaction of its parkland dedication requirements.

As it relates to the timing for land value assessment, we have reviewed Section 6.1 of the Draft Parkland Dedication By-law against the requirements of the *Planning Act*, and we wish to propose certain revisions to the draft language, which have the aim of improving clarity and ensuring that the Draft Parkland Dedication By-law does not exceed the limits of what is permissible under the *Planning Act*.

A copy of these proposed modifications to the Draft Parkland Dedication By-law is enclosed as Schedule “A” to this letter.

Our client intends to continue in its engagement with the City's consultation process, and we look forward to reviewing any further revisions that the Town makes to the Draft Parkland Dedication By-law in response to the comments received.

By this letter, we reiterate our request to be provided with notice of all upcoming Council or Committee meetings where such matters will be considered, and we ask to be provided with Council's decision on the Parkland Plan and the Draft Parkland Dedication By-law.

Thank you for your consideration of this matter.

Yours truly,

A handwritten signature in black ink, appearing to read 'Calvin Lantz', written in a cursive style.

Calvin Lantz

CL/jsc
Enclosures

cc. Tyler Grinyer, *Bousfields Inc.*
Client

SCHEDULE "A"

<i>Planning Act</i>	Proposed Revisions to Draft Parkland By-law
<p>Determination of value</p> <p>42 (6.4) For the purposes of subsections (4.19), (6), (6.0.1) and (6.2), the value of the land shall be determined as of the day before the day the building permit is issued in respect of the development or redevelopment or, if more than one building permit is required for the development or redevelopment, as of the day before the day the first permit is issued.</p> <p>2006, c. 23, s. 17 (1); 2015, c. 26, s. 28 (8); 2020, c. 18, Sched. 17, s. 2 (5).</p>	<p>PART 6: Determination of Land Value</p> <p>6.1 Timing for Land Value Assessment - Where land is required to be conveyed to the Town, and/or payment-in-lieu is required to be paid to the Town in accordance with this Parkland Dedication By-law:</p> <p>i. For development or redevelopment subject to Section 42 of the <i>Planning Act</i>, the value of the land or payment in lieu equivalent to be paid shall be determined as the value of the land the day before the day that the building permit is issued in respect of the development or redevelopment, and if more than one building permit is required, the value shall be calculated the day before the day that the first building permit is issued; or</p>
<p>Determination of value</p> <p>51.1 (4) For the purpose of determining the amount of any payment required under subsection (3) or (3.1), the value of the land shall be determined as of the day before the day of the approval of the draft plan of subdivision.</p> <p>1994, c. 23, s. 31; 2015, c. 26, s. 32 (3).</p>	<p>ii. For development or redevelopment subject to Sections 51.1 and 53 of the <i>Planning Act</i>, the value of the land or payment in lieu equivalent shall be determined in accordance with the conditions of approval of a plan of subdivision or condominium pursuant to Section 51 of the <i>Planning Act</i> or the conditions of provisional consent pursuant to Section 53 of the <i>Planning Act</i>; or,</p>
<p>Powers</p> <p>53(12) A council or the Minister in determining whether a provisional consent is to be given shall have regard to the matters under subsection 51 (24) and has the same powers as the approval authority has under subsection 51 (25) with respect to the approval of a plan of subdivision and subsections 51 (26) and (27) and section 51.1 apply with necessary modifications to the granting of a provisional consent.</p> <p>1994, c. 23, s. 32.</p>	
<p>[While Subsection 26(1.2) of the <i>Development Charges Act, 1997</i> states that "If a development consists of two or more phases that will not be constructed concurrently and are anticipated to be completed in different years, each phase of the development is deemed to be a separate development for the purposes of this section", no similar provision exists within the <i>Planning Act</i> re: parkland dedication, and the Draft Parkland By-law's approach of requiring parkland calculation on a "phase by phase basis" goes beyond the statutory powers expressly granted to the Town with respect to parkland dedication.]</p>	<p>iii. For development or redevelopment for which approvals are issued in phases, the Town shall calculate and require the conveyance of land for park purposes or the payment of payment-in-lieu in accordance with the provisions of this Parkland Dedication By-law, on a phase by phase basis.</p>

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November 13, 2023
File No.: 148616.1001

By E-mail
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Planning and Development Council
Town of Oakville
Oakville Town Hall
1225 Trafalgar Road
Oakville, ON L6H 0H3

Attention: Town Clerk

Dear Sirs/Mesdames:

**Re: Item 7.4 – Parks Plan 2031 and Draft Parkland Dedication By-law
Distrikt Developments
Letter of Concern**

We are counsel to Distrikt Developments, who, together with its affiliate entities, have broad land holdings in the Town of Oakville and acquire additional lands in the Town from time to time. These landholdings include those within major transit station areas, which are encouraged for high density development, including:

- 217 – 227 Cross Avenue and 571 – 587 Argus Street: 3.11 acres, with ~1,800 dwelling units proposed (development applications filed with the Town);
- 166 South Service Road: 2.94 acres, with ~1,700 dwelling units proposed (development applications filed with the Town);
- 590 Argus Road: 3.80 acres, with ~1,750 dwelling units (development applications filed with the Town);
- 157 – 165 Cross Avenue: 2.38 acres, with ~1,250 dwelling units (development applications forthcoming); and
- 3064 Trafalgar Road: 2.01 acres, with ~725 dwelling units (rezoning approved; site plan approval application filed with the Town).

Our client is an appellant of the Town of Oakville's current Parkland Dedication By-law No. 2022-108 (the "**Current Parkland By-law**"), which is presently proceeding before the Ontario Land Tribunal under Case No. OLT-22-004712.

In view of the amendments to the *Planning Act* introduced through Bill 23, *More Homes Built Faster Act, 2022*, we are pleased that the Town is now advancing a new parkland dedication by-law that seeks to incorporate these legislative changes and which will culminate in the repeal of the Current Parkland By-law.

While we are supportive of the Town's efforts to advance a parkland dedication by-law that is in alignment with the legislative requirements, we recommend the following changes be made to the draft parkland dedication by-law (attached as Appendix B to the staff report, dated October 31, 2023) (the "**Draft**

Parkland Dedication By-law") in order to more fully achieve alignment with the statutory requirements under the *Planning Act*:

1. Timing for Land Value Assessment

Section 6.1 of the Draft Parkland Dedication By-law fixes the timing for land value assessment under Section 42 of the *Planning Act* to the "day before the day that the building permit is issued in respect of the development".

However, Subsection 42(2.1) of the *Planning Act* requires that the timing for land value assessment be fixed on:

- (a) the day that a Site Plan Control Approval application is made for the development (the "**Site Plan Application Date**");
- (b) if the Site Plan Application Date does not apply, the day an application for a Zoning By-law Amendment is made in respect of the development (the "**Rezoning Application Date**"); and
- (c) if neither the Site Plan Application Date nor the Rezoning Application Date applies, then the day a building permit is issued in respect of the development.

Section 6.1 of the Draft Parkland Dedication By-law should be revised to accord with the valuation dates set out in Subsection 42(2.1) of the *Planning Act*.

2. Encumbered Parkland Dedication

Consistent with the approach adopted by other municipalities in Ontario like the City of Vaughan, in accordance with Subsection 42(4.30) of the *Planning Act*, the Draft Parkland Dedication By-law should contain provisions that expressly recognize the landowner's ability to identify lands for the conveyance of encumbered parkland, strata parks, and privately owned public accessible spaces in satisfaction of its parkland dedication requirements.

Such a recognition will ensure that the Draft Parkland Dedication By-law is in alignment with the *Planning Act*, even after the Bill 23 amendments regarding encumbered parkland dedication come into force. These provisions should provide express recognition that calculations of payments-in-lieu will be net of the value of any land conveyance made towards the overall parkland dedication requirement for a development or redevelopment.

Our client intends to continue in its engagement with the City's consultation process, and we look forward to reviewing any revisions that the Town makes to the Draft Parkland Dedication By-law in response to the comments received.

We ask to be provided notice of this Council's decision on the Parkland Plan and the Draft Parkland Dedication By-law, and to be provided with notice of any upcoming Council or Committee meetings where such matters will be considered.

Yours truly,



Calvin Lantz

CL/jsc

cc. Tyler Grinyer, *Bousfields Inc.*
Client