

January 4, 2023

The Honourable Minister Steve Clark
Ministry of Municipal Affairs and Housing
777 Bay Street, 17th Floor
Toronto, Ontario M5G 2E5

Attention: Ms. Julianna Zhuo

Via email: Julianna.Zhou@ontario.ca

**RE: Request for Modifications to City of Barrie New Official Plan – 3251586 Canada Inc.
Heritage Square Plaza
Council Adopted Version (February 2022)
ERO Number 019-5530 | Ministry Reference Number 43-OP-20296**

On behalf of our Client 3251586 Canada Inc. please find enclosed requested modifications to the City of Barrie’s new Official Plan. The City of Barrie’s new Official Plan (the “new City OP”) was adopted by Barrie Council on February 15, 2022, and submitted soon after to the Ministry of Municipal Affairs and Housing for final review and approval. Our Client has submitted comments at the various stages of the new City OP process for their landholdings in Barrie (“Subject Lands”), which are illustrated in Figure 1 and identified as follows:

- Heritage Square Plaza 624 Yonge Street (southwest corner of Yonge Street and Madelaine Drive)

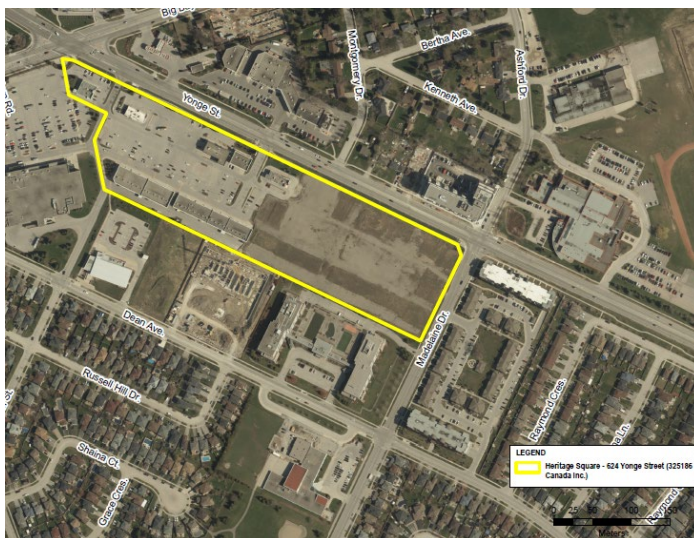


Figure 1: Subject Lands

The City has reviewed, considered and in some instances incorporated the matters raised by our Client in previous OP review comment letters. However, comments remain that relate to:

- overly restrictive urban design policies
- overly prescriptive affordable housing requirements
- overreaching tenure based policy restrictions

These comments are further addressed in detail in the remaining sections of this letter.

The purpose of this ERO submission letter is to request the Province make changes to the final version of the new City OP to better align with identified Provincial priorities and initiatives.

1. Concern with Restrictive Urban Design Policies

It is common practice in Ontario for municipalities to promote quality urban design as a policy objective within their Official Plan documents and defer guidance on urban design best practices to a separate Urban Design Guideline document. The Urban Design Guideline document sits outside of the policy framework of an Official Plan and provides general guidance to be considered when designing and reviewing proposed developments.

While Urban Design Guidelines identify general best practices it is understood that urban design and City building is dynamic and multi-faceted and there are many competing interests and priorities that must be taken into consideration through a balanced approach. Urban Design Guidelines achieve this goal by acting as Guidelines but are not intended to be prescriptive and absolute requirements. Urban design cannot be a one size fits all approach.

Our Client is concerned with the direction the new City OP has taken related to urban design as it proposes to take what are common Urban Design Guidelines (normally a separate document) and enshrines these guidelines within the City's Official Plan policy framework. This places greater weight to these urban design requirements, tipping the balance of the planning application review and approval process towards a heightened focus on urban design without considering other factors including the specific needs of specialized end users, timing of the planning approval process, construction and delivering product to market.

When urban design becomes overly prescriptive it can have the affect of adding further cost and complexity to planning application review and approval processes, which delays delivering more homes faster. For example, the design requirement such as a 70 m tower separations seem excessive in comparison to best practices throughout the Province and reduces density in mixed use developments where it is needed.

Further, many commercial urban design requirements outlined in the new OP are very detailed and could conflict with operational back of house needs for some uses which unintentionally leads to poor layout design within buildings and projects not proceeding.

The Province through Bill 23, the *More Homes Built Faster Act, 2022* has signaled alignment with this concern and has enacted changes to Section 41 (4.1 & 4.1.1) of the Planning Act, greatly reducing the scope of what municipalities can regulate related to building design through the Site Plan Control process.

Enshrining urban design requirements into the new City OP directly conflicts with the Province's efforts through Bill 23 to reduce and limit what design elements can be regulated through the Site Plan Control process. Policies that relate to Planning Act section 41 (4.1 & 4.1.1) should not be contained within an Official Plan or a Zoning By-law. The changes to the Planning Act should not have unintended consequences by implementing those deleted portions of the site plan section by putting them into Official Plan policy.

Our Client supports the City promoting quality urban design as a goal within the new City OP with a general intent policy that refers to a separate Urban Design Guideline document as it is currently implemented with the existing City of Barrie Official Plan and corresponding City of Barrie Urban Design Manual. Continuing with the current approach provides for overarching guidance on urban design without the prescriptiveness that will deter development from proceeding.

Request: Our Client requests the Province amend the new City OP with the replacement of Policy 3.1.3 with a new policy that provides clearer direction on how urban design polices should be implemented when evaluating development proposals as outlined below:

3.1.3 Application and Interpretation of the Plan's Urban Design Policies

The urban design policies shall be applied and interpreted as follows:

a) ~~Many of the urban design policies are phrased with the terms "will" or "shall," or phrased in the active voice (rather than the passive voice), which means that every new development approved by the City must be in full conformity with the relevant policies provided in sections 3.2, 3.3 and 3.4.~~

b) ~~To ensure that a development conforms with the urban design policies in this Plan, and in accordance with policy 3.1.3.2(b), the City may require an urban design brief as a requirement for a complete application.~~

While the City has identified providing high quality urban design is an overarching goal of this plan, it is acknowledged that the urban design policies and requirements of this plan are not a one size fits all approach and must be interpreted with a balanced approach taking into all aspects of a specific development proposal. The urban design polices contained within this plan shall be treated as general guidelines and can be varied where it is appropriate to facilitate other strategic objectives and priorities without amendment to this plan. When seeking to vary from the urban design policies of this plan an Urban Design Brief may be required to demonstrate how high-quality urban design is still being achieved through a specific proposed design.

Request: Our Client requests that the tower separation distance of 70 m be reduced to 30 m to align with industry standards and best practices throughout the Province.

Alternative Request:

Should a replacement of Policy 3.1.3 not be considered, we request that specific urban design requirements be removed (as listed in Appendix 1) from the new City OP and placed within a separate Urban Design Guideline document. These policies take a one-size fits all approach to urban design which could lead to many individual Official Plan Amendments being required adding additional cost, risk and delay in getting new developments to market.

2. Concern with Prescriptive Affordable Housing Policies

The new City OP provides for various specific policies related to the delivery of affordable housing. Specifically related to developments in Major Transit Station Areas, these relate to larger scale developments and a minimum target of affordable units.

Although we appreciate and understand the need to provide for affordable housing in the City, the proposed approach for affordable housing lacks consideration of offsets and incentives to counter potential market distortions, meaning affordable units will only be achieved at the expense of the costs of market units which may not be feasible in Barrie and ultimately result in projects becoming uneconomic.

It is respectfully requested that policy 6.4.2 e) iii) be removed as it currently requires all larger developments to provide affordable housing units which will make projects financially unviable therefore discouraging developments from proceeding that would otherwise bolster the City's attainable housing stock.

If this policy is not removed, we request that flexibility be provided such as "encouraging" rather than "requiring" the provision and a phased-in approach. The City has a successful relationship with the County of Simcoe to provide affordable housing within the City boundary.

Policy 6.4.2 e) iii) of the new City OP states:

"iii) All development proposals with more than 40 residential dwelling units proposed will be required to demonstrate the provision of *affordable* housing units."

Similarly policy 2.3.4 a) iii) requires that MTSA's provide at least 20% of housing to satisfy the criteria for affordable housing;

Request: Our Client requests that the affordable housing requirement for MTSA's be reduced to 8% with a phased in approach increasing to 15% by 2051. Construction cost increases over the past few years have made a phased approach more economically feasible.

Comparable cities like Markham have recommended 5% of the GFA of rented condominium units and 10% of the GFA of owned units for the first affordability period to be re-evaluated against a market stress test every 2 to 5 years.

Policy 6.4.2 e) iv) also requires a minimum of 15% of housing in the Medium and High Density land use categories be affordable across a range of unit sizes including three-bedroom units or larger.

Request: It is requested that this be removed or reduced to a phased approach consistent with above. It is suggested that providing for 15% of all the units, especially larger units will be done at the expense of providing attainable units in the balance of the proposed development.

3. Concern Overreaching Tenure/Ownership Policies

The City introduced new policies on condominium conversion (s. 9.5.4.1) within the Implementation Section of the OP. It is our opinion that the prescriptiveness of how and when conversions of rental housing to condominium ownership is not appropriate and overreaching within a high-level land use policy document such as the new OP.

Request: Our Client requests that all reference to regulation of building tenure should be removed and dealt within site specific development agreements.

We would like to thank the Province for providing the opportunity to provide further comments on the City of Barrie's new Official Plan. We respectfully request a meeting with Ministry staff to review and discuss these comments.

Yours truly,

MHBC

A handwritten signature in blue ink, appearing to read 'Kory Chisholm', is written over a light blue horizontal line.

**Kory Chisholm, BES, M.Sc, MCIP, RPP
Partner**

Appendix 1 – Requested Urban Design Policies to be Removed from New Official Plan

Appendix 1

<p>NOTE - Policies requested to be removed from Official Plan and addressed within separate Urban Design Guideline Document. Some initial thoughts are included but we would like the opportunity to comment further when the new City Urban Design Guidelines are released for public consultation.</p>	
2.6.2.3 f)	<p>2.6.2 Medium Density</p> <p>2.6.2.3 Development Policies</p> <p>f) New development must appropriately transition to any Neighbourhood Area lands either adjacent to the property or across the street, and must satisfy the transition policies in Section 3 and the other transition policies of this Plan.</p>
2.6.3.3 a)	<p>2.6.3 High Density</p> <p>2.6.3.3 Development Policies</p> <p>a) Development is to be designed to a high architectural standard, be well-integrated with adjacent areas, as per Section 3 policies of this Plan, and shall ensure a safe and secure public realm.</p>
Section 3.1	<p>The urban design policies provided in this section are policies for development to achieve the City’s objectives to become an attractive city, ensure proper transitions between different types of development. and achieve design excellence. The urban design direction set out in this section is further complemented by the direction given in the City-Wide Urban Design Guidelines, which provide area-specific built form guidelines and further develop the design vision provided for in this Plan.</p>
Section 3.1.1 b) ii)	<p>3.1.1 Objectives – The following objectives to make Barrie a more attractive city are implemented by the urban design policies of this Plan, as well as the separate City-Wide Urban Design Guidelines:</p> <p>b) Design for human scale by:</p> <p>ii) Scaling built form appropriately to its context and providing appropriate transitions between different types of built form;</p>

<p>Section 3.1.3.1 – <i>Note the terms ‘will’ or ‘shall’ should not be used in a design context (i.e. if they can’t be met on a specific site, an Official Plan Amendment would be required)</i></p>	<p>NOTE – Remove or replace as requested in the letter.</p> <p>The urban design policies shall be applied and interpreted as follows:</p> <p>a) Many of the urban design policies are phrased with the terms “will” or “shall,” or phrased in the active voice (rather than the passive voice), which means that every new development approved by the City must be in full conformity with the relevant policies provided in sections 3.2, 3.3 and 3.4.</p> <p>b) To ensure that a development conforms with the urban design policies in this Plan, and in accordance with policy 3.1.3.2(b), the City may require an urban design brief as a requirement for a complete application.</p>
<p>3.1.2 c) & d)</p>	<p>3.1.2 Design Experience – To achieve design excellence in the city’s built form and public realm, and to encourage the successful implementation of this Plan’s policies, the City will:</p> <p>c) Increase transparency and opportunities for meaningful involvement with residents and stakeholders, with the ultimate goal of leveraging good urban design as a means to improve the function and aesthetic character of the city’s communities.</p> <p>d) Require development applications to demonstrate how relevant attractive city objectives and urban design policies are being achieved through any requisite planning justification report and/or urban design brief.</p>
<p>3.2.1 a) iii) & v)</p>	<p>3.2.1 – Human Scale Design</p> <p>a) To create human scale neighbourhoods that accommodate the City’s anticipated intensification and growth, development applications, where appropriate, shall demonstrate the following:</p> <p>iii) Architectural design that contributes to a rich pedestrian environment and experience through the location of building entrances along public streets and open spaces, the use of high-quality materials, increased glazing and transparency at the ground level, and pedestrian protection from the elements; (NOTE – not suitable requirement for all uses)</p> <p>v) Appropriate transitions between the private and public realm. This shall be achieved using setbacks, landscaping and materials, signage, lighting and/or other design techniques that create visual and physical transition between public and private spaces, as identified in the City-Wide Urban Design Guidelines.</p>

3.2.1 b)	<p>3.2.1 – Human Scale Design</p> <p>b) Attention must be paid to appropriate transition between existing and planned land uses and built form. While still conforming with the development standards of the appropriate land use designation, this may result in lower heights and densities than proposed based on or responding to site characteristics, building and site performance, and neighbourhood context.</p>
3.2.1 d) iii), iv) & v)	<p>3.2.1 – Human Scale Design</p> <p>d) The City will not support over-development. Over-development does not necessarily result from one incompatible form, but often from a cumulation of unbalanced characteristics. The policies of this Plan and the City-Wide Urban Design Guidelines provide direction to ensure high-quality urban design is achieved without overdevelopment occurring on any given property. At the same time, over-development may sometimes occur even when permissions have been followed. Therefore, the determination of over-development must be weighed across a variety of characteristics that include, but are not limited to:</p> <p>iii) Development that proposes excessive height or density;</p> <p>iv) Variances to the City’s development standards resulting in inappropriate built form, especially where an alternative built form solution is more appropriate;</p> <p>v) Undesirable building separation distances resulting in shadow impacts, inappropriate over-look conditions, or which significantly negatively impacts access to daylight; and,</p>
3.2.4.2 c)	<p>3.2.4 Public Realm Design – To pursue design excellence in the development of a high quality, sustainable and attractive public realm, the streets, squares, parks, and other public places that comprise the public realm should not be seen in isolation, but within the wider network of public and private spaces, as well as the context of adjacent buildings and their uses.</p> <p>3.2.4.2 Gateways – Gateways establish a sense of arrival and contribute to a sense of place and unique community identity. The City may identify certain locations for gateway features and may require distinctive urban design forms at these locations, as follows:</p> <p>a) Major gateways will be in visually prominent locations at major entry points into the city.</p>

	<p>b) Minor gateways will be prominent intersections at a neighbourhood scale or at secondary entry points into the city. (NOTE – What constitutes minor gateways are unclear and should be removed)</p> <p>c) Gateways shall achieve a higher standard of design excellence, appropriate to their level (major or minor), to complement their distinct geographical role as entry points into the city. This includes:</p> <ul style="list-style-type: none"> i) Being visually striking to engage pedestrians, while complementing the surrounding built form; ii) Being framed both by landscaping and buildings, to increase their visibility; and, iii) Incorporating a higher order of streetscaping, such as: trees and enhanced landscaping in the centre median and/or a planting and furnishing zone along the sidewalk, active at-grade uses, urban squares, feature lighting, unique paving, seat walls, wayfinding signage, and public art. <p>d) The following are considered major gateways:</p> <ul style="list-style-type: none"> i) Where Highway 400 intersects with the City boundary; ii) Where Bayfield Street intersects with Highway 400 or the City boundary; iii) Where Dunlop Street intersects with Highway 400 or the City boundary; iv) Where Duckworth Street intersects with Highway 400; v) Where Essa Road intersects with Highway 400 or the City boundary; vi) Where Yonge Street intersects with the City boundary; vii) Where Mapleview Drive intersects with Highway 400 or the City boundary; and, viii) Where McKay Road intersects with Highway 400.
3.3.1	<p>The following urban design policies apply to all new development in Barrie:</p> <ul style="list-style-type: none"> a) Buildings shall be oriented to create a strong street presence, with main entrances located to face the street. b) Corner buildings shall address both streets by providing two articulated façades facing the street. c) Blank facades facing a street, open space, or park shall be strongly discouraged. d) Buildings adjacent to the street edge and at sites with high public visibility shall be designed to take into account elements such as appropriate height, roof features, building articulation, and high-quality finishes and windows.

	<p>e) Intersections of major streets shall be emphasized by placing buildings in close proximity to the intersection and ensuring that building entrances are visible from that intersection.</p> <p>f) Buildings will be designed to completely screen roof-top mechanical equipment from public view.</p> <p>g) Long building facades that are visible along a public street will incorporate recesses, projections, windows or awnings, and/or landscaping along the length of the façade to create articulation and visual interest in the mass of such facades. (NOTE – not suitable requirement for all uses)</p>
3.2.2 a) vi) & viii)	<p>a) To ensure the development of complete neighbourhoods, development applications outside of Employment Areas, where appropriate, shall generally be designed to contribute to:</p> <p style="padding-left: 40px;">vi) Activation of public streets and open spaces through the co-ordination of adjacent land uses and design of the built form;</p> <p style="padding-left: 40px;">viii) Activation of public streets and open spaces through the co-ordination of adjacent land uses and design of the built form; and,</p>
3.3.3	<p>The following urban design policies apply to mid-rise buildings, which generally should be a minimum of six storeys in height and shall be limited to 12 storeys:</p> <p>a) The building, including its principal entrance, shall frame the street it is fronting, while allowing access to sunlight for adjacent properties.</p> <p>b) Mid-rise buildings shall be designed with a human scaled base or similar architectural expression to frame the public realm and enhance the building design, and further:</p> <p style="padding-left: 40px;">i) The base shall generally be between three and six storeys in height; and,</p> <p style="padding-left: 40px;">ii) Building elements above the base shall incorporate a setback, as determined by the Zoning By-law and/or guided by the City-Wide Urban Design Guidelines, along all public street frontages to reduce shadow and wind impacts on the streetscape and at street level.</p>

	<p>c) Mid-rise buildings shall be located and oriented to maximize privacy and daylight conditions for the people living and/or working within them.</p> <p>d) In order to provide appropriate transitions between buildings of varying heights, and to provide appropriate privacy and daylight for any adjacent lower-scale buildings, mid-rise buildings on a lot that abuts a low-rise building shall be contained within an angular plane as further directed by the City-Wide Urban Design Guidelines.</p> <p>e) Where buildings front onto a public street and are greater than 30.0 metres in length, entrances should be located at regular intervals.</p> <p>f) Shadow, view, and microclimatic studies may be required to determine potential impacts arising from mid-rise buildings.</p> <p>g) The first storey shall generally be taller in height to accommodate a range of nonresidential uses. (NOTE – not all buildings will have a commercial component)</p> <p>h) The rooftop of mid-rise buildings should be encouraged to include landscaped green space, private outdoor amenity space, or environmental sustainability features such as solar panels.</p>
<p>3.3.4 a) i), ii) g) & i) & iii) a)</p>	<p>3.3.4 High-Rise Buildings - High-rise buildings are over 12 storeys. The following urban design policies apply to high-rise buildings:</p> <p>a) High-rise buildings shall be designed with the following elements:</p> <p>i) Podium, being the base of a building that frames the public realm to help make the building human scale. It helps enhance the overall building design/ architectural interest and is programmed to provide an active pedestrian streetscape. It should generally be between three and a maximum of six storeys in height.</p> <p>ii) Tower, being the upper portion of a building above the permitted podium height, it is slender in shape to reduce visual and microclimatic impacts of the tower and allows the podium to be the primary element of the public realm. The tower meets the following criteria:</p> <p>g. In order to provide appropriate transition, towers will generally be setback 70.0 30.0 metres from lower-scale neighbourhoods and buildings or, as further described in the City-Wide Urban Design Guidelines, contained within an angular plane; (NOTE – as requested in letter)</p>

	<p>i. Where multiple towers are proposed on the same site, tower heights should generally be staggered by a minimum of five storeys to create visual interest within the skyline, mitigate wind impacts, and improve access to sunlight and sky view;</p> <p>iii) Tower top, being the thoughtful architectural design of the rooftop, which provides appropriate expression to the top of the building, and which meets the following criteria:</p> <p>a. The tower top shall be designed to be of architectural interest and contribute to an interesting skyline and cityscape, amenity space, and/or environmental sustainability features, screening any building mechanical or telecommunications equipment from view; and,</p>
3.3.4 b)	<p>3.3.4 High-Rise Buildings – High-rise buildings are over 12 storeys. The following urban design policies apply to high-rise buildings:</p> <p>b) Building heights may be evaluated on a site-by-site basis, as determined by the capacity of each site, and in consideration with the policies of Section 3.2 of this Plan and the City-Wide Urban Design Guidelines.</p>
3.3.6 b) i) & ii)	<p>3.3.6 Shopping Malls and Major Retail – The following urban design policies apply to shopping malls and major retail:</p> <p>b) Shopping malls and major retail stores shall have a distinctive architectural design, so that:</p> <p>i) For a shopping mall, the overall development has a distinctive architectural expression that is harmonious with and complemented by the specific architectural expressions used to draw attention to entrances and major anchor stores; and,</p> <p>ii) For a major retail development that groups together multiple stores, each individual store shall vary its built form to create visual interest and avoid monotony. For instance, individual stores should vary in height and roofline, and different stores should have exterior materials indicative of the store/merchant/ tenant.</p>
3.3.6 e), g) & i)	<p>3.3.6 Shopping Malls and Major Retail – The following urban design policies apply to shopping malls and major retail:</p> <p>e) Where possible, smaller retail units should line part of the principal building and have display windows and separate entrances</p> <p>g) Buildings should frame public and private streets and principal entrances should be provided from sidewalks along these streets. (NOTE – not suitable requirement for all uses as explained in letter)</p>

	<p>i) Where possible, restaurants in a shopping mall or major retail development should have a relationship to a street frontage with separate exterior entrances.</p>
<p>3.4 a), b), c), e) & f)</p>	<p>a) Parking areas supporting new development in the Urban Growth Centre, Strategic Growth Areas, Major Transit Station Areas, or Intensification Corridors shall be encouraged to be located underground and/or in structured parking to reduce or eliminate the need for surface parking.</p> <p>b) Above-grade parking structures shall be screened from view by development or otherwise designed to provide facades of high appropriate architectural quality facing streets. Street related uses on the ground level of the parking structure should be provided where appropriate to contribute to an active pedestrian realm and screen the parking structure.</p> <p>c) Surface parking lots should generally be located at the rear or side of buildings and not between the front of a building and the street. Where permitted adjacent to the public realm, surface parking lots shall be designed in a manner that contributes to an attractive public realm by providing screening and landscaping.</p> <p>e) Large surface parking areas should be divided into smaller and defined sections using landscape strips, islands and/or pedestrian walkways.</p> <p>f) Surface parking lots adjacent to low-rise residential uses should be separated by a landscape strip incorporating combinations of landscaping and/or decorative fencing or walls. (NOTE – parking should be addressed on a site specific basis)</p>
<p>9.4.2.8 a) v)</p>	<p>9.4 An Effective Approach to Reviewing Development Proposals</p> <p>9.4.2.8 Development Agreements and Final Approval</p> <p>a) The City and or the Committee of Adjustment may require, as a condition of approval that applicants enter into agreements as considered appropriate. Such agreements may be registered against the title of the subject lands and may take the form of a subdivision agreement, a site plan agreement or a development agreement. Items in an agreement could include but are not limited to the following:</p> <p>v) Other such matters as may be required by the City including the implementation of the urban design policies of this Plan and/or City-Wide Urban Design Guidelines. (NOTE – Policy is too broad)</p>

<p>9.5.6.1 b) a), i) & j)</p> <p>Requirements conflict with changes to Section 41 of the Planning Act through Bill 23</p>	<p>9.5.6 Site Plan Control</p> <p>Site plan control helps ensure that development in the urban environment takes place in a safe, efficient, convenient, and aesthetically pleasing manner, and that new development is compatible with existing neighbouring properties. The following policies apply:</p> <p>b) For context sensitive areas, buildings not subject to site plan control may still be required to be supported by elevation drawings that demonstrate satisfying the relevant policies of Sections 2 and 3 of this Plan and shall be built in accordance with the elevations.</p> <p>9.5.6.1 Objectives</p> <p>Site Plan Control shall be employed to ensure:</p> <p>a) That the massing, location, and exterior design of development is of high quality and generally compatible with adjacent uses and the natural environment</p> <p>i) An aesthetically pleasing urban environment through the implementation of the design policies in Section 3 and of the City-Wide Urban Design Guidelines.</p> <p>j) Design elements are addressed on the exterior of and surrounding a building, including, but not limited to: character, scale, appearance, massing, design features, roof pitch, materials and screening of rooftop mechanical and electrical equipment, as well as sustainable design elements.</p>
<p>9.5.6.2 f)</p> <p>Requirements conflict with changes to Section 41 of the Planning Act through Bill 23</p>	<p>9.5.6.2 Policies</p> <p>All lands are designated as potential site plan control areas. The following policies shall apply:</p> <p>f) As a prerequisite or as a condition of approval of site plans, the City may require developers to provide sufficient information pertaining to any or all the items relating to the development of a site including but not limited to traffic, noise, pedestrian accessibility, functional servicing and environmental, tree preservation and shadow studies, and exterior design elements including but not limited to character, scale, appearance, massing, design features, roof pitch design, building materials, and screening of mechanical and electrical equipment</p>