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October 31, 2017

To: Burlington Planning and Development Committee

From: Tom Muir, Resident

Subject: Planning and Development Committee meeting of November 1 2017 meeting on staff recommendation Report PB-62-17.

NOTE: I am sending this directly to Council but would ask the Clerk's office to please distribute this to the proper channels and availability. As I noted below, it is unlikely that I will be able to attend the P&D meeting personally so I have not formally registered as a delegation.

Dear Councilors,

It is unlikely that I will be able to appear personally at this meeting of Committee. I have obligations this day, and conflicting timelines that are uncertain that I can make the meeting in a timely manner.

In any case, I have a lot of concerns I wish to express, and I am certain that the 10 minutes I'm allowed will not enable a coherent presentation, when I will have to try and jump around my delegation to fit the time. I realize fully that a personal delegation is preferable, however, that I cannot promise to deliver.

Therefore, I am sending this written delegation for the record of the Committee meeting, with the hope that Councilors will read it before the meeting, and consider it in the discussion and decision-making.

1. I'm struggling with this proposal recommendation.

The staff report is like a fortress designed to repel any frontal assault. It alone is 71 pages, plus the Appendices and developer reports if you want to be thorough.

Whatever this says, it is all policy-based evidence making - decide what you want first, and then pick the evidence.

Unfortunately, this is what planning justifications are in fact. The developer proponent picks what he wants, and sets about to make the evidence to support it. The staff report does the same thing – pick their modifications, then make the evidence and argument to fit.

It's all pretty general outlining in great detail the policy framework and interjecting staff assertions and assumptions in favor or no problem. They just say what they want to more or less.

I know that planning is not a science, but that is why we make rules based on plans and by-laws, get public vetting and buy-in, and that is supposed to provide bounds on what can be done. It constrains how the policy-making can bend the evidence to break the rules.

2. This proposal and recommendation wants to break all the rules. A couple more points I see from more reading of the staff report support this view.

An example excerpt following is just a sample of very similar language and narrative that is characteristic of the report.

In my opinion, this following excerpt is good example of the double-think, double-speak sort of planning we are seeing in this report, and more generally.

On page 23 I saw the following paragraph, (my underlining for my point that follows);

"The Draft New Official Plan and Mobility Hubs Study have no policy implications at this time as neither have received Council approval; however, staff have evaluated both of these as they will form the basis for policy moving forward. It is evident that there continues to be support for the redevelopment of underutilized sites in the downtown core, such as the subject lands. Staff notes that the master planning exercise for the Downtown Mobility Hub has determined that a high-rise built form may be appropriate on this site, subject to increased building setbacks; enhancement of sight lights to key significant features and the creation of new public space at the Brant Street / James Street intersection, all of which the modified development proposal would achieve. At this point in time, development proposals will be required to meet the Official Plan policies that are currently in force and effect. If Council approves Mobility Hub objectives that are incorporated into the Official Plan as a result of this Official Plan Review, then development proposals will be required to meet those objectives until such time as the master planning exercise is completed."

My general observation is that this kind of language is common in city planning talk. It's much like the talk for the 35 Plains Rd E project that I came to Council about on October 10. It uses language that rationalizes amendments to the existing OP and by-laws that make it what you want the new OP to be, and have only concepts about, and is not publicly vetted, discussed, debated, and then approved..

This is not appropriate. The new OP/Hubs have no standing without Council approval that makes them what the planners call "informative". The first sentence says the new OP and Mobility Hubs study are not part of the policy frame that city legally needs to have due regard for.

So why is there so much emphasis and discussion of these in the report?

The second to last sentence says the existing OP policies are currently in force and effect. This means that the existing OP is "determinative". At this time, there is nothing else to have due regard for in a legal planning sense except the existing OP.

The last sentence refers again to the future Hubs approval, and objectives coming into force. My understanding of this is that the Hubs objectives, when approved, only become "informative" until the new OP, of which they are a part, is completed and approved, and legal. Informative means you pay due regard to what they say, but it is not determinative, like the existing OP and by-laws.

It's basically the language of justifying amendments to the existing OP/by-laws now; to effectively make it operate like the new OP you want to be. It's the double think/speak I mentioned.

That is, the existing OP and bylaws can be amended in order to achieve a built form being suggested for the new OP/Hub/bylaws, without any public engagement, discussions or approvals process. The city can amend the existing OP, so let's do it to get what we want.

That's basically what they are doing. There is a lot of land value gold to be salted around with the license to print money that the OP and zoning by-laws represent in fact.

3. This reflects on my message saying the public is basically ignored, and they don't care what we think. The new OP and Hubs and bylaws haven't even been through the public process, people have not been heard, there are months, maybe years, to go before the new everything is fully approved and legally in force and effect.

This staff report is exactly this kind of ignoring the public process I'm talking about. They have no legal legs yet, but they are moving ahead with the ideas anyways.

This is a pretty extreme example of what I mean about not caring what the public concerns are or what they prefer. Clearly, they are not waiting for public debate and approval for deciding, and taking action, on what they want.

I reviewed all of the comments to the Statutory meeting that are contained in the Appendix on public comments. There are 10, including one from me.

With no exception the height of 27 stories was unacceptable – not just a little bit, like 23 is okay, but it was a rejection, for example;

- Unacceptable, unwelcome precedent, oppressive aesthetically, can't believe it's needed, existing heights bad enough, city hall height okay.
- Has the city lost its mind? Who is responsible?
- Like the design, but far too high, sore thumb, dangerous precedent, work out reasonable ROI with developer.
- Too high, parking primary concern, already a nightmare, no by-law enforcement on parking requirements.
- Too high at 27, precedent for more, traffic, already congested.
- Too high, too dense, maybe 15 okay, but more in line with more office, no respect for neighborhood meeting comments – too high, traffic, parking, incompatible with downtown image.

- Too high at 27, parking, traffic.
- Not compatible, too high, tipping point, parking, doesn't belong there, go elsewhere.
- 27 story monstrosity, opposed, why plan and have bylaws and then not follow.
- Fail to understand how city could approve this eyesore, traffic and parking disruption, why is present zoning not followed?

4. For just one thing that always stands out in the staff report is the traffic and parking assertions. These are completely at odds with public comment and concern.

Traffic is never above the road capacity, no matter how much is added, and the cumulative load is never considered. It doesn't matter what the real road congestion situation is.

The parking requirements are similarly nonsensical to me. There is increasingly a departure from the reality of multiple car ownership per unit.

I agree that not every unit will have 2 or more cars, but it's just fantasy to say and assume that all units will have mostly 1 car, and thus dismiss the parking issue that is a reality.

For another consistent concern is always, always, the height. It's just not acceptable to anyone I know, even at 23 stories. My barber has been downtown for 40 years, and you know about barbers and talk about town, and he said his clients almost unanimously say it's too high even at 23 stories.

In all these concerns is related the question of why the existing OP/zoning/bylaws are not upheld.

But the staff nonetheless recommends 23 stories, despite what people have said they want, and wonder why given that it's against present rules, and the new OP and Hubs ideas are still just that – not vetted, not discussed or debated, no due process, and most importantly, have no approval and are not policy relevant or legal.

It's all planning opinion, assumptions and assertions, and I see no real evidence-based reasoning to support 23 stories, or whatever height one might be after.

That's the problem. How and who chooses what's "okay"? I still think this is too high, but, so what? I suggested more office floors could justify some height above 15 floors, but it's still just a part floor assigned as office, and shares a floor with residential amenity as I read it.

And beyond all that, I don't think that by and large a majority of Council even listens to residents, as they mostly seem caught up in the gold rush underway. The planners are the same I'm afraid.

The OP and zoning are a license to print money, and it looks to be amping up with the salting of gold mines here and there adding fuel to the land rush.

I am beginning to think that I am wasting my time on this. I hate to say that, but I have several things going on and it's stretching the peanut butter pretty thin.

I already submitted something to the statutory meeting, and listed the public concerns and objections, but I don't see much change except for the height.

Nobody at city cares what people say is the message I have been getting from the people I know that have been involved in development issues for more than 20 years.

5. I have said before the following (Gazette, so you may have read);

"What I am hearing and seeing is that we are going to get a half-baked Mobility Hubs idea – I can't in any way yet call it a plan yet – that will be glommed onto a draft OP, with all the holes and gaps shining through. We are supposed to move ahead with that jury-rigged contraption.

I also heard that while the OP is coming out for discussion in November, the Hubs drafts won't appear until December or later. That's what I mean by half-baked Hubs in what will have to be a half-baked OP by default of a Hubs idea that constitutes maybe 95% of the growth.

If these things are all approved by Council, even though not approved by Halton Region, they then become what are known in planning lingo as "informative" and they can be legally used together with the existing OP, which is called "determinative", to rationalize and proceed with whatever developments that can be brought forward.

My opinion of this is that we will be subject to development approvals by amendments to the existing "determinative" OP/bylaws, using the draft OP/Hubs apparatus as "informative".

That is how the new view on tall buildings and density will become how we live."

I see this here? It's where they are taking us.

6. And also from before, on the Molinaro proposal on Brock just having a neighborhood meeting, and coming up to a committee meeting (again Gazette, so you may have read);

"I wasn't at this meeting, but I can tell you, from looking at several planning meeting minutes, and related public surveys, that the majority of expressions of public discontent have to do with HEIGHT.

Check out the waterfront hotel site public survey that is on the city website. The higher the height, the greater the dislike. Only the lowest buildings were acceptable by the survey numbers.

And especially when the height proposed is way above what the present OP allows. Of course, there is a new OP in the works, but that really is a long way from becoming the law.

But apparently, in this city, there is no need for that due process of getting the new OP vetted and legal, to get in the way of making it what those in control want it to be.

Developers are taking hints from city planning and council that point to what might be allowed in this new OP, and so are jumping the gun all over the place. Even in the 95% of places that the city and Mayor say will not be affected by intensification.

There may be, and usually are, some few, or one, folks who say they don't have a problem with any heights, no matter, or say the building is beautiful. But that always seems to happen in the various city meetings, and in the Gazette, and that's okay. They may be plants, developers reps, or in the business, but that's okay too I guess.

It seems self-evident that height causes all the issues raised, so I think Pepper is splitting hairs in saying people didn't use that exact word. As I said, if you look at the meeting minutes or reports, height is a universal issue.

Finally, the planners have a go-to song sheet that they all read from on people walking, biking, taking the bus or friendly truck, instead of relying on cars.

It's a rationalization for what they are actually doing to increase traffic ever more, but that lyric is supposed to take place "in the decades ahead". This is as likely a story as any, designed as a non-answer bridge over the always question of where even more cars are going to go,

The roads are already full. There aren't going to be any more built we are told. Transit is a mess and will cost ever more, but will still not solve the needs people have to get to disparate places, for major things you can't do by walking, biking or bus.

As many people have said here over time, the city and region is designed around the car and shortness of time, and I see no trace of a transportation plan that shows us how we will transition to the planners promised land shining in the distant future they have printed out on glossy paper.

Oh, there may be marginally fewer cars needed per person in future, but numbers of people times cars will always be greater than people times bikes, buses, or walkers, in the determination of trip rates.

I would like to know how we all, here and now, are going to submit to this assertion of urban high rise transport utopia – "beam me up, Scotty" – and survive the unknown mutations needed to "Go Boldly where man has never gone before", to reverse the last 100 years development trajectory that we continue to accelerate ever more forcefully?

We don't need assertions of assumptions, we need answers."

Finally, these ideas are expressed by many of the public, at every opportunity, and continue to be. The implications of precedent are in this public awareness, but they don't seem to matter to planning and city.

So this is just another example of the ongoing ignoring of existing bylaws, so why have any? And why should the public bother to spend their time, when it is apparently wasted. I said all this in my 35 Plains Rd delegation.

Overall, this proposal, and recommendation to approve, reflects to me the question of what the hell is going on and why should people waste their time if this is the way they are treated? And it signals that if the public engages city, and buys into a statement of agreed OP things and bylaws, or visions, they are fools to expect that such things will be respected or enforced.

I have seen a lot of people, over time and more recently, state this very point about heights and densities around town as not being what they agreed to before, but now, with a proposal, it's ditched, so too bad. The Mayor says, come on; get involved, but what for if this is what happens?

This is no more a form and level of public engagement than telling the public what the city and planning are doing, and taking comment forms.

Thank you,

Tom Muir