

Planning and development Committee Feb 5, 2019

Re: Memo from Mayor Meed Ward regarding Official Plan Review (PD-01-19)

Council's adoption of our new Official Plan is the result of years of studies, staff reports, committee and council discussions and public engagement in a wide-variety of different forms. Council finally adopted a new OP in April 2018 and sent it to the Region of Halton for approval. In Dec of last year, after several months of review, the Region sent a letter to the city indicating that, in their opinion there were areas of non-conformity with both the Region's Official Plan and Provincial policy that we should review and address.

In addition to correcting the areas of nonconformity identified by the region council has determined they would take the opportunity to review the new OP for other possible modification. Mayor Meed Ward has produced a motion to reconsider some of those areas. In her motion Mayor Meed Ward is proposing to have staff to re-examine the OP in part,

1. "Direct the Director of City Building to immediately commence a process to re-examine the policies of the Official Plan adopted April 26, 2018 in their entirety related to matters of height and intensity and conformity with provincial density targets." Mayor Meed Ward

My question has two parts, what has changed in regard to planning justifications since April 2018, and what would cause one to think the years of studies, staff reports, Committee and Council discussions, an extensive public engagement process and professional recommendations that all helped determine those results, would be different? I ask now because if you choose to proceed with this motion, I have no doubt you will be asked the same questions in the future.

Matters of height and density are only two aspects of the Official Plan.

Both Mayor Meed Ward and Councillor Kearns were very vocal and advocated to not approve our new OP as it was. In their opinion, the new OP was incomplete regarding matters of transportation and transit amongst others.

"We need a complete strategy and we need it before this is voted into law." - Lisa Kearns

"We should not be approving this plan piecemeal" Councillor - Meed Ward

This portion of Mayor Meed Ward's motion proposes to limit the staff review to re-height and intensity, (density?). This approach appears to ignore many of the other components the new OP considers and is incomplete within the context of a complete official plan.

As for how height and density relate to provincial density targets, in the decision by the Ontario Municipal Board regarding the ADI/Martha St development, Chair Schiller provided a very clear and precise answer:

“The required target for intensification is a minimum target. Additionally, there is no test of „need“ in either the PPS 2014 or the GGH 2017 against which the Board is expected to consider a development proposal contemplated through an OPA and a ZBLA. **Whether the overall minimum intensification target is being met is not relevant** to the question of whether the proposed development is consistent with the PPS 2014 and conforms to the GGH 2017.” Chair Schiller (My emphasis added)

To-date, I have not seen nor am I aware of any public consultation considering or identifying which matters, if any, that may or should be re-evaluated. Given the extensive engagement that took place during the writing of this new OP, it seems a step backwards and counter-productive not to consider input from residents and stakeholders to assist the City in its efforts to determine which, if any, policies in the new OP should be reviewed or reconsidered.

2. “Direct the Director of City Building to send a letter in respect of the Official Plan adopted by Council on April 26, 2018, to the Region of Halton acknowledging receipt of the Region’s Notice of Statement of Opinion of Non-Conformity with the Regional Official Plan dated December 4, 2018 and requesting sufficient time to address the conformity issues identified.” Mayor Meed Ward

I see no issue here as this is just a formal acknowledgment of the Region’s statements in their December 4, 2018 letter and it requests the Region to allow the City with enough time to review the extensive work that was completed.

3. “Direct the Director of City Building that until such time as the modifications that result from the work being undertaken in (1) and (2) above are brought forward and adopted by Council and sent to the Region for approval, that the adopted OP policies not be given weight in evaluating development applications that may be processed in the interim period.” Mayor Meed Ward

Our new OP is still at the Region waiting for the City to address the issues the Region has identified as being non-compliant with the ROP. If Council should determine that the new OP should not be regarded and given weight or disregarded in evaluating development applications, how does staff give regard to other components of the new OP such as the locations of mobility hubs?

Some parts of the new OP are imbedded in our existing OP, others aren’t. For example, how could staff provide comment in context of the Aldershot or Appleby mobility hubs as they aren’t in the existing OP?

There are numerous other significant policy advancements in our new OP that staff could no longer reference including, environmental protection and sustainability, economic activity, character and compatibility, infrastructure, design excellence, complete communities, rental housing protection and urban structure, to name a few.

Staff should and must provide their professional opinions to council, the Mayor and Council should not be influencing what those opinions are. Disregarding known information is not an option.

As stated by Chair Schiller in the ADI/Martha St decision, every proposal should be considered on its own merits.

“What the PPS 2014 does not do is set a maximum target for intensification. **Implementation of the PPS 2014 logically requires that each application is to be considered on its own merits.** The fact that an application may involve an official plan amendment does not mean that the proposed development is inconsistent with the PPS 2014.” Chair Schiller (My emphasis added)

To the best of my knowledge, while the Region is not asked to comment on height and density, it does ensure that Regional interests are satisfied, the capacity of Regional services is not compromised, and that new planning policies and initiatives comply with its Official Plan and Provincial policy.

It is in the region’s best interest to have regard to future planning and the efficient use of Regional services and relationships with population growth.

4. “Direct the Director of City Building to report back to the Planning and Development Committee meeting in March to provide a progress update on the Official Plan work plan with key milestone dates, public engagement plan, budget and resource requirements.” Mayor Meed Ward

If this motion is approved certainly all of this will be required. There may be more the public and stakeholders would like considered than what is proposed in Mayor Meed Ward’s motion. It may be more appropriate to engage the public and stakeholder’s now to determine the full scope of an OP re-examination prior to setting other matters such as work plans., and budgets.

5. “Direct the City Manager to discontinue the use of the “Grow Bold” brand.” Mayor Meed ward

The “Grow Bold” branding was established in 2016 following the unanimous Council approval (including then Councillor Meed Ward) of the City’s Strategic Plan. The name was chosen as a result of a public poll, and I do wonder why it would be arbitrarily discontinued.

Grow Bold is and has been an effective brand to engage and inform residents. Simply removing what many have referenced for questions and answers seems another backward step in engagement.

If council decides to arbitrarily remove the use of the Grow Bold brand extreme care must be taken to not remove the references and branding from public access. This is and has been part of the public record for over two years, deleting public information is not something governments should be considering.

Direction to disregard selected components of our new OP while giving regard to others needs careful consideration of the effect and consequences to the entire OP. If Council wants to disregard the entire new Official Plan, they could, (further to extensive consultation with the public), ask the Region to send the new Official Plan back. It would then be possible to create the complete plan both Councilor Meed Ward advocated for prior to council's decision to adopt the new OP.

We are all familiar with the OMB decision regarding the ADI/Martha St development. Part of that decision was based on our existing OP. This decision focused on a specific site and application, however, it does provide insight as to how we might expect our existing OP to be considered in the event of a future development appeal.

At the time, our new OP was being developed so there were no planning justifications or conclusions approved by council that could be advanced or considered, other than our existing OP and the comprehensive planning justification by ADI for 26 storeys. Again, Chair Schiller spells this out quite clearly:

“None of the possible heights advanced by Mr. Lowes in general terms, Ms. Bustamante at 11 storeys and Ms. Anderson at 16 storeys **are grounded in a detailed compatibility analysis with surrounding land uses. Although the Board had clear evidence that the Subject Site is suitable for development in excess of the current OP designation**, the Board had no expert planning evidence to assess the differential, if any, in the relative compatibility with and impacts on surrounding land uses between the proposed development and any of these alternate heights.” Chair Schiller (My emphasis added)

“The far more compelling evidence is that all of the land use planners and both urban designers testified that the Subject Site is not only suitable for development at heights that exceed the as-of-right four-storey height but is also suitable for development at heights that exceed the discretionary eight-storey height. In other words, **all these experts agreed that the Subject Site is suitable for development that is more transit-supportive than the four-storey, as-of-right OP designation.**” Chair Schiller (My emphasis added)

“Taken together, the evidence suggests to the Board that **the current OP designation is no longer appropriate for the Subject Site** and a proposal that is taller and more transit-supportive is both preferable and better implements the transit-oriented and intensification policies of the PPS 2014 and the GGH 2017.” Chair Schiller (My emphasis added)

It appears the Chair Schiller in her decision only had two heights with appropriate planning justifications for consideration. 4-8 storeys in our existing OP and 26 storeys in the comprehensive evaluation by ADI. To date nothing has changed, the gap between our existing OP and other evaluations remains the same.

I am not a planning expert however, with the information that is available and the opinions of those who are, this all seems to point in the same direction.

If this council determines the new OP needs to be re-examined, I would ask they also do it correctly. Arbitrarily reviewing one or two items and not considering others or how they relate to each other is, IMHO not a plan that will produce a good result. A direction for staff to have no regard to the new OP and discontinuing a few branding words does not change the fact that our existing OP is shaky on appeal. It will have no effect on outside legal counsel or planning experts and may even handcuff our planning and city legal staff. IMHO we will remain in the same position we were during the ADI/Martha St. appeal, perhaps worse.

At the very least, before considering the Mayor's motions, I ask you all to read the ADI/Martha St. decision and confer with staff, (planning and legal), get a sense of what we might expect with our existing OP in place.

This is not just a motion, it is the beginning of a review of our Official Plan. That is something we must not take lightly as these decisions are critical and should be based and made on the best advice available.

Regards

John Was