

Correspondence from Tom Muir

Statutory Public Meeting for Official Plan and Zoning By-law Amendments for 127
Plains Road West (DGM-61-25)

To: City Clerks@Burlington.ca, Jo-Anne Rudy@burlington.ca

Date: August 12, 2025

Subject: Statutory Meeting 127 Plains Rd West, August 13 2025'

Hello, Please accept my delegation to this Statutory meeting.

I find that the staff have written a thorough "Good Planning" review of the in force and legal planning status of the consultant planning justification report.

I agree with their recommendation to REFUSE, support a Council APPROVAL.

This application is a familiar creature to the City development scene - I have seen many. I refer to them as another Groundhog Day. It's a guaranteed real estate speculation play by the Ford government official dictator, the OLT.

Make no mistake, it is obvious from scale and demands, from the staff planning analysis and credible expert opinion based on the legal and in force planning framework, that this OLT is where the applicant wants to go, and the consultant has based the justification on a practically completely not approved planning basis.

I saw this for the December 3, 2024 Statutory Meeting for 141-153 Plains Rd and delegated there for basically repeat reasons. I believe this was approved for 11 stories, that I can live with, and was good planning given the overall Mid-Rise context and peripheral MTSA location.

Reviewing the status of the various OP Policy stages, and seeing what is in force and effect, and what is at appeal, and what is not approved, the PPS 2024 legal status is being disregarded in several regards.

The PPS says that the in force municipal Official Plan is the best vehicle for implementing the City development. The procedure I see here is not consistent with the PPS, and all of the "Shall" policy directions contained in a consistent approach to implementation.

All of the planning narrative that I can see is a cherry picking mixing up all OPs and Zoning stuff: including the in force OP 1997 as a framework of legal intent, but only as an instrument of crafting OP Amendments from other draft revised OP policy related texts that are not in force, to the legal OP 1997 to achieve the new intent of the not in force OP 2020 ; the Protected MTSA OP 2020 with MTSA OP Amendment 2 - all of which are also not in force. What is used is the language and the policy directions narrative for everything wanted in OP 2020, MTSA 2020 Amendment 2.

A blend of all this language, directions, and planning justifications, is drawn from this Planning literature mixture and crafted to get what they want because they don't want to use the intentions and policies of the OP1997, which is in force and legal. They justify this with more extensive narrative language, but basically, the Proposal is justified using the Amendments drawn from the not in force planning justification policies. The OP1997 needs to be amended completely whenever a policy or variance or other inadequacy arises that 1997 cannot be directly used.

There is no explanation for this behaviour, using several not legal planning documents, and writing a mix, but the motive and emphasis is to justify more density, intensification, less compatibility, and similar reasons, however, they are, as I said, using almost exclusively not in force OP planning and Zoning, that must be given OP and Zoning Amendments pretty much throughout because they are not legal and Amendments are usually needed.

I do not see any legal justification for these circumstances in writing, as part of this planning justification. Particularly, the trying for 24 stories and the miscellany other needed amendment asks, up hugely profitable from the Mid- Residential zoning maximum height of 15 stories for MTSA.

Everyone knows that height is a sensitive matter, so when somewhere in between would help people along, is just one thing that this planning style concerns me because I don't know where it is going to

lead to, given the OLT right for sure, and the record at OLT, situation we are in.

The right to OLT to a refusal appeal, or a right to a deferral or failure to decide appeal are a cheap opportunity to get 24 floors and all the value enhancing amendments asked for.

For my context I repeat the staff narrative here.

The proposed amendments to the

Official Plan designation include increased height to 25-storeys as well as increased Floor

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Area Ratio (FAR) to 11.8:1. Additionally, amendments to the Zoning By-law 2020 are

required for height, FAR, setbacks, landscape areas, and amenity areas.

☐ Staff are recommending refusal of the proposed Official Plan Amendment and Zoning By-

law Amendment application based on the following:

- o The proposed amendments are not consistent with the Provincial Planning Statement (2024);

- o The proposed amendments do not conform with the Regional Official Plan (2009,

as amended) and do not maintain the general intent of the Burlington Official Plan (1997) or Burlington Official Plan (2020);

- o The proposed development does not maintain the general intent of Zoning By-law

2020;

- o Staff is of the opinion that the proposed development does not represent good planning.

RECOMMENDATION: Refusal Ward: 1

I'm also concerned because I see these tactics being used elsewhere, because of the not in force OP bits and pieces that are not fully approved, or are under appeals. So if the in force documents won't give you what you want, then it is easy to get a consultant whose job is to write a justification using all the parts in the planning works to get what you want. I sensed something like this coming for 100 Plains E.

I want to raise my concern again about this, to just say something about this behaviour, and what it means, at least to me.

At least to me, it sort of does away with the need for "good planning" that is based on facts of an in force OP and sets of policies and directions based on facts and not just a fluidity of picking opinions about what is needed, or supports what is wanted in the application, from any selected set of policy proposals. I think when you think broadly about what we have as a set of circumstances, something is wrong.

We have an adopted OP 2020 that was crippled by 48 appeals in 2022 I think. Then, the revisions to Provincial law to OLT, that put the City in a bind no matter what they decide, and the developers were always in a position where they can appeal.

And something has happened to the City internal decision processes, or the Province will not decide on approvals of new OP2020, or the approved MTSA or OP2020 MTSA Amendment 2 by City or province.

Overall, I'm a sort of veteran in this, but I fear for the newcomer citizen that is trying to figure out what the is going on, and how do they do anything about their concerns, which are legitimate.

As I said, my real and reasonable concerns are the process, and legitimacy, legality, transparency, realistic capabilities for citizen engagement, and something much more in explanation and justification in planning that 100 page Planning Justification

documents that are not really based on an in force and effect OP, and does not devolve to an opinion that cherry picks something they know a lot about, and so it fits a need to build what is wanted

Regards,

Tom Muir.

Because I have experienced this go for the riches in the OLT appeal-seeking approach to development planning, repeatedly, I like what the staff wrote in their “Good Planning” recommendation. This is repeated by me here from their report for others as a recommendation.

It cannot be considered too often or forgotten about, as what I see as progress towards true “Good Planning” at City Hall.

If this application is approved in any measure by Council planning in Burlington will go to out of control money grasping.

Application Details APPLICANT: MHBC Planning

MHBC Planning has made applications on behalf of Losani Investment Corporation for an

Official Plan Amendment and Zoning By-law Amendment for a 25-storey mixed use building with

240 residential units and 475 square metres of non-residential space at-grade. The property

currently contains a 2-storey mixed use building with commercial at-grade and 4 residential units

on the 2nd storey.

Planning staff are recommending refusal of the applications based on the following rationale:

☐ Planning staff are of the opinion that the proposed intensity and scale of the 25-storey

mixed use building proposal exceeds what is considered appropriate for this site in the context of its location at periphery of the Aldershot GO MTSA and along Plains Road West.

☐ Planning staff are of the opinion that the proposal does not meet the Tall Building Design

Guidelines, Shadow Study Guidelines and Terms of Reference, or the Pedestrian Level Wind Study Guidelines and Terms of Reference.

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☐ The proposal does not provide for minimal accesses onto the City's Road network and

provides three accesses which is not supported by Transportation staff.

☐ Planning staff are of the opinion that the proposed 25-storey mixed use building provides

an insufficient mix of uses (240 residential units and 475 square metres of non-residential

space) which does not achieve the City's objective of requiring a mix of uses throughout the Aldershot GO MTSA along Plains Road West and Howard Road to provide for a complete community.

☐ Planning staff are of the opinion that the 25-storey mixed use building is not consistent

with the Provincial Planning Statement or the City's Housing Strategy in providing a mix of housing options through 3 or more-bedroom units.

☐ Planning staff are of the opinion that the proposal does not conform to the Regional Official Plan for rental replacement of the existing 4 rental units.

☐ The proposal does not provide sufficient vegetation as per Section 2.7 of the Official Plan

(1997, as amended) and Sections 2.7 and 4.3 of the Official Plan (2020) to mitigate

potential impacts from urban heat islands.

☐ Planning Staff are of the opinion that the submitted Land Use Compatibility Study & Air

Quality Study prepared by SONAIR Environmental Inc. dated May 2, 2025 and Noise & Vibration Impact Study prepared by dBA Acoustical Consultants dated January 2025 do not provide sufficient information to confirm that the proposed development is compatible

within the existing surrounding environment.

☐ The proposal does not provide appropriate justification for the removal of two municipal

trees.

Due to the number of concerns related to the proposal, Planning Staff are recommending refusal

of the application as it not consistent with the Provincial Planning Statement (2024); does not

conform with the Regional Official Plan (2009, as amended) and do not maintain the general

intent of the Burlington Official Plan (1997) or Burlington Official Plan (2020); and, does not

maintain the general intent of Zoning By-law 2020. Staff is of the opinion that the proposed

development does not represent good planning.

Option 1 – Refusal (recommended by staff)

Planning staff have identified an extensive list of items requiring further revisions or justification.

Due to the extensive list of items, planning staff are of the opinion that a refusal is most appropriate as the submitted application does not represent good planning.

A refusal decision would be subject to appeal to the Ontario Land Tribunal by the applicants.

Option 2 – Deferral (not recommended by staff)

Planning staff have identified an extensive list of items that require further revision or justification.

Planning staff would be looking for a revised development concept inclusive of revised supporting materials and studies. Revisions to the development concept and supporting materials would be subject to subsequent review by staff.

A deferral would extend the processing of the application beyond the 120 day timeline to make

a decision (August 30, 2025). The applicant could appeal the non-decision of the application to

the Ontario Land Tribunal, without the benefit of a position on the applications from City Council.