



Regular Meeting of Council  
Additional Items

**Date:** July 16, 2024  
**Time:** 9:30 am  
**Location:** Hybrid meeting- virtual and Council Chambers, City Hall

Council meetings are hybrid, allowing members of Council, city Staff and the public the option of participating remotely, or in person. The meeting is live streamed, and posted to the city's website. For further information please contact [clerks@burlington.ca](mailto:clerks@burlington.ca)

Pages

**11. Delegations:**

- 11.1 *Anne and Dave Marsden will speak regarding 13.1 i. Civic Square and Brant Street renewal project update – preferred concept design and engagement summary (ES-19-24) (SD-13-24)*
- 11.2 *Anne and Dave Marsden will speak regarding Request for the Province of Ontario to Issue a Ministerial Zoning Order to Protect the Parks & Open Space and to Maintain Existing Zoning Permissions on the Millcroft Golf Course (ADM-09-24)*
- 11.3 *Kristina Didiano, Emshih Developments Inc. will speak regarding 13.1 p. Planning application fee review (PL-61-24)* 1 - 4
- 11.4 *Lloyd Ripani will speak regarding Zoning By-law Amendment application for 236 Plains Road East (PL-52-24)*
- 11.5 *Albert Faccenda will speak regarding Zoning By-law Amendment application for 236 Plains Road East (PL-52-24)*
- 11.6 *Martin Quarcoopome, Westin Consulting will speak regarding Zoning By-law Amendment application for 236 Plains Road East (PL-52-24)*
- 11.7 *Bryanne Robinson, Westin Consulting will speak regarding Zoning By-law Amendment application for 236 Plains Road East (PL-52-24)*
- 11.8 *Dennis Parass, will speak regarding Request for the Province of Ontario to Issue a Ministerial Zoning Order to Protect the Parks & Open Space and to Maintain Existing Zoning Permissions on the Millcroft Golf Course (ADM-09-24)* 5 - 5

11.9 *Daintry Klein, will speak regarding Request for the Province of Ontario to Issue a Ministerial Zoning Order to Protect the Parks & Open Space and to Maintain Existing Zoning Permissions on the Millcroft Golf Course (ADM-09-24)* 6 - 6

11.10 *Kirk Robinson will speak regarding Request for the Province of Ontario to Issue a Ministerial Zoning Order to Protect the Parks & Open Space and to Maintain Existing Zoning Permissions on the Millcroft Golf Course (ADM-09-24)* 7 - 8

**20. Motion to Receive and File Information Items:**

20.3 *Correspondence from Andrew Pawlowsky, Downtown Parking Committee regarding Civic Square and Brant Street renewal project update – preferred concept design and engagement summary (ES-19-24) (SD-13-24)* 9 - 9

20.4 *Correspondence from Michelle Diplock, West End Home Builders' Association regarding 13.1 p. Planning application fee review (PL-61-24)* 10 - 10

20.5 *Correspondence from Tony Lo Presti regarding Request for the Province of Ontario to Issue a Ministerial Zoning Order to Protect the Parks & Open Space and to Maintain Existing Zoning Permissions on the Millcroft Golf Course (ADM-09-24)* 11 - 12



# EMSHIH DEVELOPMENTS INC.

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July 12, 2024

By E-Mail

City of Burlington  
426 Brant Street  
Burlington, ON L7R 3Z6

Attention: Jo-Anne Rudy, City Clerk

**RE: Regular Meeting of Council**

**PL-61-24 (CPRM) Planning Application Fee Review**

Dear Mayor Meed-Ward and Members of the Council,

Please accept this letter as a written submission from Emshih Developments Inc. (Emshih) as it relates to the Planning Application Fee Review, summarized in PL-61-24. Unfortunately, we were not able to provide any response or submission to the Committee of the Whole held on July 8, 2024, as we were only notified of the report's inclusion on the agenda on the same day of the Committee meeting.

As members of Council are aware, an updated fee schedule and structure for collecting planning application fees was approved in 2022. This was informed by past costs and effort involved in processing applications from the time period between 2011-2021. The most significant and noteworthy change to the fee structure resulting from the review was a separate application fee to be applied to every building on a property exceeding four (4) storeys in height. For a large, comprehensive development plan, the approved changes to the fee structure resulted in a significantly large increase in the application fees.

The purpose of this review was to update how development application fees are calculated for larger scale mixed use development, better reflecting the costs and effort required to do so. Although the findings in the Watson & Associates memo, attached as Appendix A in report PL-61-24, have resulted in a proposed reduction of 45%, Emshih does not agree with the recommended approach and objects to the updated fees and structure as proposed.

As it relates to Emshih's proposed development application, the original application fee based on the 2022 approved schedule totalled over \$1.8 million. Although now reduced by 45% and totaling roughly \$920,000.00, the anticipated application fees still remain significantly higher than in other municipalities and do not account for future anticipated site plan application fees.

In addition to the over-inflated fees, the reasons for our objection are as follows:

1. Lack of consultation with staff

The purpose of the review of the application fees is a result of a number of large developments that were significantly impacted by the new structure. The result was fees exceeding the cost to process the development applications.

Emshih's site is one of the developments that was further analyzed by Watson & Associates in the memo prepared for staff. Despite bringing our concerns to staff and members of Council, the report brought forward did not consider any developer feedback or consultation. The findings and recommendations of report PL-61-24 are only based on the Watson & Associates application fee study from 2021, and latest memo dated June 20, 2024. During the Committee of the Whole meeting, staff confirmed that no consultation with the developer community was completed.

In addition, despite frequent follow-up on the matter with staff and leading up to the inclusion of the report on the Committee of the Whole agenda at the last moment, we were not notified until the day of the meeting. As a result, we were unable to delegate during the Committee of the Whole meeting.

2. By-law updated to include definition of what constitutes an application

The Watson & Associates report dated December 21, 2022, recommended that the definition of what constitutes an application be updated to include the following:

- i) For every building on a property greater than 4 storeys in height, each building shall be considered a separate application when calculating the maximum applicable fee.
- ii) On a building 12 storeys or greater in height with multiple towers on a shared podium, each tower shall be considered a separate application. The floor area and residential units in a shared podium shall only be calculated in the fee for the first application.
- iii) In cases where development is separated by a public road (i.e. non-contiguous land parcels) each land parcel shall constitute a separate application when calculating the maximum applicable fee.

The rationale to consider buildings greater than 4 storeys or multiple towers greater than 12 storeys on a shared podium on a single property as separate applications is unknown and unclear. There is no justification or examples provided of other municipalities within the GTA that have employed this structure.

Furthermore, it is noted that Council was unaware of the implications of the proposed definition when fees were approved in 2022, specifically related to the requirement for separate application fees for each building greater than 4 storeys in height.

3. Fees in Other Municipalities

Upon review of application fees in other municipalities across the GTA, the proposed fees and structure in Burlington are exorbitantly higher in comparison. For example, if Emshih

were to calculate the applicable fees for the same development concept in Oakville or Markham, the maximum applicable fees would be less than \$300,000.

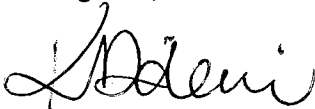
In addition, we are unable to find other municipalities across the GTA that impose a separate application fee based on the updated definition of what constitutes an application as noted above. Both staff and the Watson & Associates report do not provide any examples of this.

In conclusion, the resulting impact of multiple application fees on a single development application is tremendous, equating to fees three times greater than those in Oakville and Markham, even with the proposed 45% reduction imposed. The total financial requirement for the proposed development application does not even consider the additional costs associated with site plan application, development charges, Community Benefits Charge (CBC) and building permits. In total, Emshih's total anticipated fees payable to the City of Burlington are estimated to be \$19.6 million. The total breakdown of fees is included in the table attached to this letter.

The increased fees will impact the financial feasibility of the proposed development application and will result in the City of Burlington being a less competitive and less desirable market to develop. It is regrettable that the revised fee structure continues to pose a significant barrier to our submission of a formal application.

Emshih Developments Inc. strongly objects to the update to development application fees as recommended by Watson & Associates and in PL-61-24. Emshih recommends that the Council refuse the report as further analysis is required on the implications of the proposed fees to better align with other municipalities' fee structure and work collaboratively with the development community throughout the process.

Best regards,

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

Kristina Didiano, Development Manager  
Emshih Developments Inc.

**Attachment #1**

<b>TOTAL ANTICIPATED DEVELOPMENT FEES (Up to Building Permit)</b>	
<b>FEES</b>	
Combined OPA, ZBA, Subvision	\$ 918,886
Site Plan Application	\$ 399,489
Development Charges (City Only)	\$ 14,660,000
Community Benefits Charge	\$ 639,600
Building Permits	\$ 3,000,000
<b>TOTAL</b>	<b>\$ 19,617,975</b>

Delegation material from Dennis Parass  
representing Millcroft Against Bad Development (MABD)

The application by Millcroft Greens to build unaffordable housing in Millcroft is not a local issue but one that will affect the entirety of Burlington. Should it proceed it will set a legal precedent which allows development on privately owned Parks and Open spaces throughout Burlington. It will undermine the City's plan and responsibility to meet the Province's "Places to Grow" mandate.

The recognition of this threat is widely held throughout Burlington and Halton. It is the reason why more than half of Millcroft Against Bad Development (MABD)' members live outside of Millcroft .

The Ontario Land Tribunal is a seriously flawed system. While well intentioned to provide an avenue for the public to challenge a decision by a Municipality, it ends up being a vehicle that only the wealthy and influential can access. Developers frequently use the OLT process to gain approval for projects that fail to meet City requirements. Well over 90% of decisions go in favour of the Developers. It undermines the authority of local government and wastes millions of tax dollars.

In the case of the recent Millcroft OLT decision, the judges found "no merit" in **any** of the City's positions. Their decision was based on "can it be done technically" with no weight to the questions "should it be done" and "is it in the Public's interest" It is a surrogate system whereby all the expertise of the Region and Municipalities is evaluated by remotely located judges with minimal technical qualifications and little regard to their responsibility to recognize the will of the Public.

MG justifies their right to develop in Millcroft on two points. (1) The land identified is in "excess" of their needs to run a golf course and (2) that as an owner of Park and Open Space ,their right to develop overrides the City's needs to preserve Open Space, regardless of the fact that it conflicts with the Province's "Places to Grow" mandate.

Our Millcroft residents are unanimous in their opposition to the infilling of its greenspace. They believe that Millcroft Greens will release additional "excess " lands and still maintain a USGA registered golf course . USGA indicates that a golf course can be as short as 1,500 yards. The current application reduces the present 5,700 yard course by 1,000 yards. MG can convert another 3,000 yards of greenspace for housing and still have an 18 hole golf course. Approval of this first development will set the legal basis for additional applications that will eliminate 75% of Millcrof's t greenspace.

I want to be abundantly clear...**this not about saving a golf course. It is about saving our Greenspace. Here in Millcroft and throughout Burlington**

We support our City and Region's efforts to bring this before the Province's. Premier and Housing Minister and stop this development.



July 16, 2024 Council Agenda item 18.1 – Motions of Members

Good morning Mayor, Councillors, Staff, fellow Residents,

My name is Daintry Klein and I represent, Millcroft Greenspace Alliance (MGA) a not-for-profit organization that stands for liveable, sustainable communities and responsible development.

Our organization supports the City of Burlington in its efforts to preserve the Millcroft Greenspace and we support this resolution. We do have a couple of recommendations for inclusion:

After the existing paragraph 5, we suggest

“Whereas the Millcroft Golf Course lands, with the exception of Area E, but including the proposed areas of redevelopment for Areas A,B,C and D, located below the Niagara Escarpment and within the upper reaches of the Appleby and Sheldon creeks and their stormwater ponds, was engineered as a stormwater retention and flood mitigation natural infrastructure for the neighbourhood and downstream to the adjacent proposed high density development of Uptown and the proposed high density development at Appleby Go, as well as existing homes in flood prone areas, and”

Also, we suggest the addition of the following words in the existing paragraph 7, and after the words, “Whereas in December of 2022, following extensive community consultation,” add “and a stormwater peer review of the proposed application,”

Given the location of the proposed downstream developments of Uptown and the Appleby MTSA in wards 4 and 5, we appreciate the widespread importance of this issue for our City. We are witnessing the collective impacts of development and the economic consequences that can occur with flooding and prospective flooding such as the Ford plant in Oakville. Flood mitigation in Burlington is of utmost importance to protect the vitality of this City. The 2022 reports from Public Safety Canada and the Auditor General of Ontario on climate change and flood mitigation accentuate the emerging importance of the issue. It is becoming increasingly difficult to turn a blind eye.

The Auditor General of Ontario’s report on Climate Change Adaptation: Reducing Urban Flood Risk, highlighted the responsibility of four ministries including Municipal Affairs and Housing, Environment Conservation and Parks, Natural Resources and Infrastructure. We recommend that all four of these Ministries be included in the distribution list of this resolution.

In conclusion and as a party to the OLT hearing, it is difficult to read the decision report for its omissions, inaccuracies and “preferences”. We trust that the Province will make good on the Premier’s public statements that the “Province won’t allow homes to be built on floodplains” and “Where municipalities build homes is their decision” and come to a satisfactory conclusion.

Mayor Meed Ward has spoken publicly about the importance of this greenspace for our City and perhaps it is time for the Province, maybe through the Ministry of Infrastructure, and the City to work toward public ownership to protect the public interest.

Delegation material from Kirk Robinson  
representing Millcroft Against Bad Development (MABD)

**My name is Kirk Robinson, and I am a director of Millcroft Against BAD Development, commonly known as MAD – a non-profit organization formed to oppose Millcroft Greens’ application to introduce residential development to the existing Millcroft golf course.**

**With approximately 6,100 petitions signed and over 1,000 lawn signs installed throughout the neighborhood, our membership shows how strong and passionate the opposition is.**

**We have hosted community events, had over 3,400 petitions presented to the Ontario Legislature by our MPP Effie on multiple occasions, and fundraised to pay for our legal and planning staff that represented MAD at the Ontario Land Tribunal hearings.**

**We are an entire community – a large subset of Burlington’s voting population who thank you, our political representatives, for requesting that the Province declare a provincial interest in preserving Millcroft’s greenspace.**

**The Millcroft golf course, which is completely embedded inside our Community, was designed to provide three essential needs: to provide a home to our abundant Wildlife, to act as a Flood Management System for stormwater events, and to provide Environmental Open Space for the health of both our 10,000 Millcroft residents and neighboring communities.**

**Millcroft Against Bad Development STRONGLY supports the proposed resolution to the Minister of Municipal Affairs and Housing that is vital to the future of our Community, the future of our City, the future of our Province, and beyond requesting the Minister of Municipal Affairs and Housing, the Honourable Paul Calandra to Issue a Ministerial Zoning Order as there is limited time to act to save this area before shovels are in the ground for development.**

**The parks and open space currently operating as the Millcroft Golf Course, is unique among golf courses, in that it is in an urban area, designed as a figure eight weaving among houses, functioning as natural storm water conveyance on a floodplain, and we know of no other golf course with these set of conditions.**

**The land use planning decision-making should always rest with local councils, professional and qualified staff, and the community, for maximum accountability, transparency, and democracy in adherence with applicable Official Plan documentation.**

**The Halton Regional Council unanimously approved a similar resolution on October 18, 2023 supporting the City of Burlington’s resolution for the Minister of Municipal Affairs and Housing to protect the vital Millcroft Golf Course greenspace.**

**The protection of existing greenspace within the City of Burlington is crucial for the municipality to provide opportunities for access to both public and private green space for current residents and future generations.**

**The City of Burlington has an abundance of options for development to achieve provincially mandated growth targets towards accomplishing the province's goal of 1.5 million new homes by 2031, and it is not required to sacrifice greenspace or build on critical floodplains to accommodate Burlington's share of housing.**

**Millcroft Against Bad Development supports and thanks our Mayor Marianne Meed Ward and our Ward 6 Councillor Angelo Bentivegna for their request that the Minister of Municipal Affairs and Housing, through its zoning order framework process, issue a Ministerial Zoning Order to maintain the zoning permissions for Areas A to D of the proposed development of the Millcroft Golf Course as they existed prior to the June 12, 2024 OLT decision;**

Correspondence from Andrew Pawlowsky  
representing the Downtown Parking Committee

**From:** [Andrew Pawlowsky](#)  
**To:** [Mailbox, Clerks](#)  
**Subject:** Downtown Parking Committee comments  
**Date:** Monday, July 15, 2024 11:17:16 AM

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hello,

I would like to submit my comments for the committee of the whole tomorrow.

*As Chair of the downtown parking committee, I head up a multi stakeholder team that includes the interest of residents, business community and tourism Burlington. This committee also includes our ward 2 councillor. Our mandate is to advise council on all issues related to the governance and strategy in parking in the downtown core. We have been approached to provide feedback on the proposed renovation of civic square project and these are our comments:*

- 1. The Removal of any parking spots should be premised upon the replacement of the same, in close proximity to the spot surrendered, moved or vacated.*
- 2. Prior to removing any spots, some understanding of the purpose spots should be undertaken prior to the removal or re-location of said spot(s) as councillor spots are statutorily required during an emergency event.*
- 3. Consideration of traffic flows with respect to parking lot location should be a consideration as well. There is a possibility of making some one way roads and adding on street parking to reduce our current parking deficit.*

*Thank you*

*Andrew Pawlowsky  
Chair of the DPC*

**West End Home Builders' Association**

1112 Rymal Road East, Hamilton

*Serving members in Hamilton, Burlington, and Grimsby*

Correspondence from Michelle Diplock

representing West End Home Builders' Association

July 11, 2024

TO: Mayor Meed Ward and Members of Council

## WE HBA Letter: Comments on Ongoing City of Burlington Fee Review

The West End Home Builders' Association (WE HBA) is the voice of the land development, new housing and professional renovation industries in Hamilton, Burlington, and Grimsby. The WE HBA represents approximately 300 member companies made up of all disciplines involved in land development and residential construction, including: builders, developers, professional renovators, trade contractors, consultants, and suppliers. The WE HBA and our members are substantially and directly involved in building the future of Burlington and the construction of new housing opportunities.

WE HBA is pleased to see Burlington is reducing the fees for Official Plan Amendments (OPA) for multiple buildings on one site. Planning application fees in Burlington are significantly higher than other municipalities and with this "duplication" or even "quadruplication" factor for multiple towers or buildings, the cost to submit a single OPA application was in the \$100s of thousands.

WE HBA is pleased to see this interim solution being put forward as the ongoing fee review is underway. We would like to flag we have continued concerns about requiring duplication for multiple zoning amendment applications for different buildings on a single property. WE HBA would like to see this addressed through the ongoing fee review process.

Finally, we wish to emphasize as the fee review is underway the importance of time-based accounting to understand what the true costs of planning service delivery are for the City of Burlington. A continued focus on ensuring fees accurately reflect the City's cost to deliver services is appropriate.

Sincerely,

**Michelle Diplock, RPP, MCIP, MPI**

Manager of Planning and Government Relations

West End Home Builders' Association

Letter from Tony Lo Presti, Hamilton Spectator op-ed contributor and Millcroft resident.

Hello everyone,

I wish you all good luck with Tuesday's delegation at the City Council meeting. Unfortunately, I will not be able to attend. And that's why I am sending this email letter, expressing my thoughts in support of your delegation.

Please keep in mind that it is unlikely that Premier Ford will reverse the OLT decision with a Minister's Zoning Order (MZO), given that when Ford became Premier, he streamlined the Local Planning Appeal Tribunal (LPAT) and converted it into the Ontario Land Tribunal (OLT) – with the purpose of making it easier and faster to override regional and municipal planning decisions in land-use disputes involving developers opposed by municipalities and communities.

Therefore, an important argument you need to present at tomorrow's delegation is that the OLT is not an independent, impartial, and fair Tribunal because it is an agency tethered to Ford's pro-business and pro-developer policies. This was a concluding argument that I made in my article, which was published by the Hamilton Spectator on Jan. 29, 2024. It can be found at the following website:

[https://www.thespec.com/opinion/contributors/has-doug-ford-gamed-ontario-s-land-use-planning-system-in-favour-of-developers/article\\_0dc28bb4-5a9e-5817-a20b-0f78ec7e29a7.html](https://www.thespec.com/opinion/contributors/has-doug-ford-gamed-ontario-s-land-use-planning-system-in-favour-of-developers/article_0dc28bb4-5a9e-5817-a20b-0f78ec7e29a7.html)

The delegates need to advocate that an MZO should be a sword of justice with two edges so that it can cut both ways - in favour of developers when necessary and in favour of municipalities and communities when the harms of developments outweigh the benefits and when the few seek to profit to the detriment of the many. Currently an MZO is a one-edged sword that cuts only in favour of developers.

Yes, a Petition in support of the City's resolution, should definitely be circulated to the Millcroft community. But people need to understand the background facts regarding Premier Ford's pro-developer bias. And that's why my article "Has Doug Ford gamed Ontario's land-use planning system in favour of developers" should be posted asap on the Millcroft Against Bad Development (MABD) website.

Now that the OLT has made its its pro-developer ruling, there is no longer any fear of antagonizing the OLT before it reaches its decision, and no reason why my article should not be posted for the Millcroft community to read.

My article can also be used to inform the Millcroft community that the OLT decision was not due to any failure by the City, or by the MABD and the Millcroft Greenspace Alliance (MGA) community groups to make strong and impressive presentations at the Tribunal hearing. Their combined efforts would have proved successful if the OLT did not possess a bias manacled to Premier Ford's pro-developer policies.

Mayor Meed Ward once stated that the OLT operates on the principle of whether something can be done and not on the principle of whether it should be done. And that's how the OLT reached its decision.

As we all know, good developments are those that result in win situations for all parties – the municipality, the community, and the developer. In bad developments only one party wins – the developer, especially when helped by a biased OLT and the autocratic one-edged pro-developer MZO of the provincial government.

So how can municipalities and communities protect themselves from the current land-use system that Ford has gamed in favour of developers? We all agree that the answer is to use the only weapon we can fight any provincial injustice with: the ballot box. We need to oust Ford's Conservative government and elect one that will eliminate the pro-developer bias in the OLT decision-making process by issuing MZOs that justly cut both ways instead of just one biased way.

If the the Ford government won't step in with an MZO to protect the planning rights of our municipality and the legitimate environmental and flood concerns of our community to save the golf course from eventual demolition, then we need to vote the Ford government out next election – whether it is called this year or in June 2026.

Unfortunately, ousting Premier Ford in an election necessitates ousting his MPPs, no matter how sincere and commiserating they are about the OLT's unfair Millcroft golf course decision. This means that if Ford won't issue an MZO to reverse the OLT's decision, then he will be held ultimately responsible if our respected and supportive Oakville North-Burlington local Conservative MPP, Effie Triantafilopulos, is voted out of office.

As the Parliamentary Assistant to the Minister of Economic Development, Job Creation and Trade, and Member of the Standing Committee on Finance and Economic Affairs, Ms. Triantafilopulos's wields tremendous influence in getting an MZO issued in favour of protecting the rights and interests of the City of Burlington and its Millcroft community.

I also recommend that we should stage a protest rally against Premier Ford and the OLT's decision in front of Ms. Triantafilopulos's Oakville office with television and newspaper coverage of the event to demonstrate that we will not forget the OLT's decision when we vote at the next election.

We should also approach Bonnie Crombie, leader of the Liberal party, and get her support in our cause and extract a promise from her to reform the OLT so as to eliminate its bias and make it more just if her party wins the next election.

Such a promise is necessary to prevent developer Millcroft Greens from developing the rest of the golf course a few parcels at a time in the future until it is entirely demolished. Keep in mind that the developer has won only phase one of its development plans – and once the developer has tasted the honey of profit from phase one, it will want to dip into the jar to taste it again and again until all the honey is gone and the golf course no longer exists!

Best wishes to all,

Tony Lo Presti