



**Planning &
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August 1, 2019

Planning Act Review
Provincial Planning Policy Branch
Ministry of Municipal Affairs and Housing
777 Bay Street, 13th floor
Toronto, ON
M5G 2E5

Ministry of the Attorney General
Policy Division
720 Bay Street, 3rd Floor
Toronto, ON
M7A 2S9

Submitted online via Environmental Registry of Ontario, the Ontario Regulation Registry and by mail.

Re: ERO No. 019-0181 – Proposed new regulation and regulation changes under the Planning Act, including transition matters related to Schedule 12 of Bill 108 - More Homes, More Choice Act, 2019

Ontario Regulation Registry Posting No. 19-MAG007 – O.Reg. 102/18 – Proposed Regulations under the Local Planning Appeal Tribunal Act, 2017

To whom it may concern:

ERO No. 019-0181 was posted on June 21, 2019 and requested that comments on a proposed new regulation and changes to an existing regulation under the *Planning Act* be submitted by August 6, 2019. Additionally on June 21, 2019, proposal number 19-MAG007 was posted on the Ontario Regulation Registry requesting that comments on proposed regulations under the *Local Planning Appeals Tribunal Act, 2017* be submitted by August 5, 2019.

Thank you for providing the Town with the opportunity to comment on the proposed regulations. These comments have been prepared by staff representatives from the Town's Planning and Development Services Department.

The Town previously submitted comments on May 31, 2019 to the Ministry of Municipal Affairs and Housing, and Ministry of the Attorney General in response to Bill 108, and the associated Environmental Registry of Ontario postings. The following comments reiterate some of the Town's previous comments, and also include additional comments for matters where more information has been outlined in the regulations' proposal summaries.

1. Applicability of Reductions for Planning Application Decision Timelines

The Town's comments in response to Bill 108 asserted that the reduction of planning application decision timelines as proposed in Schedule 12 will ultimately lead to more appeals to the LPAT for non-decision, and delay the delivery of housing. The Town continues to maintain this position.

ERO No. 019-0181 proposes that the reduction in planning application decision timelines for Official Plan Amendment, Zoning By-law Amendment and Plan of Subdivision applications would apply to complete applications submitted after Royal Assent. As a result, applications that are currently under review would be subject to the reduced timelines once Schedule 12 is proclaimed. Schedule 12 proposes to make significant changes to parkland requirements and Section 37 (height and density bonusing) that would impact how planning applications are reviewed. Until municipalities are aware of all transition regulations and details in the regulations have been finalized, it is difficult for municipalities to make informed decisions. Therefore, as Schedule 12 of Bill 108 is not yet in effect, the reduction of decision timelines should apply only to complete applications submitted after proclamation of Schedule 12 of Bill 108 and not complete applications submitted after Royal Assent of Bill 108.

Comment: The reduction of decision timelines for Official Plan Amendment, Zoning By-law Amendment and Plan of Subdivision applications should apply to complete applications submitted after Schedule 12 of Bill 108 comes into effect via proclamation.

2. Request for Transition Regulation for Parkland Dedication (Sections 42 and 51.1 of the Planning Act)

Once proclaimed, Schedule 12 of Bill 108 will remove the alternative parkland calculation that a municipality may collect (1 hectare per 300 dwelling units where land is conveyed or cash in lieu using a rate of 1 hectare per 500 dwelling units). The Town commented in May 2019 that Schedule 12 should be amended to include the alternative calculations for parkland dedication as previously outlined in subsections 42(3) and (6.0.1), and 51.1 (2) and (3.1) of the *Planning Act*; as the proposed legislation would no longer be representative of the parkland needs of residents living in higher density development. The Town continues to maintain this position.

Schedule 12 of Bill 108 contains transition provisions that identify plans of subdivision approved prior to proclamation of Schedule 12 of Bill 108 would be subject to the parkland dedication rules in effect prior to proclamation of Schedule 12 of Bill 108. However, no transition provisions have been included for site plan applications and plans of subdivision that have not been approved. The Town has approximately 70 site plan and plan of subdivision applications in various stages of approval, some of which only require signed agreements to be returned to the Town to be executed. The lack of transition regulations for site plans and plans of subdivision that have not been approved, creates an administrative burden for municipalities to review all applications where the alternative calculation may have been used, and leaves municipalities in a difficult position where cash-in-lieu may have been anticipated to pay for future capital projects.

Comment: Transition regulations are required that stipulate that parkland dedication provisions in effect prior to Schedule 12 of Bill 108 shall apply to any site plan application and/or plans of Subdivision submitted prior to proclamation of Schedule 12 of Bill 108.

3. Transition for Appeals Subject to the New LPAT Rules

The Town maintains its position that it does not support the return to an “OMB style” tribunal and that the Local Planning Appeals Tribunal maintain its role as a true appeal mechanism that evaluates decisions solely on consistency and/or conformity with Provincial Policy and Plans, and Municipal Official Plans. Returning to criteria for appeals on the basis of “apparent land use planning grounds” and not the requirement to demonstrate inconsistency/non-conformity with

provincial policy statements and plans, and municipal official plans returns to a system that creates further uncertainty with broad appeals, reduces deference to municipal decisions, and results in lengthy and costly appeals.

The proposed transition rules use the scheduling of an LPAT hearing for an appeal to an Official Plan Amendment or Zoning By-law Amendment as the factor to determine which LPAT rules would apply. Municipalities and applicants invest time and money processing applications and preparing for Tribunal hearings, including time before a hearing has been scheduled. Appeals to an Official Plan Amendment or Zoning By-law Amendment application should continue to be processed under the LPAT rules that are in effect when a complete application has been submitted.

Further, as some sections of Schedule 9 have not yet been proclaimed and changes to O.Reg. 102/18 under the LPAT Act, 2017 are still under review, staff question how new appeal rights and the revised appeal system can take effect prior to proclamation.

Comment: The transition regulation should use the date of proclamation, and not whether an LPAT hearing has been scheduled as the factor to determine which appeal rights and/or LPAT rules apply.

Therefore, complete applications submitted prior to proclamation of all of Schedules 9 and 12 of Bill 108, and appealed either before or after proclamation, should be subject to the existing appeal rights and LPAT rules; and complete applications submitted after proclamation of Schedules 9 and 12 of Bill 108, and appealed after proclamation, should be subject to the new appeal rights and LPAT rules established in Bill 108.

4. Revocation of the “Planning Act Appeals” Regulation

The Town’s comments in response to Bill 108 stated that restructuring the practices and procedures of the Tribunal to an “OMB style” system will create further uncertainty with broad appeals, reduce deference to municipal decisions, and result in lengthy and costly appeals.

Changes proposed to Regulations under the Local Planning Appeals Tribunal Act, 2017 include the revocation of the “Planning Act Appeals” Regulation (O.Reg. 102/18). O.Reg. 102/18 established maximum timelines between when an appeal is validated by the Tribunal and the time that an appeal is disposed by the Tribunal. The regulation also established maximum time limits for oral submissions, setting limits of 75 minutes for parties and 25 minutes for persons other than a party.

Revocation of O.Reg. 102/18 is contrary to the goal of providing more housing faster. Without timelines to dispose of matters before the Tribunal, delays in resolving planning matters will increase. The removal of time limitations on oral submissions would return to lengthy and costly hearings, with some complex hearings that last days and sometimes months. This expends significant resources by all parties and weighs on the LPATs resources. Further, the existing Regulation allows the Tribunal to extend the time limits for oral appeals where appropriate to ensure a fair and just determination of an appeal.

Comments: The Town does not support the revocation of O. Reg. 102/18. The Regulation should remain in effect without amendment as time limitations on the LPAT’s disposition of appeals and time limitations on oral submissions will aid in resolving appeals faster and thereby providing more homes faster.

Thank you again for providing the Town with the opportunity to comment and for your consideration of these comments. Should you have any questions please contact Sean McCullough, Senior Planner at Sean.mccullough@ajax.ca or (905) 619-2529 ext. 3234 and he will endeavour to coordinate a response.

Regards,

A handwritten signature in black ink, appearing to read 'Dave Meredith', with a stylized flourish at the end.

Dave Meredith
Director of Planning and Development Services
Planning and Development Services
Town of Ajax

Copies:

Alexander Harris, Manager of Legislative Services/ Acting Clerk
Ron Hawkshaw, Solicitor, Town of Ajax
Geoff Romanowski, Manager of Planning, Town of Ajax
Stev Andis, Supervisor of Planning Policy and Research, Town of Ajax