



PLANNING, DEVELOPMENT AND
LEGISLATIVE SERVICES
150 Frederick Street, 8th floor
Kitchener Ontario N2G 4J3 Canada
Telephone: 519-575-4400
Fax: 519-575-4449
www.regionofwaterloo.ca

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Planning Consultation
Provincial Planning Policy Branch
777 Bay Street
13th floor
Toronto ON M5G 1Z3
Canada

RE: Proposed implementation of provisions in the Planning Act that provide the Minister enhanced authority to address certain matters as part of a zoning order (ERO# 019-2811)

The following comments are provided in response to the December 16, 2020 ERO posting on the use of enhanced Ministerial powers regarding site plan control and inclusionary zoning in zoning orders.

Limit the Use of MZO's

Zoning Orders (MZOs) are the strongest development approval tool available under the Planning Act and should only be issued in exceptional circumstances. Issuance of a MZO bypasses the public's opportunity for consultation, has limited decision-making transparency and has the potential to result in unanticipated development with serious infrastructure, environmental and financial implications. The Province should reserve the use of zoning orders to circumstances where the proposal serves a greater public interest and is time sensitive. As a result, it cannot be accommodated through the traditional planning process and associated timeframe. This could include public facilities such as hospitals, major affordable housing projects and large scale employment uses that generate significant jobs.

It is recommended that the Province establish guidelines or best practices for issuing a zoning order that include receiving support for the development by both the Local and Upper Tier Municipalities. Further, construction must be imminent and the inability to meet the required timeframe would result in significant negative economic, health or public interest impacts. Any

decision should have regard to the existing Municipal and Provincial Policy framework and be guided by good planning principles.

Projects that do not meet the proposed guidelines and best practices should be redirected to the municipalities to follow the standard development approvals process. MZO's should not be used solely as a tool to streamline the development application review process by eliminating public and technical review associated with development applications. These are important components of the Planning Act review process which help to ensure decisions reflect good planning.

Municipal Consultation and Public Notice

Section 47 of the Planning Act allows the Minister to zone any property without municipal or public consultation. Regional staff request that as part of the consideration of any MZO both the Local and Upper Tier Municipality (where applicable) are consulted and provided the opportunity for input. While zoning is a local planning jurisdiction, conformity with the Region's Official Plan and Provincial Legislation is an important consideration. Service delivery and infrastructure, including water, wastewater and transportation are planned around the Official Plan's long-term vision for the municipality. MZO's that do not align with the Municipality's planned delivery of services and infrastructure, such as an expansion to an Urban Area Boundary or a development of significant density located outside of a strategic growth area, can have significant financial cost and/or environmental impacts including impacts to groundwater resources.

There is currently no requirement to issue public notice prior to issuance of a zoning order. Removing the requirement for notice for amendments to existing orders using the enhanced authority eliminates transparency and any level of explanation to the public. Regional staff recommend that the Province issue notice prior to issuance of both original orders and amendments with an explanation of the purpose and effect of the order along with a rationale for using the powers under Section 47. This allows for some level of transparency and explanation to the public.

Inclusionary Zoning

Regional staff support the use of inclusionary zoning as part of a MZO and recommend the Province maintain this provision and use this tool wherever possible. Further, it is recommended that the Province maintain the ability for a municipality (including the Upper Tier) to enter into an agreement with respect to such matters when necessary.

Site Plan Control

Recent amendments allow for the Minister to address site plan matters as part of a zoning order, superseding municipal site plan authority. The Region is a commenting agency with respect to site plans and it's authority is outlined in Section 41 (8) of the Planning Act. The Region reviews site plans to ensure safe access can be provided, secure necessary road widenings, and address stormwater management among other prescribed matters.

Regional staff recommends that the Minister consult with the Lower and Upper Tier Municipalities to ensure that Section 41 matters are adequately addressed as part of any zoning order to ensure safe development. It is recommended that the Municipality should have the full range of authority to enter into registered agreements and secure road widenings as per Section 41 of the Planning Act.

Continue Collaborating with Municipalities to Further Improve Process Efficiencies

Continued collaboration is an effective way to achieve efficiencies in the development review process. The Region of Waterloo has used a Lean Six Sigma process review and implemented continuous improvement measures to streamline it's development review process. In addition, the Region has identified digital modernization as a further way to reduce the timeframes associated with processing a development application. Regional staff would welcome further discussions related to our experience with streamlining the approvals process, as well as the potential for assistance with the implementation of digital modernization.

Please feel free to contact Michelle Sergi at Msergi@regionofwaterloo.ca or 519-575-4521 if you require any additional information or have any questions.

Regards,



Rod Regier

Commissioner

Planning, Development and Legislative Services