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July 2, 2021

Sanjay Coelho

Ministry of the Environment, Conservation and Parks - Environmental Policy Branch
40 St Clair Avenue West, Floor 10
Toronto, ON M4V 1M2

Dear Sir,

Re: Comments from the City of North Bay: ERO Posting 019-2785 "Land Use Compatibility Guideline"

Thank you for the opportunity to provide comments on ERO posting 019-27853 "Land Use Compatibility Guideline". Please find comments from the City of North Bay below on the proposed Guideline.

We anticipate the changes that will have the greatest impact on North Bay are:

- lack of flexibility, recognizing local circumstances and scale of development;
- expanding the planning approvals to which the guidelines apply, to include approvals such as minor variances and site plan approval;
- increasing the Area of Influence (AOI) and Minimum Separation Distance (MSD) associated with various classes of industry, and increasing the number of classes;
- introducing a requirement for a Demonstration of Need study for a proposed sensitive land use; and
- lack of transition provisions.

A summary of our concerns are as follows.

1. The wording of the Guidelines appears to be very rigid and leaves little room for site specific interpretation, or consideration of existing circumstances. The proposed Guideline has shifted from a 'guideline' to a policy.

The Guidelines do not seem to recognize an existing built form where there is currently a Major Facility and Sensitive Land Use cohabitating within either the AOI or MSD.

Consideration should be given to either exemptions or factoring in circumstances such as existing development patterns in proximity to the proposed use, as may be deemed appropriate. The shift from the guideline-based protection documents to the more prescriptive measures appears to remove a municipality's ability to implement mitigation measures that recognize the existing conditions.

The Guideline directs that Official Plans shall identify Minimum Separation Distances (MSD) and Areas of Influence (AOI) within the policy framework, as well as identify the requirement for Demonstration of Need Studies, where required.

The proposed change from a guideline document to a policy has the effect of creating additional obstacles in the City's goals to protect employment areas while at the same time balancing the need for additional housing within the City.

2. Purchasers of property should have some degree of certainty that properties classified as industrial can be developed as such. The application of these guidelines at either a Minor Variance or Site Plan Control stage is too far along in the planning process. By the time a property's Official Plan designation and zoning classification is set, there is and should be a reasonable expectation by all property owners as to the manner that the area should develop; both in the short term and over the long term.

There has been a significant increase in the proposed area of influence (AOI) distances and the minimum separation distances (MSD) required between sensitive land uses and major facility types in the proposed Guideline from the previous D-Series Guidelines. The increase in the MSD and AOI has the effect of requiring far more studies to be completed for Planning Act applications, including locations where sensitive land uses or industrial uses are already permitted through zoning.

Considerations should be given to the expansion of existing uses without the need for significant study i.e. adding an addition to a house which triggers a minor variance should not trigger the need for a compatibility study.

The Study requirements should not be required on vacant lots that are already zoned for development which may require a planning application such as a minor variance or site plan control. In addition, the Guidelines do not provide flexibility based on the size or scale of development.

The Guidelines encourage participation between the two parties (major facility and sensitive land use). In instances where the major facility is unwilling to share, or where there are vacant industrial lands, it may prove much more difficult to complete such studies. In these instances, assuming a worst-case scenario may be necessary to complete the study to avoid land use incompatibility. However, using that worst-case scenario may result in measures that are excessively restrictive and result in an inefficient use of land in settlement areas.

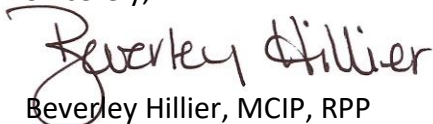
3. The requirement for a Demonstration of Need study will be onerous and costly for proponents of development applications. The review of the study will impact the City's review and processing of development applications. At this time it is unclear who will be qualified to review and sign off on the Demonstration of Need Study and what criteria will be used to determine if a demonstrated need has been met. This may result in time delays and additional costs to both the proponent and the City.
4. Transition provisions should be included in the Guidelines. Existing developments or applications in process should be taken into account, as well as existing zoning provisions that may or may not be negated by the requirements of the Guidelines.

The City of North Bay recommends that:

1. The Areas of Influence (AOI) and the Minimum Separation Distance (MSD) remain as guidelines and not be required to be included as part of the Official Plan.
2. The Province considers the scale of development in the application of the Guidelines. It should be recognized that not all facilities have the same level of impact and therefore do not need to meet the stringent tests outlined in the Guidelines.
3. The Guidelines should only apply where an Official Plan Amendment or Zoning By-law Amendment is being proposed that would introduce a new major facility or sensitive land use. Through its Official Plan, the City has determined where employment land and sensitive land uses, in particular residential land uses, are appropriate and are permitted.
4. The proposed requirement for the Demonstration of Need study be eliminated from the final version of the Province's Land Use Compatibility Guidelines. Through its Official Plan, the City has determined where sensitive land uses, in particular residential land uses, are appropriate and are permitted.

Should you have any questions or wish to discuss these comments in more detail please contact me at Beverley.hillier@northbay.ca or 705-474-0400 ext 2403.

Sincerely,



Beverley Hillier, MCIP, RPP
Manager, Planning & Building Services
City of North Bay

Copy to: Ian Kilgour, Director, Community Growth and Development
David Euler, Chief Administrative Officer
Mayor Al McDonald
Minister Victor Fedeli, Chair of Cabinet and Minister of Economic Development,
Job Creation and Trade