CORPORATION OF THE MUNICIPALITY OF MISSISSIPPI MILLS
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November 21, 2022

Province of Ontario
Environmental Registry of Ontario

Re: Bill 23, More Homes Built Faster *Act*, 2022

Please find attached comments relating to Bill 23 and its impact on the Municipality of Mississippi Mills. The attached report was presented to Committee of the Whole on November 1, 2022, and the following resolution was passed:

> *THAT Council receive this information and authorize the Planning Department to submit the Municipality's response to the Ministry of Municipal Affairs and Housing (via the Environmental Registry of Ontario) with respect to Bill 23, More Homes Built Faster, 2022 as detailed in this report, prior to November 24, 2022.*

While the intentions of the Bill are admirable, the Municipality requests that further consideration is given to the proposed changes and to the affect these changes will have on smaller municipalities in this province as contained in the attached report.

I trust the above will assist you. If you have any further questions regarding this matter, please feel free to contact me at your convenience.

Respectfully yours,

Melanie Knight, MCIP, RPP
Senior Planner
Municipality of Mississippi Mills

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THE CORPORATION OF THE MUNICIPALITY OF MISSISSIPPI MILLS

STAFF REPORT

DATE: November 1, 2022

TO: Committee of the Whole

FROM: Melanie Knight, Senior Planner

SUBJECT: Bill 23, More Homes Built Faster, 2022

RECOMMENDATION:

THAT Council receive this information and authorize the Planning Department to submit the Municipality's response to the Ministry of Municipal Affairs and Housing (via the Environmental Registry of Ontario) with respect to Bill 23, More Homes Built Faster, 2022 as detailed in this report, prior to November 24, 2022.

BACKGROUND:

On October 25, 2022, the Province introduced Bill 23, More Homes Built Faster which proposes notable changes to nine different Provincial Acts including the *Planning Act*, *Conservation Authorities Act* and *Development Charges Act.* The commenting period for the proposed changes closes on November 24, 2022.

If passed, the amendments will make substantial changes to *Planning Act* application processes (Official Plan Amendments, Zoning By-law Amendments, Plans of Subdivision, Consents, Site Plan Control and Minor Variances), limits the number of planning tools at the municipal level and proposes changes to other Acts which are directly related to development.

DISCUSSION:

This report highlights some of the proposed changes with a focus on the impact to the planning processes and development in the Mississippi Mills context.

Attachment A contains a full overview of all of the proposed changes to the above-noted Acts including a short explanation of the impacts to the Municipality.

Affordable Housing

The proposed changes include some relief for affordable housing developments from parkland dedication, development charges and other costs incurred with development. In March 2022, Council approved a number of exemptions for affordable housing as

part of the Housing Directions Report. The majority of these exemptions proposed by the Province are already in place in Mississippi Mills and so staff are anticipating little impact from these proposed changes.

Attainable Housing Criteria and Exemptions

Attainable Housing is a newer term that is being used to describe housing that may be provided slightly lower than the average market costs for purchasing a home or renting a unit.

The Province has introduced the below criteria for defining attainable housing to be included in the *Development Charges Act*:

> *A residential unit shall be considered to be an attainable residential unit if it meets the following criteria:*
>
> *1. The residential unit is not an affordable residential unit.*
> *2. The residential unit is not intended for use as a rented residential premises.*
> *3. The residential unit was developed as part of a prescribed development or class of developments.*
> *4. The residential unit is sold to a person who is dealing at arm's length with the seller.*
> *5. Such other criteria as may be prescribed.*

Staff are supportive of including criteria to define attainable housing as it assists municipalities in ensuring that there is a clear definition and common understanding of what attainable housing is; however, staff note that the above definition is unclear and that some elements of the above noted definition are problematic.

It appears based on the above criteria, that an attainable residential unit is meant for home ownership as opposed to rental. Staff note that this clarity is included in a different section of the *DC Act* as follows:

> *Attainable residential unit, exemption from development charges*
>
> *(10) The creation of a residential unit that is intended to be an attainable residential unit* ***when the unit is first sold is exempt from development charges****.*

This means that full DC exemption would be given for only the first sale of the unit. There does not appear to be any control over subsequent sales of the unit after the first sale is complete and DC exemption has been given.

With respect to criteria #2, it would be challenging for a municipality to regulate in any way that ensures that an attainable unit is not rented. There are so many different ways that a property owner can advertise for a unit for rent (Air B&B, rental websites etc.), it

would be difficult for staff to ensure that the unit is not rented and to monitor this in the future.

Overall, staff note the criteria above should be amended to provide greater clarity for implementation at the municipal level with respect to any Development Charge (DC) exemptions and waiver of parkland requirements (or cash-in-lieu) with respect to attainable housing.

Parkland Dedication (and cash-in-lieu)

The *Planning Act* currently contains provisions requiring developments to either convey land for parkland purposes or to provide cash-in-lieu (CIL) of parkland. The municipality has had a by-law pertaining to conveyance of parkland or CIL at a rate of 5% of land or the equivalent value for subdivisions and a flat rate for CIL required at the consent stage.

Type of Parkland

Typically, the best practice for parkland conveyance has been for the Municipality to accept unencumbered lands, located in a suitable location and size to meet the needs of the development and the overall Municipality. The proposed changes will impact the ability of the municipality to obtain suitable parkland as one of the proposed changes permits the parkland to be conveyed as 'encumbered' which means that the Municipality may be obligated to accept parkland which contains easements, underground infrastructure or other underground features such as underground parking (referred to as 'strata parks'). Staff are not supportive of this change as it may limit the Municipality's ability to develop or revitalize parkland that is encumbered by easements or underground infrastructure.

Location of Parkland

The proposed changes allow a developer to propose a parkland location with the ability to appeal the issue to the Ontario Land Tribunal (OLT) if the Municipality is not in agreement with the proposed location.

Use of Cash-in-lieu of Parkland Funds

Finally, the proposed changes will require the Municipality to dedicate or allocate at least 60% of the CIL funds on an annual basis. Staff are not supportive of this change will require additional burden to develop a spending plan for parkland funds on an annual basis whereas currently, the funds can be held year over year to allow for the flexibility to spend the funds on specific projects or to hold the funds until such time that enough monies are accumulated to allocate the funds to a large project.

Development Charges (DCs)

There are a number of changes proposed to DCs with respect to exemptions, timing of by-laws, required spending of DCs, and what DCs can be used for. Staff will review the proposed changes further and provide Council with a more fulsome review in the future.

Removal of Upper Tier approval powers

While the proposed changes do not impact Lanark County with respect to the existing County planning approval authority, it is important to note the substantial change to the relationship between upper and lower-tier municipalities proposed in Bill 23. There are five GTA upper tier municipalities (as well as Waterloo Region and Simcoe County) who are losing their planning approval authority. It is also noted that the proposed changes include the ability for the Lieutenant Governor to add additional municipalities to the list of "upper-tier governments without planning responsibilities" through a change in Regulation.

Removal of Site Plan Control for Residential Developments 10 units or Less

In the Municipality's new Site Plan Control By-law, townhouse developments that are within newly approved subdivisions are exempt from Site Plan Control; however, Site Plan approval is required for infill developments (single, semi, duplex, triplex, townhouses) in existing neighbourhoods, typically referred to as 'infill'. In addition, the Municipality's Site Plan Control By-law also requires Site Plan approval for secondary dwelling units.

When developing the new Site Plan Control By-law, staff created a new classification of Site Plan "Lite" for the above noted developments. This process is at a reduced cost and a streamlined process for approval. The Site Plan Control process for these types of developments ensures that the development is compatible in design, includes landscape features such as tree retention and tree planting, ensures that grading and drainage are reviewed, and regulates off-site works such as road cuts and servicing connections. It also allows the Municipality to hold securities until the development is complete to ensure that it has been constructed according to the approved plans.

Staff are not supportive of these proposed changes as they will eliminate the Municipality's ability to regulate development of 10 units or less through Site Plan Control. This change will impact the Municipality's ability to regulate the quality of development with respect to grading and drainage, built form, design and landscaping. It will also limit the ability of staff to implement Council approved Design Guidelines. This change will also add an additional burden to staff to develop a separate process to permit the review and approval of development as it pertains to off-site works for road cuts, traffic control measures during development and servicing connections which may have a negative impact to municipal infrastructure.

Limitations to Site Plan Control

In addition to the above noted concerns regarding the limitations of regulating infill development, the proposed changes also include the removal of any control over design and landscaping details for any developments regulated through Site Plan Control. As a result, the Municipality will lose the ability through Site Plan Control to influence the

urban design features of developments (built form, materials, fenestration, active street frontage) and the design of landscaping details related to development.

Staff are not supportive of these proposed changes as it will limit the ability to implement Council approved Design Guidelines and to ensure that new development is sympathetic to the context of the area, reflects compatible built form and materials and will limit staff's ability to influence and require landscape design (such as tree planting) through Site Plan Control.

Intensification

As Committee is aware, staff recently brought forward an update to the Zoning By-law to the provisions for Secondary Dwelling Units. With the proposed changes, regardless of the Municipality's Zoning By-law, the *Planning Act* would override any existing zoning permitting three units per lot on municipal services. This means that if a residential use (single, semi, triplex, townhouse) is permitted in a zone, automatically, the residential use can be converted up to three units by way of a building permit only. In the case of a detached unit (such as a secondary dwelling unit within a detached garage) the main dwelling can be converted to two units. Through the proposed changes, municipalities maintain the right (through the Zoning By-law) to require no more than one parking space for each additional residential unit.

While staff are supportive of development providing more residential units within our serviced settlement (Almonte), the potential increase to the number of units per lot (as long as sufficient parking is provided) will have unknown impacts. These impacts would be cumulative over time and can include increased demands on infrastructure and potentially loss of greenspace and trees on properties to accommodate additional required parking and there may be other unanticipated impacts (both positive and negative) to the outright permission of each residential home having the ability to transition to a multi-unit residential dwelling.

Staff also note that there is little direction in the proposed legislation with respect to the allocation of density as it pertains to the Municipality's long-term population projections and impacts to accommodate growth within the existing urban boundary and possibly any future boundary expansions.

In light of the foregoing, staff are not supportive of these proposed changes and suggest that the legislation be amended to allow for Municipality's *the option* to implement changes such as this at the local level within the context of Mississippi Mills.

Elimination of Public Meetings for Subdivisions and Third-Party Appeals

As part of Bill 108 in 2019, the *Planning Act* was amended to eliminate third party appeals for subdivision applications. The proposed changes in Bill 23 now include the elimination of the required public meeting for a Plan of Subdivision application. Staff highlight this evolution (from elimination of third-party appeals to no public meeting)

because Bill 23 is proposing the elimination of all third-party appeals for all remaining *Planning Act* applications (Official Plan Amendments, Zoning By-law Amendments, Minor Variances, Consents).

While this change may be welcomed in some contexts, it should be noted that based on the changes made to the subdivision process through Bill 108 and now Bill 23, it may very well be that future changes to the *Act* will include the elimination of public meetings for additional (or all) other *Planning Act* applications. The elimination of any part of the public process which forms an integral part of the *Act* and the municipal planning process is a substantial and notable change.

There are also many different alternatives that could have been included in the proposed legislation that do not completely eliminate third party appeal rights. Alternative approaches such as including eliminating appeal rights for Zoning By-law Amendments that are related to a subdivision application (to be consistent with the current appeal rights for subdivisions) or limiting appeal rights for certain types of other applications such as local Official Plan Amendments that are consistent with the County Official Plan policies or Zoning By-law Amendments which are consistent with a lower tier Official Plan.

Staff are concerned that the elimination of third-party appeals for all types of planning applications could have negative impacts at the municipal level including reduced public participation in the planning process whereby residents and stakeholders may be less likely to be engaged in the planning process knowing there is no right of appeal.

Staff are also concerned that these proposed changes may reduce the motivation of some developers to engage community members, stakeholders and residents knowing that third party appeal rights are no longer a consideration in the planning process. Despite these concerns, staff are confident that continued engagement, discussions and a transparent planning process with Council, staff, applicants and the public will be maintained at the local level and relationships with all parties will continue to be built as part of the local planning process.

SUMMARY:

On October 25, 2022, the Province introduced Bill 23, More Homes Built Faster which proposes notable changes to nine different Provincial Acts including the *Planning Act*, *Conservation Authorities Act* and *Development Charges Act.*

As noted in this report, if passed, the amendments will make substantial changes to *Planning Act* application processes, will limit the number of planning tools at the municipal level and proposes changes to other Acts which are directly related to development.

The commenting period for the proposed changes closes on November 24, 2022. In light of the substantial changes, the short commenting period and the limitation of

Council meetings (due to the election) before the commenting period closes, it is recommended that Council direct staff to submit the comments contained in this report to the Environmental Registry of Ontario

Respectfully submitted by,

Melanie Knight, MCIP, RPP
Senior Planner

Reviewed by:

Ken Kelly
CAO

ATTACHMENTS:

1. ATTACHMENT A: Table outlining Bill 23 Changes and effect on Mississippi Mills

Attachment A – Table outlining Bill 23 Changes and effect on Mississippi Mills

Issue/*Act*	Proposed Changes	Impact to Mississippi Mills
Inclusionary zoning/ Affordable and Attainable Housing	• Introduce criteria to define "attainable housing"	• **Need clarification** - Proposed criteria for attainable housing is unclear, will need further clarification to understand the effect.
	• Exempt affordable housing (generally defined as being priced at no greater than 80% of the average price/rent in the year a unit is rented or sold) and attainable housing and inclusionary zoning units from DC, Community Benefits Charges and parkland dedication	• **Impact on DC's**; however, Council has already amended the parkland by-law, fees and charges by-law to exempt affordable housing. • **No impact re: Community Benefits Charges (CBC)** - Mississippi Mills does not have a CBC by-law
	• An upper limit of 5% of the total number of units in a development that can be required to be affordable as part of inclusionary zoning, and a maximum period of 25 years over which the units would be required to remain affordable	• **No impact -** Mississippi Mills does not have inclusionary zoning (limited to areas around transit stations)
Parkland	• The maximum amount of land that can be conveyed or paid in lieu is capped at 10% of the land or its value for sites under 5 ha, and 15 % for sites greater than 5 ha • Maximum alternative dedication rate reduced to 1 ha/600 units for land and 1 ha/1000 units for cash in lieu	• **No impact** – Mississippi Mills Parkland By-law requires 5% of land or the equivalent value in cash-in-lieu
	• Parkland rates frozen as of the date that a zoning by-law or site plan application is filed. Freeze remains in effect for two years	• **No impact** – Mississippi Mills practice is to charge parkland rates as per the date of a complete application

Issue/*Act*	Proposed Changes	Impact to Mississippi Mills
	following approval. If no building permits are pulled in that time, the rate in place at the time the building permit is pulled would apply	
	• Encumbered parkland/strata parks, as well as privately owned publicly accessible spaces (POPS) to be eligible for parkland credits	• **Impact** - could affect quality of parkland in the future depending on the location and encumbrances
	• Landowners can identify land they intend to provide for parkland, with the municipality able to appeal to the Tribunal if there is a disagreement	• **Impact** – currently Mississippi Mills staff identify suitable locations for parkland. May impact the preferred locations of parks.
	• Parks plans to be required prior to the passing of any future parkland dedication by-law (would not apply to by-laws already passed)	• **Impact** - may affect future Parkland By-law. Mississippi Mills currently has a Parkland By-law in place
	• Parkland dedication will apply to new units only (i.e., no dedication can be imposed for existing units)	• **No impact –** Mississippi Mills only applies parkland dedication to new units
	• Municipalities will be required to spend or allocate 60% of parkland reserve funds at the start of each year	• **Impact** – Will add additional burden to staff to develop a spending plan/allocation of cash in lieu of parkland funds in 2023
Development Charges	• Five year phase in of DC rate increases, beginning with a 20% reduction in the first year, with the reduction decreasing by 5% each year until year five when the full new	• **Impact** – Will impact DC rates, by-law expiry dates, requirement on spending of reserves and can no longer collect DC's for studies.

Issue/*Act*	Proposed Changes	Impact to Mississippi Mills
	rate applies. This is proposed to apply to all new DC by-laws passed since June 1, 2022 • Historical service level for DC eligible capital costs (except transit) extended from 10 to 15 years • DC by-laws will expire every 10 years, instead of every five years. By-laws can still be updated any time • Cap the interest paid on phased DCs for rental, institutional and non-profit housing to prime plus 1% • New regulation authority to set services for which land costs would not be an eligible capital cost recoverable through DCs • Exclude the cost of studies (including background studies) from recovery through DCs • Municipalities will be required to spend at least 60% of DC reserves for priority services (i.e., water, wastewater and roads). • Discount for purpose built rental units, with a higher discount for larger units, on top of the existing DC freeze and deferral of payments over five years	
Community Benefits Charges	• Maximum CBC payable to be based only on the value of land proposed for new development, not the entire parcel that may have existing development • Maximum CBC to be discounted by 4% of land value divided by the existing building	• **No impact** - Mississippi Mills does not have a CBC by-law in place

Issue/*Act*	Proposed Changes	Impact to Mississippi Mills
	size, as a proportion to total building square footage	
Removal of Upper Tier approval powers	• All upper tier municipalities in the Greater Toronto Area, as well as Waterloo and Simcoe will be removed from the Planning Act approval process for both lower tier official plans and amendments and plans of subdivision and consents	• **No impact (at this time)** – Lanark County is not listed as one of the upper tier municipalities to be removed from *Planning Act* process; however, Lieutenant Governor can add additional Municipalities to the list of "upper-tier governments without planning responsibilities" through Regulation
Zoning for Transit Stations	• Municipalities will be required to update zoning to include minimum heights and densities within approved Major Transit Station Areas (MTSA) and Protected MTSAs within one year of MTSA/PMTSA being approved	• **No impact**
No third-party appeals	• No one other than the applicant, the municipality, certain public bodies, and the Minister will be allowed to appeal municipal decisions to the Tribunal. This applies to all Planning Act decisions (including consents and minor variances) • Existing third-party appeals where no hearing date has been set as of October 25 will be dismissed. The scheduling of a case management conference or mediation will not be sufficient to prevent an appeal from being dismissed	• **Impact** – removes all third-party appeals (such as residents, members of the public) for all types of Planning *Act* applications (Official Plan Amendments, Zoning By-law Amendments, Minor Variances, Consents). • **Impact** – any appeals in progress where the appellant is a third party and no hearing date is set, the appeal is automatically dismissed.
Intensification	• Regardless of the Municipality's Zoning By-law, allows up to three units per lot (in a serviced settlement):	• **Impact -** as of right zoning to permit up to three residential units per lot. This applies to a "parcel of urban residential land" which is defined as a lot

Issue/*Act*	Proposed Changes	Impact to Mississippi Mills
	○ Three units in the primary residential building, or up to two units in the primary residential building and one unit in a detached building	where a residential use is permitted and on municipal services (Almonte).
	• No minimum unit sizes	• **No impact** – staff are already proposing removing the minimum unit sizes from the Housekeeping By-law
	• New units built under this permission would be exempt from DC/CBC and parkland requirements, and no more than one additional parking space can be required	• **No impact** – additional units are already exempt under DC's and the Zoning By-law update for Secondary Dwelling Units already requires one parking space per unit
Subdivision Process	• Public meetings no longer will be required for applications for approval of a draft plan of subdivision	• **Impact** - County is no longer required to hold public meetings for subdivision applications
Site Plan Control	• Developments of up to 10 residential units will be exempted from site plan control	• **Impact –** Will require changes to the current Site Plan Control by-law which requires Site Plan for infill developments and will require a different process for the Municipality to collect securities for road cuts and servicing connections
	• Architectural details and landscape design aesthetics will be removed from the scope of site plan control	• **Impact** - Removes staff's ability to require design changes and changes on landscaping details
Heritage	• Municipalities will not be permitted to issue a notice of intention to designate a property under Part IV of the Ontario Heritage Act unless the property is already on the heritage register when the current 90 day requirement for Planning Act applications is triggered	• **Impact** – will impact the Municipality's ability to designate heritage properties

Issue/*Act*	Proposed Changes	Impact to Mississippi Mills
	• Heritage registers to be reviewed and a decision made whether listed properties are to be designated, and if not, removed from the register • A process is proposed which will allow Heritage Conservation District Plans to be amended or repealed • Criteria for Heritage Conservation District Plans can be established for regulation	• **Impact** – will add additional staff resources to monitor, track and remove properties from the Heritage register • **Impact –** may impact future Heritage Conservation Districts and any amendments/ updates.
Ontario Land Tribunal procedures	• The Tribunal will have increased powers to order costs against a party who loses a hearing at the Tribunal • The Tribunal is being given increased power to dismiss appeals for undue delay • The Attorney General will have the power to make regulations setting service standards with respect to timing of scheduling hearings and making decisions • Regulations can also be made to establish priorities for the scheduling of certain matters	• **Impact** – only impact if/when Planning *Act* applications are appealed to the OLT
Rental Replacement	• Minister to be given the authority to enact regulations related to the replacement of rental housing when it is proposed to be demolished or converted as part of a proposed development	• **Unknown Impact** – more details are required
Aggregate Resources	• Decisions on aggregate applications will be delegated to staff (instead of the Minister)	• **Impact** – may add additional burden to staff for decisions

Issue/*Act*	Proposed Changes	Impact to Mississippi Mills
	• Planning Act applications for aggregate proposals will be exempt from the two-year freeze on applications to amend new official plans, secondary plans and zoning by-laws	• **Impact** – will provide applicants more flexibility to establish aggregate uses
Natural Heritage Planning	• A program to offset development pressures on wetlands is being considered, which will require a net positive impact on wetlands. The language appears to contemplate that wetlands can be developed provided a net positive impact is demonstrated • The Wetland Evaluation System is also being revised, and the proposed changes would eliminate the concept of wetland complexes	• **Unknown impact** – more details are required
Conservation Authorities	• A single regulation is proposed for all 36 Authorities in the province • Clear limits are proposed on what Authorities are permitted to comment on as part of the planning approvals process, which will keep their focus on natural hazards and flooding	• **Unknown impact** – more details are required and will need to discuss with MVCA staff further.
Consumer Protection	• Proposed increases to penalties under the New Homes Construction Licensing Act, 2017 of up to $50,000	• **Unknown Impact** – may provide greater protection for new homeowners