

November 22, 2022

File: 12-03-3531

Hon. Steve Clark, Minister of Municipal Affairs and Housing
Ministry of Municipal Affairs and Housing
Sent online via ERO posting 019-6163

Re: City Comments on Bill 23, “More Homes Built Faster Act, 2022”

Please be advised that City Council at a meeting held on November 21, 2022 dealt with the above-noted matter and adopted the following recommendation:

- “1. That Report CNCL-22-78 dated November 16, 2022, including Attachments 4 to 9, be endorsed as the City’s comments on the Province’s proposed amendments under Bill 23, “More Homes Built Faster Act, 2022” to the Planning Act, to Ontario Regulations 232/18 and 299/19 under the Planning Act, the Development Charges Act, the Ontario Heritage Act and the Conservation Authorities Act, as well as the Province’s review of the Provincial Policy Statement, 2020 and “A Place to Grow: Growth Plan for the Greater Golden Horseshoe.”; and,
2. That staff be authorized to submit the comments contained in Report CNCL-22-78 dated November 16, 2022 relating to the proposed amendments under Bill 23 to the Planning Act (including two regulations under this Act), the Development Charges Act, the Ontario Heritage Act and the Conservation Authorities Act, as well as the review of the Provincial Policy Statement, 2020 and the Growth Plan in response to the associated proposals posted on the Environmental Registry of Ontario website; and,
3. That staff be authorized to forward a copy of Report CNCL-22-78 dated November 16, 2022 and the related Council resolution to the Association of Municipalities of Ontario, Ontario Big City Mayors, the Region of Durham, Durham area municipalities, Durham area M.P.P.s and the City’s Building Industry Liaison Team, which includes the Durham Chapter of the Building Industry and Land Development Association and the Durham Region Home Builders’ Association.”

Please find enclosed a copy of Report CNCL-22-78 for your consideration in response to the above-noted ERO posting.

If you require further information or clarification, please contact me at the address shown or by telephone at (905) 436-3311, extension 2818 or by email to lmoebs@oshawa.ca.

A handwritten signature in black ink that reads "LMoebs". The letters are cursive and connected.

Laura Moebis, MCIP, RPP, Principal Planner
Policy
Planning Services

LM/k

Attachment

To: Council in Committee of the Whole

From: Warren Munro, HBA, RPP, Commissioner,
Development Services Department

Report Number: CNCL-22-78

Date of Report: November 16, 2022

Date of Meeting: November 21, 2022

Subject: City Comments on Bill 23, "More Homes Built Faster Act, 2022"

Ward: All Wards

File: 12-03-3531

1.0 Purpose

The purpose of this Report is to obtain Council endorsement of City comments on:

1. The Province's proposed amendments under Bill 23 "More Homes Built Faster Act, 2022" ("Bill 23" – see Attachment 1) to:
 - The Planning Act, R.S.O. 1990, c. P.13 (the "Planning Act") including proposed amendments to Ontario Regulation 232/18 regarding Inclusionary Zoning ("O. Reg. 232/18") and Ontario Regulation 299/19 regarding Additional Residential Units ("O. Reg. 299/19"), which are regulations under the Planning Act;
 - The Development Charges Act, 1997, S.O. 1997, c. 27 (the "Development Charges Act");
 - The Ontario Heritage Act, R.S.O. 1990, c. O.18 (the "Ontario Heritage Act"); and,
 - The Conservation Authorities Act, R.S.O. 1990 (the "Conservation Authorities Act").
2. The Province's review of the Provincial Policy Statement, 2020 (the "P.P.S.") and "A Place to Grow: Growth Plan for the Greater Golden Horseshoe" (the "Growth Plan") under Bill 23 (see Attachment 2).

Bill 23 consists of proposed amendments to the following legislation:

- Planning Act, including both O. Reg. 232/18 and O. Reg. 299/19;
- City of Toronto Act, 2006, S.O. 2006, C. 11, Sched. A ("City of Toronto Act");
- Development Charges Act;
- Ontario Heritage Act;

- Conservation Authorities Act;
- Municipal Act, 2001, S.O. 2001, C.25;
- Ontario Land Tribunal Act, 2021, S.O. 2021, C.4, Sched. 6;
- Ontario Underground Infrastructure Notification System Act, 2012, S.O. 2012, c.4;
- New Home Construction Licensing Act, 2017 S.O. 2017, c.33, Sched. 1; and,
- Ontario Building Code (under the Building Code Act, 1992, S.O. 1992, c. 23).

Bill 23 also consists of the following new proposed legislation:

- Supporting Growth and Housing in York and Durham Regions Act, 2022

Bill 23 also includes a review of various Provincial housing and land use policies, consisting of the following:

- The P.P.S. and the Growth Plan;
- The Parkway Belt West Plan;
- The Central Pickering Development Plan;
- Conserving Ontario's Natural Heritage;
- Ontario Wetland Evaluation System Proposal; and,
- Potential measures to support "Rent-to-Own" arrangements.

Additional information on Bill 23 and the proposed amendments to the various Acts and regulations and the review of various Provincial housing and land use policies can be found at the following link: <https://ero.ontario.ca/notice/019-6162>.

For the purposes of this Report, staff are only providing comments on the following:

- The Province's proposed amendments under Bill 23 to the Planning Act (including two Regulations under this Act), the Development Charges Act, the Ontario Heritage Act and the Conservation Authorities Act; and,
- The Province's review of the P.P.S. and the Growth Plan under Bill 23, as well as general comments on Bill 23.

The Province's proposed amendments to the various Acts and Regulations and the review of various Provincial housing and land use policies were posted on the Environmental Registry of Ontario's ("E.R.O.") website and Ontario's Regulatory Registry website on October 25, 2022, with comments due on various dates. Attachment 3 provides a list of the E.R.O. postings under Bill 23 for which staff have prepared comments for Council's endorsement through this Report.

Attachment 1 is a copy of Bill 23, which was introduced into the Ontario Legislature with first reading on October 25, 2022. Owing to the size of the document, it is not attached to this Report but a copy of Bill 23 can be viewed at the following link: https://www.ola.org/sites/default/files/node-files/bill/document/pdf/2022/2022-10/b023_e.pdf.

Attachment 2 is a copy of the information related to the review of the Growth Plan and P.P.S., which was introduced on October 25, 2022. The information can be viewed at the following link: <https://ero.ontario.ca/notice/019-6177>.

Attachment 3 is a list of the E.R.O. postings under Bill 23 for which staff have prepared comments for Council's endorsement through this Report.

Attachment 4 presents staff comments on the proposed amendments to the Planning Act, including comments on O. Reg. 232/18 and O. Reg. 299/19 under the Planning Act.

Attachment 5 presents staff comments on the proposed amendments to the Development Charges Act.

Attachment 6 presents staff comments on the proposed amendments to the Ontario Heritage Act.

Attachment 7 presents staff comments on the proposed amendments to the Conservation Authorities Act.

Attachment 8 presents staff comments on the review of the P.P.S. and the Growth Plan.

Attachment 9 presents general staff comments on Bill 23.

2.0 Recommendation

1. That Report CNCL-22-78 dated November 16, 2022, including Attachments 4 to 9, be endorsed as the City's comments on the Province's proposed amendments under Bill 23, "More Homes Built Faster Act, 2022" to the Planning Act, to Ontario Regulations 232/18 and 299/19 under the Planning Act, the Development Charges Act, the Ontario Heritage Act and the Conservation Authorities Act, as well as the Province's review of the Provincial Policy Statement, 2020 and "A Place to Grow: Growth Plan for the Greater Golden Horseshoe."
2. That staff be authorized to submit the comments contained in Report CNCL-22-78 dated November 16, 2022 relating to the proposed amendments under Bill 23 to the Planning Act (including two regulations under this Act), the Development Charges Act, the Ontario Heritage Act and the Conservation Authorities Act, as well as the review of the Provincial Policy Statement, 2020 and the Growth Plan in response to the associated proposals posted on the Environmental Registry of Ontario website.
3. That staff be authorized to forward a copy of Report CNCL-22-78 dated November 16, 2022 and the related Council resolution to the Association of Municipalities of Ontario, Ontario Big City Mayors, the Region of Durham, Durham area municipalities, Durham area M.P.P.s and the City's Building Industry Liaison Team, which includes the Durham Chapter of the Building Industry and Land Development Association and the Durham Region Home Builders' Association.

3.0 Executive Summary

Not applicable.

4.0 Input From Other Sources

The following have been consulted in the preparation of this Report:

- Chief Administrative Officer
- Commissioner, Finance Services
- Commissioner, Community Services
- City Solicitor

5.0 Analysis

5.1 More Homes Built Faster: Ontario's Housing Supply Action Plan: 2022-2023

On October 25, 2022, the Ministry of Municipal Affairs and Housing released a bulletin on the E.R.O. website entitled "Consultations on More Homes Built Faster: Ontario's Housing Supply Action Plan 2022-2023". The bulletin can be viewed at the following link: <https://ero.ontario.ca/notice/019-6162>.

To support More Homes Built Faster: Ontario's Housing Supply Action Plan: 2022-2023 (the "Action Plan"), the government introduced the More Homes Built Faster Act, 2022 under Bill 23 (see Attachment 1). If passed, Bill 23 aims to ensure that cities, towns, and rural communities grow with a mix of ownership and rental housing types that meet the needs of all Ontarians.

Over the past decade, the price of a home has risen at more than double the rate of household income. As a result, rent and home prices continue to be out of reach for many. Experts have advised that this is due to a structural undersupply of housing. As well, housing construction has not kept up pace with Ontario's growing population. Ontario's housing stock has to both catch up and keep up with population growth projections. As a result, the Province is committed to building 1.5 million homes over the next ten years.

The proposed Action Plan and Bill 23 are intended to provide the groundwork for growth and to achieve the goal of 1.5 million new homes over the next ten years in Ontario by:

- Reducing the bureaucratic costs and red tape that are delaying construction and pushing home prices even higher;
- Promoting construction near transit and reforming zoning to create more "gentle density"; and,
- Protecting homebuyers and utilizing Provincial lands to build more attainable homes.

A high-level overview of the Action Plan includes the following actions:

1. Building more homes by:
 - Addressing the “missing middle”
 - Building more homes near transit
 - Implementing municipal housing targets
2. Reducing costs, fees, and taxes by:
 - Freezing, reducing and exempting fees
 - Reducing taxes on affordable housing
 - Implementing inclusionary zoning and rental replacement rules
3. Streamlining development approvals by:
 - Streamlining processes
 - Improving the Ontario Land Tribunal (“O.L.T.”)
 - Reviewing heritage planning
4. Helping homebuyers and renters by:
 - Offering new attainable housing program
 - Addressing vacant homes
 - Protecting homebuyers
5. Better planning by:
 - Reviewing planning policy
 - Identifying more land for housing
 - Focusing schools in urban growth areas

Ultimately, the Action Plan attempts to address the housing crisis by reducing government fees and fixing development approval delays that slow housing construction and increase costs. The Province intends to reform these processes at the Provincial and municipal levels to ensure that all Ontarians can find a home that meets their needs and budgets.

5.1.1 Municipal Housing Targets

One of the actions identified in the Action Plan is to implement new municipal housing targets for 29 of Ontario’s largest and fastest-growing municipalities to accelerate growth to meet Ontario’s goal of building 1.5 million homes by 2032. These targets are being implemented with the hope that they help to kick start development by highlighting the need for municipal infrastructure, such as roads and sewers.

The Province will assign housing targets based on population size and growth to each municipality and require them to develop pledges outlining how they will help kick start development to meet the target. The pledges are not intended to replace existing municipal plans. Rather, they are to be a concise set of actions and process improvements to accelerate plans to meet the need for housing head on.

The proposed target for the City of Oshawa assigned by the Province is to build 23,000 units by 2032.

5.2 Planning Act Changes resulting from Bill 23, More Homes Built Faster Act, 2022

The following sections outline the proposed changes to the Planning Act, including amendments to O. Reg. 232/18 and O. Reg. 299/19 under the Planning Act, resulting from Bill 23.

5.2.1 Proposed Changes to the Planning Act under Schedule 9 of Bill 23

The proposed amendments to the Planning Act under Schedule 9 of Bill 23, if passed, would, among other matters, address:

- The missing middle by:
 - Permitting “as-of-right” zoning (i.e. without the need to apply for a zoning by-law amendment) to permit up to three residential units per lot in most existing residential areas (e.g. two units in the main building and one in an accessory building). This would supersede local official plans and zoning to automatically apply Province-wide to any parcel of land where residential uses are permitted in settlement areas with full municipal water and sewage services. These units would be exempt from development charges, parkland dedication or cash-in-lieu requirements. Municipalities will be restricted from applying minimum unit sizes or requiring more than one parking space per unit in respect of any additional unit (i.e. a second or third unit) in a primary building and any unit in an ancillary structure.
- Support for higher density around transit by:
 - Implementing “as-of-right” zoning for transit supportive densities in specified areas around transit stations, known as “Major Transit Station Areas” (M.T.S.A.s) and “Protected Major Transit Station Areas (P.M.T.S.A.s).
 - Municipalities would be required to update their zoning by-laws to permit transit-supportive densities as-of-right within one year of M.T.S.A. or P.M.T.S.A. approval.
- Streamlining municipal planning responsibilities by:
 - Removing the planning policy and approval responsibility from all upper-tier municipalities in the Greater Toronto Area (including Durham Region), as well as in the Region of Waterloo and the County of Simcoe.
 - Identifying through future regulations which official plans and amendments would be exempt from approval by the Minister of Municipal Affairs and Housing (i.e. which lower-tier plans and amendments of the lower-tier municipality would need no further approval). All official plans and amendments not identified through future regulations as being exempt from approval would need to go to the Minister for approval (i.e. the Minister would become the approval authority for all non-exempt lower-tier official plans and official plan amendments), and the Minister’s decisions are not subject to appeal.

- Limiting third party appeals by:
 - Clarifying that no one other than the applicant, the municipality, certain public bodies and the Province would be allowed to appeal municipal decisions to the O.L.T. This would apply for all planning matters (e.g. official plans, official plan amendments, zoning by-laws, zoning by-law amendments, consents and minor variances).
- Reducing public meetings (plans of subdivision) by:
 - Removing the public meeting requirements for draft plans of subdivision.
- Changes to site plan control by:
 - Exempting all aspects of site plan control for residential development up to 10 units.
 - Limiting the scope of site plan control by removing the ability for municipalities to regulate architectural details and landscape design.
- Streamlining the approval process for Land Lease Communities by:
 - Allowing Land Lease Communities to be approved through site plan control instead of plans of subdivision so that they can leverage a maximum lease period of up to 49 years (up from the maximum permitted 21 years without a land division approval).
- Facilitating aggregate applications by:
 - Removing the two-year freeze on applications to amend new official plans, secondary plans and zoning by-laws in respect of mineral aggregate operations.
- Conservation Authorities by:
 - Limiting Conservation Authority appeals of land use planning decisions (to keep their focus on natural hazards and flooding).
 - Broadening the ability of Conservation Authorities to use an existing streamlined process to sever and dispose of land.
- Parkland by:
 - Updating the maximum alternative parkland dedication rate to:
 - One hectare for each 600 dwelling units for the purposes of land conveyed (from the existing rate of one hectare for each 300 dwelling units); and,
 - One hectare for each 1,000 dwelling units for the purposes of cash payment in-lieu of land (from the existing rate of one hectare for each 500 dwelling units).

- Requiring that no more than 15% of the amount of developable land could be required for parks or other recreational purposes for sites greater than five hectares, and no more than 10% for sites five hectares or less.
- Freezing parkland dedication rates for two years from the date that the relevant application is approved.
- Clarifying that parkland dedication would only apply to new units.
- Clarifying that developers would be able to identify land, including encumbered land and privately owned public spaces, that would count towards municipal parkland dedication requirements.
- Clarifying that, in cases where disputes arise about the suitability of land for parks and recreational purposes, the matter could be appealed to the O.L.T.
- Exempting affordable housing units in a development subject to inclusionary zoning and non-profit housing developments from the parkland dedication requirements. The exemption would be implemented by discounting the maximum parkland rate of 5% of land or its value based on the number of affordable housing units to be built as a proportion of total units in a particular development.
- Requiring municipalities to develop a parks plan before passing a parkland dedication by-law.
- Requiring municipalities to allocate or spend at least 60% of their parkland reserve balance at the start of each year.
- Changes to Community Benefits Charges (“C.B.C.”) by:
 - Clarifying that the maximum C.B.C. payable is based only on the value of land proposed for new development and not the entire parcel that may be already developed.
 - Clarifying that the maximum C.B.C. is discounted by 4% of land value divided by the existing building size, as a proportion of total building square footage.

Attachment 4 provides staff comments on the proposed amendments to the Planning Act under Bill 23.

5.2.2 Proposed Amendments Under Bill 23 to O. Reg. 232/18: Inclusionary Zoning

Inclusionary zoning is a land use planning tool, authorized under the Planning Act, that municipalities may use to require affordable housing units to be included in residential developments of 10 or more units in identified P.M.T.S.A.s or in Community Planning Permit System areas ordered by the Minister. Inclusionary zoning can be a useful tool to facilitate the supply of affordable housing in areas that generally have characteristics such as growth pressures, high housing demand and availability of higher order transit.

The proposed amendments to O. Reg. 232/18 under Bill 23, if passed, would:

- Establish an upper limit on the number of units that would be required to be set aside as affordable, set at 5% of the total number of units (or 5% of the total gross floor area of the total residential units, not including common areas);
- Establish a maximum period of twenty-five years over which the affordable housing units would be required to remain affordable; and,
- Prescribe the approach to determining the lowest purchase price/market rent that can be required for inclusionary zoning units, set at 80% of the average purchase price of ownership units or 80% of the average market rent for rental units. The average purchase price and average market rent will be defined in a new bulletin published by the Ministry of Municipal Affairs and Housing.

Attachment 4 provides staff comments on the proposed amendments to O. Reg. 232/18 under the Planning Act, under Bill 23.

5.2.3 Proposed Amendments to O. Reg. 299/19: Additional Residential Units under Bill 23

The proposed amendments to O. Reg. 299/19 under Bill 23, if passed, would:

- Allow “as-of-right” up to three units per lot in most existing residential areas (e.g. up to three units allowed in the primary building, or up to two units allowed in the primary building and one unit allowed in an ancillary building);
- Supersede local official plans and zoning to automatically apply a Province-wide policy to any parcel of land where residential uses are permitted in settlement areas with full municipal water and sewage services (excepting for legal non-conforming uses such as existing houses on hazard lands); and,
- Prohibit municipalities from imposing development charges, parkland dedication or cash-in-lieu requirements, and from applying minimum unit sizes or requiring more than one parking space per additional unit.

Attachment 4 provides staff comments on the proposed amendments to O. Reg. 299/19 under the Planning Act, under Bill 23.

5.3 Proposed Changes to the Development Charges Act Under Bill 23

The proposed amendments to the Development Charges Act under Bill 23, if passed, would, among other matters, support:

- Setting maximum interest rates for development charge (“D.C.”) freezes and deferrals by:
 - Providing for more consistent municipal interest rate charges that apply during the period that D.C.s are frozen and/or deferred, a maximum interest rate of Canadian

Banks prime rate plus 1% per annum would be set for these periods as of June 1, 2022.

- Clarifying that the municipal interest rate charge would apply to the freeze and deferral period from the date the applicable application is received to the date the development charge is payable.
- Reducing development costs to enable more housing to be built faster by:
 - Applying a discount to required D.C. payments over a five-year period commencing from when rates in a new D.C. by-law come into effect, with the size of the discount decreasing year-by-year. Specifically, in year one (1), all D.C. rates would be discounted by 20%, meaning that a developer would only have to pay 80% of the charge specified in the new D.C. by-law. In year two (2), the size of the discount would decrease to 15%. In year three (3), the size of the discount would decrease to 10%. In year four (4), the size of the discount would decrease to 5%. By year five (5), there would no longer be a discount available, and a developer would be required to pay the full D.C. amount.
 - Updating a D.C. by-law at least once every ten (10) years [currently they are updated every five (5) years].
 - Using a historical service level of fifteen (15) years compared to the current ten (10) years to calculate capital costs that are eligible to be recovered through D.C.s. This would not apply to transit.
 - Removing housing services from the list of eligible services (i.e. D.C.s could no longer be collected for housing services).
 - Removing studies as an eligible capital cost that could be recovered through D.C.s.
 - Requiring a regulation-making authority to prescribe specific services for which the cost of land would not be an eligible capital cost that could be recovered through D.C.s.
- Increasing transparency and accountability in the use of D.C. funds by:
 - Requiring municipalities to allocate or spend at least 60% of their D.C. reserve balance for water, wastewater and roads at the start of each year. A regulation-making authority would be provided to prescribe additional priority services, for which this would apply, in the future.
- Encouraging the supply of rental housing by:
 - Requiring a tiered discount to be provided on D.C.s levied on purpose-built rental units. The discount would be deeper depending on the unit type (i.e. 15% for a 1-bedroom unit or smaller, 20% for a 2-bedroom unit, and 25% for a 3+ bedroom unit).

- Encouraging the supply of affordable housing by:
 - Exempting affordable housing units in a development subject to inclusionary zoning and non-profit housing developments from the payment of D.C.s and C.B.C.s.
 - Requiring a developer to enter into an agreement with a municipality, which may be registered on title, to enforce an affordability period of 25 years and any other applicable terms set out by the municipality.

Attachment 5 provides staff comments on the proposed amendments to the Development Charges Act under Bill 23.

5.4 Proposed Changes to the Ontario Heritage Act Under Bill 23

The goal of the proposed changes to the Ontario Heritage Act is to renew and update heritage policies, some of which have not been reviewed in over a decade. This is in an effort to reduce red tape and remove barriers that are slowing down housing construction and other priority projects while continuing to conserve and commemorate key heritage properties that matter most to local communities.

The proposed amendments to the Ontario Heritage Act under Bill 23, if passed, would, among other matters, support:

- Changes affecting the Standards and Guidelines for Conservation of Provincial Heritage Properties (“S and G.s”) by:
 - Introducing an enabling legislative authority that provides that the process for identifying Provincial heritage properties under the S and G.s may permit the Minister to review, confirm and review the determination of cultural heritage value or interest by a ministry or prescribed public body respecting a Provincial heritage property.
- New requirements for municipal registers and the inclusion of non-designated properties on the municipal register by:
 - Requiring municipalities to make an up-to-date version of the information on their municipal register available on a publicly-accessible municipal website.
 - Allowing for property owners to use the existing process under the Ontario Heritage Act for objecting to the inclusion of their non-designated property on the municipal register regardless of when it was added to the municipal register.
 - Increasing the criteria for including a non-designated property on a municipal register by requiring that the property meet prescribed criteria.
 - Providing opportunities for properties to be removed from the register (e.g. non-designated properties currently listed on a municipal register would have to be removed if council does not issue a notice of intention to designate within two years of the amendments coming into force). Non-designated properties added to the register after the proposed amendment comes into force would have to be removed

if Council does not issue a notice of intention to designate within two years of the property being included. If removed from the register, a property cannot be relisted for a period of five years.

- An increase in the threshold for designation of individual properties and new limitations on designation for properties subject to proposed development by:
 - Increasing the threshold for designation consideration from one criterion to two criteria.
 - Clarifying that municipalities would not be permitted to issue a notice of intention to designate a property under 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. If a prescribed event occurs with respect to a property, a notice of intent to designate may only be issued if the property was already included in the municipal register as a non-designated property on the date of the prescribed event.
- Changes to Heritage Conservation Districts (“H.C.D.”) by:
 - Requiring municipalities to apply prescribed criteria to determine an H.C.D.’s cultural heritage value or interest, including a requirement for H.C.D. plans to explain how the H.C.D. meets the prescribed criteria.
 - Introducing a regulatory authority to prescribe processes for municipalities to amend or repeal existing H.C.D. designation and H.C.D. plan by-laws.

Attachment 6 provides staff comments on the proposed amendments to the Ontario Heritage Act under Bill 23.

5.5 Proposed Changes to the Conservation Authorities Act Under Bill 23

The Province is proposing a series of legislative and regulatory changes affecting Conservation Authorities to support the Action Plan. The proposed changes would further focus Conservation Authorities on their core mandate, support faster and less costly approvals, streamline Conservation Authority processes and help make land suitable for housing available for development.

The proposed amendments to the Conservation Authorities Act under Bill 23, if passed, would among other matters, address:

- Proposed updates to the regulation of development for the protection of people and property from natural hazards in Ontario by:
 - Enabling the exemption of development authorized under the Planning Act from requiring a permit under the Conservation Authorities Act in municipalities set out in regulation, where certain conditions are met as set out in regulation.
 - Requiring Conservation Authorities to issue permits for projects subject to a Community Infrastructure and Housing Accelerator order under the Planning Act

and allowing the Minister to review and amend any conditions attached to those permits.

- Conservation Authorities' role in review of development related proposals and applications by:
 - Scoping Conservation Authorities' review and commenting role with respect to development applications and land use planning policies to matters within their core mandate.
- Freezing Conservation Authority fees by:
 - Maintaining Conservation Authority fees charged for programs and services at current levels.
- Identifying Conservation Authority land suitable for housing and streamlining Conservation Authority severance and disposition processes that facilitate faster development by:
 - Requiring Conservation Authorities to prepare a land inventory that identifies Conservation Authority owned or controlled lands that could support housing development.
 - Streamlining processes associated with the disposition of Conservation Authority owned land.
- Certain Regulations by:
 - Making a single Provincial regulation to ensure clear and consistent requirements across all Conservation Authorities while still addressing local differences (currently there are 36 individual regulations under the Conservation Authorities Act).

Attachment 7 provides staff comments on the proposed amendments to the Conservation Authorities Act under Bill 23.

5.6 Review of the P.P.S. and the Growth Plan

The Province released the review of the P.P.S. and the Growth Plan on October 25, 2022, and is providing the opportunity for comments on the proposed changes through E.R.O. posting number [019-6177](#), with comments due December 30, 2022.

The P.P.S. and the Growth Plan both provide comprehensive, integrated, whole-of-government policy direction on land use planning matters including:

- Growth management, housing and economic development;
- Infrastructure planning and investment;
- Protection and management of resources, such as aggregates, natural heritage, water, cultural heritage, recreation and prime agricultural areas; and,

- Protection of public health and safety, such as mitigating potential risks due to natural and human-made hazards.

Both policy documents aim to support the achievement of liveable communities, a thriving economy, a clean and healthy environment and social equity, improving the quality of life for all Ontarians.

The P.P.S. is issued under the Planning Act and is the primary Provincial land use planning policy document, applying across Ontario. The Growth Plan is issued under the Places to Grow Act, 2005 and works with the Greenbelt Plan, Oak Ridges Moraine Conservation Plan and the Niagara Escarpment Plan to provide a more detailed framework for where and how growth should be accommodated in the Greater Golden Horseshoe. All Provincial plans are to be read in conjunction with the P.P.S.

The current land use planning policy framework in Ontario has evolved over the last three decades. As new policy requirements and Provincial plans have been added, longstanding requirements have generally not been removed, particularly for policies that apply to the Greater Golden Horseshoe. What remains is a complex system of overlapping policy instruments that can be difficult to navigate and implement.

The Province is proposing to integrate the P.P.S. and the Growth Plan into a new Province-wide planning policy instrument that:

- Leverages the housing-supportive policies of both policy documents;
- Removes or streamlines policies that result in duplication, delays or burden in the development of housing;
- Ensures key growth management and planning tools are available where needed across the Province to increase housing supply and support a range and mix of housing options;
- Continues to protect the environment, cultural heritage and public health and safety; and,
- Ensures that growth is supported with the appropriate amount and type of community infrastructure.

The core elements of this new policy instrument could include the approaches outlined below:

- Residential Land Supply:
 1. Settlement Area Boundary Expansions – streamlined and simplified policy direction that enables municipalities to expand their settlement area boundaries in a coordinated manner with infrastructure planning, in response to changing circumstances, local contexts and market demand to maintain and unlock sufficient supply of land for housing and future growth.

2. Rural Housing – policy direction that responds to local circumstances and provides increased flexibility to enable more residential development in rural areas, including rural settlement areas.
 3. Employment Area Conversions – streamlined and simplified policy direction that enables municipalities to promptly seize opportunities to convert lands within employment areas for new residential and mixed use development, where appropriate.
- Attainable Housing Supply and Mix:
 1. Housing Mix – policy direction that provides greater certainty that an appropriate range and mix of housing options and densities to meet projected market-based demand and affordable housing needs of current and future residents can be developed, including ground-related housing, missing middle housing, and housing to meet demographic and employment-related needs.
 2. Major Transit Station Areas – policy direction that provides greater certainty that major transit station areas would meet minimum density targets to maximize government investments in infrastructure and promote transit supportive densities, where applicable, across Ontario.
 3. Urban Growth Centres – policy direction that enables municipalities to readily identify centres for urban growth (e.g., existing or emerging downtown areas) as focal points for intensification and provides greater certainty that a sufficient amount of development, in particular housing, will occur.
 - Growth Management:
 1. Population and Employment Forecasts – policy direction that enables municipalities to use the most current, reliable information about the current and future population and employment to determine the amount and type of housing needed and the amount and type of land needed for employment.
 2. Intensification – policy direction to increase housing supply through intensification in strategic areas, such as along transit corridors and major transit station areas, in both urban and suburban areas.
 3. Large and Fast-growing Municipalities – growth management policies that extend to large and fast-growing municipalities both inside and outside of the Greater Golden Horseshoe, including the coordination with major Provincial investments in roads, highways and transit.
 - Environment and Natural Resources:
 1. Agriculture – policy direction that provides continued protection of prime agricultural areas and promotes Ontario’s Agricultural System, while creating increased flexibility to enable more residential development in rural areas that minimizes negative impacts to farmland and farm operations.

2. Natural Heritage – streamlined policy direction that applies across the Province for Ontario’s natural heritage, empowering local decision making, and providing more options to reduce development impacts, including offsetting/compensation.
 3. Natural and human-made hazards – streamlined and clarified policy direction for development in hazard areas, while continuing to protect people and property in areas of highest risk.
 4. Aggregates – streamlined and simplified policy direction that ensures access to aggregate resources close to where they are needed.
 5. Cultural heritage – policy direction that provides for the identification and continued conservation of cultural heritage resources while creating flexibility to increase housing supply.
- Community Infrastructure:
 1. Infrastructure Supply and Capacity – policy direction to increase flexibility for servicing new development (e.g. water and wastewater) and encourage municipalities to undertake long-range integrated infrastructure planning.
 2. School Capacity – coordinated policy direction that ensures publicly funded school facilities are part of integrated municipal planning and meet the needs of high growth communities, including the Ministry of Education’s proposal to support the development of an urban schools’ framework for rapidly growing areas.
 - Streamlined Planning Framework:
 1. Outcomes-Focused – streamlined, less prescriptive policy direction requiring fewer studies, including a straightforward approach to assessing land needs, that is focused on outcomes.
 2. Relevance – streamlined policy direction that focuses on the above-noted land use planning matters and other topics not listed that are also key to land use planning and reflect Provincial interests.
 3. Speed and Flexibility – policy direction that reduces the complexity and increases the flexibility of comprehensive reviews, enabling municipalities to implement Provincial policy direction faster and easier.

E.R.O. posting number [019-6177](#) related to the review of the P.P.S. and the Growth Plan poses five questions for consideration. Attachment 8 provides staff comments on the five questions related to the review of the P.P.S. and the Growth Plan.

5.7 Next Steps

Staff are seeking Council’s endorsement of the staff comments contained in Attachments 4 to 9 of this Report as City comments regarding the various E.R.O. postings concerning proposed changes to the various Acts and regulations through Bill 23 and the Province’s review of the P.P.S. and the Growth Plan.

If endorsed by Council, City staff will share the City's comments with the Province through the respective postings on the E.R.O. website.

In the event Bill 23 receives royal assent, Development Services staff would report back to the Development Services Committee and Council with any necessary amendments to City By-laws to implement the Bill 23 changes, including potential amendments to the City's Zoning By-law, Development Charges By-law, and Parkland Dedication By-law.

6.0 Financial Implications

There are no financial implications associated with the recommendations in this Report.

However, it is clear that the proposed amendments under Bill 23 will impact taxpayers and the City's financial resources.

Staff are unable to provide a specific dollar amount but many of the proposed amendments to the Development Charges Act will result in the general taxpayer paying for growth, rather than growth paying for growth. Removing or restricting a municipality's ability to collect and use D.C.s to fund capital costs will result in the need to fund these costs from the tax levy (i.e. through the taxpayer).

Similarly, if the legislation is enacted, the City would be acquiring less parkland and less cash-in-lieu of parkland, resulting in a greater financial burden that would shift from the developer to the taxpayer in order to maintain the amount of parkland required by the Oshawa Official Plan in new communities.

7.0 Relationship to the Oshawa Strategic Plan

The Recommendations advance the Accountable Leadership goal of the Oshawa Strategic Plan.



Tom Goodeve, M.Sc.Pl., MCIP, RPP, Director,
Planning Services



Warren Munro, HBA, RPP, Commissioner,
Development Services Department

Relevant E.R.O. Posting Details under Bill 23

Legislation/Policy Review	E.R.O. Number	Link	Commenting Deadline
Proposed Planning Act and City of Toronto Act Changes (Schedules 9 and 1 of Bill 23, respectively)	019-6163	https://ero.ontario.ca/notice/019-6163	November 24, 2022
Proposed Planning Act and Development Charges Act Changes: Providing Greater Cost Certainty for Municipal Development-related Charges	019-6172	https://ero.ontario.ca/notice/019-6172	November 24, 2022
Proposed Changes to the Ontario Heritage Act and its regulations (Schedule 6 of Bill 23)	019-6196	https://ero.ontario.ca/notice/019-6196	November 24, 2022
Legislative and regulatory proposals affecting conservation authorities to support the Housing Supply Action Plan 3.0 (proposed changes to the Planning Act and Conservation Authorities Act)	019-6141	https://ero.ontario.ca/notice/019-6141	November 24, 2022
Proposed Amendments to O. Reg. 232/18 (under the Planning Act)	019-6173	https://ero.ontario.ca/notice/019-6173	December 9, 2022
Proposed Amendments to O. Reg. 299/19 (under the Planning Act)	019-6197	https://ero.ontario.ca/notice/019-6197	December 9, 2022
Review of the P.P.S. and the Growth Plan	019-6177	https://ero.ontario.ca/notice/019-6177	December 30, 2022
Proposed updates to the regulation of development for the protection of people and property from natural hazards in Ontario (proposed changes to the Conservation Authorities Act)	019-2927	https://ero.ontario.ca/notice/019-2927	December 30, 2022

Staff Comments on the Proposed Changes to the Planning Act under Schedule 9 of Bill 23, including proposed Amendments to O. Reg. 232/18 and O. Reg. 299/19

	Description	Staff Comments
1.	<p>Permitting “as-of-right” zoning to allow up to three residential units per lot in existing residential areas, either through the conversion of existing buildings or the development of new purpose built duplexes or triplexes.</p> <p>New units built under this as-of-right permission would be exempt from requiring more than one additional parking space and/or minimum unit sizes in respect of any additional unit in a primary building and any unit in an ancillary structure.</p> <p>This proposed change is also captured specifically under the proposed amendments to O. Reg. 299/19.</p>	<p>Staff support the development of a wide range of housing options for residents, which is important for a healthy housing system. A full range and mix of housing, including affordable housing, is necessary to accommodate a range of incomes and household sizes. The promotion of the “missing middle” and “gentle density” forms of residential development (including duplexes, triplexes, accessory detached units and accessory apartments) should be focused on.</p> <p>As well, many of these types of units can provide more housing options for seniors or persons needing semi-independence, including the potential to turn them into accessible units.</p> <p>However, more thought should be given to where “as-of-right” zoning should be permitted such as in strategic growth areas that are transit-supportive and have service capacity to support infill development.</p> <p>Existing low density residential neighbourhoods that are not well-connected to public transit or active transportation networks could theoretically see every single lot intensified to include three units instead of one, which could change the character of many neighbourhoods and may lead to servicing and planning issues (e.g. parking constraints, areas underserved by transit, additional strain on existing regional and city services such as sanitary, water and parks, etc.).</p> <p>Staff are concerned that this amendment could lead to significant parking issues in certain areas of the City. Without requiring more than one parking space for each additional unit, more residents who choose to own a vehicle, or who need to own a vehicle due to lack of access to public transit, may be forced to park on the street and/or in areas where on-street parking is</p>

Description	Staff Comments
	<p>already constrained. This could result in winter road maintenance issues and enforcement issues due to parking “spillover” in neighboring areas. This may also lead to safety concerns if emergency vehicles do not have enough space to drive through a street that is congested with parked cars.</p> <p>Clarity should be provided as to whether current municipal parking requirements would continue to apply to the existing primary unit, or if just one parking space is required for the existing primary unit. Staff note that if current parking requirements are maintained for existing primary units, and these standards require more than one space, there would be an incentive to demolish existing housing stock and build a new structure, where each unit would require just one parking space. The fact that demolition and rebuilding creates a much larger carbon footprint than adapting existing housing stock should also be considered.</p> <p>Allowing property owners to convert their existing homes to duplexes or triplexes without any required planning approvals may discourage those owners from selling their land to developers seeking to assemble/consolidate lands and redevelop at larger, more efficient and denser scales in strategic growth areas (e.g. Urban Growth Centres, M.T.S.A.s, etc.). As a result, this proposed change could inadvertently prevent these areas from achieving their full development potential over the short and medium term.</p> <p>Finally, the reduction in parking appears to be a 416 solution being applied to the 905. During interviews with members of Council on the City of Oshawa Parking Study, which will also be on the November 21, 2022 Council Agenda, many members of Council expressed concerns with reducing the parking requirements along transit routes and in intensification areas.</p>
2. Implementing “as-of-right” zoning for transit supportive densities in specified areas around transit stations.	<p>Staff support permitting higher densities in specified areas around transit stations. However, requiring municipalities to update their zoning by-laws to permit transit supportive densities in these areas within one year of M.T.S.A. or P.M.T.S.A. approval is likely not achievable, owing to staffing levels,</p>

Description	Staff Comments
<p>Municipalities would be required to update their zoning by-laws to permit transit-supportive densities as-of-right within one year of M.T.S.A. or P.M.T.S.A. approval.</p>	<p>resource constraints and the Province's own requirements under the Planning Act.</p> <p>It is important to note that the City has already retained a consultant to undertake the Central Oshawa Major Transit Station Area Land Use and Transportation Master Plan, and Municipal Class Environmental Assessment for the Central Oshawa M.T.S.A. (the "Study"). This proposed change to the Planning Act will impact the intended scope of work and work schedule for the completion of the Study. In order to meet the Province's deadline for bringing forward Zoning By-law Amendments for the Central Oshawa M.T.S.A., the City may need to condense the public consultation component of the Study schedule. It is also important to note that any Zoning By-law Amendments brought forward by the City for the Central Oshawa M.T.S.A. cannot be appealed by impacted landowners or area residents. Rather, only certain public bodies and the Province will have an opportunity to appeal the City-initiated Zoning By-law Amendments for the Central Oshawa M.T.S.A.</p> <p>Staff note that the Region of Durham is awaiting Provincial approval on Regional Official Plan Amendment (R.O.P.A.) 186, which delineates the boundaries of P.M.T.S.A.s in Durham Region (including two in the City of Oshawa). If at all possible, it is requested that the Province provide an estimated timeline for approval of R.O.P.A. 186, in order that City staff may factor this into their annual work plans.</p>
<p>3. Removing the planning policy and approval responsibility from all upper-tier municipalities in the Greater Toronto Area, as well as in the Region of Waterloo and the County of Simcoe.</p> <p>Future regulations would identify which official plans and amendments would not require approval by the Minister of Municipal Affairs and Housing (i.e. which lower-tier</p>	<p>Staff note that the City of Oshawa already has delegated authority on a number of planning matters in which Regional approval is not required (e.g. subdivisions, rezoning, condominium and part-lot control). However, it is standard practice to consult with the Region even on matters that do not require Regional approval.</p> <p>If Regional approval was no longer required for official plans and official plan amendments, staff would still need to continue the practice of consulting with the Region on growth-related matters, as these are intrinsically linked to</p>

	Description	Staff Comments
	plans and amendments of the lower-tier municipality would need no further approval).	servicing, which is a Regional responsibility and needs to be coordinated on a cross-jurisdictional basis. Further, more clarity is requested regarding how the Province would determine which official plans and official plan amendments would not require approval by the Minister of Municipal Affairs and Housing. Lastly, staff note that extensive work has already been undertaken by the Region of Durham on “Envision Durham”, the Region’s Municipal Comprehensive Review (“M.C.R.”). Rather than waste the time, effort and financial resources such as taxpayer dollars that have already been expended to bring the M.C.R. to its current advanced stage, appropriate transition policies should be implemented. This would allow Durham’s area municipalities to inherit and build off of this work, thereby facilitating the required updates to their own official plans. To do otherwise, is contrary to the Province’s supposed principal of streamlining development.
4.	No one other than the applicant, the municipality, certain public bodies and the Province would be allowed to appeal municipal decisions to the O.L.T.	This proposed amendment removes the appeal rights for residents and community groups. Ultimately, members of the public would not be allowed to appeal a development that they oppose. This could lead to greater public pressure on elected officials to make decisions that do not necessarily reflect the tenets of good planning, and such decisions would more likely be appealed by the applicant. In such instances, it is probable that municipal staff would not be in a position to support council’s decision, resulting in the need to engage external professional witnesses at extra cost to the municipality and the taxpayer. However, limiting appeals would reduce staff’s time spent on O.L.T. matters (e.g., reporting to Council on direction, preparing and attending appeal hearings, etc.), freeing up staff’s time to work on other planning matters. On the other hand, in the short term, it would require staff time to update planning documents and templates to change the references regarding who can appeal planning decisions.

Description	Staff Comments
5. Removing the public meeting requirements for draft plans of subdivision.	Lastly, it is important to note that existing appeals that have already been submitted to the O.L.T. but which have not yet been scheduled for a hearing are proposed to be automatically dismissed if Bill 23 receives royal assent and comes into effect, unless the appellant is one of the groups identified under Bill 23 as retaining appeal rights.
6. Exempting all aspects of site plan control for residential development up to 10 units.	<p>Clarity is requested to determine whether or not a municipality still has the ability to request a public meeting, even if it is not required. As well, clarity is requested to determine whether or not an application for a draft plan of subdivision which is accompanied by a related application still requires a public meeting (e.g., if an application to amend the zoning by-law is submitted together with an application for a proposed draft plan of subdivision).</p> <p>A building for residential purposes containing ten units or less will no longer be identified as “development” under the Planning Act, and thus, no longer subject to site plan control. However, it is not clear if this applies to mixed use buildings where the building contains both non-residential and residential uses consisting of ten or less residential units. Accordingly, clarification is requested to determine whether or not this also applies to mixed use buildings containing fewer than eleven (11) residential units.</p> <p>Staff note that this amendment may have unintended consequences by encouraging more development of small apartments (with ten units or less), owing to the fact that they would not be subject to site plan control, and discouraging developers from building larger buildings with more units in an area where higher density is permitted, in order to avoid applying for site plan approval.</p> <p>The City’s zoning by-law may also need to be amended to further regulate residential uses with ten units or less, as they will no longer be regulated through site plan control.</p> <p>This will also impact waste collection. Currently, residential buildings with eight units or less can have curbside waste collection. Buildings with nine or more units cannot have curbside collection and need either municipal on-site</p>

Description	Staff Comments
<p>7. Limiting the scope of site plan control by removing the ability for municipalities to regulate architectural details and landscape design.</p>	<p>collection or private collection. For municipal collection, a safe waste collection route must be available on site, otherwise a private company will be required to collect the waste (which can be costly). If there is no longer a site plan control requirement for buildings with nine or ten units and thus no one reviewing for adequate waste collection space, a developer may not realize this until it is too late (and then would be responsible for paying for private waste collection).</p> <p>Similarly, this would also have implications for waste storage. Residential buildings must have sufficient space to store their waste and if no one is reviewing this as part of the site plan process, it may get overlooked.</p> <p>Planning staff routinely comment on site plans, which include comments related to building and site aesthetics (e.g., architectural details and landscape design). If staff are no longer able to comment on these features, significant negative ramifications are likely to arise, including, but not necessarily limited to, the following:</p> <ul style="list-style-type: none"> ▪ The public realm could be significantly impacted, including the public/private interface along a street front. Streetscapes, parks and other important components of the public realm may be juxtaposed with development featuring an austere, monolithic and an overall unwelcoming aesthetic. Given that Bill 23 will constrain the ability of municipalities to provide parkland sufficient to meet the needs of ever increasing numbers of residents, particularly in higher density residential developments, the realm streetscapes will become that much more important as areas for residents to be able to enjoy. Appropriate design (through the review of architectural details and landscape design) assist to create a “pride of place” amongst a community, which is essential to maintaining vibrant, healthy neighbourhoods. ▪ It is a well-known fact that the attractiveness of a street or route will dictate to a large extent whether or not people choose to walk or cycle as a mode of travel. Streets or routes fronted by stark, unwelcoming

Description	Staff Comments
<p>8. Limiting conservation authority appeals of land use planning decisions (to keep their focus on natural hazards and flooding). Broadening the ability of conservation authorities to use an existing streamlined process to sever and dispose of land.</p>	<p>facades and lacking integrated and planned landscaping will deter people from choosing to walk or cycle.</p> <ul style="list-style-type: none"> ▪ Municipalities would be constrained in their ability to implement green development standards, which are designed to address energy efficiency and climate change in new development. ▪ Without the ability to regulate landscape design, the ability to mitigate urban heat island effects will be constrained, as well the ability to protect, maintain and enhance the urban forest canopy, which provides a critical cooling function. ▪ Buildings could be constructed that are not sensitive to the existing character of the area in which they are situated (such as next to sites designated under Part IV or V of the Ontario Heritage Act). ▪ The review of architectural details and landscape design as part of the overall site plan review does not typically take a long time to complete. Staff see no value or direct impact to increasing housing supply in limiting the scope of site plan control by removing a municipality's ability to regulate architectural details and landscape design.
<p>9. Updating the maximum alternative parkland dedication for land conveyed from the current rate of one hectare for each 300 dwelling units to one hectare for each 600 dwelling units.</p>	<p>Please see comments related to Conservation Authorities in Attachment 7.</p>
	<p>Staff have significant concerns with this proposed amendment. This cuts the amount of parkland that a City can collect (or money that a City can collect to be used to acquire parkland) in a residential development by 50%. It could lead to a reduction and/or shortage of recreational services and access to park space. This is not appropriate, as the COVID-19 pandemic has shown us that access to recreational services and especially to park</p>

	Description	Staff Comments
	<p>Updating the maximum alternative parkland dedication for cash payment in lieu of land from the current rate of one hectare for each 500 dwelling units to one hectare for each 1,000 dwelling units.</p>	<p>space is essential to the health, including mental health, and well-being of all residents.</p> <p>In addition, the delivery of higher density developments (which typically are unable to provide programmable amenity space, such as sports fields) should be supported by an increase in parkland in order to ensure sufficient parkland is available to match the increased number of residents.</p> <p>It is important to point out that all Ontario municipalities were required to update/replace their parkland dedication by-laws by September 18, 2022, as a result of changes to the Planning Act through Bill 197, COVID-19 Economic Recovery Act, 2020. The time, effort and financial resources committed by each municipality in order to update their respective parkland dedication by-laws in accordance with Bill 197, including consultation with the public, development community and other stakeholders, would be lost, essentially amounting to a wasted effort including a waste of taxpayer dollars. The City will be required to yet again amend its Parkland Dedication By-law to implement the Bill 23 changes to the Planning Act.</p>
<p>10.</p>	<p>No more than 15% of the amount of developable land (or equivalent value) could be required for parks or other recreational purposes for sites greater than five hectares and no more than 10% for sites five hectares or less.</p>	<p>This will limit the City's ability to acquire, plan for and develop parks of all sizes, but especially larger scale Community or City-sized parks.</p> <p>This would also lead to increased costs for the City. If the City does not receive a sufficient amount of parkland due to these imposed limits, and if there are no development lands nearby to consolidate/merge with, the City may need to purchase extra land to ensure adequate parkland is available. However, the City may not have sufficient funds to purchase additional parkland owing to reduced cash-in-lieu requirements as a result of the proposed amendments under Bill 23.</p> <p>The process to assemble lands for parks purposes would also become protracted, resulting in residents having reduced or no opportunities for recreational use of parks in their neighbourhood. This, in turn, would require residents to leave their neighbourhoods to use existing parks elsewhere that are of a size capable of accommodating programmed space such as sports fields.</p>

Description	Staff Comments
<p>11. Parkland dedication rates would be frozen for two years from the date the relevant application is approved.</p>	<p>The value of land continues to rise every year and freezing parkland dedication rates for two years from the date that relevant applications are approved may contribute to the City losing out (or getting behind) on parkland dedication in the future.</p>
<p>12. Developers would be able to identify land, including encumbered land and privately owned public spaces, that would count towards municipal parkland dedication requirements.</p> <p>In cases where disputes arise about the suitability of land for parks and recreational purposes, the matter could be appealed to the O.L.T.</p>	<p>Staff have significant concerns with this proposed amendment. Encumbered lands are not suitable spaces for parks and the recreational services that will be needed to support expanded demand for recreational space, particularly space that can be actively programmed, resulting from intensification and higher density development. Privately-owned public spaces are also typically not truly “public” in nature, and access is often limited to the residents of the particular development having the amenity space. Being privately owned, control and access would not reside with the municipality, and could be altered over time.</p> <p>Staff note that in the event a municipality does not want to accept encumbered lands as part of parkland dedication, the developer can appeal to the O.L.T. This could lead to more staff time and resources being spent on O.L.T. hearings, rather than planning matters. Staff is of the opinion that encumbered land and privately owned public spaces should not become eligible to satisfy parkland dedication requirements.</p>
<p>13. Establish an upper limit on the number of units that would be required to be set aside as affordable, set at 5% of the total number of units (or 5% of the total gross floor area of the total residential units, not including common areas) (under O. Reg. 232/18)</p>	<p>Staff recommend removing an upper limit on the number of units that would be required to be set aside as affordable, and instead implement a minimum number of units to be required to be set aside as affordable.</p> <p>Staff also note that implementation and monitoring of inclusionary zoning may be a challenge to municipalities as the municipality would have to have in place agreements with the developer and be responsible for monitoring implementation, which could require additional resources.</p>

Staff Comments on the Proposed Changes to the Development Charges Act under Schedule 3 of Bill 23

Description	Staff Comments
<p>1. The proposed changes to the Development Charges Act as a whole.</p>	<p>Municipalities are able to set and collect D.C.s in order to cover the costs of providing the infrastructure necessary to support new growth in communities and to ensure that taxpayers are not subsidizing that growth. However, many of the proposed amendments to the Development Charges Act will result in the taxpayers paying for growth, rather than growth paying for growth. Removing or restricting a municipality's ability to collect and use D.C.s to fund capital costs will result in the need to fund these costs from the tax levy (i.e. through the taxpayer). Ultimately, taxpayers will be subsidizing new development in the City. This can also force municipalities to reduce service levels, potentially impacting the health, including mental health, and safety of residents.</p> <p>If these proposed amendments are implemented, the Province will need to provide financial support to municipalities to offset the losses that municipalities will face as a result of these changes.</p>
<p>2. For all D.C. by-laws passed after June 1, 2022, development charges must be phased-in annually over the first five (5) years the by-law is in force as follows:</p> <ul style="list-style-type: none"> ▪ Year one (1) – 80% of the maximum charge; ▪ Year two (2) – 85% of the maximum charge; ▪ Year three (3) – 90% of the maximum charge; 	<p>The City's D.C. By-law does not expire until 2024. However, once a new D.C. by-law is enacted, reduction of D.C.s in the first four years would significantly impact the City's cash flow and will result in lost revenue over the first four years of the by-law period.</p>

	Description	Staff Comments
	<ul style="list-style-type: none"> ▪ Year four (4) – 95% of the maximum charge; and, ▪ Year five (5) to expiry – 100% of the maximum charge. 	
3.	Updating D.C. by-laws at least once every ten (10) years [instead of once every five (5) years].	Reviewing and updating the City's D.C. by-law every ten (10) years [instead of every five (5) years] could result in cash flow implications, with the potential to collect inadequate D.C.s should growth related projects be required that were not in the original D.C. Background Study. Construction prices are volatile and can rise rapidly in a short period of time.
4.	Use a historical service level of fifteen (15) years compared to the current ten (10) years to calculate capital costs that are eligible to be recovered through D.C.s.	This could result in lower historical service levels, which would ultimately result in a lower cap on the D.C.s collected, in particular for parks related projects.
5.	Studies would no longer be an eligible capital cost that could be recovered through D.C.s.	There are multiple studies included in the City's D.C. Background Study that total approximately \$1 million in D.C. eligible costs (e.g. 2023 D.C. Background Study, Official Plan Review, Asset Management, Transportation Master Plan, Parks, Recreation, Library and Culture Facility Needs Assessment, Mobility Hub Transportation and Land Use Study, and Grade Separation Study). The cost of these vital studies would ultimately become taxpayer obligations and would have to be funded from the tax levy.
6.	Municipalities would be required to allocate or spend at least 60% of their D.C. reserve balance for water, wastewater and roads at the start of each year.	Municipalities have the ability to use their reserves to purchase land or build infrastructure, which can be very expensive. However, if a municipality was required to spend their reserve by 60% ever year, it could be a challenge for many municipalities to save money for a specific, more expensive infrastructure project or study (if eligible). For example, the Britannia Avenue West Bridge is expected to cost \$14.5 million. Staff therefore support the proposal to enable municipalities to allocate rather than have to spend 60% of their D.C. reserve in any given year.

Description	Staff Comments
<p>7. Permitting “as-of-right” zoning to permit up to three residential units per lot in many existing residential areas. New units built under this permission would be exempt from D.C.s, C.B.C.s, and parkland dedication.</p>	<p>Staff note that a large percentage of the City’s reserve balance is already allocated to projects every year and as a result, staff have no concerns with the wording related to allocating reserve balances. Staff note that the City of Oshawa already exempts new units added to an existing house to create two-unit houses, as well as duplexes and triplexes from D.C.s and parkland dedication. More clarity is needed as to whether D.C.s are exempt for new purpose built duplexes and triplexes under the “as-of-right” zoning being implemented through Bill 23.</p>
<p>8. A tiered discount would be provided on D.C.s levied on purpose-built rental units. The discount would be deeper depending on the unit type (i.e. 15% for a 1-bedroom unit or smaller, 20% for a 2-bedroom unit, and 25% for a 3+ bedroom unit).</p>	<p>Limiting the amount of D.C.s the City can collect will result in lost revenue, which will have to be made up through property taxes. This transfers the burden of paying for infrastructure from the development charge regime to the property tax regime. Although a tiered discount on development charges may encourage the development of more purpose-built rental units, it will not necessarily result in a reduction of rental rates. There is no legislation being proposed through Bill 23 that would require a developer of purpose-built rental units to lower their rental rates where D.C. discounts are offered.</p>
<p>9. Affordable housing units in a development subject to inclusionary zoning and non-profit housing developments would be exempt from D.C.s and C.B.C.s.</p>	<p>The City currently exempts non-profit housing from D.C.s. However, the exemption of affordable housing units in a development subject to inclusionary zoning will limit the City’s ability to collect D.C.s. Exempting units from D.C.s will result in lost revenue, which will have to be made up through property taxes. This transfers the burden of paying for infrastructure from the development charge regime to the property tax regime.</p>
<p>10. Maximum C.B.C. payable to be based only on the value of land proposed for new development, not the entire parcel that may have existing development.</p>	<p>The City is in the process of developing a C.B.C. As a result of this proposed change, the City may need to review its processes to determine how this might impact the City’s C.B.C.</p>

Staff Comments on the Proposed Changes to the Ontario Heritage Act under Schedule 6 of Bill 23

	Description	Staff Comments
1.	Requiring municipalities to make an up-to-date version of the information on their Municipal Register available on a publicly-accessible municipal website.	Staff have no concerns with this, as the City's Municipal Register is already posted on the City's website (located within the City's Heritage Oshawa Inventory of City of Oshawa Heritage Properties).
2.	Increasing the criteria for including a Register, Non-designated property on a Municipal Register by requiring that the subject property meet a prescribed criteria.	Staff do not support this proposed amendment. In order to determine whether or not a Register, Non-designated property meets a prescribed criteria, research would be required. The City would have to either hire a qualified heritage consultant to prepare a heritage research report, or retain a staff member certified by the Canadian Association of Heritage Professionals, both which would result in increased costs to the City. It would also lengthen the process to add a Register, Non-designated property onto the Municipal Register, given conducting research could take between 6 to 12 months, per property.
3.	Register, Non-designated properties currently listed on the Municipal Register must be removed from the Municipal Register if Council does not issue a notice of intention to designate within two years of placement on the Municipal Register. If removed from the Municipal Register, a property cannot be relisted for a period of five years.	Staff do not support this proposed amendment. Two years is not a timeframe of sufficient duration during which to issue a notice of intent to designate all Registered, Non-designated properties currently listed on the Municipal Register. There are many factors that could delay this process, including time needed to undertake heritage research for multiple properties and to have discussions with the various property owners, constraints on the availability of qualified researchers, the need to attend to other planning matters, etc. Staff note that in the event a property does not meet the two-year deadline and is removed from the Municipal Register, the property cannot be relisted for five years. This is also concerning as once the property is removed from the Municipal Register, there will be no heritage protection and the

	Description	Staff Comments
4.	Municipalities would not be permitted to issue a notice of intention to designate a property under 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. If a prescribed event occurs with respect to a property, a notice of intent to designate may only be issued if the property was already included in the Municipal Register as a Register, Non-designated property on the date of the prescribed event.	property would be more susceptible to demolition, leading to a significantly increased risk of heritage loss in the City. The foregoing will also result in additional administrative costs and staff time, owing to the fact that these timelines will need to be monitored, potentially for a high volume of properties. Clarity is requested to determine what is meant by a "prescribed event" (i.e. is it just a Planning Act application or some other trigger, such as an application for demolition)? This proposed amendment could result in a decrease in the amount of properties designated in the City, as well as lead to a greater risk of the demolition of properties with potential for designation. Adding a property to the Municipal Register requires Council approval and heritage research by a qualified individual, which takes significant time and resources. The City has many properties that contain cultural and heritage value, with potential to meet the requirements of heritage designation. There are insufficient staff resources and budget to go through all of these properties to determine whether or not they should be added to the Municipal Register. If a Planning Act application is received and the property is not already listed on the Municipal Register, there would be insufficient time to get it onto the Municipal Register, thus leaving the property susceptible to demolition.
5.	Requiring municipalities to apply prescribed criteria to determine an H.C.D.'s cultural heritage value or interest, including a requirement for H.C.D. plans to explain how the H.C.D. meets the prescribed criteria.	Staff support this proposed amendment. Requiring municipalities to apply prescribed criteria to determine an H.C.D.'s cultural heritage value or interest would be helpful in determining whether or not a proposed H.C.D. merits an H.C.D. designation. This would be consistent with Part VI of the Ontario Heritage Act and the use of Ontario Regulation 9/06. However, more clarity is needed to determine what the prescribed criteria will be.
6.	Introducing a regulatory authority to prescribe processes for municipalities to	There is currently no process to amend or repeal an H.C.D. designation. Staff support introducing a process to amend an H.C.D. designation and

	Description	Staff Comments
	amend or repeal existing H.C.D. designation and H.C.D. plan by-laws.	H.C.D. plan by-law, but do not support introducing a process to repeal an H.C.D. designation and H.C.D. plan by-law. H.C.D. studies and plans can take several years to prepare, require extensive public consultation, and cost tens of thousands of dollars. It would represent a waste of resources to go through the effort of designating an H.C.D. to then repeal it.

Staff Comments on the Proposed Changes to the Conservation Authorities Act under Schedule 2 of Bill 23

	Description	Staff Comments
1.	<p>Enable the exemption of development authorized under the Planning Act from requiring a permit under the Conservation Authorities Act in municipalities set out in regulation, where certain conditions are met as set out in regulation.</p>	<p>This proposed amendment means that permits will not be required within regulated areas (including wetlands) for activity that is part of a development authorized under the Planning Act. By issuing development permits, Conservation Authorities are able to regulate various projects and advise applicants on the best way to complete their projects to minimize impacts on the watershed and protect the safety of people and their property in relation to flooding and erosion.</p> <p>This ultimately prohibits Conservation Authorities' power to protect watersheds and the community. It would leave large swaths of land unprotected and/or vulnerable to flooding and erosion.</p>
2.	<p>Scope Conservation Authorities' review and commenting role with respect to development applications and land use planning policies to matters within their core mandate.</p>	<p>Staff do not support this proposed amendment.</p> <p>The majority of the City of Oshawa falls within the jurisdiction of the Central Lake Ontario Conservation Authority (C.L.O.C.A.), with a very small northern portion of the City falling within the jurisdiction of the Kawartha Region Conservation Authority. C.L.O.C.A.'s mandate crosses across municipal boundaries and provides science-based expertise on watershed management and the natural environment, amongst other matters. Conservation Authorities have developed a highly integrated and effective environmental planning regime in Ontario through partnerships between themselves and municipalities.</p> <p>Restricting a Conservation Authority's ability to comment on development applications and land use planning policies will result in a loss of expertise. Municipalities will be left with no natural heritage expertise when it comes to reviewing planning applications, and will also prevent municipalities from having Conservation Authorities provide consulting and peer review functions. As a result, municipalities may have to hire third-party peer</p>

	Description	Staff Comments
		review consultants on an ad hoc basis or hire in-house ecologists to assist planners with the review of development applications and land use planning policies from an environmental perspective, which would result in additional costs to municipalities and ultimately its taxpayers.
3.	<p>Requiring Conservation Authorities to prepare a land inventory that identifies Conservation Authority owned or controlled lands that could support housing development.</p> <p>Streamline processes associated with the disposition of Conservation Authority owned land.</p>	<p>Staff do not support this amendment.</p> <p>Typically, Conservation Authorities are not permitted to sell off conservation lands for development. However, this proposed amendment would allow for the sale of conservation lands (though a specific disposition process would have to be followed which would include a consultation period). This is extremely problematic and puts conservation lands at risk for destruction and loss. The Province and municipalities should focus its efforts on protecting conservation lands to remain as such. The focus should be on using land elsewhere to accommodate future housing growth, especially given that a lot of future growth will come from adding "gentle density" or infill in existing residential areas.</p>
4.	<p>Making a single Provincial regulation to ensure clear and consistent requirements across all Conservation Authorities while still addressing local differences.</p>	<p>There could be significant impacts if the work done by all of the Conservation Authorities in Ontario shift to municipalities of different sizes and staffing levels, owing to the fact that municipal boundaries aren't necessarily the most effective way to plan for the natural environment. For example, one must look at the larger watershed to determine the impacts of development.</p>

Staff Comments on the Review of the P.P.S. and the Growth Plan under Bill 23

Question (as posed in E.R.O. Posting Number 019-6177)	Staff Comments
<p>1. What are your thoughts on the proposed core elements to be included in a streamlined Province-wide land use planning policy instrument?</p>	<ul style="list-style-type: none"> ▪ Staff note that the current P.P.S. is just over two years old and the current Growth Plan was issued in August 2020 following previous significant revisions in 2019 and 2017. Now both the P.P.S. and Growth Plan are proposed to be replaced by another planning policy instrument. These frequent revisions and issuances of Provincial land use planning policies have created uncertainty regarding land use planning policy direction and require implementing bodies to continually revise their work plans for effective local implementation. The Province should commit to policy certainty for a defined period of time following the issuance of the new planning policy instrument to allow municipalities and others the ability to focus on implementation with certainty. It would also provide time to analyze the implementation of the P.P.S. rather than undertaking what appears to be a knee-jerk reaction. ▪ Subject to the foregoing, staff support the integration of the P.P.S. and the Growth Plan into one new Province-wide planning policy document. However, there needs to be a balance of increasing housing supply and supporting a range and mix of housing options with protecting and managing resources, the natural environment and public health and safety. Increasing the supply of housing and supporting a diversity of housing types is important, but should not come at the expense of the environment. ▪ Staff support the general idea of the six proposed core elements (residential land supply, attainable housing supply and mix, growth management, environment and natural resources, community

Question (as posed in E.R.O. Posting Number 019-6177)	Staff Comments
<p>2. What land use planning policies should the government use to increase the supply of housing and support a diversity of housing types?</p>	<p>infrastructure and a streamlined planning framework). More specifically, staff support the idea of streamlining and simplifying policy direction, as well as policy direction that allows for flexibility and takes into account local circumstances.</p> <ul style="list-style-type: none"> ▪ The following are some land use policies that the government should use to increase the supply of housing and support a diversity of housing types: <ul style="list-style-type: none"> - Permitting more housing types in certain residential areas and encouraging “gentle density” (while still carefully considering how this will affect neighbourhoods); - Encouraging and planning for growth in strategic growth areas (e.g. Urban Growth Centres, M.T.S.A.s, etc.); - Implementing robust intensification and density targets; - Implementing policies to ensure that development of lower density development in Greenfield areas proceeds in tandem with higher density development within Built-up Areas, and to give municipalities the ability to regulate the issuance of approvals for lower density development in the event such development outpaces the delivery of a certain level of medium and high density development. - Encouraging the development of complete communities; and, - Requiring municipalities to undertake intensification studies to determine where new development opportunities may exist to accommodate future growth. ▪ City staff have initiated an Intensification Study, which will focus on creating new development opportunities through the intensification of already built-up areas and reducing reliance on the development of Greenfield areas to accommodate growth in the City. The purpose of this study is to identify locations in Oshawa that are ideally suited to

Question (as posed in E.R.O. Posting Number 019-6177)	Staff Comments
3. How should the government further streamline land use planning policy to increase the supply of housing?	<ul style="list-style-type: none"> ▪ accommodate intensification of varying degrees/scales and to establish criteria to guide the assessment of proposals for intensification projects. ▪ Staff note that with an aging population, it is important to also consider the inclusion of policies related to providing accessible and affordable housing for persons with disabilities and for persons who may have mobility challenges, many of whom are seniors. ▪ In addition to land use planning policies, the Province needs to provide financial assistance to municipalities to assist with increasing the supply of housing and supporting a diverse mix of housing types. ▪ Comprehensive up-to-date implementation guidance with ongoing implementation support would further streamline land use planning policy. If a new Provincial planning policy instrument is issued, comprehensive and precise implementing guidance must be provided concurrently with the issuance of the new policy document, to show how that policy is to be implemented in various contexts.
4. What policy concepts from the P.P.S. and the Growth Plan are helpful for ensuring there is a sufficient supply and mix of housing and should be included in the new policy document?	<ul style="list-style-type: none"> ▪ The following are some key policy concepts from the P.P.S. and the Growth Plan that are helpful for ensuring there is a sufficient supply and mix of housing and should be included in the new policy document: <ul style="list-style-type: none"> - Identification of strategic growth areas; - Establishment of intensification and density targets; - Developing a standardized methodology for assessing land needs; - The ability for potential settlement area boundary expansions (with proper rationale); - Policies aimed to achieve efficient and resilient development and land use patterns; - Policies that promote intensification; and,

Question (as posed in E.R.O. Posting Number 019-6177)	Staff Comments
	<ul style="list-style-type: none"> - Policies that promote a diverse range and mix of housing options. ▪ Implementing density targets are helpful as they provide a measurable criterion to assist with growth. However, not all communities are the same and one standard density target across the Greater Golden Horseshoe is not realistic; given differing populations, market conditions, etc. Specific to Greenfields, it is appropriate to consider a lower minimum density target than the existing fifty (50) residents and jobs combined per hectare in areas containing former rural settlements, whose character and built form it is desirable to protect. In this regard, staff note that on March 28, 2022, pursuant to Item DS-22-58, City Council passed a motion to request the Province to allow lower-tier municipalities to implement lower minimum density targets in terms of combined jobs and population in designated Greenfield areas where preservation of the existing characteristics of a former rural settlement, such as the former hamlet of Columbus, is desirable, and to allow the municipality to exclude the area of the former rural settlement for the purposes of calculating the population density targets in the Provincial Growth Plan. ▪ As noted above, targets are helpful in measuring growth. In the existing Growth Plan, the delineated built boundary assists with measuring intensification targets within a municipality. If the built boundary concept is included in a new policy document, it is recommended that municipalities are given the authority to adjust the built boundary as growth occurs, rather than the Province having to approve any changes to the boundary.
5. What policy concepts in the P.P.S. and the Growth Plan should be streamlined or not included in the new policy document?	Staff have no comments.

General Staff Comments on Bill 23

	Description	Staff Comments
1.	Length of consultation	<p>It is problematic for the Provincial government to provide stakeholders with only 30 days to comment on some of the matters under Bill 23. There are multiple proposed amendments to a number of Acts and regulations, as well as a review of various housing and land use policies, which will have significant impacts on all stakeholders, including municipalities. Not only is there a substantial amount of material to review, but municipalities across Ontario recently held their municipal elections. The consultation period does not make allowances for the fact that every municipality has a new Council that is getting settled, standing committees are being formed, and that staff need enough time to properly respond and prepare a report to their respective Committees and Councils to prepare them for the Province's significant changes to the legislative framework of municipal planning approvals.</p> <p>Staff request that the consultation period be extended until the end of the 1st quarter of 2023.</p>
2.	Municipal housing targets	<p>The draft proposed target for the City of Oshawa is to build 23,000 units by 2032. This would require the City to issue building permits for 2,300 units each year for the next ten years, assuming that the development industry has access to the resources and skills required to deliver new housing at such a level.</p> <p>Staff are concerned that the City may not be able to achieve this target. The City has never achieved a building permit issuance rate of 2,300 units in a year. In 2021, the City issued permits for 1,321 new dwelling units and in the last ten years, the greatest</p>

Description	Staff Comments
	<p>number of permits issued for new dwelling units was 1,754 units in 2017.</p> <p>This current year (2022) will be the highest year for building permits issued for new dwellings in Oshawa. As of October 1, 2022, the City has issued 1,968 building permits for new dwelling units. However, it is unlikely that the City will reach 2,300 units, despite this being the City's best year to date. To avoid overtime and staff burnout, the City would need to hire more staff with varying levels of experience in order to achieve the Province's target growth rate. The Province should be providing funding to each of the municipalities who are expected to meet their proposed housing targets for the next ten years.</p> <p>Lastly, there will be a need for massive investment in the infrastructure that will be required to support these new homes. The Province needs to provide financial support to assist municipalities in reaching their prescribed municipal housing targets, which could include funding for new roads, trails, recreation centres, parks, fire services, etc.</p>
<p>3. Vacant homes taxes:</p> <p>The Province has advised that they will release a policy framework this winter setting out the key elements of local vacant home taxes. A provincial-municipal working group will be established to consult on this framework, and to facilitate sharing information and best practices.</p>	<p>City staff would need to investigate the feasibility of implementing this tax in Oshawa.</p> <p>Staff note that there are unique housing markets in Oshawa such as purpose built student housing which needs to be treated differently than standard housing elsewhere in the City. For example, it is not uncommon for student housing operators to offer leases that align with the school's academic year. The Province may want to consider scoping the review of vacancy rates based on the type of unit (e.g. bachelor units, town houses versus apartments, student housing, etc.).</p>

Description	Staff Comments
<p>4. Reducing the property tax burdens on apartment buildings:</p> <p>The Province has advised that they will consult with municipalities on potential approaches to reduce the current property tax burden on multi-residential apartment buildings in Ontario. The government sets the same education property tax rate for all residential properties, including apartment buildings. However, municipalities typically tax multi-residential apartment buildings at a higher property tax rate than other residential properties, such as houses and condominiums.</p>	<p>The taxes for apartment buildings are calculated using the tax rates set out by the City of Oshawa and the Region of Durham and the current assessed value as determined by the Municipal Property Assessment Corporation. The City of Oshawa also sets the tax rates using the Region of Durham tax ratios. Should the Region of Durham be required to change the tax ratios based on Bill 23, this will in turn generate tax shifts within all the Realty Tax Classes, resulting in increased property taxes in other tax classes. This would ultimately impact all property owners in Oshawa, not just the apartment building owners.</p>