



**Planning &
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November 23, 2022

Submitted online to Environmental Registry of Ontario and PlanningConsultation@ontario.ca

Re: Bill 23: Build More Homes Faster Act, 2022

**ERO 019-6163 – Proposed Planning Act and City of Toronto Act Changes
(Schedule 9 and 1 of Bill 23 – the proposed More Homes Built Faster Act, 2022)**

ERO 019-6173 - Proposed Amendments to O.Reg. 232/18: Inclusionary Zoning

ERO 019-6197 – Proposed Changes to O.Reg. 299/19: Additional Residential Units

To whom it may concern:

ERO Bulletin Numbers 019-631, 019-6173 and 019-6197 were posted onto the Environmental Registry of Ontario on October 25, 2022, for comment. ERO 019-61 proposes to amend the *Planning Act* and has requested that comments be submitted by November 24, 2022. ERO-019-6173 proposes to make amendments to *O.Reg. 232/18: Inclusionary Zoning* and has requested comments by December 9, 2022. Finally, ERO 019-6197 proposed to make amendments to *O.Reg. 299/19: Additional Dwelling Units* and has requested comments by December 9, 2022.

While the Town thanks the Province for consulting on the proposed amendments, significantly more engagement with municipalities is needed to fully understand the impacts associated with the proposed changes. Included as Attachment 1 with this letter are comments prepared by staff from the Town's Planning and Development Services Department. These comments highlight various matters that the Province needs to consider prior to enacting the amendments. The attached comments will be forwarded to a future Council meeting and a copy of a resolution of Council endorsing the comments will be provided at a later date.

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

ATT 1: Town of Ajax Comments on ERO 019-6163, 019-6173, and 019-6197 Planning Act amendments and associated regulations

Regards.

Geoff Romanowski, MCIP, RPP, CPT
Director of Planning and Development Services
Planning and Development Services
Town of Ajax

Copies:

Patrice Barnes, MPP, Ajax

Steve Clark, MPP, Minister of Municipal Affairs and Housing

Shane Baker, Chief Administrative Officer, Town of Ajax

Jason McWilliam, Manager of Legislative Services/ Acting Clerk

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Sean McCullough, Supervisor of Planning Policy and Research, Town of Ajax

ATT 1: Town of Ajax Comments on ERO 019-6163, 019-6173, and 019-6197 Planning Act amendments and associated regulations

ERO 019-6163 – Proposed Planning Act and City of Toronto Act Changes	
Proposed Amendment	Town of Ajax Comments
<p><u>Upper-tier Municipality Planning Authority</u></p> <p>1. Introduction of “Upper-tier Municipality <u>without</u> Planning Authority” which includes all Upper-tier municipalities in the GTA, including the Region of Durham, and several outside the GTA such as the County of Simcoe and Region of Waterloo. As a result, this change would download a number of planning processes to the lower tier municipality; and upload some responsibilities to the Province, including:</p> <p>The upper-tier Official Plan would be assigned to the lower tier municipalities, who would be responsible to update their Official Plans to include matters of Provincial interest, such as delineating and planning Protected Major Transit Station Areas and determining growth forecasts.</p> <p>The Province (through the Ministry of Municipal Affairs and Housing) would be responsible for approving Official Plans and Amendments. The Minister could also exempt certain amendments from their approval, similar to exemptions currently provided to the Town by the Region.</p>	<p><u>Official Plan Approval</u></p> <p>The Town has concerns with approval authority of Official Plans being transferred to the Province. Without significant resources being allocated to MMAH to hire more staff, the Town questions if this process will in fact be faster. For example, Regional Official Plan Amendment No. 186 (ROPA), which delineates and introduces policy related to Major Transit Station Areas was adopted by the Region in December 2021. As of the date of preparation of these comments, ROPA 186 has not been approved by the Province. The Town has concerns that if the approval of all lower tier Official Plans and amendments are transferred to the Province, that delays will be compounded.</p> <p>Municipalities are required to approve Official Plan and Zoning By-law Amendments within 120 days, otherwise they are required staged refunds to an applicant. The Province has the same responsibility to expeditiously approve Official Plans and amendments and therefore are urged to meet legislative timelines outlined in the <i>Planning Act</i> should the responsibility be transferred to the Province.</p> <p>If this amendment proceeds, the Town recommends the following:</p> <ul style="list-style-type: none"> • That the Province substantially increase Provincial staffing to expeditiously approve Official Plans and amendments; • That the Province commit to providing a decision on Official Plans and amendments within 120 days, in accordance with section 17 (40) of the <i>Planning Act</i>; • That sections 17(40.1) to (40.1.3) inclusive, which enable the Minister to suspend the timeline to provide a decision on an Official Plan, be deleted; and • Engage in meaningful consultation with lower tier municipalities to determine which Official Plans and amendments are to be exempt from approval by the Minister. <p><u>Growth Allocation</u></p> <p>Growth allocation and forecasting is relied upon during the preparation of various municipal plans (Official Plans, Parks and Recreation Plans etc.), development charge background studies, and most importantly, are used to strategically plan for</p>

<p><u>Subdivision and Consent Applications</u></p> <p>2. Lower-tier municipalities would be responsible for processing consent (land division) applications, which is currently managed by the Region.</p>	<p>servicing (sanitary, water) and transportation infrastructure. Having accurate forecasts are also needed to establish development charges required to pay for infrastructure and plan capital budgets. In the absence of a coordinated approach to infrastructure planning and potentially conflicting growth forecasts, municipalities risk increased costs and delay.</p> <p>Currently, the Growth Plan distributes population and employment forecast to Upper-tier municipalities who have been working to allocate to lower tier municipalities through their Municipal Comprehensive Review. The Region of Durham initiated the MCR in 2018 and has been delayed numerous times due to changing Provincial policy and direction. Substantial resources have been expended completing the review, and if transferred to the lower tier municipalities, additional resources would be required to hire consultants to complete the work.</p> <p>The Town recommends that the Province permit Upper-tier municipalities to complete the Municipal Comprehensive Review to allocate growth to lower tier municipalities prior to transferring the Upper-tier Official Plan to avoid further delay and conflict.</p> <p>For future growth management exercises, the Province would need to implement a systematic method for determining and allocating growth to lower tier municipalities. Using linear projections is not sufficient for forecasting growth. The Province would also need to provide significant resources to area municipalities to undertake intensification, greenfield and employment lands analysis to ensure that growth forecasts can be achieved. Additionally, if municipalities are unable to collect and pay for Official Plan Reviews using Development Charges, reviews will be significantly delayed and/or the tax payer will be required to fund the review.</p> <p>Additional comments in relation to the Municipal Housing Targets are identified in ERO Posting No. 019-6171 are identified later in these comments.</p> <p>The Town supports the transfer of consent applications (land division) to the lower tier municipalities. The Town has a Committee of Adjustment whose role can be expanded to consider consent applications. This is preferred, as there can be issues with related land division and minor variance applications being considered by separate committees. The Town currently has delegated authority from the Region to approve subdivision and condominium applications.</p>
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<p><u>Additional Dwelling Units</u></p> <p>3. Restrictions would be introduced to ensure that Official Plans and Zoning By-laws do not contain policy or provisions that would prohibit the use of two (2) or three (3) units on a property containing a detached, semi-detached or rowhouse (townhouse). Three (3) units would be permitted in the dwelling, or two (2) in the dwelling and a third in an detached accessory building or structure.</p> <p>Additionally, the changes would prohibit municipalities from requiring more than one parking space per unit and from requiring a minimum floor area per unit.</p> <p>Amendments to Ontario Regulation 299/19: Additional Residential Units (O.Reg. 299/19) are also proposed to allow “as-of-right” permissions to immediately permit up to 3 units on a property in accordance with the amendments identified above.</p>	<p>The Town supports, in principle, this amendment as the Town has issued over 700 building permits for accessory dwelling units since 2006 with the number of permits increasing exponentially each year. The Town is in the process of amending the Zoning By-law to permit accessory dwelling units in accessory detached buildings.</p> <p>It should be noted that some rowhouses (townhouses) in the centre of a block will be unable to accommodate a unit in the rear yard as access must be provided to a municipal right-of-way.</p>
<p><u>Major Transit Station Areas (MTSA)</u></p> <p>4. The amendments would allow lower tier municipalities to delineate and include policies for areas around Major Transit Station Areas (e.g. Ajax GO Station) in their Official Plans. The changes would also require lower tier municipalities to update their Zoning By-laws within one (1) after passing of Official Plan policies for related to MTSA’s.</p> <p>Historically, Zoning By-law Amendments that implement PMTSA uses, densities and related policies have been shielded from appeals. The proposed changes would allow appeals of zoning by-laws that implement these policies within PMTSA’s if a zoning by-law is not passed within one year of the passing of the policies.</p>	<p>Staff support, in principle, this amendment. The Town would have been required to implement this change in the next Official Plan Review, following approval of ROPA 186. Additionally, the Town currently has policies in the Ajax Official Plan that support minimum densities and jobs in the area surrounding the Ajax GO Station, and have worked closely with the Region on delineating the expanded Protected Major Transit Station Area (PMTSA). Staff request that the Province make a decision on ROPA 186.</p> <p>Staff do not support the introduction of appeals on a Zoning By-law Amendment that implements MTSA Official Plan policies after one year. While the Town will strive to meet the deadline, the scale of changes proposed through Bill 23, as well as Bill 109, will have significant impacts on municipal budgets and staffing. To ensure that by-laws are not unduly delayed by appeal, prohibition on MTSA Zoning By-law Amendments must remain indefinitely.</p>

	<p>If the Region's Official Plan is transferred to lower-tier municipalities, the Town does not support the one year timeline for implementation of an applicable Zoning By-law, if it starts at the time of approval of a Regional Official Plan Amendment to implement policy. While the Town does not support the one-year timeline, if implemented it must begin upon approval of the lower-tier Official Plan policy. The Region's Official Plan lacks sufficient details required to guide zoning implementation and lower-tier municipalities need time to complete secondary planning exercises for areas surrounding MTSA's and align Zoning By-laws with those secondary plans.</p>
<p><u>Site Plan Control</u></p> <p>5. The definition of 'development' in section 41 of the Planning Act (Site Plan Control) is proposed to be amended to not include the construction of a building containing 10 dwelling units or less. As a result, developments proposing 10 units or less would not be subject to site plan control.</p> <p>6. Section 41 (4) 2. (d) of the Act, which provides the Town with the ability to approve the exterior design of a building, is proposed to be deleted. This section allows the Town to review and comment on the character, scale, appearance and design features of a building, including sustainable design elements. Exterior design, except matters relating to exterior access of a building containing affordable units, would also be added to the list of elements excluded from Site Plan Control.</p>	<p>The Town does not support the proposal to exempt buildings with 10 units or less from Site Plan Control. Buildings with 10 units should continue to proceed through site plan control, at the discretion of the municipality, as technical matters such as safe site access, waste collection, parking area design, stormwater management controls, grading, and site servicing, all need to be considered in a comprehensive manner. At a minimum, municipalities should continue to be permitted to approve technical matters as outlined above.</p> <p>The Town does not support the removal of permissions to approve the appearance of the exterior design of a building, also referred to as architectural control. Architectural design remains one of the most important design consideration of Site Plan Control. The Town, and architectural control consultant, have worked with hundreds of architects, designers and applicants, to identify inconsistencies in drawings and recommend alternate and budget friendly materials to create visual interest, durability and variation. Architectural design, including the scaling and massing, is also required to create safe, livable and pedestrian friendly communities. Matters such as Crime Prevention Through Environmental Design (CPTED) are routinely considered to position buildings and doors to maximize activity, and increasing glazing to maximize surveillance, of the adjacent streets to enhance safety. Massing and scale is also considered to create comfortable and attractive streetscapes that promote economic and social activity. Surrounding neighbourhood attributes are also considered to maintain viewscales, improve health by mitigating impacts from wind and maximizing sunlight. Matters such as bird friendly windows also improvement the natural environment and could no longer be required. Architectural control is needed that the proposed revisions must be repealed.</p> <p>The Town does not support the removal of sustainable design elements from the site plan process. On September 16, 2019, the Ajax Council declared a Climate</p>

<p>7. The appearance of elements, facilities and works, which may include landscape design, on both the land or adjoining highway (municipal right-of-way) are also excluded from site plan control, except to the extent that the appearance impacts related to health, safety, accessibility or the protection of the adjoining lands.</p>	<p>Emergency, and continue to take steps to proactively mitigate and adapt to the impacts of climate change. This include creating resilient communities. On April 19, 2022, Ajax Council adopted the Ajax Green Standard. The standard helps to improve energy performance of buildings, reduce Green House Gas emissions, and help sites adapt to climate change. The proposed changes would eliminate the Town's ability to apply the Ajax Green Standard to site plan applications and impede the Town from creating climate adaptive communities.</p> <p>The Town does not support the addition of this broad category to the list of exclusions from site plan control. First, the municipal right-of-way is owned by the municipality who is responsible for its long term maintenance. Constructing new buildings and the coordination of trees, utilities, access, temporary construction and grading within the right-of-way requires immense coordination and any potential limitations will only further delay approvals. Secondly, landscape design not only contributes to the visual appearance of the surrounding community, but it also helps to mitigate impacts of climate change, by reducing the urban heat island or encouraging the planting of climate resilient plants.</p> <p>Section 41 (4) 2. (d) of the <i>Planning Act</i>, which permits municipalities to approve the exterior design of buildings, including their character, scale, appearance, design features, and sustainable design, must remain as a matter to be approved by municipalities through Site Plan Control. Similarly, the appearance of elements, facilities and works on the land and adjoining highway must not be added as an exclusion.</p>
<p><u>Elimination of third-party appeals</u></p> <p>8. The proposal would eliminate third party appeals (e.g. neighbours) for all Planning matters including OPA's, ZBA's, consents and Minor Variance applications). Only an applicant, the Minister, a Specified Person (e.g. OPG, Hydro One, natural gas or pipeline operator, railway company, telecommunication provider etc) or public body (including municipalities) would be permitted to appeal.</p>	<p>While the Town understands the concern surrounding appeals and the impact on delaying the delivery of housing; the Town does not support the elimination of third-party appeals. Instead, the Province should investigate more cost-effective dispute resolution options, such as mediation or options with more localized representation. Panels could be created with representation from various municipalities to hear and adjudicate appeals.</p>
<p><u>Elimination of Subdivision Public Meeting</u></p> <p>9. The amendments would eliminate the requirement for a public meeting for Plans of Subdivisions.</p>	<p>It is common that a Plan of Subdivision will also require a Zoning By-law Amendment application, staff question if the elimination of the public meeting for a plan of subdivision will actually save time. Currently, the Town would process both a Zoning</p>

	<p>By-law Amendment Application and a Plan of Subdivision together, and forward one report to the same public meeting. Public meetings are important tools to understand proposed plans on adjacent properties. Plans of subdivision require significant coordination with adjacent properties to align roads, school and park blocks, and other remnant part blocks. While it is common for adjacent property owners to meet and discuss proposed plans, this is not always the case.</p>
<p>ERO 019-6173 - O.Reg 232/18: Inclusionary Zoning</p>	
<p>10. Amendments to the Inclusionary Zoning regulation (O.Reg 232/18) would establish an upper limit of 5 % on the number of units or gross floor area to be set aside as affordable. A maximum period of 25 years and would establish an approach to determine an affordable price and/or rent at 80% of the average resale price and/or rent.</p>	<p>The Town does not support the implementation of a maximum percent of 5% on the number inclusionary zoning units or gross floor area). If the goal of the Province is to provide affordable housing units, then the maximum percentage of units should be increased to ensure that affordable units are located in transit supportive areas.</p> <p>Further, permissions to apply Inclusionary Zoning should be expended to other Strategic Growth Areas to advance the Provinces goal to deliver affordable housing options.</p> <p>The Town does not have any concerns with establishing a maximum time period of 25 years that the units remain affordable. The Town does not have any concerns with the Province identifying the average resale value and rent, provided that it is identified individually for each lower tier municipality. Further, some municipalities may require multiple average rates to be established depending on their individual characteristics and geography.</p> <p>If the Province plans to implement a maximum percentage of units, establish an affordability rate and time period, then the need for municipalities to complete a Housing Assessment Report should be eliminated. The requirement for a Housing Assessment Report creates an unnecessary and costly burden on municipalities to justify the requirements established by the Province.</p>
<p>ERO 019-6197 – Proposed Changes to Ontario Regulation 299/19: Additional Residential Units</p>	
<p>11. Proposed amendments would allow up to three (3) units “as-of-right” on a property, without the need for a zoning by-law amendment and would supersede local Official Plans and Zoning By-laws.</p>	<p>As identified earlier, the Town does not have any concerns with this proposal. However, servicing constraints may emerge in neighbourhoods with large uptake in these permissions and will be required to be closely monitored by the Region. While parking is proposed to be limited, it still may emerge as an issue on smaller properties.</p>