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November 24, 2022

The Honourable Steve Clark
Minister of Municipal Affairs and Housing
College Park, 17th Floor
777 Bay Street
Toronto, ON M5G 2E5

Subject: Bill 23 – *More Homes Built Faster Act, 2022*
Comments from City of Pickering – ERO Posting 019-6163
Proposed Planning Act Changes
File: L-1100-058

Please find attached comments from the City of Pickering with respect to Environmental Registry Ontario Posting 019-6163, regarding proposed changes to the *Planning Act*. Thank you for your consideration.

These comments are also being forwarded to Council of the Corporation of Pickering for their receipt and endorsement.

Yours truly



Marisa Carpino, M.A.
Chief Administrative Officer

MC
Attachment

ERO Posting	City of Pickering Comments
<p>ERO Posting 019-6163 (Closing November 24, 2022) Proposed changes to the <i>Planning Act</i> and <i>City of Toronto Act</i></p>	
<p>Removing the planning policy and application approval responsibilities from certain upper-tier municipalities, including the Regional Municipality of Durham</p> <p>Removing the Regional planning function, implies that matters of regional planning interest or impact, becomes a local municipal responsibility. If the Province does not provide the required funding to local municipalities to fulfil these added responsibilities, municipalities may not have a choice but to fund the additional costs for additional staff and resources from property taxes, which would be counter-intuitive to the Province’s goal to cut costs and make housing more affordable.</p> <p>Regional Planning also represents the Provincial interest in planning matters. These include conformity with Provincial plans and policy, archaeological site assessments, soil and groundwater assessments, noise impacts, land use compatibility, environmental impact assessments, etc. Removing the Regional Planning authority from the planning hierarchy implies that this function will have to be either downloaded to lower tier municipalities, or uploaded to the Province, which would add further delays to planning approvals, including approvals for new housing. Planning staff at either the local or Provincial level would need to fulfill this function. The Province needs to clarify who, in the absence of Regional Planning, would represent the Provincial interest in planning matters.</p>	
<p>Higher Density Around Transit</p> <p>If passed, the changes would require municipalities to update their zoning by-laws to permit transit-supportive densities as-of-right, within 1 year of a Major Transit Station (MTSA) or a Protected MTSA (PMTSA) approval; if zoning updates were not undertaken within the 1-year period, the usual protection from appeals to the Ontario Land Tribunal for PMTSAs would not apply.</p> <p>Amendment #186 to the Durham Regional Official Plan established a density target of 150 residents and jobs per hectare for PMTSA’s.</p> <p>For greater clarity, it would be helpful if the Province define the term “transit-supportive” densities.</p> <p>Furthermore, if third party appeals would no longer be allowed, who would appeal the City’s zoning update?</p>	

Limiting Third Party Appeals to the Ontario Land Tribunal (OLT)

The City is pleased to acknowledge the Province's most recent proposal to have third party appeals re-instead for zoning by-law and official Plan amendments.

It is recommended that the limitation of Third Party Appeals to the Ontario Land Tribunal, with respect to other development applications such as minor variances and land divisions be withdrawn in its present form, as it severely constrains the rights of existing citizens, landowners, and business operators to play a meaningful a role in future of their community. As currently worded, limiting appeal rights would apply to any application – whether commercial, industrial, recreational. Therefore, the proposed legislation is much more wide-sweeping than the guise of delivering housing faster. If the Minister proceeds with this proposal, it is recommended that that the scope be limited to planning applications that involve the construction of rental and affordable housing.

This proposal would effectively leave no legal recourse to a member of the public which, under the current legislation, could have presented important information, that may have changed the outcome of a council decision on an application, at a subsequent OLT hearing. Further, the appeal process provides an important part of the checks and balances that prevent planning approvals at local Council from being completely politicized.

Allowing the OLT to award costs to the unsuccessful party

Awarding costs to the unsuccessful party should only be permitted when the Tribunal makes a finding that the parties' conduct meets the threshold of "unreasonable, frivolous or vexatious, or bad faith". It is recommended the language of the proposal be explicit in this regard.

Removing Public Meetings for Draft Plans of Subdivision applications

Removing the requirement for statutory public meetings for draft plan of subdivision applications is supported. Public consultation on what would be permitted on the lands would be completed as part of a zoning by-law amendment application approved prior to the submission of an application for draft plan of subdivision.

Exemption for Development up to 10 units from Site Plan Control

The proposal to exempt developments of up to 10 units from site plan control is supported as it would help accelerate the review of small-scale housing projects. Should a development project require site-specific zoning approval, through this process there will be an opportunity to consult the public and ensure the zoning by-law requirements address scale, massing, height, minimum landscaping, etc., so that the resulting built form is well designed to fit in with the surrounding neighbourhood.

Removing the ability to regulate architectural details and landscape design through the Site Plan approval process

Removing the ability to regulate architectural details and landscape design through the Site Plan approval process is not supported and should be removed from the legislation. If approved, it would hinder or prevent the implementation of sustainable design guidelines which are tied to elements of site plan approval such as site landscaping and stormwater management.

The proper attention to the placement of buildings and structures on a site, the architectural aesthetic design of the building, and the design of the surrounding landscaped open spaces, and how they relate to each other, results in the creation of a high-quality site design that helps to enhance both the private and public realms. Continuing to regulate the architectural design and associated landscape design will allow the City to promote a high standard of urban design, promote a sense of place, and encourage sustainable design.

As an alternative to removing this aspect of the legislation, it is requested that the following changes be made:

Amend Schedule 9 in Bill 23 by deleting Subparagraph 2 (d) of subsection 41 (4) of the *Planning Act* and replace that section with the following wording:

“(d) matters relating to sustainable design if an official plan and a by-law passed under subsection (2) that both contain provisions relating to such matters are in effect in the municipality;”

Removing Conservation Authorities' authorization to review and comment on development applications

Currently, municipalities have the ability to enter into agreements with CA's to review development applications for environmental impacts. The reason for this practice is that municipalities, including the City of Pickering, do not have the in-house expertise or resources to fulfil this function. Downloading this function to municipalities means that they need to be financially enabled to fulfil this additional role. If the Province do not provide the required funding, municipalities may not have a choice but to fund the additional costs for additional staff and resources from property taxes, which would be counter-intuitive to the Province's goal to cut costs and make housing more affordable. Furthermore, downloading the function to municipalities will not result in any significant cost savings or reduced timelines for development approvals, but merely shift the responsibility of the function from one agency to another agency.