



Town of Saugeen Shores
600 Tomlinson Drive, P.O. Box 820
Port Elgin, ON N0H 2C0

November 24, 2022

Standing Committee on Heritage, Infrastructure and Cultural Policy

Laurie Scott, MPP, Chair and Isaiah Thorning, Clerk

Whitney Block, Room 1405

Toronto, ON, M7A 1A2

Via email: schicp@ola.org, PlanningConsultation@ontario.ca, and MFPB@ontario.ca

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**Subject: Consultations on More Homes Built Faster: Ontario's Housing Supply
Action Plan 2022-2023
Postings - 019-6162, 019-6163, 019-6172, 019-6196, 019-6141, 22-MAG011**

Dear Chair Scott and Members of the Standing Committee,

On behalf of the Town of Saugeen Shores, please accept this letter and the attached Council Report outlining the importance of addressing housing affordability in Saugeen Shores, and how we can work together to find effective tools to address housing in Ontario.

Saugeen Shores understands what the Government of Ontario is working to accomplish with Bill 23 and related proposals. We commend the attention the Province is giving to this pressing issue. However, we feel these changes will not attain our shared objectives.

Municipal governments are in the best position to address the immediate and local concerns of its citizens, including concerns related to housing. Bill 23 takes autonomy away from municipalities and prevents them from addressing the housing crisis in an adequate and timely fashion. As you know, matters of local importance require solutions that are created and implemented locally. The changes outlined in Bill 23 are a one-size-fits-all approach; we do not believe this approach will be successful in Saugeen Shores. Saugeen Shores is not the same community as St. Catharines, Sault Ste. Marie, Mississauga, or Pickering.

We ask the Province to strike an appropriate balance between building housing for all and ensuring our natural environment, parks and built heritage are protected and can improve in the long term. The Town is particularly concerned about the Bill's impact on development charges. These fees directly fund the new infrastructure that is necessary to support new housing. Infrastructure needs to be adequately funded and built in order to support appropriate housing development and places for new residents to live. Again: municipalities are best situated to understand and respond to their own communities' needs and can be relied upon to implement the appropriate tools and approaches in support of the Province's overall housing goals.

Bill 23 will require us to implement broad and dramatic changes to how our municipality operates its business. The volume of these proposed changes -- and the time it will take to fully understand and implement them -- will consume substantial resources that would be better spent focusing on actually supporting the building of homes.

Attached to this letter is Town Council's unanimously endorsed comments that recommend the Province engage with municipalities further to make tools such as Inclusionary Zoning and Community Planning Permit Systems more useful, cost-effective and helpful for municipalities to use.

Should you wish to connect further, I would welcome the opportunity to discuss Inclusionary Zoning and Community Planning Permit Systems, or any of our shared concerns about appropriate tools for addressing the housing crisis.

I look forward to working with you.

Sincerely,

A handwritten signature in black ink, appearing to be 'L. Charbonneau', written in a cursive style.

Luke Charbonneau
Mayor
Town of Saugeen Shores

CC: Ben Lobb, MP, Huron-Bruce
Lisa Thompson, MPP, Huron-Bruce
Council Members, Town of Saugeen Shores

Staff Report

Report From: Jay Pausner, Supervisor, Development Services

Meeting Date: November 21, 2022

Subject: Proposed Changes to Provincial Legislation

Attachment: County summary of proposed changes

Recommendation

That Council endorse the comments contained herein and direct staff to forward them to the Province; and

That Council direct staff to submit comments to the Province on other related Environmental Bill of Rights postings where Council meetings cannot accommodate the comment deadlines.

Report Summary

The Province has posted on the Environmental Bill of Rights Registry for comment: Bill 23, the More Homes Built Faster Act; as well as a number of other policy, legislative and/or regulatory changes outside of Bill 23, including but not limited to additional residential units and the Ontario Building Code. The attached document from Bruce County provides an outline of the broad scope of the proposed changes.

This report highlights changes that are key considerations for development in Saugeen Shores by outlining: the Saugeen Shores context; the main changes proposed; technical analysis; and recommended Town comments. Noting that the comment period was tight with scheduling realities of a new Council, the report is not able to provide a line-by-line review of the changes. Rather, the report seeks to comment on the most relevant changes for Saugeen Shores in time for the November 24th deadline for commenting on most of the matters covered by this report.

The evolution of this legislation will continue to be monitored and where appropriate, future reports will be brought forward to Council where needed. There may, however, be instances where Council Agenda deadlines for reports do not align with the Province's commenting deadlines in December and a staff submission may be warranted.

Planning Act

It is notable that the changes to the Act are not solely directed toward housing. Many changes would affect all types of development.

Site Planning

Saugeen Shores Context

Currently, only development that is zoned R1 or R2, or is considered small additions to existing buildings in other zones, is exempt from site plan control. Over the past 2 years the Town has processed, or is processing, 15 site plan applications (including active files). All site plans in Town address matters such as landscaping, building facades, lot grading, lighting, accessibility, parking, pedestrian connectivity.

Proposed Changes

Several substantive changes are proposed affecting site planning: scoping eligible developments so that residential developments of ten or fewer units are not eligible for site planning and excluding previously eligible site planning considerations (landscaping and exterior finishings, for example).

Analysis

The Town is concerned that it would be no longer permissible to integrate landscaping or building exterior considerations through site planning. The new change applies to all site plans, not just housing projects. The biggest developments, with the most visibility, are along the Town's main streets, such as Goderich Street. Removing the Town's ability to affect the look and feel of its community in these visible areas will mean there is a greater potential for developments which do not fit in with the goals and objectives of the community. As powers are constrained, municipalities' ability to address climate change through landscape and site design may also be curtailed. It is also possible that this restriction will push municipalities to revise zoning by-laws to make them more rigid on the issue of landscaping or on matters that can identifiably be enforced through zoning instead of site planning. This could affect the ability of developments to proceed quickly if changes to zoning are required.

Comment 1

The Town objects to changes to the site planning authorities contained in the proposed legislation.

Additional Residential Units

Saugeen Shores Context

The County and the Town amended their Official Plans respectively to update and broaden the policies permitting additional residential uses, and the Town made related changes to its Zoning By-Law. The Town's ARU update allowed up to 3 ARUs (2 within the main dwelling and 1 in a garden suite or other combinations) to be built on land in Saugeen Shores, subject to a modest set of requirements that are intended to mitigate impacts and maintain the small-town charm of

Saugeen Shores. The Town also created two guides to assist landowners in understanding the planning requirements as well as the building requirements for ARUs.

To date, the Town has issued 4 permits for ARUs since the updated policy change went into effect that did not require zoning relief.

Proposed Changes

The legislation proposes changes to remove hurdles to the creation of Additional Residential Units (ARUs).

- Up to 3 residential units permitted on a parcel of land within fully serviced (water and sewer) settlement areas 'as-of-right':
 - 2 residential units within the principal building plus one in an ancillary building
 - or 3 residential units in a principal building provided there is no residential unit in an ancillary building.
- May not require more than 1 parking space for each ARU and no minimum unit size
- ARUs exempt from development charges and parkland dedication rates, including for ARUs included within new residential buildings.

Analysis

The proposed changes line up closely with what the Town already has implemented; however, concerns remain about potentially effected zoning provisions. For instance, it is unclear whether the changes would override, for example, the side yard setback to install an ARU. Similar thinking should be applied to many other provisions and their potential impacts prior to implementing these as-of-right provisions.

Comment 2

The Town supports the proposed ARU changes, with caution about implementing an as-of-right system without consideration of how zoning provisions will be addressed.

Parkland

Saugeen Shores Context

Currently, the Town takes up to 5% of the land to be developed for any land division application (subdivision or severance). The Town works with the developer to identify land that is suitable for parks. The Town alternatively, when suitable, takes 5% cash in lieu of land.

Proposed Change

Some significant changes to how a municipality can acquire parkland are proposed. Changes that would directly affect Saugeen Shores include allowing landowners/applicants to identify the land they wish to convey, capping alternative parkland calculations and requirements to spend or allocate reserves annually.

As part of a proposal, a developer may identify their preference for land to be conveyed, and the municipality, if they dispute the land, will be directed to resolve the dispute through the Land Tribunal.

Analysis

This seems a very aggressive form of site selection resolution and may also end up with land being conveyed which is not necessarily optimal for parkland. There are no criteria yet for how land is to be identified by a proponent.

Comment 3

The Town does not support the proposed changes to parkland dedication.

Proposed Change

Changes are proposed to how municipalities can acquire parkland for higher density development.

Analysis

Saugeen Shores has not used this method in the past as our development is not of a density which makes the new calculation likely to produce additional land. However, in the future, at its discretion, Saugeen Shores may wish to acquire larger parkland to accommodate a greater population. The proposed change, according to analysis provided by Watson & Associates, would result in a municipality receiving only 50% or less of the eligible land under the current legislation.

Comment 4

The Town does not support capping parkland acquisition.

Proposed Change

The Province proposes to require municipalities to spend or allocate 60% of collected parkland cash reserves annually.

Analysis

While requiring municipalities to have a long-term plan for its reserves, annually reviewed, is generally a good practice to implement, the term "allocate" may prove problematic. As it is undefined, this could result in an expectation that the Town only make short term investments vs saving funds for long term strategic investments.

Comment 5

The Town is concerned that there is no clear understanding of the term "allocate". The Province should advise on its intention, propose a specific definition and provide opportunity for input.

Inclusionary Zoning

Proposed Changes

On Inclusionary Zoning, the changes make the tool more restrictive; it remains ineligible in Saugeen Shores.

Analysis

The Town and the County made a joint delegation to the Minister of Municipal Affairs at the Rural Ontario Municipalities Association Conference in 2022 through which we requested that the inclusionary zoning tool be available to smaller communities such as Saugeen Shores and offered to work with the Province to explore how an Inclusionary Zoning system could be used in this area. Considering this, it is disappointing that the situations available to apply the inclusionary zoning tool are proposed to be narrowed, rather than broadened.

Comment 6

The Province should allow Saugeen Shores and Bruce County to develop an Inclusionary Zoning system to provide a tool to support implementation of affordable housing targets in Saugeen Shores.

Community Planning Permit System

Saugeen Shores Context

The Town is currently undertaking a Community Planning Permit System (CPPS) Review examining the potential to use the tool to facilitate the construction of affordable housing. The CPPS is expected to conclude in the near future.

Analysis

There are no direct changes proposed to Community Planning Permit Systems regulations. This fact may push municipalities to consider elements of site planning (for example) in a CPPS since the CPPS could include landscaping elements, or any of the elements that would normally be addressed by zoning or site planning. It is noteworthy that Saugeen Shores leads the Province in examining the potential for a CPPS specifically aimed at providing affordable housing. The CPPS process is cumbersome and not well understood at any level and the Province should consider supporting its broader adoption to meet its housing targets.

Comment 7

The Town recommends the Province make developing and implementing CPPS easier for municipalities. The Ministry of Municipal Affairs and Housing should examine, through consultation with the Town, opportunities to make implementing a CPPS easier.

Third Party Appeals

Saugeen Shores Context

There were 3 appeals of matters in Saugeen Shores on Planning Act applications over the past 5 years.

Proposed Changes

Bill 23 removes third party appeals for Official Plan Amendments, Zoning By-law Amendments and Minor Variances curbing community participation in the development review process. Input from the community is still required through public meetings and in notification of proposals.

One aspect that is interesting to note is that it appears for municipally led OPAs or ZBAs, developers would also be excluded from any appeal rights. Even Conservation Authorities can only appeal based on prescribed matters (likely hazards issues).

Analysis

Many large projects, not just housing projects, have significant potential for community impacts; legitimate, organized participation is supported, even with appeals to the Ontario Land Tribunal (OLT). If the goal is to build homes faster, a greater focus on streamlining and empowering the Ontario Land Tribunal to handle caseloads as well as better identify and dispose of frivolous or vexatious appeals would help resolve housing projects, indeed all developments, in a timelier way. Legitimate appeals would be handled efficiently, and the OLT could rigorously review cases.

Comment 8

The Town recommends identifying ways to streamline appeals at the OLT and dispose of frivolous matters in a timely and efficient way.

Comment 9

The Town recommends the Province explore limiting appeals to only those parties circulated an application. Those most affected by a development, ostensibly, are those that could have a potential specific concern are most likely to be impacted because of proximity to a development.

Land Division

Saugeen Shores Context

The Town holds Public Meetings for Plans of Subdivision on behalf of the County. In most cases, subdivisions, zoning and other related applications are processed concurrently and considered through the same public meeting process.

Proposed Change

Bill 23 appears to eliminate the requirement for a public meeting for plans of subdivision.

Analysis

It appears there is a change to no longer require a public meeting for plans of subdivision. However, the provision in the Act that outlines a meeting requirement is proposed to remain subject to Ministerial regulation. It remains to be seen if the regulations are amended to outline meeting requirements, if any.

Comment 10

The Town seeks clarification from the Province as to its intentions for restricting public meeting requirements for subdivisions.

Development Charges Act

Saugeen Shores Context:

The Town's current by-law, passed in 2021 collects charges for new development for a range of services (water, wastewater, roads, police, fire, community services). It also has built in exemptions for industrial development and some types of housing projects (affordable housing, accessible housing, 3-bedroom units)

Proposed Changes

The proposed changes to the Development Charges (DCs) system with the greatest potential impact in Saugeen Shores covers topics such as affordable and attainable housing, phase-in of charges, and changes to the methodology municipalities must use to calculate charges. These topics are covered in this report. Changes related to housing are proposed to come into force at an unknown future date while the phase-in and methodological changes would come into effect right away.

Housing

Analysis

The Town already has built-in exemptions for additional residential units. In addition to exempting one or two dwelling units in an existing single detached dwelling or one additional unit in other types of housing, the new changes expand exemptions to include up to three new units in existing and new developments. These changes are relatively common throughout Ontario and would have a modest impact in Saugeen Shores.

Comment 11

The Town supports modest exemptions for additional residential units.

Analysis

The Town is concerned about new statutory exemptions that are provided for affordable and attainable housing. These changes would exempt affordable rental and owned housing (set at 80% or less than the average market rent/price). It also affects attainable housing. Attainable Housing is not yet defined through regulation, but the expected features would include units which are not affordable nor expected to be used for rental premises. That this is not defined means there could be significant revenue impacts that aren't related to affordable housing.

One of the unknown effects is that the bulletin used to advise on the average market rent/price doesn't exist. It is expected to break down average rents/prices by geographic regions/counties, but there are no expectations about other categorical features (aggregate vs. detailed, # of bedrooms, etc.). This means there is no existing way for the Town to understand what makes a unit affordable or not. Affordable may also not be affordable. Since the bulletin would be tied to

market prices/rents it is not tied to wages/salaries and, therefore, may not be truly affordable for renters or homeowners.

There is also a strong, potentially unexpected, limited impact on the creation of affordable or attainable units. Perhaps the difference between requirement to be eligible for DC exemption (80% average market rent/price) and the available market rent/price means developers will still prefer to pay DCs since they would be able to make more money in the open market. This would primarily be due to the fact that because house prices/rents are determined by what the market is willing to pay and not by the costs of a build. Therefore, no additional affordable housing may be constructed.

If exempt DCs end up resulting in new affordable housing construction, municipalities need a funding source to ensure the growth-related infrastructure is in place. Funding from the Province, or some other source, is required to ensure all development (including affordable housing is served adequately).

Comment 12

The Town supports retaining municipal discretion to build in exemptions for the types of affordable or attainable housing which is impactful in Saugeen Shores and therefore does not support the proposed changes.

Phase-in

Proposed Changes

Bill 23 proposes that all DCs get phased-in. Currently at the discretion of local councils, the new change would require DCs to be phased-in from 80% of the set rate from 80% over 5 years (80% in year 1, 85% in year 2, etc.).

Analysis

The phase-in would apply to all development types, not just affordable housing. This change affects the Town's ability to ensure growth pays for growth by pushing the cost of new infrastructure on to existing taxpayers or potentially affecting the Town's service levels. While it doesn't affect our current by-law, when the Town updates its DC by-law in 2026 or earlier, the Town would potentially forego revenue. To assist in demonstrating the effect, if it was applied to our current by-law, the Town would potentially forgo approximately \$1.6 million (3% of the total eligible recovery for residential development). The phasing-in provisions result in subsidization of growth by the Town.

The overall effect of this change would be to delay projects so that the collected monies are maximized, but there will always be a "catching up" every time a DC by-law is updated.

Comment 13

The Town does not support the phase-in changes as statutory requirements.

Methodology

Proposed Changes

The Bill extends the historical level of service calculation from 10 to 15 years. The Bill also potentially would restrict the ability to include the price of land as a capital cost. Finally, the Bill also outlines that housing projects (such as potentially county housing projects)—or other previously eligible works—would be no longer eligible for cost recovery through DCs.

Analysis

The greatest potential impact to the Town's ability to use DCs to finance growth-related infrastructure would come from methodological changes to how the DCs are calculated. This has the likely effect of lowering the average service level used to set the upper limit of eligible DCs.

The Town would need to find other sources of revenue to purchase land for new collector roads or land for a public works depot (for example). In the Town's context the land purchase component for the public works depot represents 10% of the total capital cost recovery for growth-related public works projects in the DC study.

Limiting municipal housing providers, such as Bruce County, from using DCs to fund housing programs and projects would negatively impact Saugeen Shores. Perversely, this may result in fewer affordable housing units being built.

The methodological changes affect the calculation for all development types, not just affordable housing and would result in the subsidization of growth by the Town (tax base).

Comment 14

The Town does not support the methodological changes to the DC Act.

Heritage Act

Saugeen Shores Context

The Town maintains a list of designated properties and a registry of properties identified as being of cultural heritage importance.

Saugeen Shores has 12 provincially designated properties, a combination of public and private buildings. Our Town also has 122 properties on our Heritage registry: churches, schools, former and current commercial properties, private homes, lighthouses and parks. Some of these properties have been chosen because of their architectural beauty, but most importantly, all of these properties have contributed in some way to the cultural, social and economic development of our community. Our register contains information about the people who constructed these buildings and contributed to the development of our Town.

The Town has not established a Heritage Conservation District. The Town's Cultural Heritage Master Plan process is expected to commence in 2023, subject to budget approval.

Proposed Changes

Changes related to the Heritage Act will affect how municipalities identify and protect cultural heritage properties. Changes will mean heritage registers will need to be reviewed and properties designated, and if not designated, must be removed from the registry.

Bill 23 also introduces new rules regarding the creation of a heritage conservation district, which is a larger geographic area with multiple heritage properties or distinct heritage character. In order to establish such a District, a municipality must first undertake a study of the area to ascertain the heritage character it seeks to protect, and by by-law, establish the district, and adopt a district Plan setting out, among other things, the heritage attributes to be protected. Subsequent to the adoption of such a Plan, council may not carry out any municipal works or pass any by-laws affecting the geographic area of the district which are contrary to the objectives set out in the Plan and most development activities would require a heritage permit.

Analysis

Inclusion on a municipal Heritage Registry does not give the property any legal protection; inclusion means that the property owner must notify the municipality within 60 days of their intention to demolish the structure, instead of the typical 10 days' notice. This notification is meant to give the City time to "designate" the structure if they wish.

In Saugeen Shores, the Municipal Heritage Committee notifies property owners of its intent to add their property to its registry, and if owners do not approve, the Committee respects their wishes. One of the intents of this policy is to celebrate heritage; owners who allow their properties to be registered and designated are honoured to be included on our Heritage Registry.

Even if Council chooses not to designate said building, the 60-day waiting period provides time for an interested group or individual to arrange for the building to be moved and re-used, including as affordable housing, a situation which has occurred a number of times in our community. And, from a purely economic perspective, the commemoration of heritage buildings in Saugeen Shores and other smaller municipalities helps to preserve the traditional character and charm of our Towns, attributes which attract tourists, homeowners and businesses to invest in our economic future.

Moreover, if the justification for this legislation is to provide more homes to Ontarians, it should be noted that the number of homes on Saugeen Shores' Heritage Registry is the equivalent of about one quarter of 1% of the total inventory of homes in our municipality. Dissolving the Town's Municipal Heritage Registry within two years, the likely result of this legislation, will not provide a significant, or probably any, increase in housing supply in our municipality. With the proposed changes, to be listed, properties will now be evaluated under a set of provincially prescribed standards (not yet outlined).

As Saugeen Shores potentially embarks on a Cultural Heritage Master Plan, having detailed and prescriptive requirements for districts may encumber how the Town wishes to preserve its existing character. It is important for local communities to have flexibility in determining what is important to celebrate the Town's cultural and built heritage, like in other aspects of planning. The changes proposed are not recommended.

Comment 15

The Town objects to the changes to the Heritage Act.

Conservation Authorities

Saugeen Shores Context

Saugeen Valley Conservation Authority (CA) regulates land and development in proximity to natural hazard features. For planning applications, the CA also provides advice on natural heritage matters (woodlands, wetlands, wildlife habitat, etc.)

Proposed Changes

Bill 23 restricts powers of the CAs to commenting only on issues within their core mandates and prohibits the CAs from entering into agreements with municipalities to provide peer review services, such as for natural heritage review.

Analysis

The biggest change is that CAs may only comment on issues within their core mandates. Municipalities may not use CA expertise for any other matters. This will affect Saugeen Shores as we rely on SVCA to provide advice related to the protection of natural heritage features and functions through an agreement for this service. Saugeen Shores would need to find an alternative arrangement. The County's experience in finding alternative arrangements determined that the CA was the most cost-effective source for these services.

Likewise, the proposal to allow regulations which transfer hazard lands review to other bodies provides a potential for piecemeal or inconsistent hazard evaluations in the Province. This is not recommended.

Comment 16

The Town does not support the restrictions and limitations on Conservation Authorities powers with respect to the ability to enter into agreements with municipalities nor on restrictions which remove authority for commenting on natural hazards.

Ontario Land Tribunal

Proposed Changes

Bill 23 proposes to provide Ontario Land Tribunal additional powers to dismiss appeals that are delayed unreasonably and a greater ability to award costs against losing parties.

Analysis

Changes to the Ontario Land Tribunal make sense from the Town context. The changes are proposed to increase powers to order costs against parties that lose hearings or for parties that delay hearings. These changes may help ensure only well-organized and matters of great community importance are provided with a special opportunity for the OLT to consider.

Comment 17

The Town supports the proposed changes under the Ontario Land Tribunal Act.

Linkages

- Corporate Strategic Plan Priority #5: Engage and Active Governance and Leadership

Financial Impacts/Source of Funding

There are no immediate financial impacts. Further analysis will be required of impacts once the final legislation is passed and proclaimed in force.

Prepared By: Jay Pausner, Supervisor, Development Services

Reviewed By: Mark Paoli, Director, Development Services

Approved By: Kara Van Myall, Chief Administrative Officer