

November 24, 2022

**Electronic Submission only**

**ATTENTION:**

Honourable Steve Clark, MPP  
Minister of Municipal Affairs  
100 Strowger Boulevard, Suite 101  
Brockville, ON K6V 5J9  
[Steve.Clark@pc.ola.org](mailto:Steve.Clark@pc.ola.org)

**RE: Proposed Planning Act and City of Toronto Act Changes (Schedules 9 and 1 of Bill 23 - the proposed More Homes Built Faster Act, 2022)**

**ERO Posting 019-6163**

**Background:**

Environmental Registry posting 019-6163 proposes sweeping changes to Planning in Ontario with the stated intent of building more homes faster given that “too many people are struggling with the rising cost of living and with finding housing that meets their family’s needs”.

The City of Burlington is committed to supporting the creation of more housing and more diverse housing options. The City’s new Official Plan approved with modifications by Halton Region in November 2020 and currently under appeal, supports opportunities for the accommodation of a wide range of housing options in Burlington. Further, Burlington recently completed a Housing Strategy that provides a roadmap for addressing local housing needs and increasing attainable housing options that meets the needs of all current and future residents at all stages of life and at all income levels. The Housing Strategy highlights the City’s commitment to meeting resident’s housing needs and the critical importance of partnership with other levels of government, the development community and residents.

The ERO posting lists the following 9 key elements of the proposal:

- Addressing the Missing Middle
- Higher Density Around Transit
- Streamlining Municipal Planning Responsibilities

- Third Party Appeals
- Public Meetings – Plans of Subdivision
- Site Plan – Exemption for Development up to 10 units, Architectural Details and Landscape Design
- Streamline Approval Process for Land Lease Communities (LLC)
- Facilitating Aggregate Applications
- Conservation Authorities

Please find attached the City of Burlington’s comments and suggestions to support the achievement of real progress on the various elements of this extremely wide-ranging proposal.

### High Level Feedback:

Given the wide-ranging nature of the proposals related to the Planning Act included within the Bill staff are concerned that not only are the cumulative impacts that these proposed changes difficult to understand, but also are concerned that it will be difficult to monitor the effect of changes in supporting the objective of more homes built faster. In addition, staff are concerned that the proposal has the potential to significantly undermine the matters of provincial interest prescribed in Section 2 of the Planning Act. All would agree that building more housing is a common goal and of critical importance but not at the expense of the matters of provincial interest enshrined through Planning practice in the interest of the public interest.

While not an exhaustive list of the concerns the following elements of the proposal will have the effect of compromising the city’s ability to achieve its strategic goals

1. **Exclusion of the Community and disregard for public interest and future residents.** The changes proposed through Bill 23 will have the impact of significantly reducing the ability for the local planning context and the community’s vision and input to make its way into the planning process. Combined with Bill 109, there will be a significant reduction in the time in which the community can be engaged on planning matters. Further, the change in approval authority for planning matters from the Halton Region to the Minister could contribute to a more opaque planning process – one that could easily be biased towards special interest groups with little room from transparency or accountability. Combined with the proposed changes to the CBC, DCs and Parkland Dedication legislation, these changes further erode the city’s ability to deliver the critical elements of a complete community that align with the community vision.
2. **Protection of Public Health and Safety-** The Province and the City are committed to protecting life and property from natural hazards and the City works closely with many partners including Conservation Halton and the Region of Halton to ensure the health, safety and resiliency of our citizens and systems. The

Region of Halton provides coordination, expertise and oversight over many critical systems which ensure the health and safety of our public. Conservation Halton similarly provides the technical oversight and authority which protects life and property impacts due to natural hazards. Staff is concerned that the changes proposed could lead to a disorganized and poorly planned approach to our critical planning systems absent significant time and resources to ensure those critical functions and roles can be addressed. These changes also don't account for significant regional differences across the province. The City recognizes the importance of expediting planning approvals for residential development however, given the proposed volume of new homes, it remains imperative that applications be reviewed in the context of the whole planning system.

3. **Cost of Growth and Impact to the Community.** The proposed changes, when assessed together limit the city's ability to plan for, finance and construct the necessary infrastructure to support growth. The proposed changes represent a departure from the premise that growth should pay for growth and places the burden for that growth on the tax payer.
4. **Regional Coordination and Matters of Provincial Interest** - The Province and the City are committed to ensuring that the matters of Provincial Interest in Section 2 of the Planning Act are addressed through a systems based approach in planning for infrastructure, Natural Heritage, agriculture, employment and growth management, among others. Historically, Halton Region has shared in this commitment in overseeing the regional market area. Staff are concerned that the decoupling of regional land use planning from regional infrastructure planning could result in delays in the delivery of services including water/wastewater infrastructure, phasing and coordination of capacity allocation between local municipalities, which could have detrimental impacts on the timing and development of new homes and may lead to inequitable financing and capacity distribution.
5. **Removal of Planning Act Process for 10-unit (or less) development** - Staff is concerned that the exempting of developments with less than 10 units could be counter to the goal of building more homes faster as it could lead to an increase in non-Planning Act applications which may have the impact of slowing down smaller development files, especially in light of the reduced timelines proposed under Bill 109 and the re-direction of resources to meet the time requirements or face penalties. Additionally, staff are concerned that the proposed changes may be indirectly incentivizing development at too low an intensity as it makes smaller scale development the path of least resistance.

Please accept this letter and its attachment as the City of Burlington submission on ERO posting 019-6163. Given the short period for consultation the attached comments have not been approved by City Council. This letter and its attachment will be shared with the

City's Committee's and Council at the earliest opportunity. Should Council determine any additional comments or refinements to the attached comments are required the Province will be advised at the earliest opportunity.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark H. Simeoni". The signature is fluid and cursive, with a prominent initial "M" and "S".

Mark H. Simeoni, MCIP, RPP  
Director of Community Planning  
Community Planning Department  
City of Burlington

| <p>Theme: <b>Building More Homes</b><br/>         Contributor: MTSA Team on behalf of Community Planning, Site Engineering, Transportation, Forestry, Building<br/>         Primary Associated ERO Postings (Deadline): <b>Proposed Planning Act and City of Toronto Act Changes (Schedules 9 and 1 of Bill 23 - the proposed More Homes Built Faster Act, 2022) – ERO 019-6163</b><br/> <u>Nov 24</u></p>  |  |  |  |
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| Summary of Changes  | Staff Comments/Questions   | <a href="#">Guiding Principle</a> (see the Options considered section of the hyperlinked report)<br>(indicate support or concern)  | Approaches or alternatives for consideration   |
| <p><b>Addressing the “Missing Middle”</b> /enhancing the Additional Residential Units Framework<br/>         -Allow up to 3 units per lot as of right in many existing residential areas.<br/>         -Supersedes local OPs and zoning to automatically, province-wide to any parcel of land where residential uses are permitted in settlement areas with full municipal water and sewage services.<br/>         -Prohibit municipalities from imposing DCs, Parkland Dedication or cash-in-lieu requirements, parkland dedication or cash-in-lieu requirements</p> | <p><b>Comments</b></p> <p>Staff generally support the idea of enhancing the framework to permit Additional Residential Units more broadly.</p> <p>Addressing the Missing Middle though the proposed Additional Residential Unit framework supports the City’s goals of increasing housing options across the City. This is further supported though Burlington’s Housing Strategy that provides a roadmap for addressing local housing needs and increasing attainable housing options that meet the needs of all current and future residents at all stages of life and at all income levels. Not only does the framework support the creation of new housing units in a unique and more affordable format, it also has the potential to generate better affordability for existing home owners by reducing costs and barriers to creating rental opportunities within their existing properties.</p> | <p><b>More Homes Built Faster</b><br/>         This change is supporting the City’s commitment to bolster the creation of more housing and delivery of housing options in alignment with Strategic direction 1 of the City’s strategic plan.</p> | <p>It is critical to ensure that while removing barriers any future regulation must recognize the critical role of local Zoning regulations to guide development responsive to local planning and infrastructure context.</p> <p>Consider an amendment requiring the principle dwelling comply with parking requirements so as not to compound parking issues.</p> <p>Consider including a regulation that identifies that servicing and infrastructure capacity (including community infrastructure) is assumed to be sufficient but that servicing capacity is available on a first come first served basis.</p> <p>Consider an approach that permits more ARUs closer to transit.</p> |

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| <p>-Prohibit municipalities from applying minimum unit sizes, requiring more than one parking space per unit in respect of any second unit in a primary building and any unit in an ancillary structure.</p>  |   |  |   |
| <p><b>Higher Density Around Transit</b><br/>                 -Require municipalities to implement “as-of-right” zoning for transit supportive densities in Major Transit Station Areas (MTSAs)/Protected Major Transit Station Areas (PMTSA)<br/>                 -Require municipalities to update their zoning by-laws to permit transit-supportive densities as-of-right within 1 year of MTSA or 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><b>Comments:</b><br/>                 Staff are supportive of the concept of locating high density communities around transit.<br/>                 This is supported by the creation of a strategic growth framework as established in Burlington’s Official Plan (2020) and Burlington’s Strategic Plan (Strategic direction 1, A City that Grows). Further, Burlington’s Vision to Focus plan identified the need to complete area-specific planning for the MTSAs, work which has been under way since 2021. The City’s new Official Plan was approved with modifications by Halton Region in November 2020 and is currently under appeal. Burlington’s Official Plan (2020) supports opportunities for the accommodation of a wide range of housing options in Burlington and lays the foundation for the layering in of the area specific plans for the PMTSAs through the creation of a growth framework. This framework delicately directs substantial growth to key, strategic areas of the city. Unfortunately, the OLT process related to the appeals to the Official Plan (2020) has taken considerably longer than anticipated and has caused challenges for the advancement of the PMTSA ASP work. It is</p> | <p><b>More Homes Faster</b><br/>                 Despite the challenges facing the city’s implementation of MTSA Area Specific Plans as a result of the Official Plan (2020) appeals, this change supports the city’s objectives of locating growth around higher order transit.<br/>                 The City, through Strategic Direction 1 of the City’s strategic plan has committed to achieving growth in mixed use nodes and corridors, including MTSAs and Urban centres to provide a range of diverse, dense and affordable housing that is transit supportive.</p> | <p>Suggest that the Province provide direction and clarity on how the proposed changes work alongside Community Planning Permit Systems and as-of-right zoning permissions in MTSA areas. This could serve to provide greater clarity to the development industry and expedite development application timelines.<br/>                 Consider supports that recognize the costs to municipalities to provide high-quality, durable and multi-purpose community amenities to support the more intense areas of Ontario’s communities. Please see staff comments on ERO 019-6172 for more detailed comments around the financial implications of the proposed changes to city building initiatives.</p> |

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|   | <p>anticipated that a lengthy and multi-stage hearing process lays ahead. The on-going appeals process to the OLT continues to undermine the city’s ability to approve housing not just within the PMTSA areas but across the city and is a significant contributor to delays in achieving more homes for the Burlington community.</p> <p>Despite the challenges with the OLT process for the Official Plan, staff remain concerned about how the supporting amenities such as parks, community amenities, office and other commercial uses intended to support new development will be achieved given the high cost of land and as of right zoning permissions proposed. Combined with reductions in the city’s ability to collect parkland dedication/cash in lieu as well as development charges, the ability to deliver on the objectives of the Provincial Growth Plan of complete communities is severely diminished.. Staff support the creation of opportunities to achieve more homes being built faster but remain concerned about achieving complete communities in light of the proposed changes.</p> |  |  |
| <p><b>Streamlining Municipal Planning Responsibilities</b><br/>         -Remove the planning policy and approval responsibilities from certain upper-tier municipalities (upon proclamation at a future date).<br/>         - Deem the Official Plans of these upper-tier</p> | <p><b>Comments:</b></p> <p>The Province and the City of Burlington are committed to ensuring that the matters of Provincial Interest in Section 2 of the Planning Act are addressed through the City’s strategic directions and Official Plan policies. Historically, Halton Region has also shared in this commitment given the regional-level scale of many of the matters of provincial interest. Without a systems-level dedicated oversight, local interests may lead to</p>  | <p><b>Complete Communities</b></p> <p>The City is committed to ensure that growth is responsive to the community vision and needs. The City relies on partnerships with the development community, municipal partners such as the Region, service providers and other levels of government to ensure the delivery of transit supportive complete communities to allow present and future</p> |  |

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**Appendix A: Proposed Planning Act (Schedule 9 of Bill 23)**

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| <p>municipalities to form an official plan of the relevant lower-tier municipality.</p> <ul style="list-style-type: none"><li>- Enable these upper-tier municipalities to function as a commenting agency and remove appeal rights and party status.</li><li>-Future regs would identify which OPs and OPAs would not require approval by the Minister</li><li>-potential additional upper-tier municipalities in the future</li></ul> | <p>varying approaches and priorities resulting in fragmented and disorderly planned communities.</p> <p>Staff are concerned that decoupling regional land use planning from regional infrastructure planning could result in delays and inefficiencies in the delivery of services including water/wastewater infrastructure, phasing and coordination of capacity allocation between local municipalities. These changes, as proposed, would have detrimental impacts on the timing and development of new homes and may be therefore contrary to the stated objectives of the province of building homes faster. Staff are further concerned about the lack of oversight around regional growth, including employment and population growth, monitoring, financing and planning for infrastructure to support that growth, should planning responsibilities be removed from upper tier governments.</p> <p>The City has had an excellent and iterative relationship with the Region on reviewing OPAs and ASPs through a Memorandum of Understanding to ensure that the local vision is accurately reflected in the Region's decision as the approval authority. We await the additional regulations that would identify which OPs and OPAs are exempt from Ministry approval and how the Ministry intends to ensure local vision and decision making is reflected in any ministry decision as the approval authority.</p> <p>The Region has spent a considerable time and resources completing their Municipal Comprehensive review through a phased approach. ROPA 50 is</p> | <p>residents to live, work, shop and play in the community.</p> |  |
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|   | <p>currently underway to update the Regional Natural Heritage System and Rural and Agricultural system policies. Questions remain in association with these proposed changes as to how the remainder of the Regional Official Plan Review would be completed. Should that responsibility be handed to the City to complete the balance the City may be under resourced and may possibly not have access to the requisite professional expertise and support to do so.</p>  |   |  |
| <p><b>Third Party Appeals</b><br/>         -Limit third party appeals for all planning matters<br/>         -Appeal rights would be maintained for key participants (e.g., applicants, the Province, public bodies...), except where appeals have already been restricted (e.g., the Minister’s decision on new official plan).<br/>         -Limit on third-party appeals would apply to any matter that has been appealed but has not yet been scheduled for a hearing on the day the bill is introduced.</p> | <p><b>Comments:</b></p> <p>Staff are concerned with the proposal to limit most third party appeals for planning matters as it eliminates the right of appeal for parties and groups with legitimate interests and concerns, despite their ability to be engaged in the planning process.</p> <p>The City of Burlington remains committed to the creation of an engaged community. Residents in Burlington have come to expect that they will be informed and engaged on these matters through the various actions the City takes. Staff are concerned that the limiting of third-party appeals, regardless of the nature of the application, would limit resident’s involvement at the OLT and dismisses many of the legitimate concerns of residents, many of which can be useful in positively shaping development applications. Further, not all planning applications are housing related and wholesale removal of appeal rights for third parties could lead to impacts on other matters of provincial or public interest including the protection of employment areas, land use compatibility concerns or rural or agricultural planning-related issues.</p> | <p><b>Engaged Community</b></p> <p>The proposed changes cause concern as it limits the ability for the public or other stakeholders to participate fully in the planning process. Staff are concerned that despite the objective of building homes faster, the blanket removal of third party appeals directly limits the role someone can play in advocating for themselves including on minor variance applications and non-housing related applications.</p> | <p>The City has experienced delays in scheduling even procedural hearings at the OLT. Staff note the critical importance of the commitment of resources to the OLT. Although the specific commitment is not set out in this proposal those additional resources are sorely needed and it is critical that the Province move forward expeditiously to support the objectives of this legislation and to target matters, such as Official Plans that support opportunities for the accommodation of a wide range of housing options.</p> |

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|   | <p>Staff understands that the government is proposing amendments to those changes to include limiting third party appeals for minor variance and consent applications only, whereas previously all planning applications were proposed. Staff is supportive of the change as it increases the ability for residents and other stakeholders to remain engaged in the planning process.</p> <p>Regarding city-initiated planning approvals, the elimination of third -party appeals could have positively impacted the city’s ability to approve policies to support the creation of new homes. Currently, the City is nearing the end of its second year of the OLT appeals process to the new Official Plan (2020) with a multi-year, multi-stage process ahead which includes a number of appellants that could be classified as “third party”. Hypothetically, the elimination of third party appeals could have contributed to a more streamlined process, bringing the plan into effect, thus unlocking significant housing opportunities.</p> |  |  |
| <p><b>Public Meetings - Plans of Subdivision</b></p> <p>Remove the public meeting requirement for draft plans of subdivision.</p> | <p><b>Comments:</b></p> <p>Staff are concerned that the removal of the public meeting requirements for draft plans of subdivision compromises the engagement process and limits the opportunity for the community to provide meaningful and valuable input into the planning process, especially when combined with the provincial decision of ROPA 49 where significant residential development is now permitted in areas that were previously</p>  | <p><b>An Engaged Community</b></p> <p>The City of Burlington is committed to engaging residents on issues that affect their lives and their city. The goal of community engagement is to lead to more informed and therefore, better decision-making, thereby making it critical that residents continue to be engaged in community planning and development applications in their neighbourhood. The City remains committed</p> |  |

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|   | <p>exclusively designated for employment uses.</p>   | <p>to engagement, and note that the proposed changes remove requirements for holding a public meeting, not requirements for giving notice, and do not preclude the city from hosting a public or information meeting in the future to continue to deliver the level of engagement that residents expect of the City.</p>   |  |
| <p><b>Site Plan – Exemption for Development up to 10 units, Architectural Details and Landscape Design</b></p> <p>a) Exempt all aspects of site plan control for residential development up to 10 units</p> <p>b) Limit the scope of site plan control by removing the ability for municipalities to regulate architectural details and landscape design and Sustainable Design details</p> | <p><b>Comments</b></p> <p><b>a) Exemption of residential developments with up to 10 units</b></p> <p>Staff are concerned about how matters such as site access, circulation, parking layout, accessible design will be considered for developments with 10 or less units in the absence of site plan control. Due to the nature of where smaller residential projects typically occur (infill in existing neighbourhoods) site plan review of such developments may be appropriate for ensuring compatibility between new and existing development. Staff note that exempting developments with less than 10 units (but not part of associated subdivision) could result in more non-Planning Act applications and could have the unintended effect of slowing down the pre-building permit process for such developments due to Bill 109 timeline pressures. Priority will likely be on site plan applications so that the City is not penalized under Bill 109.</p> <p>Furthermore, staff are concerned that the exemption could incentivize larger projects to be built at 10-unit or less increments in order to circumvent site plan requirements, which may result in unintentional cumulative impacts that City may not be able to assess</p> | <p><b>More Homes Built Faster</b></p> <p>The City is committed to providing more housing options that meet the needs of all residents. Staff are concerned that the proposed changes to the site plan review process may actually slow down the process for applications under 10 units and may lead to unintended consequences as development applications will not have the benefit of a number of key review processes.</p> | <p>Suggest that the province provide clarity on how these changes are considered in relation to the implementation of a Community Planning Permit System.</p> <p>Recommend that the province provide greater clarity around how landscaping fits in relation to the proposed changes. Section 41(7)(a)6 still allows municipality to, as a condition of approval, require the owner to “provide to the satisfaction of and at no expense to the municipality any or all of the following: ...6. Walls, fences, hedges, trees, shrubs or other groundcover or facilities for the landscaping of the lands or the protection of the adjoining lands.”</p> <p>Expand exemption in s.41(4.1)1.1 to allow consideration of matters relating to exterior access to any building, not just a building that will contain affordable housing.</p> |

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|  | <p>or mitigate. Also, it is possible that the proposed changes could incentivize new housing at too low an intensity, whereas higher intensity may be more appropriate in the long term.</p> <p><b>b) Change in scope of review – external design, appearance no longer allowed.</b><br/>Staff note that this change applies to all types of development, not just residential. This change significantly limits the City’s ability to ensure that development contributes to a high-quality built environment, consistent with the City’s Official Plan, sustainable development guidelines and urban design guidelines. This change appears to contradict the Province’s stated interest in "the promotion of built form that is well-designed, encourages a sense of place, and provides for public spaces that are of high quality, safe, accessible, attractive and vibrant” and “the mitigation of greenhouse gas emissions and adaptation to a changing climate”.</p> <p><b>c) General comments (applies to both types of changes):</b></p> <ul style="list-style-type: none"><li>• Concern that these changes will apply to not just the urban area but everywhere in the city.</li><li>• In light of the plan to generate substantial amounts of new housing, site plan review, urban design and sustainable design practices are more important than ever to ensure healthy, sustainable, attractive and liveable cities.</li></ul> |  |  |
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**Appendix A: Proposed Planning Act (Schedule 9 of Bill 23)**

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| <p><b>Streamline Approval Process for Land Lease Communities (LLC)</b></p> <p>Allow LLCs to be approved through site plan control instead of plan of subdivision so that they can leverage a maximum lease period of up to 49 years (from 21 years) without a land division approval).</p>   | <p><b>Comments:</b></p> <ul style="list-style-type: none"> <li>• More clarity is needed on when site plan process is required for land lease communities.</li> <li>• Similar concerns as proposed changes to type of development subject to site plan control.</li> </ul>  | <p><b>More Homes Built Faster</b></p> <p>Without further detail, staff are unclear as to how these proposed changes impact the city’s objectives. Staff are supportive of measures that make housing in a variety of forms more accessible. One of the identified actions of Burlington’s Housing Strategy centers around the use of underutilized properties to create affordable housing opportunities including land lease communities.</p> | <p>Provide additional clarity and direction through future regulations.</p> |
| <p><b>Facilitating Aggregate Applications</b></p> <p>Changes are proposed to remove the “2-year timeout” period for applications to amend new official plans, secondary plans and zoning by-laws in respect of mineral aggregate operations. Currently, the Act sets a 2-year period when changes to new official plans, secondary plans and new comprehensive zoning by-laws are not permitted, unless these changes are municipally supported.</p> | <p><b>Comments:</b></p> <p>While originally proposed to apply only to aggregate operations, Staff understands that the government is proposing amendments to the proposed aggregate-only exemption to remove the 2-year time out period provision entirely for all applications. Staff are concerned about the removal of the 2-year time out period as it does not allow municipalities to get frameworks implemented before requests for changes are made. This further erodes the public processes that support the creation of these frameworks if they are permitted to be amended so soon.</p> | <p><b>An Engaged Community, More Homes Built Faster &amp; Complete Communities</b></p> <p>Staff have concerns that the proposed changes will undermine the ability for the city to start to implement the community’s vision for our city, should amendments be permitted immediately after approved changes. This will create further process and add time and complication to getting new homes built.</p>                                   |   |
| <p><b>Conservation Authorities</b></p>   | <p>This is addressed through staff’s comments on ERO Posting ERO 019- 6141.</p>  |  |   |

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**Appendix A: Proposed Planning Act (Schedule 9 of Bill 23)**

Changes are proposed to re-enact provisions that are not yet in force but would limit conservation authority (CA) appeals of land use planning decisions. CAs would continue to be able to appeal matters where they are the applicant. When acting as a public body, CAs would only be able to appeal with respect to matters related to natural hazard policies in provincial policy statements.

Changes are also proposed to broaden the ability of CAs to use an existing streamlined process to sever and dispose of land.

Both of these changes are proposed to take effect January 1, 2023.