

Thursday, May 9, 2024

**Ministry of Municipal Affairs and Housing**

Provincial Land Use Plans Branch  
13th Floor, 777 Bay St  
Toronto, ON M7A 2J3 Canada

**RE: ERO File No: 019-8369  
Proposed Planning Act, City of Toronto Act, 2006, and Municipal Act, 2001  
Changes (Schedules 4, 9, and 12 of Bill 185 - the proposed Bill 185, Cutting Red  
Tape to Build More Homes Act, 2024)**

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On behalf of the Upper West Side Landowners Group (UWSLG) (formerly Twenty Road West Landowners Group), Corbett Land Strategies Inc. (CLS) wishes to submit this letter in response to the Ministry of Municipal Affairs and Housing regarding the Proposed Planning Act, City of Toronto Act, 2006, and Municipal Act, 2001 Changes (Schedules 4, 9, and 12 of Bill 185 - the proposed Bill 185, Cutting Red Tape to Build More Homes Act, 2024). The UWSLG own lands within the block of Twenty Road West, Upper James Street, Dickenson Road West and Glancaster Road, located within the City of Hamilton.

It is understood that ERO File No. 019-8369 is seeking additional comments on changes proposed to the Planning Act, City of Toronto Act, 2006, and Municipal Act, 2001 through Bill 185, the proposed Bill 185, Cutting Red Tape to Build More Homes Act. UWSLG wishes to submit the following in response to the ERO as well as for consideration of future policy changes.

**Executive Summary**

The following sets out a brief overview of our comments on the proposed changes to the Planning Act, as it pertains to the Subject Lands.

1. “Use it or Lose It” Tools – Concerns that municipalities may establish aggressive “use it or lose” it provisions. Further, that municipalities create servicing allocation by-laws which delay the servicing of certain developments and therefore force development to lose status within the municipalities prescribed timeline. Without appeals, this would also result in an inability to challenge the loss of allocation on a site-by-site basis.
2. Limits on Third Party Appeals – Concerns that the ability to appeal municipally initiated instruments will remove the role of a property owner in the planning approval process. Although supportive of reducing ability for vexatious appeals, further consideration is needed to ensure property owner land rights are protected in the planning approval process.
3. Municipal Pre-Application Process – The ability for pre-consultation applications to be voluntary is supported as the proposed change will allow the applicant to challenge the

requirement should it be found to not be beneficial or that it will result in an unnecessary delay to the processing of the associated land use planning applications.

4. Appeals Settlement Area Boundary Expansion – The removal of the maximum limit of settlement boundary expansions beyond 40 hectares and the ability to appeal a municipality’s decision to change the boundary of an “area of settlement” is strongly supported.
5. Appeals of Employment Conversion Request – It is strongly recommended that the ability to appeal Employment Conversions should also be granted.

### **Subject Lands**

The UWSLG is committed to delivering a complete community consisting of infill housing opportunities on non-prime agricultural lands which are fully surrounded by the existing urban boundary. The community offers the City a strategic opportunity to deliver affordable housing and key development funded infrastructure (e.g. Garth Street extension) necessary to support the Subject Lands as well as the AEGD Employment Lands. The envisioned community features approximately 5,400 to 7,000 residential units with approximately 5 acres of land (approximately 500 to 600 units) committed to affordable housing providers including Indwell. The development of the Subject Lands will result in approximately 4 to 5 million square feet of employment space. Through supporting work, the UWSLG have assessed that the community concept will garner over \$327 million in development charge revenues and \$24.9 million in building permit revenues. Moreover, the community will generate approximately \$21.7 million in **net** fiscal revenues **annually**.

Following the Minister’s decision on OPA No.167 (November 4, 2022), the UWSLG endeavored to update the land use disposition of the subject lands for the purposes of establishing a complete community. As part of these efforts, the UWSLG completed a formal consultation, conducted multiple public consultation events, advanced an overarching Terms of Reference, completed an exhaustive list of supporting and technical studies and submitted an Official Plan Amendment application to permit a Secondary Plan (UWS Secondary Plan) on the subject lands (November 2023).

### **ERO Comments**

#### *1. “Use it or Lose It” Tools*

Through Bill 185, a series of “use it or lose it” tools have been proposed. Included within this are mandatory three-year lapsing period for draft plans of subdivision or condominiums and similar lapsing periods as a condition of site plan approval. A new municipal servicing management tools is also proposed which would establish a tracking system for servicing capacity and allow municipalities to set criteria to allocate, remove and/or re-allocate servicing capacity. The Ministry is also proposing to receive regulation-making authority to provide exemptions from lapsing provisions.

While some of these tools may have benefits, we have concerns that municipalities may establish aggressive “use it or lose it” provisions. Further, that the servicing allocation

management tool may be created to specifically delay the servicing of certain developments. In doing so, this could force a development to lose status within the prescribed timeline or lose allocation or established planning status. As appeals would not be granted, this could result in an ability to change the loss of allocation on a site-by-site basis despite a developments interest which is coincident with provincial interests.

## 2. Limits on Third Party Appeals

Bill 185 is proposed to limit appeals from “third parties” which may include neighbouring residents, on official plan amendments, zoning by-laws and zoning by-law amendments to expedite housing projects. Instead, only “specified persons” may appeal these proposals.

We have concerns that the limits imposed may have significant impacts on the achievement of housing as well as protecting an individual landowners interest in their lands. The loss of the ability to appeal municipally initiated instruments in particular, will remove the voice of property owner in the planning approval process. Although we support the action on preventing delays as a result of vexatious appeals, further consideration is needed to ensure property owner land rights in planning approval processes are protected.

Instead, it is recommended that alternative solutions be established such as the permission of “third-party” party appeal rights subject to demonstrating that the appeal achieves tests of appropriateness. Alternatively, it may be appropriate that the definition of “specified persons” be extended to include property owners directly adjacent or with particular interest in the proposed application (i.e. commercial, infrastructure etc.).

## 3. Municipal Pre-Application Process

Through Bill 185, the mandatory pre-application consultation meetings are proposed to be repealed. This would ensure that there is no statutory requirement to consult with the municipality prior to submitting an application. We support the ability for pre-consultation applications to be voluntary as the proposed provision may likely result in the expedite processing of applications. Recently, municipalities have become accustomed to multiple pre-application meetings prior to deeming an application complete, and this has caused a significant delay and cost to the approval process. Removing mandatory pre-application consultation is an extremely positive step.

## 4. Appeals to Settlement Area Boundary Expansion

Through Bill 185, appeals are permitted on applications requesting expansions of the settlement area. We support the proposal of granting the ability to appeal a municipality’s decision on a refusal or failure to make a decision on privately requested official plan and zoning by-law amendment applications to change the boundary of an “area of settlement”. The ability to appeal motivates municipalities to consider an expansion request comprehensively and ensures that expansion requests which have

been refused or which have not received a decision can be appropriately considered by the Ontario Land Tribunal. This measure acts upon the Province's goal to achieve housing appropriately by multiple means.

#### 5. Appeals on Employment Conversion Requests

It is also strongly recommended that the ability to appeal Employment Conversions be granted. Without this provision, municipalities may be able to designate certain lands for certain land uses without regard for appropriateness or sufficient land needs justification.

As set out within the New Provincial Planning Statement (New PPS) the ability to secure employment lands and identify lands required for residential and housing is clear. The New PPS also looks to provide municipalities the flexibility to adjust or update the settlement area without the need to conduct a full Municipal Comprehensive Review (which is no longer required upon the repeal of the Growth Plan). The premise is that municipalities can become nimble to achieve housing targets and resolve the ongoing housing crisis.

The ability to appeal employment conversions requests would ensure accountability in the approval process. It would also ensure that due consideration on the merits of such a conversion occurs for appropriate requests and which are in alignment with provincial interests.

#### **Conclusion**

On behalf of the UWSLG, we applaud the Province for many of the provisions proposed within Bill 185. Many of the proposed changes will bring about significant changes to the land use approval process which should result in a speedier delivery of housing. While the repeal of mandatory pre-application requirements and the granting of appeal rights on settlement area expansions are beneficial, it is strongly recommended that the appeal rights on employment conversions also be granted. Similar to appeal rights on settlement area expansions, appeal rights on employment conversions are critical to ensure the delivery of housing in appropriate locations.

Should there be any questions or a need for further information, feel free to reach out to the below.

Sincerely,

*John Corbett*

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