



May 9, 2024

The Honorable Paul Calandra
Minister of Municipal Affairs and Housing
17th Floor - 777 Bay St.
Toronto, ON
M7A 2J3

Dear Minister Calandra,

RE: City of Waterloo comments on Bill 185, Cutting Red Tape to Build More Homes Act, 2024

On behalf of the Corporation of the City of Waterloo, please accept the following comments on the proposed Bill 185 *Cutting Red Tape to Build More Homes Act, 2024* .

Given the timing of the consultation period for the proposed changes under the *Planning Act*, the enclosed comments are provided by City of Waterloo staff for Provincial consideration.

The City previously supported and continues to support the objectives of increasing our housing supply and streamlining the development approval process. The City was an early adopter of a Nodes and Corridors planning framework, and intensification within strategic growth areas such as Major Transit Station Areas and Uptown Waterloo. The City is actively working through a significant volume of planning applications that will further increase housing opportunities with over 23,000 units in various stages of the planning pipeline. The City remains committed to meeting the Provincial housing target of 16,000 units for Waterloo by 2031.

There are several components to Bill 185 that will positively contribute to increasing the housing supply in a manner that is sympathetic to existing communities. The City has reviewed the proposed changes and provides various comments herein for the Province's consideration:

Removing Authority to require Parking Minimums in MTSA's

Bill 185 proposed to amend the Planning Act to prohibit municipalities from establishing parking minimums within protected Major Transit Station Areas (MTSAs). The City has eight MTSA's with five of the MTSA's having detailed Station Area Plans. While the aim of prohibiting parking minimums is to foster non-automobile modes of travel and to potentially reduce the cost of building housing near transit, there are several implementation details that should be considered:

- Proposed changes to the Planning Act will prohibit parking minimums within MTSA's, except for bicycle parking. City staff recommend that, in addition to exempting bicycle parking, the amended legislation also:



1. allow municipalities to establish parking minimums for visitor parking and short-term parking (e.g., emergency response, mail services, deliveries, pick-up/drop-off, etc.);
2. allow municipalities to establish parking minimums for accessible (barrier-free) parking to ensure accessibility (AODA) and to accommodate those with mobility / health challenges;
3. consider allowing municipalities to establish parking minimums for car-share spaces;
4. consider allowing municipalities to establish parking minimums for vehicle charging stations.

The primary intent of the prohibition is maintained, while achieving more functional and accessible sites. In the City's experience, a limited amount of on-site parking is still needed in well-served transit areas, as described above. Given Ontario's increasing focus on being a leader in electric vehicle production, consideration should be given to charging stations for visitor, short-term and accessible parking in MTSAs.

- City staff recommend that the prohibition on parking minimums only apply to a <400m radius of any high-order transit stop (e.g., light rail transit station). Transit Oriented Development (TOD) best practices dictate that <400m radius (5 minute walk distance) is the area most influenced/impacted by transit. Further out from the stop (400-800m+) is a longer walk, and the immediate impact of transit is reduced. Further, most municipalities outside of downtown Toronto are not as "urbanized" as those along a subway line, and not all MTSA are the same in terms of planned function and land use composition. Limiting or restricted parking to a <400m radius would strike a balance between encouraging the most dense intensification nearest the high-order transit stop and allowing different forms of intensification within the wider 400-800m+. For 400-800m+, it is recommended that the new PPS establish policies that direct municipalities to establish reduced parking rates within this radius, and urge Transportation Demand Management (TDM), rather than a legislated prohibition on parking minimums. Parking studies can be undertaken by municipalities for the 400-800m+, to determine the optimal level of reduced parking for the area based on its context, constraints, and planned function.
- Waterloo already reduces parking rates within MTSAs. Higher order transit is still relatively new in Waterloo Region; as such, several of the City's MTSAs are not yet at the critical mass of achieving a density that can fully support a car free environment. Scoping the prohibition to <400m would assist in mitigating potential negative impacts, such as the unsafe practice of using warning/hazard lights to temporarily park on roads and dedicated bicycle lanes due to the absence of on-site parking.

Additional Residential Units

Bill 185 proposes to amend the Planning Act to authorize regulations establishing requirements and standards with respect to Additional Residential Units (ARUs).

- In principle, standards across the province could help to streamline the implementation of ARUs. Additional municipal and other stakeholder input on the technical standards



would be beneficial. The City recommends that the Province seek further comments from municipalities and other stakeholders, once the draft technical considerations, standards and regulations are available.

“Use it or Lose it” Tools

Bill 185 proposes to amend the Planning Act to grant municipalities the authority to attach lapsing provisions to approved site plans and draft plans of subdivision.

- The City supports this amendment. Further, we recommend that the Province consider extending this authority to:
 - site-specific official plan amendments and zoning by-law amendments that increase height and density; and,
 - site-specific zoning by-law amendments that increase height and density.In the City’s experience, it is more common for proponents to obtain such amendments to create uplift (increased value), but not actually proceed forward to site planning or building permit. To incent proponents to actually build, expanding the “use it or loss it” authority to the said amendments will likely see more results (i.e., shovels in the ground) compared to site plans and subdivisions.

Providing Certainty for Planning Decisions and Enhancing Consultation Tools:

Bill 185 would enable municipalities to give notice of new planning applications and community benefits charge by-laws via a municipal website if there is no local newspaper.

- The City supports this amendment, as this change will enable greater consultation and communication with the public. With fewer local newspapers, municipalities need this flexibility. Waterloo recently updated how it provides notice and engages the public on planning applications; this amendment to the Planning Act is consistent with the direction the City is already taking.

Third-Party Appeals

Bill 185 proposes to further limit third-party appeals to the Ontario Land Tribunal. The proposed changes would limit third-party appeals for new official plans, official plan amendments, new zoning by-laws, and zoning by-law amendments to public bodies and ‘specified persons’ under the Planning Act.

- New Official Plans and New Zoning By-laws: The proposed limitation on third-party appeals could speed up the Official Plan Review and Zoning By-law Review process, ergo allowing updated policies and zoning to take effect much faster. Appeals of entire Official Plans, Zoning By-laws, or parts thereof has been demonstrated to create long delays in enabling updated policies and regulations that conform to provincial policies / plans to take effect, thereby delaying development. This City supports this amendment in relation to new Official Plans and new Zoning By-laws.



- Official Plan Amendments and Zoning By-law Amendments: Regarding third-party appeals to site specific amendments to Official Plans and Zoning By-laws, while this may speed up the development approval process, there is a risk of conflict with the democratic process. Residents and landowners, for a variety of legitimate reasons, may oppose a proposed amendment. In the City's opinion, the Ontario Land Tribunal ("OLT") is the proper venue to determine if the concerns are valid or not. If a party has a valid concern, a fair and democratic process would allow that concern to be arbitrated by a neutral party (i.e., OLT). City staff recommend that rather than remove third-party appeals altogether, that the Province establish a process to quickly determine if an appeal has merit, and dismiss appeals that do not have merit.

Appeals of Boundary expansions

Bill 185 proposes to allow appeals to the Ontario Land Tribunal regarding a refusal or non-decision of an OPA seeking to expand a settlement area boundary (provided the amendment would not result in any Greenbelt lands being included in the settlement area).

- During the time the Growth Plan has been in place, there has been rigid control and limited expansion of municipal urban boundaries. City staff recommend that if the Province wishes to allow third-party appeals to the urban boundary, that this option be reserved for when municipalities undertake a five-year review of their Official Plan. While there may be valid situations where expansion of the urban boundary is warranted, if a municipality is constantly addressing requests for urban boundary expansions, it may create piecemeal planning decisions on the edge of communities, especially if decisions need to be adjudicated at the Ontario Land Tribunal. It would be more efficient and result in better planning outcomes to address all urban boundary expansion applications at the same time at the five-year mark, rather than reviewing a consistent stream of one-off requests. An urban boundary expansion can be a significant change to the urban landscape, and could impact cross border issues such as source water protection (re: Waterloo moraine) and servicing (re: capital infrastructure investment). Housing development can be addressed by focusing on development within existing urban boundaries in the time between municipal Official Plan Reviews. The Province has done well in the last 20 years to limit unchecked sprawl; sprawl is inefficient, and typically not cost effective in terms of asset management and capital infrastructure investment. Given the growth in Ontario's population and economy, some urban boundary expansion will likely continue to be required in the future. Such expansion to the urban boundary should occur in a more systematic and controlled manner at set intervals to strike a balance between accommodating future growth and responsible management of agriculture land and natural resources.

Municipal Application Process

Bill 185 would remove municipal authority to require pre-consultation meetings for OPA's, ZBA's, site plans, and draft plans of subdivision (i.e., pre-consultation to be voluntary), and allow the proponent to bring a motion to the Ontario Land Tribunal at any time after engaging the municipality or following payment of fee, to determine complete application requirements.



- The City is concerned that removing the requirement for a pre-consultation meeting will result in more incomplete applications, a less efficient process, and more appeals to the Ontario Land Tribunal, thereby delaying decisions on development applications. The pre-consultation process allows for clarity on what specifically is expected at the onset of a development application, allowing municipalities to scope requirements to only those plans and studies required to evaluate the merits of the application. Generic requirements for complete application will need to be established by municipalities, rather than scoped and tailored requirements. The pre-consultation process is an opportunity for the proponent and the municipality (along with agencies and stakeholders) to work collaboratively and provide necessary clarity – this creates efficiencies and streamlines approvals. While some development applications may be “simple”, others are not and require clear direction on complete application requirements.

Removal of the pre-consultation requirement will likely result in gaps and missed critical information, lengthening the development approvals process. Further, there is the potential for more appeals to the Tribunal if issues cannot be identified and resolved within statutory timeframes. City staff do not support this proposed amendment, given the potential for unintended negative consequences to the development approvals process.

Upper Tier Planning Responsibilities

The *More Homes Built Faster Act, 2022* made changes that, once in force, will remove statutory powers under the *Planning Act* from seven upper-tier municipalities identified in the legislation: Durham, Halton, Niagara, Peel, Simcoe, Waterloo, and York. The intent of these changes is to limit the duplication of planning responsibilities. If Bill 185 is passed, as of July 1, 2024, the municipalities of Peel, Halton and York Regions will no longer have planning responsibilities while the remaining municipalities (including the Region of Waterloo) will come into effect at a later date.

- City staff recommend that the announcement of an effective date for the remaining upper-tier municipalities (such as the Region of Waterloo), be set as soon as possible. The indeterminate effective date makes future planning more difficult and creates uncertainty. Knowing the potential effective date for the transfer of planning responsibility will ideally allow for a more orderly transition of planning responsibilities.
- City staff recommend, in addition to the transfer of planning responsibilities to area municipalities, that existing funding for upper-tier planning services (and related services, such as legal services) be transferred to the area municipalities to off-set operational impacts. Upper-tier governments should not be permitted to retain the taxes that fund existing upper-tier planning services.
- The City is currently undertaking a review of its Official Plan. Currently, the City must conform to the Regional Official Plan. If the Region will no longer have any planning responsibilities, it is unclear who or when the Regional Official Plan will be updated to conform to the new PPS and other planning requirements. Having a set date for the



transition will better enable the local municipality to plan for and manage updates to the two plans.

- At the Region, there are specialists / experts in disciplines such as hydrogeology, environmental planning, and data management. It is unclear if there will be a requirement that this expertise will be shared with area municipalities, so that planning processes and initiatives are efficient.
- The Province should provide clarity regarding the approval authority for new Official Plans and Official Plan Amendments, and how it will be administered. For example, it is ambiguous if the Province will be approving all area municipal official plans. It is also unclear how population allocations will be completed if there is no planning authority to distribute them. For example, the proposed new PPS directs that, going forward, municipalities are to use the Ministry of Finance population projections for future planning. However, the Ministry of Finance projections provide forecasts at the Census Division level, which is a regional level geography. Are individual municipalities expected to determine their own population allocation from the overall census division figures? If so, there is potential for lack of coordination and skewed population figures. These figures are important for the allocation and planning of physical infrastructure and community amenity needs.

Exempt Universities from the Planning Act

Bill 185 would exempt publicly assisted universities from the *Planning Act* with the aim to accelerate the building of new student housing.

- While the intent of this provision appears to be focused on the development of new student housing, which is supported by the City of Waterloo, the actual changes proposed to the Planning Act describe “an undertaking of a post-secondary institution” meaning that any development undertaken by a post secondary institution will likely be exempt from the Planning Act. It is recommended that the provision be scoped to new student housing only.
- While the intent is to speed up the approval process for student housing, there may be some unintended consequences of fully exempting all post secondary development from the Planning Act. Post secondary institutions are not land developers and there is a risk that key development considerations may be missed by the post-secondary institutions, which could relate to:
 - protection of natural features;
 - health and safety considerations, such as locating sensitive uses near industrial-type uses or a rail corridor;
 - designs for emergency response;
 - if the development triggers the need for capital upgrades (it is currently unclear how such upgrades may be secured).



If this provision is enacted, it is recommended that certain exemptions be made, including:

- permitting municipalities to require the conveyance of road widenings if they are identified in an Official Plan;
 - excluding the authority under the Planning Act to subdivide land;
 - excluding lands that are not designated for university or college use in an Official Plan;
 - excluding development within natural features and systems identified in an Official Plan;
 - excluding development within hazard lands identified in an Official Plan or by a Conservation Authority.
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- While a student housing strategy may be beneficial to maintain some control, the majority of university infrastructure and buildings are non-residential. As indicated above, it is recommended that the provision be scoped to new student housing only.
 - Post-secondary institutions sell buildings from time to time. It is unclear if complicated legal non-confirming situation may arise. To minimize non-confirming properties and buildings, it is recommended that the provision be limited to lands designated for “publicly assisted universities” in an official plan rather than using an ownership model as proposed.
 - Post secondary institutions function as a community within a community, thus it is important that development of post secondary institutional areas be subject to good planning principles and ensure that their development decisions have some coordination with the broader community. Such planning principles should be integrated into the proposed student housing strategy, for approval by the Province in consultation with the local municipality.

Development Charges and Refund of Fees

The proposed change through Bill 185 are positive for municipalities and are supported by the City.

- Bill 185 proposes to eliminate the five-year phase-in of development charge (“DC”) rates. The repeal the mandatory 5-year phase-in will provide stable DC revenues and support municipal efforts to deliver growth-related infrastructure. Municipalities may still wish to phase-in or otherwise delay the implementation of DC rate increases to respond to local conditions, as was available to do in the past.
- Bill 185 will reduce the time limit of “frozen” DCs from 24 months down to 18 months, which will help incent developments to move towards building permit issuance and construction in a timely manner.
- Implementation of the affordable housing DC exemption by June 1, 2024, while not positive from a DC revenue perspective, will help advance housing options in this much



needed segment of the housing spectrum. However, staff note that there is no mention of standard forms of agreement to be used for the purposes of administering the affordable housing exemption and would encourage the Province to review how this exemption would be administered and funded by municipalities. There is also no mention of the “attainable” housing exemption, and this should be reviewed to ensure clear legislation is put forward surrounding those development types and administration of any exemptions.

- Bill 185 would repeal the exclusion of growth-related studies’ costs. These studies form the basis of long-term capital programs and, by extension, reflect the intentions of municipal councils in managing long-term growth.
- Other proposed changes to the Planning Act that have important consequences for municipal finances are those that repeal planning fee refunds under the Planning Act – this is supported by the City. Bill 185 would repeal planning fee refunds that municipalities are required to provide if statutory timeframes are not met. In the City’s experience, and despite good intentions, the existing Bill 109 framework as slowed planning approvals and created a significant fiscal liability for municipalities, resulting in a rising number of disputes over “complete” applications and pre-consultation requirements. Staff are supportive of the proposed change in Bill 185, which will have a positive impact on planning processes and related approvals.
- While Bill 185 would exempt publicly-assisted universities from planning fees, this is relatively minor and mirrors the existing DC exemptions for universities. As such, the City has no concerns with this amendment to the Planning Act, provided the development is related to their core functions of the university and intended to stimulate on-campus student accommodation.

Additional Considerations

In addition to the proposed changes outlined in Bill 185, City of Waterloo staff offer the following comments to the Province for its consideration. The comments relate to planning tools and potential changes to the Planning Act and PPS that could expedite planning approvals and ultimately lead to additional housing units being built faster.

Zoning with Conditions

This tool could enable municipalities to expedite certain development applications:

- A “holding (H) symbol” is often placed on a site to ensure that any number of technical criteria are met before development proceeds, such as completing a technical study, or demonstrating there is sufficient infrastructure or transportation capacity available. While an effective planning instrument, holding provisions involve the need to initiate a separate process to lift the holding symbol. This can add additional time and costs to approving certain developments.



- The ability to zone with conditions would result in a single approval, expediting development. Bill 185 represents an opportunity to activate opportunities for conditional zoning, and could outline permitted conditions and parameters to ensure consistency across the Province. It would be an effective tool for municipalities to address site specific and/or unique conditions through a flexible and expedited process.

Reconsideration of Section 37 “Bonusing” Provisions

Prior to enacting Bill 109, municipalities had the option of using Section 37 of the Planning Act (often referred to as “bonusing”), to enable through a zoning by-law amendment additional height and density in exchange for “community benefits”. While results of this planning tool varied across the Province, in Waterloo, it was an extremely effective tool that allowed expedient approvals. Critical to our success, this tool was used responsibly, to enable additional residential units and height in exchange for modest community benefit through a consistent and fair process. Waterloo’s Northdale neighbourhood provides an excellent example of an area where many developments were able to add additional residential units (through additional height and density) in exchange for modest community benefit.

City staff recognize that the Province has introduced Community Benefits Changes (CBCs) as a replacement to the old Section 37 provisions. However, CBCs are not effective in adding residential units in a site-specific context, as CBCs are strictly a financial tool.

City staff are not advocating for removal of CBCs or asking to use CBCs in addition to any new bonusing tools. Rather, we recommend that the Planning Act allow municipalities the option to choose between said tools, on a site-by-site basis. Using the former Section 37 “bonusing” option would avoid the need for an official plan amendment, reducing processing timelines and costs.

Section 37 “bonusing” would have to be used responsibly. The Province could cap on the amount of benefits allowed to be provided, tied to the amount of additional height or density permitted. Such a limit could be part of the Planning Act regulations or at the discretion of the Minister. Further, the Minister could be empowered to withdraw a municipality’s permission to use Section 37 “bonusing” if concerns arise.

Bonusing was a flexible tool, that if used properly, was mutually beneficial to the City and the development industry and expedited housing approvals. Much of the bonusing secured by the City of Waterloo was used for local capital improvements (e.g., enhanced active transportation facilities) and to fund much needed affordable housing elsewhere in the community. The caps and limits outlined above would address some of the previous concerns with the system that was criticized as being unpredictable and unfair or transparent in some jurisdictions.



Coordination with other Ministries

In certain circumstances, the City have observed that comments received by other agencies and provincial ministries are not necessary aligned with the goal of increasing our housing supply and streamlining the development approval process. This would include comments received by the Ministry of Transportation (MTO) on traffic studies and from the Ministry of Environment Climate Change and Parks (MECP) with respect to various record of site condition (RSC) requirements. The City fully respects the important mandate of all arms of the province, however, it appears that the sense of urgency to obtain residential development clearances on an efficient basis may not be fully understood by certain ministries. Any work that could be done to share awareness about the intent of Bill 185 would be advantageous.

Overall, there are many positive components on the proposed Bill 185. Various concerns also exist as described herein. Thank you for the opportunity to comment on this important legislation. Staff would be pleased to meet with the Province to provide further input on the proposed Bill 185 as well future implementation.

Sincerely,

Adam Lauder, MCIP, RPP
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Integrated Planning and Public Works