



REPORT

TO: Mayor Lawlor and Members of Council

FROM: Bronwyn Parker, Director of Planning Policy
Jeff Markowiak, Director of Development Review

DATE: May 2, 2024

REPORT NO.: PD-2024-034

SUBJECT: Bill 185 (Cutting Red Tape to Build More Homes Act, 2024)
Proposed Legislative Changes

RECOMMENDATION:

THAT Report No. PD-2024-034 dated April 23, 2024, regarding Bill 185 (Cutting Red Tape to Build More Homes Act, 2024) Proposed Legislative Changes be received;

AND FURTHER THAT Council endorse the staff comments contained within this report regarding the proposed Bill 185;

AND FURTHER THAT the comments contained within this report be used as the basis for the finalization of the Town's comments to the various Environmental Registry postings;

AND FURTHER THAT a copy of this report be forwarded to the Ministry of Municipal Affairs and Housing, the Region of Halton, the City of Burlington and the Towns of Milton and Oakville;

AND FURTHER THAT staff provide further update reports to Council once Bill 185 receives Royal Assent, as may be appropriate.

KEY POINTS:

The following are key points for consideration with respect to this report:

- On April 10, 2024, the Province introduced Bill 185, the "*Cutting Red Tape to Build More Homes Act, 2024*".

- Multiple postings on the Environmental Registry of Ontario (ERO) were also released specifically seeking feedback regarding changes proposed to the *Planning Act* through Bill 185.
- Comments on the ERO postings and proposed Bill 185 are due by May 10, 2024.
- On the same day, the proposed (new) Provincial Planning Statement was released for comment. This new Provincial Planning Statement has been anticipated since the of the 2023 iteration for public comment, and will officially result in the sunseting of both the Provincial Policy Statement, 2020 and Growth Plan for the Greater Golden Horseshoe, first introduced in 2006. Report PD-2024-035, also listed on the May 6, 2024, Council agenda deals specifically with the proposed Provincial Planning Statement; as such, this report does not discuss those proposed policy changes.
- This report provides Council with the key highlights of Bill 185, staff comments on the proposed legislative changes and potential impacts to the Town, and identifies recommendations where appropriate.

BACKGROUND AND DISCUSSION:

1. Context

On April 10, 2024, the Minister of Municipal Affairs and Housing announced Bill 185: *Cutting Red Tape to Build More Homes Act, 2024*. The intent of the legislation is to “...cut red tape, speed up government processes and build at least 1.5 million homes by 2031” as seen in the provincial [news release](#).

Bill 185 proposes changes to 15 statutes including the *Planning Act* (Schedule 12 of Bill 185), *Municipal Act* (Schedule 9 to Bill 185) and *Development Charges Act* (Schedule 6 to Bill 185) among others. Feedback is being sought on these changes through multiple postings on the Environmental Registry of Ontario (ERO) as follows:

- ERO Number [019-8366](#): Removing Barriers for Additional Residential Units
- ERO Number [019-8368](#): Municipal Planning Data Reporting
- ERO Number [019-8369](#): Proposed *Planning Act*, *City of Toronto Act, 2006*, and *Municipal Act, 2001* Changes
- ERO Number [019-8370](#): Newspaper Notice Requirements and Consequential Housekeeping Changes
- ERO Number [019-8371](#): Changes to the Development Charges Act, 1997

This report provides information regarding the changes proposed in each of these ERO postings, highlighting any significant impacts or areas of concern and staff recommendations regarding same.

Based on the various media releases and news briefings released by the Province in recent weeks, the key directions or themes from Bill 185 appear to focus primarily on building more homes faster and at lower costs, prioritizing developments that are ‘shovel ready’, and limiting appeals by third parties to avoid lengthy hearings at the Ontario Land Tribunal (OLT).

2. Bill 185 Overview

- **Additional Residential Units**

- i. Key changes:

Changes are proposed to the Planning Act that would no longer permit municipalities to restrict through their Zoning By-laws any parameters that may be seen as barriers to the creation and construction of Additional Residential Units (ARUs). These include provisions related to maximum lot coverage, building height and maximum number of bedrooms.

- ii. Potential impacts/areas of concern:

As Council may recall, through Bill 23, *More Homes Built Faster Act, 2022*, the Province has stipulated that up to three units are permitted as of right on a fully serviced residential lot. This could include an additional standalone dwelling unit within a rear yard. The Town is currently reviewing appropriate regulatory standards for such units to be included in the Comprehensive Zoning By-law.

Proposed changes regarding lot coverage within established residential neighbourhoods could limit a municipality's ability to preserve soft landscaping on residential lots and may generate unanticipated drainage/stormwater management issues. Standards established at the Provincial level remove the municipality's ability to properly evaluate the impacts of emerging built forms, like ARUs, on the surrounding neighbourhood and environment.

- iii. Staff recommendation:

It is recommended that in lieu of proceeding by way of an Ontario Regulation, the Ministry develop ARU Implementation Guidelines. These Guidelines could then be utilized by local municipalities in establishing appropriate regulatory standards for inclusion within Comprehensive Zoning By-laws that have regard for the local context.

- **Municipal Planning Data Reporting**

- i. Key changes:

Certain municipalities within Ontario are currently prescribed by regulation to provide quarterly and annual planning data to the province regarding official plan and zoning by-law amendments, plans of condominium and subdivision, site plans, severances etc. The regulations are being expanded to apply to 21 additional municipalities, including the Town of Halton Hills. In addition, proposed amendments include providing information regarding the total number of proposed housing units compared to approved housing units, the preparation of summary tables (including data regarding the number of submitted applications compared to decisions made), and the submission of geospatial data reflecting serviced land supply.

ii. Potential impacts/areas of concern:

Planning and Development staff will be required to provide this data to the province beginning October 1, 2024. The Town has been added to this regulation given our recent Housing Pledge. Staff are in the process of finalizing a Growth Monitoring Model tool and an online development application portal, both of which will assist in the collection and tracking of the required information.

iii. Staff recommendation:

Staff recommend that the Province develop an online reporting portal or system to assist municipalities with seamless delivery of the requested data.

Proposed Planning Act, City of Toronto Act and Municipal Act Changes

- **Upper-tier planning responsibilities**

i. Key changes:

As had originally been proposed through Bill 23, certain upper-tier municipalities, including Halton Region, will lose their planning responsibilities, including their role as the approval authority over local Official Plans and Official Plan Amendments, effective July 1, 2024, should Bill 185 receive Royal Assent. The Town will also assume responsibility for the Regional Official Plan as it pertains to lands within our municipal boundaries.

ii. Potential impacts/areas of concern:

Halton Region, the area Conservation Authorities and Local Municipalities have been collectively preparing transitional provisions by way of a Memorandum of Understanding (MOU), anticipating this change in the Regional role. As of the date of writing of this report, the MOU had been endorsed in principle by the Area Chief Administrative Officers. The MOU will be subject to a separate report that will be included on the May 27, 2024, Council agenda. Staff do anticipate that the Province may be creating transition provisions regarding the shifting roles and responsibilities; should provisions be released, staff will assess any potential impacts at that time.

iii. Staff recommendation:

At minimum, Staff recommend that the Province consider that site-specific amendments linked to active development applications that are currently exempt from Regional approval, should continue to be exempt from future Ministry approval. This will ensure the streamlined process is not impacted and may assist in having more homes built faster. In addition, opportunities to exempt municipally initiated Official Plan Amendments that are consistent with the PPS and conform with Provincial Plans where applicable should also be explored. This would require the Ministry to provide comments on initial drafts that can be considered and addressed by the Town prior to Council adoption.

- **Settlement Area Boundary Expansions**

- i. Key changes:

Significant changes are proposed with respect to privately initiated Official Plan or Zoning By-law Amendment applications seeking settlement area boundary expansions. Bill 185 proposes to allow applicants to appeal a municipality's refusal or failure to make a decision on a privately requested Official Plan or Zoning By-law Amendment that would change the boundary of an "area of settlement", outside of the Greenbelt Area, within 120 days of submission of the application.

- ii. Potential impacts/areas of concern:

Staff have significant concerns with this proposed change. In recent months, we have already received pre-consultation requests for settlement area boundary expansions despite the recent completion of Halton Region's Municipal Comprehensive Review through ROPA 48 and 49 and the release of *Bill 162, Get It Done Act* identifying the Town's potentially expanded urban boundaries to 2051. These new appeal rights could lead to numerous site-specific Official Plan Amendments requesting the inclusion of additional properties inside the Town's 2051 urban boundary. Should the Town refuse or fail to make a decision within 120 days regarding such applications, subsequent appeals to the OLT are very likely.

The proposed changes may very well preclude any degree of stability with respect to the urban boundary and impact our ability to advance other important planning priorities such as the Official Plan review and the development of Secondary Plans for new growth areas. In essence, we are of the view that the changes will lead to ongoing litigation and significant impacts on the Town's financial and staffing resources.

- iii. Staff recommendation:

Staff recommend that the need for urban boundary expansions be assessed as part of the municipal Official Plan Review or equivalent process, where the Province will now be the approval authority. This process will typically include a growth forecast and accompanying land needs assessment to ensure that sufficient land has been designated at the local level to accommodate future population and employment growth. Any concerns with the growth forecast and accompanying land budget that underpins an updated Official Plan, should be resolved in a collaborative and transparent manner prior to the Minister's approval.

- **Reduced Parking Minimums**

- i. Key changes:

Bill 185 proposes to restrict local Official Plans from containing policies requiring a property owner or development proposal to provide or maintain minimum parking

requirements within Protected Major Transit Station Areas¹ (PMTSAs) and any other areas surrounding and including an existing or planned higher order station or stop where official plan policies identify the minimum number of residents and jobs, collectively. Landowners would be permitted to identify how many parking spaces they believe would be adequate to accommodate the total number of units within a proposed development.

Currently, neither the Acton or Georgetown Major Transit Station Areas (MTSAs) are deemed PMTSAs, however, it appears that the legislation is written such that these parking restrictions would apply at both the Acton and Georgetown MTSAs, given both are active GO train and bus station locations.

ii. Potential impacts/areas of concern:

Staff has significant concerns with the proposed elimination of minimum parking requirements within the Town's MTSAs. Under such a scenario, the provision of parking will presumably be market based and at the discretion of landowners. The existing multi-modal split in Halton Hills is quite low and without a fully operating public transit system, eliminating minimum parking requirements may result in i) inadequate on-site parking for unit occupants and visitors and/or ii) an increase in street parking.

iii. Staff recommendation:

Staff recommend that the Province should first consider implementing these proposed restrictions as a pilot project within PMTSAs or MTSAs that are serviced by frequent transit networks, such as subways or light rail transit. This would ensure that before making these parking restrictions mandatory within MTSAs across the Province, any identified issues with parking demand/ supply and modal split, including commuter traffic can be understood and addressed.

- **Third Party Appeals**

i. Key changes:

Through Bill 23, third-party appeals by landowners, ratepayers and other members of the public were eliminated for Minor Variance, Draft Plan of Subdivision and Consent applications, and only were appealable by the applicant, municipal authority, minister or a 'specified person' (which includes public bodies such as the Minister, infrastructure/utility providers and other similar public/private bodies).

¹ The *Planning Act* defines PMTSAs as follows: "The official plan of a single-tier municipality may include policies that identify the area surrounding and including an existing or planned higher order transit station or stop as a protected major transit station area and that delineate the area's boundaries, and if the official plan includes such policies it must also contain policies that, (a) identify the minimum number of residents and jobs, collectively, per hectare that are planned to be accommodated within the area; (b) identify the authorized uses of land in the major transit station area and of buildings or structures on lands in the area; and (c) identify the minimum densities that are authorized with respect to buildings and structures on lands in the area. Staff note that through Bill 185, a reference to "a lower-tier municipality that, for municipal purposes, forms part of an upper-tier municipality without planning responsibilities" is proposed to be included.

Bill 185 proposes to extend the same appeal rights to municipally approved Official Plans, Official Plan Amendments, Zoning By-laws and Zoning By-law Amendments. Applicants would still have the right to appeal Official Plan and Zoning By-law Amendment applications that Council refuses or does not consider within the statutory time periods.

Bill 185 is also proposing transitional rules that would apply these new appeal limits if a merits hearing had not already been scheduled before April 10, 2024, or, if no appeals were filed by certain persons or public bodies before Bill 185 comes into force.

ii. Potential impacts/areas of concern:

Potential impacts with the proposed changes to third party appeals includes the potential dismissal of recent appeals regarding Town Secondary Plans where a hearing has not been scheduled. This includes the one outstanding appeal of the Glen Williams Secondary Plan (OPA 44) and two recent appeals to the Premier Gateway Phase 2B Secondary Plan (OPA 50). It appears at this time that all 3 appeals would be dismissed should Bill 185 receive Royal Assent as proposed.

iii. Staff recommendation:

The Town has a long-established process of meaningful community engagement. While the Town does not experience many third-party appeals from the public, meaningful community engagement throughout the planning process leading to a Council decision should continue to be prioritized. On balance, the proposed additional limitations on appeals have merit.

- **Development Application Fee Refunds**

i. Key changes:

In 2022, Bill 109, *More Homes for Everyone Act* made changes to the *Planning Act* that required municipalities to refund all, or a portion of, application fees for Zoning By-law Amendment or Site Plan applications if decisions were not made by the municipality within the identified statutory timeframes (i.e. 90 days for Zoning By-law Amendment applications; 60 days for Site Plan applications). Bill 185 proposes to now entirely remove the fee refund provisions from the *Planning Act*.

ii. Potential impacts/areas of concern:

The fee refund provisions established through Bill 109 had the potential to result in substantial financial implications to the Town and ultimately led to a more complex application review process in order to best position the Town to be able to make a decision on Zoning By-law Amendment and Site Plan applications within the statutory timeframes². As such, staff welcomes the proposal to eliminate the fee refund

² In order to mitigate against the financial impacts associated with the Bill 109 refund regime, Council adopted OPA 49 and a number of amendments to implementing by-laws and procedures on February 13, 2023. Among other matters, these amendments introduced a voluntary pre-application process to enable an initial review of a development proposal, including supporting studies, prior to the submission of a complete application. A number

provisions from the Planning Act. Notwithstanding, the Town will continue to review all development applications in an expeditious manner as much as possible.

iii. Staff recommendation:

Staff recommends that the Town support the proposal to remove the fee refund requirements from the Planning Act. Any applications filed before the deletion date of the fee refund requirements may still be eligible for a fee refund; therefore, the Town encourages the Ministry to eliminate any further fee refunds.

• **Pre-Consultation Process**

i. Key changes:

The Planning Act currently authorizes municipalities to require prospective applicants to consult with a municipality before submitting a formal development application in order to determine what materials must be submitted as part of a complete application. An applicant only had the authority to appeal what constitutes a complete application after having submitted a formal application and fee to a municipality. Bill 185 proposes to make the pre-consultation process voluntary, at the discretion of the applicant, and allow an applicant to challenge the complete application requirements before the OLT at any time (i.e. before even filing an application or required fee).

ii. Potential impacts/areas of concern:

Pre-consultation is a critical component of the development review process. Pre-consultation provides municipalities an opportunity to offer initial feedback on a preliminary development concept before an applicant files the formal application and is used to establish what materials a municipality will require to properly evaluate the merits of any formal proposal. The Town has a thorough and successful mandatory pre-consultation process that many applicants have identified as being very valuable and instructive.

While the Town expects most applicants to continue to see the benefit of going through a voluntary pre-consultation process, for those that choose to forgo the process it could lead to delays in the development review process and potentially a greater number of OLT hearings.

iii. Staff recommendation:

Staff recommends that the Province continue to allow municipalities the authority to make pre-consultation mandatory.

of municipalities adopted OPAs that made similar pre-application processes mandatory leading to appeals from the development industry.

- **Lapsing Provisions for Plans of Subdivision and Site Plan**

- i. Key Changes

Bill 185 proposes new “use it or lose it” provisions, which includes requiring municipalities to impose lapsing conditions for plans of subdivision/condominium and site plan approval. The lapsing periods shall not be less than three years for each application type. Previously applying lapsing conditions was an option for municipalities, now it is a mandatory requirement.

- ii. Potential impacts/areas of concern:

The intent of the provisions is to presumably provide a tool for municipalities to tackle stalled development proposals or eliminate developers from sitting on approvals (use it or lose it), especially ones that are holding on to unused servicing capacity. While the Town currently imposes lapsing conditions in draft plan of subdivision/condominium and Site Plan approvals, the inclusion of these mandatory provisions to the Planning Act should put the Town in a stronger position should it decide that the lapsing provisions should be invoked. However, enforcement of lapsing conditions for approved developments that may have other considerations such as pre-payment of servicing allocation through the Region’s Allocation Program could be difficult to apply in practice, once monies have been secured by the Region.

- iii. Staff recommendation:

Staff supports the inclusion of the use it or lose it provisions, but recommend that the Province continue to allow municipalities the ability to extend approvals where the municipality sees appropriate.

- **Newspaper Notice Requirements and Consequential Housekeeping Changes**

- i. Key changes:

Changes proposed through Bill 185 would allow municipalities to provide any required notice for applications made under the Planning Act on a municipal website. This includes notices regarding Official Plans and related Amendments, Zoning By-laws (including Holding and Interim Control By-laws), Plans of Subdivisions, Consent and Minor Variance applications and Community Benefit Charges and Parkland.

- ii. Potential impacts/areas of concern:

The Town welcomes the proposed change to allow for notices on the municipal website, especially given the recent loss of the printed local newspaper. The Town has recently (pro-actively) completed an Official Plan Amendment which permits alternative notices for publicly initiated Official Plan and Zoning By-law Amendment applications.

iii. Staff recommendation:

Given staff are fully supportive of the proposed changes, there are no recommendations to offer the Province. Staff will ensure our policies are updated to permit notices on the Town's website as soon as Bill 185 is approved by the legislature.

- **Changes to the *Development Charges Act***

i. Key changes:

Bill 185 proposes changes to the *Development Charges Act* that are overall viewed as positive. Many of the changes are reversals of amendments that were made through Bill 23.

One of the changes includes a revision to the definition of 'eligible capital costs', which will now revert back to the pre-Bill 23 period when growth-related studies could be funded through development charges. Other revisions include the removal of the mandatory phase-in of charges and modernizing public notice requirements to allow municipalities to give notice of public meetings and the passage of Development Charge By-laws on municipal websites, among others.

ii. Potential impacts/areas of concern:

The changes proposed through Bill 185 would require updates to the Town's current processes, however, these are seen as welcome changes.

iii. Staff recommendation:

In general, Town staff view the proposed changes to the *Development Charges Act* as a positive reaction to municipal advocacy that has been on-going for the past number of years, and more recently since Bill 23's enactment.

STRATEGIC PLAN ALIGNMENT:

This report is administrative in nature and does not have an immediate impact on the Town's Strategic Plan.

RELATIONSHIP TO CLIMATE CHANGE:

This report is administrative in nature and does not directly impact or address climate change and the Town's Net Zero target.

PUBLIC ENGAGEMENT:

Public Engagement was not needed as this report is administrative in nature.

INTERNAL CONSULTATION:

Various internal departments and divisions were involved in the review of the proposed changes presented in Bill 185, including staff from Planning Policy, Development Review, Finance and Development Engineering.

FINANCIAL IMPLICATIONS:

This report is administrative in nature and does not have any financial implications.

Staff note that with the proposed changes to the *Development Charges Act*, there will be some financial benefits to the Town. For example, should the definition of 'eligible capital costs' change as proposed, growth-related studies could once again be funded through development charges. In addition, the proposed sunseting of the Bill 23 planning application fee refund regime eliminates the financial risks associated with the same.

Reviewed and approved by,

John Linhardt, Commissioner of Planning & Development

Damian Szybalski, Commissioner of Business, Environment & Culture and Acting Chief Administrative Officer