Proposed new regulation and regulation changes under the Planning Act, including transition matters, related to Schedule 12 of Bill 108 - the More Homes, More Choice Act, 2019

August 6, 2019

Detailed Comments

Proposed changes to the transition regulation (O. Reg. 174/16: "Transitional Matters – General") would set out rules for planning matters in-process at the time certain components of Schedule 12 to Bill 108 are proclaimed. The proposed transition regulation changes would provide certainty regarding the processing and decision-making on planning matters.

Certain changes to the Planning Act through Schedule 12 to Bill 108 that are not addressed in the proposed transition regulation would apply immediately upon the coming into force of those changes.

It is proposed that the following changes which are part of Schedule 12 to Bill 108 be transitioned as follows:

Transition

Expanding the grounds of appeal of a decision on an official plan/amendment or zoning by-law/amendment and allowing the Local Planning Appeal Tribunal to make any land use planning decision the municipality or approval authority could have made would apply to:
appeals of decisions that have not yet been scheduled for a hearing by the Local Planning Appeal Tribunal regarding the merits of the matter before the Tribunal

Expanding the grounds of appeal of a lack of decision on an official plan/amendment or zoning by-law amendment and allowing the Local Planning Appeal Tribunal to make any land use planning decision the municipality or approval authority could have made would apply to:
appeals of the failure of an approval authority or municipality to make a decision within the legislated timeline that have not yet been scheduled for a hearing by the Local Planning Appeal Tribunal regarding the merits of the matter before the Tribunal

> *It is the City's view that the expansion of the grounds for appeal should be limited to new appeals filed after the legislation comes into force. Appeals filed prior to the legislation coming into force, but without a hearing scheduled, should not be eligible for expanded grounds for appeal.*

The removal of appeals other than by key participants (e.g. the province, municipality, applicant, utility companies, etc.) for draft plan of subdivision approvals, conditions of draft plan of subdivision approvals or changes to those conditions would apply where:
the notice of the decision to draft approve or change conditions is given, or conditions are appealed other than at the time of draft approval on or after the day the proposed changes come into force (e.g., appeals made during appeal periods that begin once the proposed changes come into force)

> *The City of Brampton supports this proposal.*

The reduction for decision timelines on applications for official plan amendments (120 days), zoning by-law amendments (90 days, except where concurrent with official plan amendment for some proposal) and plans of subdivision (120 days) would apply to complete applications submitted after Royal Assent.

The City recommends making the reduction applicable no sooner than date upon which the proposed changes come into force, as is proposed for the limitation on subdivision appeals described in 1.3 and 1.4. This will reduce confusion about when different aspects of the new legislation take effect, and will allow current applications to be processed within the existing timelines and mitigate a possible surge in appeals to the LPAT when applications under the old and new timelines become appealable at the same time.

Community planning permit system

Schedule 12 to Bill 108 includes provisions to remove the ability to appeal the official plan policies required by regulation for the establishment of a community planning permit system when the Minister issues an order to require a local municipality to adopt or establish a system. To further facilitate the implementation of the system, a change is also proposed to the community planning permit regulation that would remove the ability to appeal the implementing by-law. This change would support the streamlining of development approvals in areas where the Minister required a community planning permit system to be established.

In the City's view, the Province should provide ample notice to municipalities prior to requiring implementation of a CPPS. Additionally, the regulation should be clarified to indicate that charges for soft services and parkland can be imposed as conditions of approval of permits under the CPPS. The City supports the proposal to eliminate appeals of the implementing by-law.

Additional Residential Unit Requirements and Standards

A regulation is proposed under s. 35.1(2)(b) of the Planning Act setting out requirements and standards to remove barriers to the establishment of additional residential units, as follows:

One parking space for each of the additional residential units which may be provided through tandem parking

In City's view, if this is not possible, an alternative arrangement should be proposed in order to avoid parking deficiencies, specifically along laneway units and obstruction of access points.

Where a municipal zoning by-law requires no parking spaces for the primary residential unit, no parking spaces would be required for the additional residential units

The City suggests this may be an issue in cases where lower parking rates have been developed for specific areas to facilitate a certain development or neighbourhood character that would be affected by additional habitable units. Original planning justification for area specific lower parking requirements may be compromised by the as-of-right addition of secondary units and should be determined by the local municipality for appropriateness.

An additional residential unit, where permitted in the zoning by-law, may be occupied by any person in accordance with s. 35(2) of the Planning Act, and, for greater clarity, regardless of whether the primary unit is occupied by the owner of the property

The City supports this proposal.

An additional residential unit, where permitted in the zoning by-law, would be permitted without regard to the date of construction of the primary or ancillary building.

The City of Brampton supports this proposal, provided the appropriate building permit has been obtained.

Housekeeping regulatory changes

As Schedule 12 to Bill 108 provides for the removal of provisions in the Planning Act for second notice of subdivision applications and provisions for some non-decision appeals for official plans/amendments, housekeeping changes are required in O. Reg. 544/06 "Plans of Subdivision" and O. Reg. 543/06 "Official Plans and Plan Amendments" to remove the redundant notice of a subdivision application and the notice requirements for non-decision appeals, which would no longer be necessary.

b. Regulations under the Planning Act provide for requirements to implement inclusionary zoning including restrictions and prohibitions on the authority under section 37 (Increased Density) when inclusionary zoning is authorized.

Schedule 12 to Bill 108 provides for section 37 (Increased Density) being replaced by the proposed provisions in respect of a community benefits charge. Housekeeping changes are required to amend O. Reg. 232/18: "Inclusionary Zoning" to remove the restrictions and prohibitions in respect of the municipal authority under section 37 (Increased Density) with inclusionary zoning.

In considering making a proposed new regulation and changes to existing regulations under the Planning Act, the government will continue to safeguard Ontarians' health and safety, support a vibrant agricultural sector, and protect environmentally and culturally sensitive areas, including the Greenbelt.

The City of Brampton has no comments on the above housekeeping amendments that reflect the passed regulatory changes to the Act.