Report

Subject: Overview of Bill 185 (Cutting Red Tape to Build More Homes Act, 2024)

Department: **Infrastructure Services**

Division: **Planning**

Report #: **INS-2024-041**

Meeting Date: **2024-08-12**

Recommendations

That report PLA-2024-005 entitled Overview of Bill 185 (Cutting Red Tape to Build More Homes Act, 2024), be received.

Overview

The provincial government of Ontario has introduced Bill 185, the *Cutting Red Tape to Build More Homes Act, 2024* as part of ongoing legislative changes aimed at expediting development approvals and increasing housing supply to alleviate housing supply and affordability issues in the province. The report provides a brief summary of key legislative changes to the development approval process, including:

i) eliminating 3rd party (i.e. members of the public) appeal rights for planning decisions;
ii) making pre-application consultation voluntary, not mandatory;
iii) roll-back recent changes to phase-in new development charge (DC) rates;
iv) reinstatement of growth-related studies as DC-eligible costs;
v) implementing a “use-it or lose-it” approach to development approvals; and
vi) enabling municipalities to adopt servicing allocation policies.

Background

On April 10, 2024, the Cutting Red Tape to Build More Homes Act, 2024 (Bill 185), was introduced to the Ontario legislature, and was given royal assent on June 6, 2024. The bill introduces significant changes to the Planning Act, Municipal Act, and Development Charges Act, which are now in full force and effect. This is the latest effort by the province to expedite development approvals for housing by removing perceived barriers. This follows similar legislative changes recently introduced such as the More

Homes Built Faster Act, 2022 (Bill 23), and the More Homes for Everyone Act, 2022 (Bill 109), and has also rolled-back some of the changes introduced through these earlier bills.

Analysis/Current Situation

Bill 185 has introduced a suite of new changes with amendments to 15 separate Acts, however the most significant changes as they relate to the Town of Orangeville are summarized below:

Changes to appeal rights

- Third-party appeals of municipally-approved official plans, official plan amendments, zoning by-laws and zoning by-law amendments are no longer allowed. Appeals can only be filed by "specified persons," as defined in the *Planning Act,* which is limited to certain agencies that includes utilities, pipelines and rail operators and other similar public/private entities, owners of land that the official plan amendment or zoning by-law amendment applies-to, the Minister and an upper-tier approval authority (where applicable).
- Third-party appeals that had been filed prior to Bill 185, and for which no hearing had been scheduled before April 10, 2024, are deemed to have been dismissed as of June 6, 2024.
- Previously, Bill 23 removed 3rd party appeal rights for approval decisions for minor variances, draft plans of subdivisions and consents to sever land.
- With this change, ratepayer groups, third party landowners and other members of the public no longer have the right to appeal to the Ontario Land Tribunal ("OLT" or "Tribunal"), any municipally-approved official plan, official plan amendment, zoning by-law, zoning by-law amendment, draft plan of subdivision, minor variance or consent to sever. These entities may continue to seek party or participant status in an appeal filed by a permitted entity such as the applicant/owner, specified person or public body.

Reversal of Fee Refunds for Planning Applications

- Bill 109 introduced requirements for municipalities to refund application fees if they did not make a decision before statutory review periods. This requirement is now repealed.
- Fee refunds would still apply to applications filed between July 1, 2023 and June 6, 2024 if a decision has not been made within their specified review periods. The amount of any fee refund owing where a decision has not been made would be determined as though the municipality made a decision as of June 6, 2024.

Pre-Application Consultations for Application Now Voluntary

- Many municipalities responded to the fee refund requirement from Bill 109 by requiring a more robust pre-consultation process, to focus more review and

scrutiny of an application proposal before it is submitted. This essentially front-ended the review process to ensure review timelines were met once an application was accepted and deemed complete. Planning staff have implemented a “pre-screening” stage of pre-submission consultation, to ensure all necessary information will be included in a proposed submission. This ensures that once the application is submitted, some review has already occurred, and its processing will be more efficient.

- Bill 185 now makes pre-application consultation meetings and any pre-screening review “voluntary”, repealing sections of the *Planning Act* that allowed a by-law to be passed to make pre-consultation mandatory.
- At any time after an applicant has begun to consult with a municipality, or has submitted its application, an applicant now has the ability to bring a motion to the OLT to dispute any application submission requirements of the municipality.

“Use it or Lose It” Provisions for Existing Approvals

- Municipalities can require lapsing provisions on site plan approvals and plans of subdivision if a building permit is not acquired by the applicant within a prescribed period of time. Until a specific regulation for this period is introduced, it currently can be no less than three years.
- This amendment responds to indications that there are many development projects in municipalities across Ontario that are approved but not moving forward, despite industry efforts to streamline approval processes and create more opportunities for development.

Reversal of Development Charge (DC) Phase-In and Eligible Costs

- The requirement for phasing-in new development charge rates incrementally over 5 years that was implemented by Bill 23 has been repealed. Any development charge that was imposed between November 28, 2022, and June 6, 2024, will continue to be subject to the phasing in provisions, but going forward this requirement will not apply to new development charge rates
- Another change to DC charges that Bill 23 introduced was eliminating the costs to undertake studies (including the development charges background study), as a recoverable cost in the calculation of DC charges. This change has been rolled back and the cost of studies can now be included in DC charges again.
- Municipalities have 6 months to amend their DC charge by-laws to include study costs, or to adjust their by-law rates to account for the removal of the phase-in. Any amendments to implement these changes passed within 6 months cannot be appealed to the Tribunal. Bylaw amendments passed after December 6, 2024, can be subject to appeal.

Ability to Appeal Settlement Area Expansions

- Applications for official plan and zoning bylaw amendments that propose to add land to an area of settlement can now be appealed to the OLT, provided none of the land proposed to be added is in the Greenbelt.

Municipal Policy on Servicing Allocation

- A new provision has been added to Part III (Specific Municipal Powers) of the Municipal Act, 2001 enabling a municipality enact a policy (via by-law passage) that regulates allocation of water supply and sewage capacity. Such a policy may include: (1) a system for tracking the water supply and sewage capacity available to support approved developments (which is proposed to be defined as a development application which has been given Planning Act approval); and (2) criteria respecting the allocation of servicing capacity to development applications, including circumstances for when the allocation is assigned, withdrawn or reallocated if previously withdrawn to an approved development.
- Where a municipal allocation by-law is passed, the administration of the allocation policy must be assigned to an officer, employee or agent of the municipality, and any decisions made pursuant to the allocation policy is to be treated as final without abilities for appeal. However, the Minister may, by regulation, exempt an approved development or a class of approved developments from any or all provisions of a municipal allocation by-law.

Corporate Implications

The above is a summary of only those changes which have implications for the Town, and how development will be processed going forward.

The elimination of third-party appeal rights means that in most circumstances, an applicant property owner will be the only entity eligible to appeal a planning application decision.

The 2022 Ontario Housing Affordability Task Force Report identified community opposition as one of the main barriers to streamlining planning approval processes and delivering more housing opportunities. Recommended measures to alleviate this barrier included creating more as-of-right residential zoning permissions and de-politicizing approval processes by delegating certain approvals (i.e. site plan approval) to municipal officials and reducing 3rd party appeal rights. This change aligns with the Task Force recommendations.

Repealing a municipality's ability to require mandatory pre-consultation before an application submission could result in proponent resistance to the formal pre-

consultation process. This may become more relevant for the Town where a servicing allocation policy ties allocation decisions to certain statuses or milestones associated with a planning application. However, since these changes have been implemented, all applicants have continued to pursue pre-consultation through the Town's process, presumably because pre-consultation is a deeply-rooted step in any planning application process throughout Ontario and there are benefits of pre-consultation for both municipalities and applicants.

The changes affecting Development Charges (DC) are positive and will enable more growth-related cost recovery through updated DC's. The Town is currently undertaking a review and update of its DC By-law, which is expected to take these recent changes into account.

The use-it or lose-it provisions for development approvals will give the Town more ability to rescind approvals where there is excessive and arbitrary delay towards development construction following planning approvals. This is especially important considering the Town's limited servicing capacity. The Town will have greater ability to withdraw approvals and rescind/reallocate servicing capacity from stagnant development approvals to other development projects.

Strategic Alignment

Strategic Plan

Strategic Goal: Future-Readiness

Objective: Confirm applicable governance and policy regimes

Notice Provisions

Not Applicable

Respectfully submitted,

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Attachment(s): Not Applicable