

CORPORATION OF THE COUNTY OF HURON

Planning and Development Department

To: Chair and Members, Committee of the Whole, Day 1

From: Sandra Weber, Director
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Date: March 27, 2018

Subject: **Bill 139 – Building Better Communities and Conserving Watersheds Act, 2017**

Recommendation

That the report be received for information and circulated to the local municipalities.

Background

In May 2017, the Ministry of Municipal Affairs released Bill 139 – Building Better Communities and Conserving Watersheds Act with the intent being to reform Ontario's land use planning appeal system. This includes the transition of the Ontario Municipal Board (OMB) to become the Local Planning Appeal Tribunal (LPAT), with changes to its jurisdiction and processes. The Bill enacts the Local Planning Appeal Tribunal Act as well as amending the Planning Act, the Conservation Authorities Act and various other Acts. Bill 139 received Royal Assent on December 12, 2017 and will receive Proclamation on April 3, 2018. Regulations to fully enact this legislation have been released and will be in effect as of April 3, 2018.

Comments

The new Acts enacted by Bill 139 and the amendments to the Planning Act will:

- Reduce the number of planning appeals by removing the ability to appeal certain planning decisions and by limiting the basis of what can be appealed for other decisions;
- Reduce the length and cost of planning appeal hearings and create a more level playing field for all participants by introducing more stringent timelines within which appeals must be processed;
- Require a 'case management conference' for each appeal with the goal of resolving planning appeals prior to the hearing process;
- Eliminate lengthy and often confrontational examinations and cross-examinations of witnesses by parties and their lawyers at hearings;
- Establish the Local Planning Appeal Support Centre, a new provincial agency, which will provide Ontarians with information about the land use planning appeal process, legal and planning advice, and, in certain cases, may provide legal representation in proceedings before the tribunal; and,
- Give more weight to decisions made by municipal officials by limiting the ability of the Tribunal to overturn decisions of a local council or planning authority.

Some aspects of the appeal process will remain unchanged including:

- the appeal fee (\$300);
- appeal processes for consents, minor variances, and plans of subdivision where Council made a decision.

The following is a summary of the key changes to the Planning Act as outlined in the regulations.

Sections of the Planning Act	Amendments	Comments
2(1)	The Local Appeal Tribunal must “have regard to” decisions of municipal councils and approval authorities relating to the same planning matter. This requirement is limited to only official plans, zoning by-laws, interim control by-laws, site plan control, plans of subdivision and consents.	Previously the requirement to have regard to local decisions applied to all planning applications.
8(1)	Appeals and motions for directions related to site plan control and motions for directions related to consents are added to the matters that can be addressed by a local appeal body.	
16(1)(a.1)	Requires official plans to contain policies relating to affordable housing.	This will require new policies to be added into Official Plans.
16(14)	Requires official plans to contain policies relating to reduction of greenhouse gases to address climate change.	This will require new policies to be added into Official Plans.
17 (24.0.1), & 17(36.0.1)	An appeal concerning the adoption or approval of an official plan is restricted only to issues of consistency or conformity with provincial plans and policy statements and, as applicable, conformity with official plan policies of upper-tier municipalities.	Previously appeals were based on a test of “good planning”. This change narrows the scope of what the tribunal can consider.
17(49.1), & 17(49.12)	Where an appeal of an official plan is allowed by the Tribunal under the conformity and consistency criteria explained above, the matter is referred back to the municipality, which has a second opportunity to make a decision. If that decision is appealed the Tribunal would make an order or deny the appeal.	
17(36.5) & 21(3)	There is no appeal in respect of a prescribed 10 year or 5 year review of an official plan, if the approval authority is the Minister.	The Ministry is the approval authority for 5 year reviews of the County Official Plan.
22 & 34	Appeals of refusals to amend an official plan or zoning by-law must demonstrate that there is a deficiency in the existing official plan or zoning by-law that makes it not consistent with provincial plans or not conforming to provincial or municipal official plans. The appeal must further demonstrate that the proposed amendment rectifies this deficiency. These requirements also apply to an appeal of a lack of decision within the prescribed timelines.	
17, 22, 34, & 36	Timelines for making decisions related to official plans and zoning by-laws are extended by 30 days.	
22(2.1.1)	During the two-year period following the adoption of a new secondary plan,	

	applications for amendment are permitted only with council approval.	
38(4)	No appeal is permitted to the passing of an interim control by-law except by the Minister. Anyone who is given notice of the extension of the by-law can appeal the extension.	Previously anyone given notice of the passing of an interim control by-law could appeal the by-law within 60 days.

Further details regarding procedural changes as a result of Bill 139 receiving Proclamation will be provided to the local municipalities.

Others Consulted

Planners

Budget Implications – None

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