



Staff Memo

Report To: South Huron Council
From: **Dan Best, Chief Administrative Officer/Deputy Clerk**
Date: April 19 2022
Report: CAO 06.2022
Subject: Bill 109 Housing Update 2

Recommendations:

That the memo of D. Best, Chief Administrative Officer dated April 19, 2022 regarding Bill 109, *More Homes for Everyone Act, 2022* Update #2 be received; and

THAT the Municipality of South Huron submits a letter to the Minister of Municipal Affairs and Housing and ERO outlining the comments regarding *Bill 109, More Homes for Everyone Act, 2022*, and

That the Municipality of South Huron:

Supports the proposed Community Infrastructure and Housing Accelerator Tool subject to further consultation;

Supports the proposed amendments to Site Plan Control and Section 41 of the Planning Act;

Supports the proposed amendment related to Subdivision reinstatements;

Supports the proposed changes related Growth-Related Funding tools;

Opposes the proposed changes related to Official Plan Amendment and Approvals;

Opposes the proposed framework for refunding of Application Fees; and

Opposes the proposed amendments to Subdivision Approvals.

Purpose:

Approval

Background and Analysis:

On December 6, 2021, the Province of Ontario created a Housing Affordability Task Force (HATF) consisting of nine members with the mandate of determining ways in which to address housing affordability across the Province.

On January 19, 2022, the Minister of Municipal Affairs and Housing hosted a Provincial- Municipal Housing Summit for Ontario's Big City Mayors and Regional Chairs. The purpose of the Summit was to identify further opportunities for collaboration between all levels of government to address the housing affordability crisis and to develop performance indicators that governments can use to accelerate and incent new housing supply.

On February 8, 2022, the Province received and released a report from the HATF, which included 58 recommendations intended to increase the supply of market housing.

On March 30, 2022, the Province of Ontario took the first step in implementing recommendations of the HATF by releasing its More Homes for Everyone Plan, and the introduction of *Bill 109, More Homes for Everyone Act, 2022*. The Bill received a second reading on April 5, 2022 and has been referred to the Standing Committee in the Ontario Legislative Assembly for consideration on April 11, 2022. If passed, this Bill would make changes to the *Planning Act*; the *City of Toronto Act, 2006*; the *Development Charges Act, 1997*; the *New Home Construction Licensing Act, 2017*; and, the *Ontario New Home Warranties Plan Act* in an effort to, among other goals, incentivize the timely processing of certain applications to bring housing to market and increase transparency. The *Planning Act* stands to see the most considerable change.

The Province has posted *Bill 109* and associated documents on Ontario's Regulatory Registry and is accepting public input on all schedule changes until April 29, 2022.

The following focuses largely on an analysis of the recommended *Planning Act* changes introduced in the proposed *Bill 109* – Schedule 5.

Official Plan Amendments and Approvals

Bill 109 proposes to amend the *Planning Act* providing the Minister with new discretionary authority when making decisions to suspend the 120-day time period for filing a non-decision appeal of an official plan or official plan amendment (OPA) where the Minister is the approval authority which is generally an OPA to implement all or part of a Municipal Comprehensive Review/Growth Plan Conformity Exercise.

Presently, a non-decision appeal can be filed 120 days after the official plan or OPA is received by the Minister. This may enable the Minister additional time to consult with a municipality to clarify or resolve matters that may impact the Minister's decision. It could also result in increased timing for a decision and implementation that could cause more confusion and delay.

In addition, proposed changes to the *Planning Act* would enable the Minister to refer all or part(s) of an official plan matter (Municipal Comprehensive Reviews, Official Plan Amendments, or new Official Plans), to the OLT for either a recommendation on whether the Minister should approve or modify the OPA or for a final decision. The operational details on these new provisions has not been provided. This process could cause significant delays and increased costs for planning staff, legal staff, and consultants to participate in hearings.

Support of this change is not recommended as it would further delay approvals, cause more confusion, and significantly increase the financial costs of municipalities due to expenses associated with the tribunal litigation process.

Refunding Application Fees

Additional changes are proposed to the *Planning Act* legislation that would apply punitive consequences in the form of fee refunds from municipalities to gradually refund site plan, zoning by-law and official plan amendment Application fees to an Applicant if a decision is not made within the legislated timelines of receiving the complete application. The following chart describes the tiered refunding timeline:

	No Refund	50% Refund	75% refund	100% Refund
Zoning By-law Application	Decision made within 90 days	Decision made within 91 and 149 days	Decision made within 150 and 209 days	Decision made 210 days or later
Combined Official Plan Amendment and Zoning By-law Application	Decision made within 120 days	Decision made within 121 and 179 days	Decision made within 180 and 239 days	Decision made 240 days or later
Site Plan Application	Decision made within 60 days	Decision made within 61 and 89 days	Decision made within 90 and 119 days	Decision made 120 days or later

The implementation of these measures could have major financial impacts to South Huron as fee revenues would be required to be refunded and staffing and related costs would have to be absorbed by the tax levy should this change be implemented. In addition, a need to increase staffing involved in the development approvals process would likely be required.

This change will likely result in more upfront work on the part of applicants including coordination with external agencies for permits and approvals before the intake of an application with South Huron.

In order to process a Zoning By-law Amendment or an OPA jointly with a Zoning By-law amendment, in accordance with the proposed changes, the number of staff involved in development approvals would need to increase. If the legislated timelines are not met, this would lead to a loss in revenue that would need to be absorbed by municipal levies. If implemented, this measure may in turn slow down the development process and opportunities to establish more meaningful dialogue between developers and the community and work collaboratively with Applicants.

It will require Applicants to do more work upfront without much guidance from the Planner and will require staff to be more stringent when deeming an Application complete. These changes reduce the ability of staff to negotiate to find consensus and may cause premature decisions on applications, including more refusals resulting in more litigation time and expenses at the OLT.

Because Applicants require time to review and respond to the comments received as a result of the initial Application, the Province should consider amending *Bill 109* to adopting the changes made to the *Ontario Heritage Act* under *Bill 108* where both the municipality and the land owner can agree to a pause to the "time clock" to allow for continued discussion and negotiations to occur.

Support of this change is not recommended. Furthermore, the change may cause more confusion for applicants and significantly increase the financial costs of municipalities due to staffing, covering costs of refunds or the expenses associated with the tribunal litigation process.

Community Infrastructure and Housing Accelerator (CIHA) Tool

The proposed Community Infrastructure and Housing Accelerator Tool (CIHA) would enable municipalities to request a CIHA order designed to accelerate planning processes for municipalities. The CIHA tool allows municipalities to submit a request to the Minister of Municipal Affairs and Housing to expedite zoning approvals for local priorities such as market-rate housing, non-profit housing, buildings that facilitate economic development, mixed-use developments, and community infrastructure such as long-term care facilities.

This tool resembles the current Minister's Zoning Order (MZO), but with added public consultation requirements to ensure that residents have an opportunity to provide feedback and exempts Council from having to ensure that the requested CIHA from local Official Plan Conformity. It should be noted that the CIHA cannot be used in the Greenbelt Area. In addition, the Minister's existing zoning order powers remain unchanged, and so the Minister can continue to make Minister zoning orders without a request from the municipality.

Generally, this tool can be supported in order to assist with expediting approvals in unique situations for priority developments. However, the CIHA Proposed Guidelines are vague and there is concern regarding potential misuse of this tool to facilitate ad hoc employment conversions, the provision of servicing outside urban boundaries, and development in areas that may conflict with comprehensive growth management process. If this tool is to be implemented, it should only apply to areas that align with the provision and timing of municipal servicing infrastructure.

Amendments to Site Plan Control

Municipalities are required to delegate authority to approve site plan control applications to a designated authorized person (officer, employee, or agent of the municipality). At present, municipal council may, but is not obligated to, delegate its authority to approve site plan Applications.

In other areas, this delegation has already been employed with success. South Huron has but would require a resolution of South Huron Council as currently if formal site planning is required (Site Plan Agreement through Bylaw), Council approval is required. Currently only undisputed consents, subdivision extensions and removal of holding provisions have been delegated in accordance with the *Planning Act*.

This change is recommended as it will add clarity to the application process and for deeming an application complete.

Amendments to Section 41 of the Planning Act include increasing the timeline to appeal a site plan application for non-decision is increased from 30 days to 60 days. This amendment is also recommended.

Amendments to Subdivision Control

New legislation would also allow the Minister to prescribe matters that are not permitted to be imposed as conditions to subdivision approval. It is not clear what these potential matters may be. Furthermore, it is not clear what the intent is behind this amendment or the need for provincial intervention into local municipal affairs for subdivision approvals. Until further information is released it is difficult to assess the impacts of this amendment.

This change is not recommended to allow the Province to set standards for subdivision conditions, without knowing what the extent of their prescriptions may include. Municipalities should retain authority to set conditions that are reasonable and in keeping with the development proposed in the subdivision.

An additional amendment is proposed that is an administrative change to allow lapsed plans of subdivisions to be reinstated, one time only, where there are purchase and sale agreements, and the application lapsed within the last the past five years.

This change is recommended.

Growth-Related Funding Tool Changes

The Province is proposing changes to growth-related funding charges such as Development Charges, Parkland Dedication and Community Benefits Charge (CBC), with the goal of creating more transparency and certainty relating to fees or levies charged by municipalities to developers. Amendments include reporting requirements for municipalities to post annual financial reports for growth-related charges on their websites.

These changes are recommended as they provide additional transparency.

Should Council adopt a community benefit charge by-law that is currently under review by staff, then this CBC by-law will require a five-year review (every five years) to determine whether there is any need for revision.

These changes are recommended as they provide an opportunity for review, amendments and transparency.

Conclusions

The Municipality of South Huron has already implemented a number of actions to streamline planning approvals, plan for intensification, and bring housing supply to the market quicker within our jurisdiction.

The current Provincial response narrowly focuses on upgrading more decision-making power to the Province and OLT to catalyse market-rate unit supply. However, this swing to more provincial control over local processes and discretion will result in less accountability for getting the community building details right, increased litigation costs, delayed decisions, greater confusion on processes, and potential staffing challenges. In short, some of the proposed changes in *Bill 109* are an unnecessary overreach with punitive costs to municipalities. Some of the proposed amendments will lead to greater animosity between the community and the development industry due to the lack of consensus building opportunity that the planning process plays. The Province should be encouraged to reconsider amendments that would result in increased OLT litigation and to instead add mechanisms that

ensure proposed developments get built in a reasonable time and to consider more tools and funding opportunities to increase the supply of attainable and affordable housing.

Financial Impact:

At this time there are no immediate financial implications associated with the recommendations contained in this Report. However, if changes are implemented through *Bill 109* such as changes to review timelines, refunding Applications, and new Ontario Land Tribunal procedures, they could have financial impacts and will have to be assessed in more detail.

Legal Impact:

At this time there are no immediate legal implications associated with the recommendations contained in this Report. However, if changes are implemented through *Bill 109* such as changes to review timelines, refunding Applications, and new Ontario Land Tribunal procedures, they will have significant legal impacts and will have to be assessed in more detail.

Additional financial and staffing resources may be required to respond to these potential legal implications.

Staffing Impact:

At this time there are no immediate staffing implications associated with the recommendations contained in this Report. However, if changes are implemented through *Bill 109* such as changes to review timelines, refunding Applications, and new Ontario Land Tribunal procedures, these changes could have staffing impacts and will have to be assessed in more detail.

Consultation:

GM of Corporate Services, R. Msuya-Collision
Chief Building Official, M. Rolph
Huron County Planner, C. Metzger
MMAH Technical Briefing

Related Documents:

None

Respectfully submitted,

Dan Best, Chief Administrative Officer/Deputy Clerk