CITY OF VAUGHAN

EXTRACT FROM COUNCIL MEETING MINUTES OF MAY 19, 2015

Item 23, Report No. 20, of the Committee of the Whole, which was adopted, as amended, by the Council of the City of Vaughan on May 19, 2015, as follows:

By approving the recommendation in Communication C2 from the Interim Commissioner of Legal & Administrative Services/City Solicitor and the Commissioner of Planning, dated May 13, 2015, as follows:

1. That this communication be received for information and be considered in conjunction with the earlier staff report and attachments; and

2. That the Ministry of Municipal Affairs and Housing, Provincial Planning Branch be advised that the City of Vaughan does not support the proposed Planning Act amendment to change the Cash In Lieu alternative rate to 1 Ha per 500 units for the payment in Lieu of parkland.

23 COMMENTS TO THE MINISTER OF MUNICIPAL AFFAIRS AND HOUSING BILL 73 – SMART GROWTH FOR OUR COMMUNITIES ACT, 2015 AN ACT TO AMEND THE DEVELOPMENT CHARGES ACT, 1997 AND THE PLANNING ACT

The Committee of the Whole recommends approval of the recommendation contained in the following report of the Commissioner of Planning and Commissioner of Finance & City Treasurer, dated May 5, 2015:

Recommendation

The Commissioner of Planning and Commissioner of Finance & City Treasurer, in consultation with the Acting Director of Policy Planning and Director of Development Finance & Investments, recommend:

1. THAT this report and the comments set out in Attachments 1 and 2 be submitted to the Ministry of Municipal Affairs and Housing, Provincial Planning Policy Branch and the Municipal Finance Policy Branch as the City of Vaughan's response to the proposed amendments to the Planning Act and Development Charges Act, as set out in Bill 73 – Smart Growth for Our Communities Act, 2015;

2. THAT staff provide a Communication to the Council meeting of May 19, 2015 providing further articulation of the City's response to the Bill 73 amendments to the Planning Act in respect of the calculation of Cash in Lieu of Parkland and use of the Alternative Parkland Dedication Requirement; and other matters as may be appropriate.

3. THAT the Ministry of Municipal Affairs and Housing be requested to take the City's comments into consideration in its finalization of Bill 73 and it is further requested that representatives from the City of Vaughan be considered for membership in the Development Charge Working Groups appointed to provide advice on the development of the associated Regulations; and

4. THAT this report be forwarded to the Members of Provincial Parliament for the City of Vaughan, the Regional Municipality of York and the York Region Municipalities.

…/2

Contribution to Sustainability

The Planning Act is the enabling legislation that establishes the land use planning system in Ontario. One of the Act's purposes is to support sustainable economic development in a healthy natural environment within the policies and means provided by the Act. A municipality, in carrying out its responsibilities under the Act shall have regard to matters of provincial interest. This includes, among others, the protection of ecological systems, the conservation and management of natural resources, the efficient use and conservation of energy and water, the minimization of waste, the development of safe and healthy communities, the adequate provision educational, health and social and cultural facilities and the protection of the financial well-being of the Province and its municipalities. The Act through its policies and regulations provides the framework for sustainable planning, which is established through the municipal official plan (VOP 2010) and supporting documents, like Green Directions Vaughan.

Likewise, the Development Charges (DC) Act is the enabling legislation that establishes a financial framework for municipalities to recover the capital costs associated with growth. This Act ensures that a municipality is given the authority to recover capital costs from development so as to ensure its financial sustainability by following the philosophy that "growth pays for growth".

It should be noted that the current DC Act does not fully comply with this philosophy given the 10% discount (co-funding) on soft services and the list of ineligible services.

Economic Impact

There are no immediate economic impacts resulting from the preparation of this report. However, some significant financial impacts could be experienced if the final amendments reflect the current Bill, in respect of both the Planning Act (CIL Parkland provisions) and DC Act provisions.

Some of the changes proposed in the Planning Act, if approved, may have financial impacts on the City in respect of requirements for increased documentation and process. This may require additional staffing and resources. Such issues will be addressed in the comments when warranted. In addition, a potential significant financial issue relates to the new Cash in Lieu of Parkland provision. A review of the implications of the proposed changes is being undertaken with additional information to be provided in a follow-up Communication to Council, which would confirm the impacts and the appropriate response.

The changes proposed to the DC Act, if approved, may have some positive financial impacts for the City, however the magnitude of those impacts will only be determined upon the finalization of the associated Regulations. Increasing the eligibility list of capital works will serve to increase the recovery amount for growth related capital works. Additionally, if the list of services where no 10% non-DC reduction is mandated then this may serve to reduce the property tax burden currently placed on the DC program. It should be noted, however, that the removal of the 10% reduction is currently believed to be contemplated only for transit related services and therefore the City may not see the benefit of this change given that transit is administered at the upper-tier. The changes sought for reporting may require additional administration, and will require additional time and effort by City staff.

Communications Plan

On March 5, 2015 the Ministry of Municipal Affairs and Housing posted Bill 73 on the Environmental Registry with a 90 day period for public review and comment. Comments to the Ministry are required by June 3, 2015. All comments received prior to June 3, 2015 will be considered as part of the decision-making process.

Purpose

The purpose of this report is to: Advise Council of the changes to the Ontario Planning Act and Development Charges Act proposed by Bill 73 – Smart Growth for Our Communities Act, 2015; and to confirm the City's position on the amendments for the purpose of advising the Ministry of Municipal Affairs and Housing

Background - Analysis and Options

a. Background

Bill 73 Originated with the Provincial Consultation Process on Development Charges and Land Use Planning and Appeal System Reform (2013-14)

In 2013 the Ministry of Municipal Affairs and Housing announced that a consultation process was to be undertaken on the reform of the Development Charge and the Land Use Planning and Appeal systems. The mandate of the consultation process was to ensure that these systems are "predictable, transparent and cost effective." The comment period commenced on October 24, 2013 and the deadline for submitting responses to the Ministry was January 10, 2014. Consultation papers were provided by the Province, addressing both aspects of the review. Each paper posed questions and identified issues for the consideration of the development industry, municipalities and other stakeholders, in preparation of their responses.

The Review of the Land Use Planning and Appeals System was Shaped by Several Key Parameters

The consultation process was underpinned by the premise that there had been a number of changes to the planning system over the previous years and that this review was not to represent an "overhaul" of the system. Instead, it was to focus on four key themes:

- Achieve more predictability, transparency and accountability in the planning/appeal process and reduce costs;
- Support greater municipal leadership in resolving issues and making local land use planning decisions;
- Better engage citizens in the local planning process;
- Protect long-term public interests, particularly through better alignment of land use planning and infrastructure decisions, and support job creation and economic growth.

The Ministry provided the following guiding principles for any feedback to be provided by the responding parties:

- The public is able to participate, be engaged and have their input considered;
- The system is led by sound policies that provide clear provincial direction/rules and is also led by up-to-date municipal documents that reflect matters of both local and provincial importance;
- Communities are the primary implementers and decision-makers;
- The process should be predictable, cost-effective, simple, efficient and accessible, with timely decisions;
- The appeal system should be transparent; decision makers should not rule on appeals of their own decisions.

Specific areas were ruled out for consideration through this process. These included:

- The elimination of the OMB;

- The OMB's operations, practices and procedures;
- The restriction of the provincial government's ability to intervene in matters;
- Matters involving other legislation, unless housekeeping changes are needed.

Several themes were identified by the Ministry to help shape the consultation on the DC Act

Over the lifetime of this legislation, municipalities had repeatedly cited concerns that the framework did not go far enough to address the principle of "growth paying for growth" and that reform was required. This concept was of special interest in light of several transit funding issues identified in Metrolinx's "The Big Move" regional transportation plan. Conversely, the development industry had cited concerns that the legislation had allowed DCs to rise steadily affecting housing affordability and working against intensification policies.

The province's consultation on DCs involved addressing questions and issues surrounding the following themes:

- The DC Process
- DC Eligible Services
- DC Reserve Funds Reporting
- Section 37 (Density Bonusing) and Parkland Dedication
- Voluntary payments
- Growth and Housing Affordability
- High Density Growth Objectives

While Section 37 and Parkland Dedication are rooted in the Planning Act, rather than the DC Act, these consultations had been grouped with DCs to reflect the potential linkage between these tools and funding for growth related municipal capital infrastructure where intensification pressure is present.

The City of Vaughan Responded to the Planning and DC Act Consultation on December 10, 2013

On December 2, 2013 a report was submitted to the Finance and Administration Committee entitled *Provincial Consultations: Development Charges, Land Use Planning and Appeal System Reform*. This report provided an overview of the process and broad general conclusions. Through a subsequent communication to Council on December 10, 2013 staff provided more detailed input, in the form of responses to the structured questions posed through the provincial consultation documents (Attachment 3). On December 10, 2013 Council approved the following recommendation:

1. That the Mayor be requested to sign a letter substantially in the form of Attachment 1, setting out Council's position on Development Charges, Land Use Planning and Appeal System Reform;
2. That Council endorse Attachment 2 as the City's official position on matters related to Development Charges, Land Use Planning and Appeal reform; and
3. That to meet the Provincial Consultation deadline, the City Clerk forward such correspondence and documentation, prior to January 10, 2014, to the Premier, local Members of Provincial Parliament, the Minster of Municipal Affairs and Housing, Regional Municipality of York and York Region Municipalities.

In the response the City identified four key positions in regard to Land Use Planning and Appeal System reform.

- Amend the Planning Act and provide more targeted support in the form of draft policy, updated ministry guidelines, training and resources for timely implementation of official plans that align with Provincial policies;
- Develop new and updated policies and proposed solutions to address intensification issues such as compact schools and parkland standards for Urban Growth Centres and Intensification areas;
- Minimize the "whole plan" appeal process through changes to the Planning Act; and
- Adjusted timeframes and information requirements related to OMB appeals of official plan amendments and zoning by-law amendments.

Similarly, the City also identified four key positions in regards to the Development Charge regime.

- Remove all or part of the list of ineligible services from the Development Charges Act and in particular: provision of local contributions towards hospitals, provision of headquarters for the general administration of the municipality, provision of cultural or entertainment facilities (including museums, theatres and art galleries), provision of waste management services;
- Remove from the Development Charges Act the 10 percent discount on all service categories to which it currently applies;
- Modify the 10 year historic average level of service capping methodology currently found in the Development Charges Act to utilize a 10 year forward looking level of service in order to better align with intensification servicing needs; and
- Continue to allow municipalities to define growth related capital costs and benefit to existing development utilizing the existing legislation.

These positions were more fully articulated in the response to the structured questions, which formed Attachment 2 to the December 10, 2013 report.

b. The Introduction of Bill 73, Smart Growth for Our Communities Act, 2015

As a result of the 2013-14 consultations, the Minister of Municipal Affairs and Housing introduced Bill 73 – Smart Growth for Our Communities Act, 2015. It provides for amendments to the Development Charges Act and the Planning Act. Based on the statement in the Environmental Registry Rights posting, the proposed changes are based on, "recommendations received from various partners and stakeholders", which aim to:

- Allow for more effective citizen engagement in the planning process;
- Provide more stability for municipal planning documents and increase municipal accountability;
- Strengthen the protection of provincial interests;
- Encourage more up-front planning; and
- Provide enhanced tools at the local level.

According to the MMAH, the Bill would also:

- Give municipalities more opportunities to fund growth-related infrastructure, like transit;
- Make the development charges, Section 37 density bonusing and parkland dedication systems more predictable, transparent and accountable; and
- Support higher density development to create jobs and grow the economy.

Bill 73 was given first and second reading in the Provincial Legislature in March 2015. It was also posted on the Environmental Registry on March 5 for public review and comment. A 90-day review period was provided with responses to the Minister of Municipal Affairs and Housing being required by June 3, 2015.

The Bill proposes approximately 23 amendments to Planning Act and approximately 8 substantive amendments to the DC Act, some of which affect multiple sections.

c. Analysis of the Proposed Amendments to the Planning and DC Acts

Given the number of changes contained in the Acts, a systematic review of each amendment or group of amendments has been necessary. The objective is to provide a set of responses to the Ministry that clearly establish the City's position. The following format is applied, which is designed to conclude with a recommendation to the Ministry.

The Proposed Amendment(s):	The purpose of the amendment or group of amendments is identified under this heading and is based on the Explanatory Notes provided in Bill 73 at First Reading.
Analysis and Commentary:	Under this heading the implications of the amendments are discussed including the potential drawbacks and benefits, leading to conclusions as to whether it is supportable and a recommended response.
Recommendation(s):	The proposed recommendation to the Ministry is set out under this heading.

These analyses are set out in Attachments 1 and 2 to this report.

d. Overview of the Amendments

There are a Number of Positive and Constructive Changes to the Planning and DC Acts

Overall Bill 73 provides for some positive measures that will assist municipalities as they move forward with their planning programs. Some of the Act's positive impacts from a Planning Act perspective include:

- A prohibition on "Global" or "Whole Plan" appeals;
- Providing for the closing of the appeal period when a notice of decision has not been issued by the approval authority within the prescribed 180 days;
- Allowing for a 90 day extension to the post adoption review period for official plans and amendments at the initiation of the municipality;
- An opportunity for mediation is introduced in the event of an appeal to a planning document. Time required to send the appeal to the OMB would be increased by 60 days to 75 days.

From a financial perspective the majority, if not all, of the amendments to the DC Act are supportable. The question from a City perspective is whether the amendments have gone far enough to enable the municipality to deal with the growth related financial pressures it currently faces. The majority of the recommendations presented point to a need to move beyond just the transit related funding framework and begin to address those issues related to other soft services such as parks and open space, indoor recreation and libraries.

Some Amendments to the Planning Act are Not Supportable or Require Further Thought or Explanation

There are several concerns respecting:

- The new Cash in Lieu of parkland provisions require further consideration, but a preliminary review would indicate that it is unsupportable. There remains uncertainty over the impact of the proposed amendments on the ability of the City to acquire and fund parks and related facilities, through the Cash in Lieu provisions. Staff will be following up with a Communication to Council on May 19, 2015. A recommendation to this effect has been provided. Further details on the proposed amendment are set out in Attachment 1, under paragraph 17.
- The requirement for notices of decision to address how all comments received from the public, including orally at the public hearing, affected the decision is of concern. This provision would duplicate work reported on elsewhere, e.g. in the Technical Report and increase workloads for the Clerk's and Planning Departments.
- Prohibitions on applying for amendments to the Official Plan and Zoning By-law for two years after a new comprehensive Official Plan comes into effect or two years after a comprehensive zoning by-law update are of concern. These measures may have unintended consequences, such as limiting the ability to make minor changes to projects to implement design and engineering measures through variances or to address extraordinary circumstances. .
- In a number of instances the language in the Bill should be clarified to provide certainty in interpretation.

The detailed comments in respect of the Planning Act amendments are set out in Attachment 1.

Working Groups on DC related issues will be announced in the near future

The Ministry had announced in March 2015 that provincial working groups would be set-up to make recommendations to the Province by the end of 2015 on the issues related to the updating of the related Regulations to the DC Act. The working groups would be led by a Steering Committee and each working group is expected to deal with specific issues related to the amendments. The composition of Steering Committee and the working groups has yet to be announced, but Finance Commission staff have placed a request with the Ministry to be included. At a minimum it is expected that representation from the Association of Municipalities of Ontario (AMO), Municipal Finance Officers Association (MFOA) and leading municipal DC consultants such as Hemson Consulting Ltd. and Watson and Associates would be represented on the working groups to advocate for municipal government interests.

Relationship to Vaughan Vision 2020/Strategic Plan

Ensuring that the City's position on changes to Provincial enabling legislation is made known to the Province is important to protecting the interests of the City. In this instance, such comments reflect the strategic objectives of:

Organizational Excellence:

- Managing Corporate Assets and the continuing assessment of infrastructure requirements to ensure a sustainable future;
- Ensuring Financial Sustainability by using financial resources wisely and making informed decisions that take into consideration the effect on current and future operations of the City.
- Managing Growth and Economic Well-Being by creating a positive environment that encourages innovation and prosperity.

Service Excellence:

- Leading and Promoting Environmental Sustainability through a commitment to protecting and enhancing the natural and built environments through the efficient use of resources.

Regional Implications

York Region staff will be reporting to Regional Committee of the Whole and Council on the amendments to the Development Charges and Planning Acts proposed by Bill 73. The Region will be focusing its comments on the matters of most importance to its jurisdiction. The local municipalities will be addressing issues of primary significance to them. In this regard, it is recommended that this report and Council minutes be forwarded to the Region of York and the other local municipalities in York Region, for their information. It should be noted that discussions between City and Regional staff surrounding DC reform, in particular, reveal that both tiers have largely similar positions on the issues, which is reflected in the responses of Attachment 2.

Conclusion

The proposed amendments to the Planning and DC Acts address a number of concerns that have been identified by City staff in the past. Overall there are positive changes which will minimize the impacts on some of the previously identified flaws in the Planning Act appeal processes. However, there remain areas of concern with some of the Planning Act amendments, foremost with the new Cash in Lieu of Parkland provisions. This will be further addressed in a Communication to Council. From a financial perspective, the DC Act amendments are generally positive, but the benefits accrue mostly to those municipalities who are responsible for transit. Other services should be considered for the same type of treatment.

The comprehensive responses to Bill 73 are set out in Attachments 1 and 2. It is recommended that this report be submitted to the Ministry of Municipal Affairs and Housing as the City's response to the Planning Act and Development Charges Act Amendments contained in Bill 73 – Smart Growth for our Communities Act, 2015.

Attachments

1. Comments and Recommendations to the Ministry of Municipal Affairs and Housing on Planning Act Amendments;
2. Comments and Recommendations to the Ministry of Municipal Affairs and Housing on Development Charge Act Amendments;
3. Report to Council: "Provincial Consultations: Development Charges, Land Use Planning and Appeal System Reform" December 10, 2013

Report prepared by:

Roy McQuillin, Acting Director of Policy Planning – ext. 8211
Lloyd Noronha, Director of Development Finance & Investments – ext. 8271

(A copy of the attachments referred to in the foregoing have been forwarded to each Member of Council and a copy thereof is also on file in the office of the City Clerk.)

VAUGHAN

memorandum

C 2
Item # 23
Report No. 20 (CW)
Council - May 19/15

DATE: MAY 13, 2015

TO: HONOURABLE MAYOR & MEMBERS OF COUNCIL

FROM: HEATHER WILSON, INTERIM COMMISSIONER OF LEGAL & ADMINISTRATIVE SERVICES/CITY SOLICITOR
JOHN MACKENZIE, COMMISSIONER OF PLANNING

RE: COMMUNICATION – COUNCIL MEETING – MAY 19, 2015

REPORT NO. 20, ITEM 23, COMMITTEE OF THE WHOLE, MAY 05, 2015

COMMENTS TO THE MINISTER OF MUNICIPAL AFFAIRS AND HOUSING
BILL 73 – SMART GROWTH FOR OUR COMMUNITIES ACT, 2015
AN ACT TO AMEND THE DEVELOPMENT CHARGES ACT, 1997 AND THE PLANNING ACT

Recommendation

The Commissioner of Planning and Interim Commissioner of Legal & Administrative Services / City Solicitor, in consultation with the Acting Director of Policy Planning and Director of Development Finance & Investments, recommend:

1. That this communication be received for information and be considered in conjunction with the earlier staff report and attachments; and

2. That the Ministry of Municipal Affairs and Housing, Provincial Planning Branch be advised that the City of Vaughan does not support the proposed Planning Act amendment to change the Cash In Lieu alternative rate to 1 Ha per 500 units for the payment in Lieu of parkland.

Background

At the May 5, 2015 meeting of the Committee of the Whole, staff provided a report with recommendations regarding the proposed amendments to the Planning Act. Recommendation 2 of the staff report noted:

That staff provide a Communication to the Council meeting of May 19, 2015 providing further articulation of the City's response to the Bill 73 amendments to the Planning Act in respect of the calculation of Cash in Lieu of Parkland and use of the Alternative Parkland Dedication Requirement; and other matters as may be appropriate.

Following preparation of the Committee of the Whole report, staff continued to review the proposed amendments of Bill 73 respecting the calculation of Cash In Lieu of Parkland (CIL) and use of the alternative Parkland Dedication requirements, and provide the following information to assist Council with finalizing the City's response to the Ministry of Municipal Affairs and Housing, Provincial Planning Branch. The following potential impacts to the City of Vaughan have been identified:

1. The proposed amendments will require City By-Law 139-90 (A By-law that requires the conveyance of land for park or other public recreational purposes as a condition of development or redevelopment) to be amended to reflect the new proposed alternative rate of 1 Ha per 500 Units for the Payment in Lieu of parkland. This change will reduce the City's ability to collect CIL by approximately 40%. The collection of Parkland through dedication will remain unchanged, at a rate

of 1 Ha per 300 Units. This change may lead to developers disputing the City's requirement to provide physical parkland, since there is an incentive to provide the lower CIL cash payment rate than the conveyance of parkland rate;

2. From a long term financial planning perspective, this legislative change will have a severe negative impact on the City's parkland acquisition strategy. It is difficult to estimate an exact financial impact on the parkland provision, however the range of magnitude could be as high as $80 to $100 Million until build out;

3. The Active Together Master Plan (ATMP), the City's strategic plan for Parks, Recreation and Libraries, recommends a City-wide active parkland provision target of 2.2ha/1000 population to ensure that a suitable level of service is provided to Vaughan residents and user groups. The proposed amendments would significantly reduce the City's ability to meet this provision target which would result in the current City-wide deficit of parkland increasing at a faster rate than proposed in the ATMP.

4. The reduction of CIL collections under the proposed new rate would negatively affect the City's ability to acquire tableland parkland City-wide, especially in areas that have been identified as being deficient in active parkland;

5. The impact of a reduced alternative rate of 1 Ha per 500 Units for the Payment of CIL of parkland would primarily be seen in new high density/intensification areas identified in the new VOP 2010, leading to a decrease in the taking of parkland and CIL through the development process;

6. The City's consideration to use CIL funding for improvement of existing parks in areas of high density development would be also be substantially impacted by the proposed reduction in CIL revenue. Additionally, the provision of parkland in new high density communities (VMC, VMCSP, Steeles and Yonge Corridor, etc....) may be reduced due to the fact that the CIL collected will not be sufficient to acquire parkland in these development areas;

7. The proposed amendments will require amendments to the City's Official Plan VOP2010 Parkland Dedication Policies 7.3.3. which were approved by both Vaughan City Council and the York Region Council, but are currently under appeal; and

8. Other sources of funding will be required to meet the City's parkland needs. In order to sustain the current levels of service, the City may need to consider use of property taxation or, alternatively, consider a reduced level of parkland service.

Conclusion

Through the use of the current Planning Act parkland standards, the City has managed to receive parkland and the collection of monies in lieu of parkland through the development process at a rate sufficient to meet the basic parkland needs of City residents and user groups, but not sufficient to satisfy the City's current parkland provision target of 2.2 Ha per 1000 residents. The proposed amendments in Bill 73 would require the City to consider other sources of funding (i.e. property taxation) to sustain parkland service levels. It is estimated that the amendments to the Planning Act through Bill 73 will further reduce the City's CIL collection by approximately 40% should the proposed alternative rate of 1 Ha per 500 Units be approved. In addition, there has been no justification shared with municipalities that would provide the basis on how the changes to the alternative rate was determined, which will have implications to the City's ability to achieve the target parkland provision standards outlined in the ATMP and VOP 2010. Further clarification on the rationale for the proposed rate change is required. Based on staff's analysis, it is recommended that the proposed changes to the CIL payment and use of the alternative rate of 1 Ha per 500 units not be supported by Council.

Respectfully submitted,

HEATHER WILSON
Interim Commissioner of
Legal & Administrative Services/City Solicitor

JOHN MACKENZIE
Commissioner of Planning

Attachment

N/A

Copy to: Steve Kanellakos, City Manager
John Henry, Commissioner of Finance and City Treasurer
Jeffrey A. Abrams, City Clerk
Jamie Bronsema, Director of Parks Development

COMMITTEE OF THE WHOLE MAY 5, 2015

COMMENTS TO THE MINISTER OF MUNICIPAL AFFAIRS AND HOUSING BILL 73 – SMART GROWTH FOR OUR COMMUNITIES ACT, 2015 AN ACT TO AMEND THE DEVELOPMENT CHARGES ACT, 1997 AND THE PLANNING ACT

Recommendation

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1. THAT this report and the comments set out in Attachments 1 and 2 be submitted to the Ministry of Municipal Affairs and Housing, Provincial Planning Policy Branch and the Municipal Finance Policy Branch as the City of Vaughan's response to the proposed amendments to the Planning Act and Development Charges Act, as set out in Bill 73 – Smart Growth for Our Communities Act, 2015;

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3. THAT the Ministry of Municipal Affairs and Housing be requested to take the City's comments into consideration in its finalization of Bill 73 and it is further requested that representatives from the City of Vaughan be considered for membership in the Development Charge Working Groups appointed to provide advice on the development of the associated Regulations; and

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While Section 37 and Parkland Dedication are rooted in the Planning Act, rather than the DC Act, these consultations had been grouped with DCs to reflect the potential linkage between these tools and funding for growth related municipal capital infrastructure where intensification pressure is present.

The City of Vaughan Responded to the Planning and DC Act Consultation on December 10, 2013

On December 2, 2013 a report was submitted to the Finance and Administration Committee entitled *Provincial Consultations: Development Charges, Land Use Planning and Appeal System Reform*. This report provided an overview of the process and broad general conclusions. Through a subsequent communication to Council on December 10, 2013 staff provided more detailed input, in the form of responses to the structured questions posed through the provincial consultation documents (Attachment 3). On December 10, 2013 Council approved the following recommendation:

1. That the Mayor be requested to sign a letter substantially in the form of Attachment 1, setting out Council's position on Development Charges, Land Use Planning and Appeal System Reform;
2. That Council endorse Attachment 2 as the City's official position on matters related to Development Charges, Land Use Planning and Appeal reform; and
3. That to meet the Provincial Consultation deadline, the City Clerk forward such correspondence and documentation, prior to January 10, 2014, to the Premier, local Members of Provincial Parliament, the Minster of Municipal Affairs and Housing, Regional Municipality of York and York Region Municipalities.

In the response the City identified four key positions in regard to Land Use Planning and Appeal System reform.

- Amend the Planning Act and provide more targeted support in the form of draft policy, updated ministry guidelines, training and resources for timely implementation of official plans that align with Provincial policies;
- Develop new and updated policies and proposed solutions to address intensification issues such as compact schools and parkland standards for Urban Growth Centres and Intensification areas;
- Minimize the "whole plan" appeal process through changes to the Planning Act; and
- Adjusted timeframes and information requirements related to OMB appeals of official plan amendments and zoning by-law amendments.

Similarly, the City also identified four key positions in regards to the Development Charge regime.

- Remove all or part of the list of ineligible services from the Development Charges Act and in particular: provision of local contributions towards hospitals, provision of headquarters for the general administration of the municipality, provision of cultural or entertainment facilities (including museums, theatres and art galleries), provision of waste management services;
- Remove from the Development Charges Act the 10 percent discount on all service categories to which it currently applies;
- Modify the 10 year historic average level of service capping methodology currently found in the Development Charges Act to utilize a 10 year forward looking level of service in order to better align with intensification servicing needs; and

- Continue to allow municipalities to define growth related capital costs and benefit to existing development utilizing the existing legislation.

These positions were more fully articulated in the response to the structured questions, which formed Attachment 2 to the December 10, 2013 report.

b. The Introduction of Bill 73, Smart Growth for Our Communities Act, 2015

As a result of the 2013-14 consultations, the Minister of Municipal Affairs and Housing introduced Bill 73 – Smart Growth for Our Communities Act, 2015. It provides for amendments to the Development Charges Act and the Planning Act. Based on the statement in the Environmental Registry Rights posting, the proposed changes are based on, "recommendations received from various partners and stakeholders", which aim to:

- Allow for more effective citizen engagement in the planning process;
- Provide more stability for municipal planning documents and increase municipal accountability;
- Strengthen the protection of provincial interests;
- Encourage more up-front planning; and
- Provide enhanced tools at the local level.

According to the MMAH, the Bill would also:

- Give municipalities more opportunities to fund growth-related infrastructure, like transit;
- Make the development charges, Section 37 density bonusing and parkland dedication systems more predictable, transparent and accountable; and
- Support higher density development to create jobs and grow the economy.

Bill 73 was given first and second reading in the Provincial Legislature in March 2015. It was also posted on the Environmental Registry on March 5 for public review and comment. A 90-day review period was provided with responses to the Minister of Municipal Affairs and Housing being required by June 3, 2015.

The Bill proposes approximately 23 amendments to Planning Act and approximately 8 substantive amendments to the DC Act, some of which affect multiple sections.

c. Analysis of the Proposed Amendments to the Planning and DC Acts

Given the number of changes contained in the Acts, a systematic review of each amendment or group of amendments has been necessary. The objective is to provide a set of responses to the Ministry that clearly establish the City's position. The following format is applied, which is designed to conclude with a recommendation to the Ministry.

The Proposed Amendment(s):	The purpose of the amendment or group of amendments is identified under this heading and is based on the Explanatory Notes provided in Bill 73 at First Reading.
Analysis and Commentary:	Under this heading the implications of the amendments are discussed including the potential drawbacks and benefits, leading to conclusions as to whether it is supportable and a recommended response.
Recommendation(s):	The proposed recommendation to the Ministry is set out under this heading.

These analyses are set out in Attachments 1 and 2 to this report.

d. Overview of the Amendments

There are a Number of Positive and Constructive Changes to the Planning and DC Acts

Overall Bill 73 provides for some positive measures that will assist municipalities as they move forward with their planning programs. Some of the Act's positive impacts from a Planning Act perspective include:

- A prohibition on "Global" or "Whole Plan" appeals;
- Providing for the closing of the appeal period when a notice of decision has not been issued by the approval authority within the prescribed 180 days;
- Allowing for a 90 day extension to the post adoption review period for official plans and amendments at the initiation of the municipality;
- An opportunity for mediation is introduced in the event of an appeal to a planning document. Time required to send the appeal to the OMB would be increased by 60 days to 75 days.

From a financial perspective the majority, if not all, of the amendments to the DC Act are supportable. The question from a City perspective is whether the amendments have gone far enough to enable the municipality to deal with the growth related financial pressures it currently faces. The majority of the recommendations presented point to a need to move beyond just the transit related funding framework and begin to address those issues related to other soft services such as parks and open space, indoor recreation and libraries.

Some Amendments to the Planning Act are Not Supportable or Require Further Thought or Explanation

There are several concerns respecting:

- The new Cash in Lieu of parkland provisions require further consideration, but a preliminary review would indicate that it is unsupportable. There remains uncertainty over the impact of the proposed amendments on the ability of the City to acquire and fund parks and related facilities, through the Cash in Lieu provisions. Staff will be following up with a Communication to Council on May 19, 2015. A recommendation to this effect has been provided. Further details on the proposed amendment are set out in Attachment 1, under paragraph 17.
- The requirement for notices of decision to address how all comments received from the public, including orally at the public hearing, affected the decision is of concern. This provision would duplicate work reported on elsewhere, e.g. in the Technical Report and increase workloads for the Clerk's and Planning Departments.
- Prohibitions on applying for amendments to the Official Plan and Zoning By-law for two years after a new comprehensive Official Plan comes into effect or two years after a comprehensive zoning by-law update are of concern. These measures may have unintended consequences, such as limiting the ability to make minor changes to projects to implement design and engineering measures through variances or to address extraordinary circumstances. .
- In a number of instances the language in the Bill should be clarified to provide certainty in interpretation.

The detailed comments in respect of the Planning Act amendments are set out in Attachment 1.

Working Groups on DC related issues will be announced in the near future

The Ministry had announced in March 2015 that provincial working groups would be set-up to make recommendations to the Province by the end of 2015 on the issues related to the updating of the related Regulations to the DC Act. The working groups would be led by a Steering Committee and each working group is expected to deal with specific issues related to the amendments. The composition of Steering Committee and the working groups has yet to be announced, but Finance Commission staff have placed a request with the Ministry to be included. At a minimum it is expected that representation from the Association of Municipalities of Ontario (AMO), Municipal Finance Officers Association (MFOA) and leading municipal DC consultants such as Hemson Consulting Ltd. and Watson and Associates would be represented on the working groups to advocate for municipal government interests.

Relationship to Vaughan Vision 2020/Strategic Plan

Ensuring that the City's position on changes to Provincial enabling legislation is made known to the Province is important to protecting the interests of the City. In this instance, such comments reflect the strategic objectives of:

Organizational Excellence:

- Managing Corporate Assets and the continuing assessment of infrastructure requirements to ensure a sustainable future;
- Ensuring Financial Sustainability by using financial resources wisely and making informed decisions that take into consideration the effect on current and future operations of the City.
- Managing Growth and Economic Well-Being by creating a positive environment that encourages innovation and prosperity.

Service Excellence:

- Leading and Promoting Environmental Sustainability through a commitment to protecting and enhancing the natural and built environments through the efficient use of resources.

Regional Implications

York Region staff will be reporting to Regional Committee of the Whole and Council on the amendments to the Development Charges and Planning Acts proposed by Bill 73. The Region will be focusing its comments on the matters of most importance to its jurisdiction. The local municipalities will be addressing issues of primary significance to them. In this regard, it is recommended that this report and Council minutes be forwarded to the Region of York and the other local municipalities in York Region, for their information. It should be noted that discussions between City and Regional staff surrounding DC reform, in particular, reveal that both tiers have largely similar positions on the issues, which is reflected in the responses of Attachment 2.

Conclusion

The proposed amendments to the Planning and DC Acts address a number of concerns that have been identified by City staff in the past. Overall there are positive changes which will minimize the impacts on some of the previously identified flaws in the Planning Act appeal processes. However, there remain areas of concern with some of the Planning Act amendments, foremost with the new Cash in Lieu of Parkland provisions. This will be further addressed in a Communication to Council. From a financial perspective, the DC Act amendments are generally positive, but the benefits accrue mostly to those municipalities who are responsible for transit. Other services should be considered for the same type of treatment.

The comprehensive responses to Bill 73 are set out in Attachments 1 and 2. It is recommended that this report be submitted to the Ministry of Municipal Affairs and Housing as the City's response to the Planning Act and Development Charges Act Amendments contained in Bill 73 – Smart Growth for our Communities Act, 2015.

Attachments

1. Comments and Recommendations to the Ministry of Municipal Affairs and Housing on Planning Act Amendments;
2. Comments and Recommendations to the Ministry of Municipal Affairs and Housing on Development Charge Act Amendments;
3. Report to Council: "Provincial Consultations: Development Charges, Land Use Planning and Appeal System Reform" December 10, 2013

Report prepared by:

Roy McQuillin, Acting Director of Policy Planning – ext. 8211
Lloyd Noronha, Director of Development Finance & Investments – ext. 8271

Respectfully submitted,

JOHN MACKENZIE
Commissioner of Planning

JOHN HENRY
Commissioner of Finance & City Treasurer

ROY MCQUILLIN
Acting Director of Policy Planning

LLOYD NORONHA
Director of Development Finance & Investments

/LM

ATTACHMENT 1

Bill 73, An Act to Amend the Development Charges Act, 1997 and the Planning Act

Comments and Recommendations to the Ministry of Municipal Affairs and Housing (MMAH) on Planning Act Amendments

1. The Proposed Amendment

   Section 2.1 currently requires approval authorities and the Ontario Municipal Board, when they make decisions relating to planning matters, to "have regard to" decisions of municipal councils and approval authorities relating to the same planning matter, and to any supporting information and material they considered in making those decisions. The section is rewritten to impose a similar requirement when the Ontario Municipal Board deals with appeals resulting from the failure of a municipal council or approval authority to make a decision: the Board is required to "have regard to" the information and material that the municipal council or approval authority received in relation to the matter. Subsection 2.1 (3) clarifies that references to "information and material" include written and oral submissions from the public relating to the planning matter.

   Analysis and Commentary

   This amendment provides that the OMB shall have "have regard" to "information and material" received from the public by the municipal council or approval authority, in respect of a planning matter that has been appealed to the OMB for the failure to make a decision. Previously, the Act did not specifically include this obligation in instances where the appeal was on the basis of a council's or approval authority's failure to make a decision within the prescribed time. The obligation was only to consider the information that the municipal council or approval authority received from the public in making its decision. The result of this amendment is that the OMB (in absence of a decision and in the context of an appeal) shall have regard to information and material provided to the municipal council or approval authority by the public, notwithstanding that a decision did not result. This builds consistency in that the information available to the council or approval authority is also available to the OMB in the case of an appeal for non-decision. As such, it should be supported.

   Recommendation

   1. That the Ministry of Municipal Affairs and Housing be advised that the City of Vaughan supports this this amendment to Subsection 2.1 of the Planning Act.

2. The Proposed Amendment

   Policy statements under subsection 3 (1) are to be reviewed at 10-year rather than five-year intervals (subsection 3 (10)).

   Analysis and Commentary

   The Act currently provides that a Provincial Policy statement issued under subsection 3(1) of the Act is to be subject to a review, at least every five years, for the purpose determining the need for any revisions. The most recent Policy Statement was issued in April of 2014. The proposal is to increase the review period to at least every ten years. All decisions of Council, in regard to planning matters, must be "consistent" with the Policy Statement. Past experience indicates that the Policy Statements evolve slowly over time, so it is unlikely that major shifts would take place on a five-year horizon. In addition, the new language provides that the review would "take place at least every ten years". This would still allow the Province, if circumstances dictated, to conduct a review within the ten-year horizon. As such, there appears to be little risk to this amendment.

Recommendation

1. That the Ministry of Municipal Affairs and Housing be advised that the City of Vaughan has no objections to this amendment to Subsection 3 (10) of the Planning Act.

3. The Proposed Amendment

Section 8, which currently makes planning advisory committees optional for all municipalities, is rewritten to make them mandatory for upper-tier municipalities and for single-tier municipalities in southern Ontario (except the Township of Pelee). All planning advisory committees are required to have at least one member who is neither a councillor nor a municipal employee.

Analysis and Commentary

Bill 73 proposes that Section 8 be amended to require that the Councils of every upper-tier municipality and every single-tier municipality in Southern Ontario appoint a planning advisory committee. The members are to be chosen by the respective Council and include one resident of the municipality who is neither a member of Council nor an employee of the municipality. Since this remains optional for local municipalities there are no immediate impacts on the City of Vaughan. However, it is unclear from the legislation as to whether there are any limits on the mandate for the planning advisory committees. It would appear that their roles would be at the discretion of the appointing Council. Whether planning advisory committees would have any impacts on the relationship with the local municipalities would depend on its assigned mandate. It is unclear as to the problem this amendment is proposing to address by making it a requirement. Since it is a mandatory measure, there should be more guidance as to their purpose and range of potential duties and/or responsibilities.

Recommendation

1. That the Ministry of Municipal Affairs and Housing be advised that the City of Vaughan recommends that, should this amendment proceed, further guidance be provided as to the role of the advisory committees and the scope of their potential duties and/or activities.

4. The Proposed Amendment

Currently, it is permitted, but not mandatory, to include in official plans, descriptions of the measures and procedures for informing and obtaining the views of the public in respect of certain planning documents. Including such descriptions is made mandatory for a broader category of planning documents (subsections 16 (1) and (2)).

Analysis and Commentary

The Act, under subsection 16(2), currently states that an official plan may contain, “a description of the measures and procedures for informing and obtaining the views of the public in respect of a proposed amendment to the official plan or in respect of a proposed zoning by-law.” The proposed amendment will make it compulsory for an Official Plan to contain a description of the measures and procedures for informing and obtaining the views of the public for an expanded list of planning processes, including:

- proposed amendments to the official plan or proposed revisions of the plan;
- proposed zoning by-laws;
- proposed plans of subdivision; and
- proposed consents under Section 53.

Currently VOP 2010 does not identify any such measures beyond the notification procedures for statutory public meetings (10.1.4) held prior to the adoption of an Official Plan, enactment of a Zoning By-law or amendments to those documents.

The result of the proposed amendment would be the need for the City to add new policies to VOP 2010 to describe the measures and procedures for informing and obtaining the views of the public for subdivisions and consents. As this would provide the public with greater clarity as to the City's process, this amendment can be supported.

Recommendation

That the Ministry of Municipal Affairs and Housing be advised that the City of Vaughan supports this proposed amendment to the Planning Act.

5. The Proposed Amendment

Alternative measures for informing and obtaining the views of the public are currently permitted in connection with proposed official plan amendments (subsection 17 (19.3)) and zoning by-laws (subsection 34 (14.3)). The Bill expands these provisions and also permits alternative measures in connection with plans of subdivision (subsection 51 (19.3.1)) and consents (subsection 53 (4.3)).

Analysis and Commentary

Bill 73 expands the authorization for municipalities to adopt, in their Official Plans, alternative measures for informing and obtaining the views of the public in respect of proposed plans of subdivisions and consents (severances). VOP 2010 sets out Notification Procedures for Statutory Public meetings to be held prior to the adoption of an Official Plan, enactment of a Zoning By-law or any amendments to those documents, to ensure that adequate information is made available to the public and to allow the public to make representations on the matter being considered. Expanding the authority to provide for alternative measures for subdivisions and consents would provide the City with greater flexibility. Therefore, there should be no objection to this amendment.

Recommendation

1. That the Ministry of Municipal Affairs and Housing be advised that the City of Vaughan supports this amendment to the Planning Act.

6. The Proposed Amendment

Various decision-makers are required to explain the effect of written and oral submissions on their decisions. These include: (subsections 17 (23.1 – Local Municipal Council adopting an OP) and (35.1 - Approval Authority issuing a Notice of Decision on an OP), 22 (6.7 – Council Notice of Decision not to Amend Official Plan), 34 (10.10 - Notice of Council Decision not to Amend Zoning by-law) and (18.1 – Notice of Council Amendment to the Zoning By-law), 45 (8.1 – Decision of the Committee of Adjustment granting or refusing an Application), 51 (38 – Decision of the Approval Authority to approve or refuse a Draft Plan of Subdivision), 53 (18 – Decision to give or refuse Provisional Consent to a Consent Application)). Bill 73 specifies that "written submissions" relate to those that were made to the decision making authority before its decision; and that "oral submissions" relate to those submissions made at a public meeting.

Analysis and Commentary

Bill 73 requires that any notice of decision, across a broad range of process types and decision-makers provide, 'a brief explanation of the effect, if any, that the written and oral submissions . . . had on the decision'. There are numerous difficulties with this measure as proposed:

- It is not uncommon to receive dozens of pieces of written correspondence throughout such processes and numerous deputations at a public hearing. Responding specifically to each involves a considerable amount of time. Given that such responses often involve detailed technical commentary, they often take entire staff reports. For major Secondary Plans or whole plan reviews, the documentation will be substantial and beyond the capacity of a notice of decision.
- It is not clear whether this also refers to technical comments received from municipal departments and external agencies through the standard application circulation processes.
- Typically, responses would be addressed by staff through reporting procedures that would lead to the approval of the application (i.e. the Comprehensive Technical Report, which follows the public hearing, where responses to public comments are provided). This would only be a technical staff analysis, with recommended changes.
- In this instance, the onus is on the decision-maker to explain the effect on the decision. This is not knowable as the decision-maker is a municipal council. Staff would only be commenting on the public's oral and written submissions and possibly making a recommendation on their merits. The recommendation may or may not influence the decision. However, there would be no certainty as to how any one comment or recommendation affected the decision. This is not something that can be delegated to staff. As written, the Council would have to assess each application and the received comments and provide the explanations for the impact of the input on the on the decision. Council is not required to state its reasons for deciding to approve or refuse an application. Requiring it to justify its decision in the context of submitted comments would be inappropriate.
- The potential effect of this proposed amendment, when applied to a large scale plan, may require a notice of decision that would resemble an Ontario Municipal Board decision.
- Responding to individual oral submissions from a public hearing would require considerable resources, possibly involving recording and transcription, depending on whether particular requirements are specified.

Therefore, this amendment should be abandoned as proposed. As noted above, the City does respond to public input received as a result of the public hearing process. It appears in a public technical report to Committee of the Whole, prior to Council making its decision on a planning matter. This should be sufficient as staff provides an analysis and a recommended response for the consideration of Council. This ensures that the Council has an opportunity to assess comments with additional information from a technical perspective. Trying to address them in a notice of decision is unworkable and specifying how each influenced the decision, or not, would be speculation. All that could be definitively stated is whether or not the comment resulted in a change to the planning instrument. The Ministry should consider alternative measures, as currently practiced by the City of Vaughan, if it wishes to maintain the intent of this amendment.

Recommendation

1. That the Ministry of Municipal Affairs and Housing be advised that the City of Vaughan recommends that this amendment not be pursued as proposed; and it if wishes to pursue alternative measures, take into consideration the comments provided above.

7. The Proposed Amendment

Global appeals of new official plans (appeals of the decision with respect to the entire plan, a.k.a. "whole plan appeals") are not permitted (subsections 16 (24.2) and (36.2)). Appeals of official plans in connection with specified matters are likewise not permitted (subsections 17 (24.4), (24.5) and (36.4)).

Analysis and Commentary

Subsection 16(24) provides for the right to appeal a decision of Council, to adopt all or part of an official plan, to the Ontario Municipal Board. The legislation proposes changes to the Act that would

add new provisions as 24.2 and 24.3, which provide:

- In the case of a new official plan there would be no appeal permitted in respect of a decision of Council to adopt all of the plan;
- However, it does not prevent an appeal relating to a part of the decision or part of the plan.

The amendments also propose to prohibit appeals to a part of the official plan that identifies areas as being within the boundaries of certain provincially defined limits including: A vulnerable area under the *Clean Water Act*; the Lake Simcoe Watershed; the Greenbelt Plan Area or Protected Countryside or the boundary of specialty crop areas; and the Oak Ridges Moraine Conservation Plan Area.

Similarly, it prohibits appeals to the Plan against forecasted population and employment set out in the Growth Plan that: Are approved under the *Places to Grow Act*; and applies to the Greater Golden Horseshoe Area. It further clarifies that appeals against Lower Tier plan population and employment allotments cannot be appealed if the Upper Tier plan has been approved by the Minister. If the Lower Tier Plan identifies the boundary of a settlement area to reflect that of an Upper Tier Plan and the Upper Tier Plan has been approved by the Minister, then the Local Plan's depiction of that boundary cannot be appealed.

The proposed amendment to prohibit full plan appeals is considered to be a positive step. It will force appellants to scope their appeals to the areas and policies that have a material effect on their respective interests. It will also advance the appeal process to obtain partial plan approvals. However, it may not be sufficient to prevent nuisance appeals. There is still the opportunity to appeal part of the plan and there is no limit on the extent of a partial appeal, which could conceivably be the entire plan save one policy. In order to prevent this outcome the Act should provide more guidance in this area to require that the reasons for each aspect of the appeal be precisely stated, in the context of the appellant's interests, and that alternative policies be identified early in the appeal process to focus potential solutions.

This set of amendments also serves to prohibit appeals against matters that are addressed in the Local Official Plan that reflect the outcome of processes at the Provincial and Regional level. In effect, the opportunity to appeal matters, which have been settled through other Provincial and Regional plans and processes, has been eliminated. This provides certainty and eliminates the opportunity for reopening matters that have already been settled.

As such, these changes are considered appropriate. The prohibition on Global Appeals is supported, subject to modifications to the Act to ensure that "sub-global" appeals cannot be abused.

Recommendation

1. That the Ministry of Municipal Affairs and Housing be advised that the City of Vaughan supports this amendment, subject to the incorporation of more precise appeal criteria that require a substantial level of detail, which should be set out in subsection 17(25) of the Act, or by regulation, in regard to global plan appeals.

8. The Proposed Amendment

Appellants who intend to argue that appealed decisions are inconsistent with provincial policy statements, provincial plans or upper-tier official plans must identify the issues in their notices of appeal (subsections 17 (25.1) and (37.1) and 34 (19.0.1)). If an appellant fails to do so, the Ontario Municipal Board may dismiss all or part of the appeal without a hearing (subsections 17 (45) and 34 (25)).

Analysis and Commentary

Similar to the provisions restricting global plan appeals, this requirement reflects the need for greater precision in the appeal process. This will require the appellants to indicate the reasons why they believe that non-conformities exist in a decision or in an official plan or zoning by-law, with respect to a particular provincial policy or plan. By requiring the Notice of Appeal to explain how the decision is inconsistent with, fails to conform with, or conflicts with the other document, will discourage gratuitous appeals and provide focus for settlement negotiations where merit is present. To reinforce this provision, Bill 73 is also recommending new provisions that will allow the OMB to dismiss the appeal on its own initiative, or on the motion of other parties, if the required explanations have not been provided.

These changes are considered appropriate.

Recommendation

1. That the Ministry of Municipal Affairs and Housing be advised that the City of Vaughan supports this amendment.

9. The Proposed Amendment

Decision-makers are permitted to use mediation, conciliation and other dispute resolution techniques in certain appeals. When a decision-maker gives notice of an intention to use dispute resolution techniques, the time for submitting the record to the Ontario Municipal Board is extended by 60 days from 15 days (subsections 17 (26.1) to (26.4), 17 (37.2) to (37.5), 22 (8.1) to (8.4), 34 (11.0.0.1) to (11.0.0.4), 34 (20.1) to (20.4), 51 (49.1) to (49.4) and 53 (27.1) to (27.4)).

Analysis and Commentary

In Vaughan's case, this provision would be applicable to York Region as the decision-making (approval) authority in respect of most official plans and to the City in regard to the matters relating to zoning by-laws, subdivisions and consents. When the notice of appeal is received, normally there is a 15 day window after the appeal period ends, within which the appeals must be sent to the Ontario Municipal Board. The proposed amendments offer the municipal decision-maker the opportunity to extend the period within which the appeals are to be sent to the Board by 60 days, if the Council wishes to use mediation, conciliation or other dispute resolution techniques to attempt to resolve the dispute.

To apply this technique, the Council must give notice of its intent to all appellants and invite as many appellants as it considers appropriate to participate, the applicant (if not an appellant) and any other persons or public bodies considered appropriate. When Council gives notice, the 15-day period is extended to 75 days. Participation in the dispute resolution process by the persons and public bodies who receive invitations is voluntary.

This provides an opportunity for municipalities to proactively resolve appeals, in advance of the matter formally reaching the Ontario Municipal Board. To be successful it would require motivated participants working within the specified timeframe. As such, it would require consultation with the appellant to determine the level of interest in participating in and agreeing to the type of dispute resolution. There remain a number of unanswered administrative questions that would need to be established either through practice or further provincial guidance, e.g. the form and timing of the Notice to Mediate and should a settlement be reached, the process for withdrawing the appeals and bringing the plan or by-law into effect. Also, the municipality may wish to undertake cost-recovery, if it chooses to retain a mediator.

This is considered to be a supportable amendment to the Act. There will need to be some further articulation of the process, which could be addressed through a modification to the Act, by regulation

or guideline or such rules could be included in the Official Plan, authorizing the use of this measure. One area of concern rests with Council being responsible for deciding whether to pursue this measure. There are only 15 days after the last day for filing a notice of appeal to send the material to the OMB. This may fall within the cycle of Council meetings, potentially depriving the municipalities with an opportunity to mediate. Council should be allowed to delegate this authority to designated member of the municipal administration, if it so choses. In addition, it will need to be confirmed how the planning instrument gets approved should the mediation be successful. For example: Is the agreed to solution and the original appeal get sent to the Board for approval; or do the appellants withdraw and if there are no changes is the instrument deemed to be approved? A greater level of procedural detail will be required to fully implement this provision.

Recommendation

1. That the Ministry of Municipal Affairs and Housing be advised that the City of Vaughan supports this amendment.
2. That the Ministry provide further guidance on the process through such measures as a greater articulation of the Act, the provision of regulations or guidelines and/or authorization for municipalities to develop its own approach by way of including implementing policies in its Official Plan.

10. The Proposed Amendment

An approval authority shall not approve the new official plan of a lower-tier municipality under subsection 17 (34) if it does not conform to the upper-tier municipality's official plan. This also applies if the upper-tier municipality's official plan has been adopted but is not yet in effect, or if a revision of it has been adopted in accordance with section 26 but is not yet in effect. The same restriction affects approval of lower-tier municipalities' revisions of their official plans under section 26. If the approval authority states that the lower-tier municipality's plan does not conform, appeals under subsection 17 (40) of the approval authority's failure to give notice of a decision are not available until the non-conformity is addressed (subsections 17 (34.1) and (34.2), 17 (40.2) to (40.4) and 21 (2)).

Analysis and Commentary

Whereas the Act provides that the approval authority can approve, modify or refuse to approve a plan; the proposed amendment specifically prohibits the approval of a new Official Plan of a lower tier municipality, if it does not conform to the upper tier plan. The amendment states that the approval authority shall not approve any part of a lower-tier municipality's official plan for the following reasons: If the plan or any part of it does not, in the approval authority's opinion, conform with the upper tier municipality's official plan; or conform with a new official plan of the upper-tier municipality that is not in effect; or conform to a revision to the upper-tier municipality's official plan that is not in effect. These provisions are not in the current version of the Act. The proposed amendment specifically states that the new provisions do not detract from the approval authority's ability to approve a plan subject to its modifications, provided its modifications remove any non-conformity.

These provisions recognize the need to for the Local Official Plan to be in conformity with the Upper-Tier Plan. The current Act in 17(34) does not speak to such conformity matters and potentially, this could be interpreted to mean that a Local Plan could be approved in cases where there was a non-conformity or where a portion of the Upper Tier Plan was not in effect. This clarifies the effective hierarchy of the Plans in the approval process.

This should not create timing problems with overlapping upper and lower tier processes. It will be essential that the local plan be prepared with full knowledge of the Upper Tier Plan, to eliminate any potential conflicts. This will entail on-going consultation between the upper and lower tier planning authorities when their respective plans are being prepared to ensure mutual conformity.

Recommendation

1. That the Ministry of Municipal Affairs and Housing be advised that the City of Vaughan has no objection to this amendment.

11. The Proposed Amendment

Currently, subsection 17 (40) allows any person or public body to appeal an approval authority's failure to give notice of a decision in respect of an official plan within 180 days after receiving the plan. New subsection 17 (40.1) deals with extensions of the 180-day decision period.

Analysis and Commentary

The subsection 17(40) continues to provide that if the approval authority fails to give notice of a decision in respect of all or part of plan within 180 days after the plan is received by the approval authority any person or public body may appeal to the OMB all or any part of the plan for which no notice was given. York Region is the approval authority for City adopted Official Plans. A new 17(40.1) provides for an extension of time for appeal and specifies who may initiate the extension.

The new 17(40.1) sets the rules for the 90 day extension to the review period, including:

- In the case of a request for an amendment under Section 22 a person or public body that made the request may extend the period by written notice to the approval authority;
- In all other cases, the municipality may extend the period by written notice to the approval authority;
- The approval authority may extend the period by written notice to the person or public body or the municipality as the case may be;
- The notice must be given before the expiry of the 180 day period;
- Only one extension is permitted and the person, public body, municipality or approval authority may terminate the extension at any time by another written notice.

This provision recognizes the complexities that can surround the review of adopted plans, such that the 180 day period may be insufficient. The additional 90 days offers the opportunity to extend the review period, resolve issues and move to the issuance of a Notice of Decision in manner that minimizes the risk of appeals. While not a guarantee of a resolution of all issues or the elimination of all subsequent appeals, it does provide the system with greater flexibility to respond to complexities that may emerge through the approval process.

Recommendation

1. That the Ministry of Municipal Affairs and Housing be advised that the City of Vaughan supports this amendment.

12. The Proposed Amendment

At any time after receiving a notice of appeal under subsection 17 (40), the approval authority may give a notice that has the effect of requiring other potential appellants who wish to appeal to do so within 20 days after the date of the notice (subsection 17 (41.1)).

Analysis and Commentary

One of the critical weaknesses of the current Act is its inability to stop appeals being received after the end of the 180 day review period if no Notice of Decision has been issued by the approval authority. After the 180 day period the appeals can only be closed by the Board's full or partial approval of the plan. This amendment to the Act provides a remedy.

A new subsection 17 (41.1) has been added, which will limit the appeal period in instances where a Notice of Decision has not been issued. . The amendment provides that, at any time after the receipt of an appeal under these circumstances, the approval authority may issue a written notice to the required persons and public bodies, relating to the relevant plan, providing that on and after the day that is 21 days after the date of the notice, no person or public body is entitled to appeal under subsection 17(40).

The intent of this provision is to allow approval authorities to stop further appeals on the basis of 17(40) once the first post 180 day appeal is received, while providing all other potential appellants an opportunity to appeal. This change to the Act is essential.

Recommendation

1. That the Ministry of Municipal Affairs and Housing be advised that the City of Vaughan supports this amendment.

13. The Proposed Amendment

During the two-year period following the adoption of a new official plan or the global replacement of a municipality's zoning by-laws, no applications for amendment are permitted (subsections 22 (2.1) and 34 (10.0.0.1)). Similarly, during the two-year period following an owner-initiated site-specific rezoning, applications for minor variances are permitted only with council approval (subsection 45 (1.3)).

Analysis and Commentary

The new Subsection 22(2.1) provides that no person or public body shall request an amendment to a new official plan before the second anniversary of the first day any part of the plan comes into effect. It provides a hiatus whereby staff can focus on implementation measures and the settlement of appeals, in the case of broader official plan amendment exercises like VOP 2010. There are risks. It could prompt landowners to file protective appeals, as part of the broader Official Plan exercise, to protect or establish new site specific rights, prior to the adoption of the plan. Perhaps the greater risk lies where a minor amendment to a plan may be required to effect the development of a site. Given the prescriptive nature of many site specific official plans, this may be unavoidable. Without an avenue to resolve the issue, the development may be substantially delayed.

Subsection 34(10.0.0.1) provides that if the council enacts a zoning by-law to implement a new official plan, by simultaneously repealing and replacing all zoning by laws in effect in the municipality, no person or public body shall submit an application for an amendment to any of the by-laws before the second anniversary of the day on which the council repealed and replaced them.

A prohibition is not necessary. The purpose of the zoning by-law is to implement the official plan. Provided the proposed zoning amendment is in conformity with the official plan there should be no bar either to amending the by-law or obtaining a minor variance consistent with the tests of the Planning Act. In both instances (zoning amendments and minor variances), they may need to be considered to address a relatively insignificant issue that may be frustrating an otherwise appropriate development.

The official plan is the driving planning document and the zoning is an implementation tool. A change to the zoning, either by amendment or variance, in conformity with the official plan, should not be subject to a prohibition on applications to amend the by-law.

Recommendation

1. That the Minister of Municipal Affairs and Housing be advised that the City of Vaughan:

    a) Does not support the addition of subsection 17 (22) (2.1) to prohibit amendments to a new

official plan before the second anniversary of the first day any part of the plan comes into effect; and.

b) Does not support the prohibition or restriction on applications for amendments/variances to the zoning by-law before the second anniversary of the day the previous by-law was repealed and replaced.

14. The Proposed Amendment

New section 22.1 deals with the interpretation of provisions, in any Act or regulation, that refers to the day on which requests for official plan amendments are received.

Analysis and Commentary

Section 22.1 has been added to assist in the interpretation of transitional provisions by specifying criteria to establish the exact date that an official plan amendment has been formally received by the municipality. This may be critical in determining the applicable policy regime or when the appeal period would commence. The new section provides that the day on which a request for an official plan amendment is received shall be read as a reference to the day on which the council or planning board receives the information and material required under subsections 22(4) and (5), if any, (prescribed information and any information required by the municipality that is specified in its official plan) and any fee under section 69. This, in effect, would be the "complete application" accepted by the City.

This provides greater clarity as to how to establish the date of record for the submission of an official plan amendment application. As such, the change to the Act is appropriate.

Recommendation

1. That the Ministry of Municipal Affairs and Housing be advised that the City of Vaughan supports this amendment.

15. The Proposed Amendment

Currently, subsection 26 (1) requires a municipality to revise its official plan at five-year intervals, to ensure that it aligns with provincial plans and policy statements and has regard to matters of provincial interest. The revision schedule is proposed to be adjusted to require revision 10 years after the plan comes into force and at five-year intervals thereafter. An existing requirement to revise the plan in relation to policies dealing with areas of employment is removed.

Analysis and Commentary

Given the time and expense involved in a major official plan review, the increased flexibility in the spacing for the first review is appropriate. The amendment provides that the municipalities shall revise the plan no less frequently than 10 years after it comes into effect as a new official plan and no less frequently than every 5 years thereafter, provided the plan has not been replaced by another new official plan. This does not preclude more frequent reviews or amendments to the Official Plan. These could be triggered by the need to conduct a "Provincial plan conformity exercise" and/or an amendment to the local plan to conform with changes to the Regional Official Plan. The conformity exercise would be necessary if there is a change to a plan or policy that would need to be reflected in the local Official Plan. As such the revised Act still provides Councils with the opportunity to conduct a conformity exercise.

It is noted that the City will still need to update VOP 2010 starting in 2016. York Region has already commenced a 5-year review of the Regional Official Plan. One of the primary purposes of this review is to reflect changes to the Provincial Growth Plan. Amendment 2 to the Growth Plan provides updated population and employment projections for 2031 and new projections for the years 2036 and

2041. The Region will be allocating these revisions to the local municipalities. The draft allocations were recently released for comment. The adoption of the amended Regional Plan is targeted for the Fall of 2016. VOP 2010 will need to be updated to reflect the outcome of the Regional process. As such, the City will need to conduct a review starting in 2016.

The proposed change to the Act is considered appropriate as it provides municipalities with greater flexibility in the management of their official plans.

Recommendation

1. That the Ministry of Municipal Affairs and Housing be advised that the City of Vaughan supports this amendment.

16. The Proposed Amendment

Section 37 is amended to require that money collected under this section (Bonusing in exchange for increased heights and density) be kept in a special account, about which the treasurer is required to make an annual financial statement.

Analysis and Commentary

Section 37 of the Act is proposed to be amended through the addition of subsections that would:

- Require that all monies received be paid into a special account only to be spent only for facilities, services or other matters specified in the by-law;
- Provide for the investment of the funds and disposition of the resulting earnings;
- Provide an annual financial statement to Council relating to the special account;
- Provides requirements for the financial statement;
- Requires that the statement be made available to the public and the Minister on request.

The City's new Section 37 bonusing policies were approved by the Ontario Municipal in 2014 and on February 17, 2015, Council approved the Section 37 Implementation Guidelines as City Policy. One of the objectives of the City was to develop a clear and transparent framework for applying Section 37. The proposed amendments to the Act are consistent with the approach taken by the City in the Implementing Guidelines for the Section 37 bonusing provisions under VOP 2010. In particular, Paragraph 7 provides for the creation of a dedicated "Section 37 Reserve Fund". For tracking purposes, proceeds for specific negotiated benefits will be applied to a new or specified capital project. A record of proceeds and disbursements will be maintained in conjunction with the Section 37 Reserve Fund and capital projects' balances.

The proposed amendments to the Act provide more explicit guidance on managing and reporting on funds secured through Section 37 agreements. The amendments are appropriate and consistent with the City's intent to achieve transparency in its administration of the Section 37 process. Should the Act be amended, then the City can review the Implementation Guidelines to bring them in line with the legislation and any subsequent regulations, for the purpose of adopting the necessary changes.

Recommendation

1. That the Ministry of Municipal Affairs and Housing be advised that the City of Vaughan supports this amendment.

17. The Proposed Amendment

Before a municipality adopts official plan policies allowing it to pass by-laws under subsection 42 (3) (parkland dedication, alternative requirement), it must have a parks plan that examines the need for parkland in the municipality. Cash-in-lieu collected under the alternative requirement is currently

limited to the value of one hectare of land for each 300 dwelling units proposed; the new limit is one hectare per 500 dwelling units (subsection 42 (6.0.1)). New subsections 42 (17) and (18) require the treasurer to make an annual financial statement about the special account established under subsection 42 (15). Changes similar to the ones affecting section 42 are made to section 51.1, which deals with parkland conveyances and cash-in-lieu in the context of subdivision approval.

Analysis and Commentary

The proposed amendments to the Act modify the regime for the planning, calculating and managing the payment of cash in lieu of the dedication of parkland as a condition of development or redevelopment. The dedication of parkland, under subsection 42 (1), requires the conveyance of parkland at a rate of 5% of the land area for residential uses and 2% for commercial or industrial uses. Cash in lieu of parkland may be taken under this provision. The municipality may require a payment in lieu to the value of the land would otherwise be conveyed. This reflects the status quo.

The previous alternative requirement in subsection 42(3), generally applicable to higher density areas, for the dedication of parkland remains at a maximum of 1.0 hectare/300 dwelling units, only if land is to be taken. For the purposes of taking cash in lieu of the dedication of parkland a different standard is introduced by Bill 73. Under the new provision the municipality may require a payment in lieu using a rate of one hectare for each 500 dwelling units or such lesser amount as may be specified in the by-law.

The proposed measures require clarification and further staff review of the potential implications to the City's ability to achieve the target parkland provision standards. Items to be addressed include: Clarifying the intent of the language, particularly in regard to application of the alternative standard for cash in lieu (the cash equivalent 1.0 ha/500 dwelling units) when land is taken in accordance with 1.0 ha/300 dwelling units, or a combination of land and cash in lieu is required. Clarification on the reasoning for this change to the 1.0 ha/500 ratio will also be sought. Also requiring further review is the impact of the proposed cash in lieu alternative standard in comparison with the City's current requirements and methodology for valuing required contributions. Understanding the impacts of the proposed standard will be necessary to providing a response to the Ministry. Therefore, this will be the subject of further analysis and a Communication to Council with appropriate background and a recommended response. As such, no response to this aspect of the amendment is recommended at this time pending the Communication.

It is necessary under 42(4) to have policies in the official plan dealing with the provision of lands for park or other public recreational purposes and the use of the alternative requirements. This would be required before the implementing by-law was passed. A new subsection 42(4.1) requires that before adopting the official plan policies, the local municipality shall prepare and make available to the public, a parks plan that examines the need for parkland in the municipality. This is currently the practice of the City through implementation of the recommendations and targets of the *Active Together Master Plan (Strategic Plan for Parks, Recreation and Libraries, reviewed and updated in 2013), which builds upon the Vaughan's foundational documents, including Vaughan Vision 20/20, Green Directions Vaughan and the City's New Official Plan.* The predecessor version of the *Active Together Master Plan (ATMP), which was the City's first long range planning study for parks, recreation and library facilities (adopted in principle by Council in 2008),* informed the preparation of VOP 2010. One of the primary purposes of the ATMP is to identify current and future parkland facility provision strategies, based on the following: parkland supply and provision requirements based on City-wide resident surveys, population and demographic statistics and facility provision targets; areas identified with shortfalls of active parkland and communities that are target locations for additional parkland; and parkland and facility recommendations for areas of Urban Intensification. Since the practice of using a parks plan is already the standard for the City, this amendment can be supported. However, assurance should be sought that previous parks plans have standing as the required parks plan notwithstanding that it was adopted prior to this amendment to the Act.

The Act under subsection 42(15) required the creation of a special account to receive all money received by the municipality for the acquisition of land and facilities for parks and other recreational purposes. A new requirement is proposed as subsection 42(17) requires an annual Treasurer's statement to be copied to the Minister upon request and be made available to the public. The Act specifies certain reporting requirements. This measure when enacted is supportable but will require additional staff resources.

Recommendation

1. That the Ministry of Municipal Affairs and Housing be advised that the City of Vaughan:

    a) Supports the requirement that before a municipality adopts official plan policies allowing it to pass by-laws under subsection 42 (3) (parkland alternative requirement), it must have a parks plan that examines the need for parkland in the municipality, subject to clarification as to the status of parks plans adopted prior to the proposed amendment coming into effect.
    b) Supports he requirement for a special account to receive all money received by the City for the acquisition of land and facilities for parks and other recreational services.
    c) Does not support the proposed alternative requirement methodology and application for calculating cash in lieu of parkland at the proposed rate of 1ha/500units and requests clarification on application of the proposed standard when a combination of land and cash in lieu is required as well as the reasoning for setting the 1Ha/500 ratio, in particular.

18. The Proposed Amendment

When committees of adjustment make decisions about minor variances, they are required to apply prescribed criteria (subsection 45 (1.0.1)) as well as the matters set out in subsection 45 (1).

Analysis and Commentary

Subsection 45(1) contains the criteria that the Committee of Adjustment must consider in its decision to authorize a minor variance. To approve the variance, it must be, in the opinion of the Committee, desirable for the appropriate development or use of the land, building or structure and the general intent and purpose of the bylaw and official plan must be maintained. The new subsection 45(1.0.1) provides that, in addition to satisfying the provisions of 45(1), the Committee's decision must also conform with prescribed criteria, if any. Currently, such criteria have not been identified or adopted as Regulations. If pursued, further comment can be provided on their appropriateness. Until such time as they are issued, the variance will continue to be considered in light of the existing subsection 45(1). At this time there is no basis for further comment.

Recommendation

1. That the Minister of Municipal Affairs and Housing be advised that the City of Vaughan has no objections to this amendment.

19. The Proposed Amendment

Subsection 70.2 (1) currently authorizes the Lieutenant Governor in Council to make regulations establishing a "development permit system" that local municipalities may adopt, or delegating to local municipalities the power to establish such a system. New subsection 70.2 (2.1) authorizes the Lieutenant Governor in Council to make regulations preventing applications for amendments to new development permit by-laws, and to the related official plan provisions, during an initial five-year period.

Analysis and Commentary

Subsection 70 (2.1) allows for the adoption of a regulation providing that no person or public body shall apply to amend the relevant official plan, regarding the requirement to have policies in the official plan to implement the development permit system, before the fifth anniversary of the day the by-law is passed. Similarly, a regulation could also prohibit a person or public body from applying to amend the by-law adopting or establishing a development permit system before the fifth anniversary of the day the by-law was passed.

This does not represent an immediate action. However, in the context of the situation it may be an appropriate measure. On this basis, it will be necessary to understand the circumstances surrounding its application and any supporting criteria.

Recommendation

1. The Ministry of Municipal Affairs and Housing be advised that the City of Vaughan has no objection to the amendment proceeding, provided that there is further consultation with municipal interests when the regulation is being considered.

20. The Proposed Amendment

New section 70.2.1 provides that regulations made under section 70.2, orders made under section 70.2.2 and municipal by-laws made under both sections may refer to development permits as "community planning permits", without changing the legal effect. The same is true of combined expressions such as "development permit system" and "development permit by-law".

Analysis and Commentary

The proposed amendment provides for the use of alternative terminology for "Development Permits" by allowing them to be referred as "Community Planning Permits". Similarly the terms "Development Permit System" and "Development Permit By-law" may be replaced by "Community Planning Permit System" and "Community Planning Permit By-law". Both sets of terminology have the same legal effect under the Planning Act. This will allow the municipalities to apply either terminology in their planning documents, depending on their needs and context.

Recommendation

1. That the Ministry of Municipal Affairs and Housing be advised that the City of Vaughan has no objections to this amendment.

21. The Proposed Amendment

New section 70.2.2 authorizes the Minister to make an order requiring a local municipality to adopt a development permit system for prescribed purposes. It also authorizes upper-tier municipalities to make by-laws imposing similar requirements on their lower-tier municipalities, and authorizes the Minister to make an order requiring an upper-tier municipality to make such a by-law.

Analysis and Commentary

The new section 70.2.2 allows the Minister to adopt or establish a development permit system for one or more purposes specified under subsection (5) or direct an upper tier municipality to require by by-law that a local municipality establish a development permit system. The upper tier municipality is also permitted make such order, independent of any direction from the Minister. The order or by-law may also specify the part of the municipality to be regulated by the development permit system. Subsection (5) provides cabinet with authority issue regulations which will specify the purposes for requiring the adoption of the development permit system.

Under the current Act, cabinet by regulation cannot specifically require local municipalities to adopt a Development Permit System. The proposed change to the Act provides for this power and extends it to the Regional Councils by way of regulation. It is difficult to comment on the potential effects of these measures on the local municipality, since the purposes would only be identified through yet to be issued regulations. Greater clarity as to the reasons for the changes or the situations that it would be applied to would be helpful in addressing this proposal.

Recommendation

1. The Ministry of Municipal Affairs and Housing be advised that the City of Vaughan has no objection to the amendment proceeding, provided that there is further consultation with municipal interests when the implementing regulation is being considered.

ATTACHMENT 2

Bill 73, An Act to Amend the Development Charges Act, 1997 and the Planning Act

Comments and Recommendations to the Minister of Municipal Affairs and Housing (MMAH) on Development Charge (DC) Act Amendments

1. The Proposed Amendment

   Subsection 2 (4), which deals with ineligible services, is rewritten to identify these in the regulations (rather than partly in the Act and partly in regulations, the current approach).

   Analysis and Commentary

   The list of ineligible services which is currently listed in the DC Act would be moved to the Regulations. This amendment would allow the Province to more easily change the list of ineligible services going forward. Additionally, the Province noted in its related news release in March 2015 that at a minimum Waste Diversion (Recycling Programs) would be removed from the list of ineligible services. This would allow the City to recover more growth related capital costs for this program in particular.

   The City had originally requested that more services be removed from the list of ineligible services such as local contributions to hospitals, the provision of cultural/entertainment facilities and the provision of headquarters for the general administration of municipalities to a name a few. While only Recycling programs have been initially identified, this amendment does provide the potential to decrease the list of ineligible services and is therefore acceptable, subject to future discussions.

   Recommendation

   1. That the Ministry of Municipal Affairs and Housing be advised that the City of Vaughan has no objections to this amendment to Subsection 2 (4) of the DC Act, subject to further consultation on the associated Regulations and further recommends that several key services be removed from the ineligible list as identified in the City's original December 2013 submission.

2. The Proposed Amendment

   Regulations may be made to require municipal councils to use development charge by-laws only with respect to prescribed services and areas (new subsection 2 (9)) or to use different development charge by-laws for different parts of the municipality (new subsection 2 (11)).

   Analysis and Commentary

   This amendment provides for a greater prescription as it relates to "area rating". The City refers to this "Special Area Charges" (SACs) or more recently as "Area Specific Development Charges" (ASDCs). The City has a long history of using ASDC by-laws to recover for Water, Wastewater and Stormwater related infrastructure. This amendment, therefore, may not have a significant impact for the City given that it may already be in compliance with what is envisioned. The final impact will be determined by which services are mandated to be "area rated". It should be noted that in the 2013 DC By-law review process, the City migrated all future water related capital to the City Wide DC by-law rather than mandating ASDCs. Depending on the outcome of the discussions on the associated Regulations the City may see an administrative impact by the need to reverse this decision. Whether by City Wide DC or ASDC, water related services are 100% recoverable and therefore the City should be insulated from a financial impact and more work will need to be undertaken to determine the administrative effects of mandating water services as area rated (should this become relevant).

Through the work on the Regulations, the City will also be interested to see the mechanics of how the prescribed area rating would work in terms of multiple funding sources. For instance, a piece of infrastructure that is being built in an area may present both an area specific benefit as well as a city wide benefit. The City's position would be that so long as a municipality is able to articulate methodologically how the benefits accrue to each funding source (ASDC and City Wide DC) that a blended method should be allowed under the Regulations.

While the City provided input during the consultation period that the legislation was sufficiently flexible to address area rating, staff believe area rating to be appropriate for many services and therefore have no major objection to this amendment subject to further consultation on the prescribed services and benefit allocation.

Recommendation

1. That the Ministry of Municipal Affairs and Housing be advised that the City of Vaughan has no objections to the new Subsections 2 (9) and 2 (11) of the DC Act, subject to further consultation on the associated Regulations.

3. The Proposed Amendment

Transit services are added to the list of services for which no reduction of capital costs is required in determining development charges (subsection 5 (5)).

Analysis and Commentary

Under the current DC Act, Transit services is currently included on the list to which a mandatory 10% discount (mandatory co-funding) exists. The proposed amendments seek to make Transit services 100% recoverable which will render its funding framework more in line with "transportation" related services (roads etc.) in general. The City will only see an indirect, non-financial, benefit from this as transit is the responsibility of York Region, however the Region's ability to fund transit is tied to the overarching planning goals of the City. Based on this premise, the City is generally supportive of adding Transit to the list of service for which no reduction of capital costs is required.

During the initial consultation, the City put forward a position in which more than just Transit should be added to the list. The City advocated for all services to be added given that the 10% discount is in direct conflict with the principle that "growth pays for growth". The funding of the 10% discount is normally funded through property taxes and is therefore subject to prioritization with all other growth related, but DC ineligible and non-growth related funding requirements. In particular, the 10% discount funding translates in to transferring a portion of funding that should be allocated to rectifying the infrastructure replacement deficit, to helping to fund growth related soft services.

Currently, the City funds the 10% discount on General Government Services, Library Services, Indoor Recreation Services and Parks Development and it is the City's position that all of these services should not be subject to the 10% discount under any reformed DCA

Recommendation

1. That the Ministry of Municipal Affairs and Housing be advised that the City of Vaughan has no objections to amendments to Subsections 5 (5) of the DC Act and further recommends that all soft services be added to the list of services for which no reduction of capital costs is required in determining development charges.

4. The Proposed Amendment

New section 5.2 provides that services prescribed by the regulations would use a planned level of service rather than being subject to paragraph 4 of subsection 5 (1).

Analysis and Commentary

This amendment seeks to use a “forward” rather than the current “backward” level of service calculation for the purposes of determining DCs. It is expected that this new “planned” or “forward” level service calculation will be at least applied to Transit services.

Transit is a strategic investment for all levels of government and helps to support intensification, environmental and economic strategies required to bring to fruition both municipal and provincial visions for the GTHA and other key regions. The DC Act in its current form works against these priorities by considering historic service levels as a capping mechanism to future DC collections for transit service. Given that transit does not always experience a smooth increase in service levels, but rather may increase in step format as higher orders of transit are emplaced, a backward looking service calculation is inappropriate and requires a forward looking service level calculation.

While the City does not fund transit, it has a vested interest in York Region’s ability to fund this key infrastructure in the Vaughan area and in particular the Vaughan Metropolitan Centre, which is planned for the highest order of transit. The City is therefore generally supportive of this amendment as it applies to Transit services.

The City expects that several key pieces of infrastructure in the Vaughan Metropolitan Centre related to parks development and streetscaping would also benefit from a forward looking service level calculation as the form of these works is required to be less akin to the greenfield level of service and more in line with an urban level of service. This points towards a funding gap that will exist as a result of the current DC Act and potential for inclusion in the Regulations of other soft service infrastructure, being emplaced at or near higher orders of transit, to utilize planned level of service calculations in an effort to support intensification and overall better land use planning.

Recommendation

1. That the Ministry of Municipal Affairs and Housing be advised that the City of Vaughan has no objections to the new Section 5.2 of the DC Act and further recommends that in addition to Transit, that services such as Parks Development, Fire Services and Streetscaping in intensification areas also be considered for inclusion in the Regulations as a planned level of service.

5. The Proposed Amendment

The requirements for development charge background studies are expanded to include consideration of the use of multiple development charge by-laws and preparation of an asset management plan (subsection 10 (2)).

Analysis and Commentary

The first part of this amendment addresses the consideration of enacting multiple by-laws, presumably some related to Area Specific DCs or “area rating”. The City already follows this practice and has multiple by-laws considered through its Background Study and therefore is generally supportive of this part of the amendment.

The second part of the amendment addresses the fact that as well as the long term capital and operating cost analysis that is currently required, DC Background Studies would now have to include an asset management plan that demonstrates that “growth-related” capital assets are financially

sustainable over their full life cycle. Although the term “financially sustainable” is not defined, this provision would ensure that Council has more financial information at hand when making decisions about meeting the servicing needs of development and imposing development charges during the DC Background Study and By-Law process. The City may be able to draw upon its new asset management program to satisfy this new requirement. This is a move towards more informed and transparent decision making processes and therefore the City is generally supportive of this amendment.

Recommendation

1. That the Ministry of Municipal Affairs and Housing be advised that the City of Vaughan has no objections to this amendment to Subsection 10 (2) of the DC Act.

6. The Proposed Amendment

If a development consists of one building that requires more than one building permit, the development charge is payable when the first permit is issued (new subsection 26 (1.1)).

Analysis and Commentary

For developments that require multiple building permits, the legislation would ensure that a DC is payable upon the first building permit being issued. This addresses the development industry’s concern about cost certainty, particularly with high rise condominiums. This amendment is not envisioned to apply to developments on subdivisions. The City already currently collects DCs at “first permit”, which in some cases is at “foundational” building permit if that applies, but is in most cases at the time of “conditional” or “full” building permit. In any scenario, the City collects DC at the earliest point possible in the building permit process. Therefore, the City is generally supportive of the amendment.

Recommendation

1. That the Ministry of Municipal Affairs and Housing be advised that the City of Vaughan has no objections to the new Subsection 26 (1.1) of the DC Act.

7. The Proposed Amendment

The contents of the treasurer’s financial statement under section 43 are expanded to include additional details on the use of funds as well as a statement as to compliance with new section 59.1.

Analysis and Commentary

The reporting requirements under Section 43 of the DC Act are to be modified and added to. Of all the proposed amendments, this reporting requirement could require more immediate action from Finance staff so as to ensure that adequate information for future reporting is being collected. It should be noted that the statements provided by the City currently present a level of detail nearly consistent with the amendments being proposed.

During the initial consultation the City put forward the position that the current level of reporting was sufficient for transparency and reconciliation purposes, however the City does not object to this increased level of transparency.

Recommendation

1. That the Ministry of Municipal Affairs and Housing be advised that the City of Vaughan has no objections to this amendment to Subsection 43 of the DC Act.

8. The Proposed Amendment

New section 59.1 imposes restrictions on the use of charges related to development, gives the Minister power to investigate whether a municipality has complied with the restrictions and authorizes the Minister to require the municipality to pay the costs of the investigation.

Analysis and Commentary

A clause has been added to Section 59 of the DC Act that would ensure that "A municipality shall not impose, directly or indirectly, a charge related to a development or a requirement to construct a service related to development." This addresses the Province's goal to curb municipal charges on new developments that fall outside what is allowed in current legislation. Transition provisions would allow any such charges that are signed before the Bill becomes law to remain in force, though for how long isn't stated. Broad powers would be provided to the Ministry to investigate whether this new rule is being applied. It is of interest to note that there are no punitive powers within the Bill, when it comes to Section 59 contravention.

The City does not generally object to this amendment, but would prefer to see the scope of any investigative procedures set out in the Regulations in order to ensure that the cost of the investigation is limited to a reasonable amount given that the municipality will be responsible for these costs.

Recommendation

1. That the Ministry of Municipal Affairs and Housing be advised that the City of Vaughan has no objections to the new Section 59.1, but would recommend that the procedures associated with this investigation be set out in the Regulations with the intent of limiting the scope to cap the costs to be recovered.

CITY OF VAUGHAN

EXTRACT FROM COUNCIL MEETING MINUTES OF DECEMBER 10, 2013

Item 5, Report No. 17, of the Finance and Administration Committee, which was adopted, as amended, by the Council of the City of Vaughan on December 10, 2013, as follows:

By approving the following:

That the recommendation set out in Communication C10 from the Acting Commissioner of Finance & City Treasurer, Commissioner of Planning and Director of Development Finance & Investments, dated December 10, 2013, be approved as follows:

1. ***That the Mayor be requested to sign a letter substantially in the form of Attachment 1, setting out Council's position on Development Charges, Land Use Planning and Appeal System Reform;***
2. ***That Council endorse Attachment 2 as the City's official position on matters related to Development Charges, Land Use Planning and Appeal System Reform; and***
3. ***That to meet the Provincial Consultation deadline, the City Clerk forward such correspondence and documentation, prior to January 10, 2014, to the Premier, local Members of Provincial Parliament, the Minister of Municipal Affairs and Housing, Regional Municipality of York and York Region Municipalities.***

5 PROVINCIAL CONSULTATIONS: DEVELOPMENT CHARGES, LAND USE PLANNING AND APPEAL SYSTEM REFORM

The Finance and Administration Committee recommends approval of the recommendation contained in the following report of the Acting Commissioner of Finance & City Treasurer, Commissioner of Planning and Director of Development Finance & Investments, dated December 2, 2013:

Recommendation

The Acting Commissioner of Finance & City Treasurer, Commissioner of Planning and Director of Development Finance & Investments, in consultation with the Director of Legal Services, Director of Parks Development and Manager of Policy Planning, recommend:

1. That a copy of this report and any associated communications containing a response on Planning Reform and Development Charges Reform be forwarded to the Province of Ontario and Region of York before January 10, 2014.

Contribution to Sustainability

Sustainability by its definition refers to maintaining an action over time. The objective of the Development Charges Act is to fund and construct new public infrastructure to support population growth, while maintaining community service levels. Current legislation attempts to support the "growth pays for growth" principle, but falls short due to a number of key quality of life related service restrictions and ineligibilities, co-funding requirements and other elements. These implications are costly to municipalities and place financial pressure on the existing taxpayers to support growth related servicing, cultural requirements, hospital requirements, etc. The topic of Development Charge reform is an opportunity for the City to voice its position to ensure that changes to the Act and related regulations improve the City's ability to sustain growth.

Changes to the Planning Act and Development Charges Act and related regulations and guidance documents can impact the City's ability to implement Green Directions Vaughan.

Economic Impact

Development Charges are the largest source of funding for growth related infrastructure. The 2013 Development Charge background study estimates that the total development charge related capital program (for general services to 2021 and engineering to 2031) is approximately $1.3 billion. After various legislated deductions, based on the current Development Charges Act, only 63% of this can be funded from future development charge collections. Some of the deductions mandated are consistent with the principle that "growth pays for growth" (e.g. deduction for existing Development Charge reserve balances) while others are not (e.g. 10% co-funding).

Any consultation process that seeks amendments to the Development Charges Act or Section 37 and Parkland Dedication sections of the Planning Act could have a positive or negative economic impact on the City of Vaughan. The impact could come in many forms, but in most cases would be affected by the following types of amendments:

- Removal/modification to the 10% co-funding requirement on soft services, primarily funded by property taxation
- Changes to service level calculation methodology, which impacts the maximum allowable to be collected through Development Charges
- Modifying inclusions/exclusions to the development charge eligibility list (e.g. hospitals, waste collection, municipal administrative buildings and arts/culture facilities are all currently excluded)
- Establishing an explicit definition in the legislation of "benefit to existing"
- Aligning development charges with other provincial planning objectives, such as promoting increased intensification
- Modifying calculation methodology of Cash-in-lieu of Parkland Dedication

All of the above examples are included in the consultation process and depending on the outcome of the review may have a future economic impact on the City.

Targeted changes to the Planning system, if implemented, would help to increase available revenue for municipalities and reduce the staff time and expense involved in defending Ontario Municipal Board appeals in the future.

Communications Plan

The Ministry of Municipal Affairs and Housing has invited municipalities to share comments and ideas on the above reform topics by January 10, 2014. In addition to providing informal communication through ministry led consultation sessions, staff, under tight timelines are endeavoring to provide Council with a position communication for consideration. Upon approval, an official submission will be presented to the Ministry of Municipal Affairs and Housing with copies to local MPPs, York Region and surrounding communities.

The Ministry is also consulting with the development industry and other stakeholders. The development industry, as well as any other interested parties, are also working towards the January 10, 2014 deadline to submit their own comments on the review of the legislation.

Purpose

The purpose of this report is to inform Council of the recently announced provincial consultations on Developments Charges, Land Use Planning and Appeal System reform. In order to accommodate the provincial set timelines staff will be submitting a more detailed communication to the City Council meeting of December 10, 2013 with the recommended position on the consultation and reform topics.

Background

The provincial government recently announced that through the Ministry of Municipal Affairs and Housing a consultation process would take place on Development Charge, Land Use Planning and the Appeal System reform in Ontario. Their broad mandate of the consultation process is to "ensure that the land use planning and appeal systems, and the development charges system are predictable, transparent and cost effective."

The City has been given a narrow window to provide input in to the process

The time from announcement (October 24, 2013) to deadline for input (January 10, 2014) is a very narrow window and therefore staff have prepared this report to provide an overview of the consultation with further communication to be brought forward to Council on December 10, 2013. In order to meet the input deadline of January 10, 2014, a Council resolution is required on December 10th, given that the next Council meeting falls after the deadline.

Two consultation papers were released by the province in late October. One paper addresses the development charge system as well as Section 37 and Parkland Dedication, and the second paper addresses the land use planning and appeal systems. Both papers pose questions/issues to municipalities, the development industry and other stakeholders for feedback. In addition, consultation workshops at the staff level have been scheduled. Provincial consultation workshops were scheduled for mid to late November and hence the need to bring a final communication directly to Council with recommended positions on the topics.

The first review of the Development Charges Act in 16 years

The Development Charges Act, 1997 lays out Ontario's regulatory and legislative framework which municipalities must follow to collect Development Charges and enact related by-laws. This legislation resulted from negotiations with municipalities and developers and is based on the core principle that Development Charges are a primary tool in ensuring that "growth pays for growth".

Over the life time of this legislation, municipalities have repeatedly cited concerns that the framework does not go far enough to address the principle of "growth paying for growth" and that reform was required. This concept has been of special interest in light of several transit funding issues identified in Metrolinx's "The Big Move" regional transportation plan. Conversely, the development industry have cited concerns that the legislation has allowed Development Charges to rise steadily affecting housing affordability and working against intensification policies.

The province's consultation on Development Charges involves addressing questions and issues surrounding the following themes:

- The Development Charge Process
- Development Charge Eligible Services
- Development Charge Reserve Funds Reporting
- Section 37 (Density Bonusing) and Parkland Dedication
- Voluntary payments
- Growth and Housing Affordability
- High Density Growth objectives

While Section 37 and Parkland Dedication are rooted in the Planning Act, rather than the Development Charges Act, these consultations have been grouped with Development Charges to reflect the commonality between these tools to fund growth related municipal capital infrastructure.

Detailed recommended positions on all three topics will be provided in the communication to Council on December 10, 2013.

The review on Land Use Planning and the Appeal System is not an overhaul of the system
There have been a number of changes to the planning system in Ontario over recent years and both municipalities and the development industry alike have continued to raise concerns. As a result, the current consultation process will not represent an overhaul to the system, but rather is focused on the following four themes:

- Achieve more predictability, transparency and accountability in the planning/appeal process and reduce costs
- Support greater municipal leadership in resolving issues and making local land use planning decisions
- Better engage citizens in the local planning process
- Protect long-term public interests, particularly through better alignment of land use planning and infrastructure decisions, and support for job creation and economic growth

The Ministry is providing the following guiding principles in any feedback provided by consulted parties:

- The public is able to participate, be engaged and have their input considered
- The system is led by sound policies that provide clear provincial direction/rules and is also led by up-to-date municipal documents that reflect matters of both local and provincial importance
- Communities are the primary implementers and decision-makers
- The process should be predictable, cost-effective, simple, efficient and accessible, with timely decisions
- The appeal system should be transparent; decision makers should not rule on appeals of their own decisions

The Ministry has also specifically ruled out the following as topics of discussion through the consultation:

- Elimination of the OMB
- The OMB's operations, practices and procedures
- Removal of the provincial government's approval role
- The restriction of the provincial government's ability to intervene in matters
- Matters involving other legislation, unless housekeeping changes are needed.

Some of the areas where input is being requested are not relevant for Vaughan. For example, the Province is requesting input on whether pre-consultation would be helpful. However, in Vaughan pre-application consultation has been mandatory for several years and is working well to achieve a greater understanding from proponents of information requirements associated with applications. In contrast, many of the issues raised through the consultation process could directly impact the City's ability to efficiently legally enact the Vaughan Official Plan 2010 and mitigate against ineffective aspects of the current appeal system. Some initial City perspectives would include requesting changes to:

- Provide more support for implementation of official plans that align with Provincial policies
- New policies to address intensification issues such as compact schools and parkland standards

- Minimize the "whole plan" appeal process
- Adjust timeframes related to appeals of official plan amendments and zoning by-law amendments
- Differentiated Official Plan review deadlines for Regional and Local plans
- Adjust timeframes for appealing development applications

Several other positions, as well as further detail on the issues stated above, will be provided in the communication to Council on December 10, 2013.

Relationship to Vaughan Vision 2020/Strategic Plan

This report is consistent with the Strategic Goal of Organizational Excellence. The future ability to collect Development Charges and to help ensure that "growth pays for growth" is an integral part of "Ensuring Financial Sustainability". This consultation process provides the City with an opportunity to help shape the future of the legislation that provides an important source of revenue to build growth related infrastructure and therefore to sustain the pace of growth currently being experienced by Vaughan.

The report also speaks to the Organizational Excellence theme of "Managing Growth and Economic Well Being" as the planning and appeals system in Ontario directly affect the City's ability to bring the City's Official Plan to fruition.

Regional Implications

The Region of York is also preparing responses for this consultation process. City staff has been in contact with Region staff and every effort will be made to ensure that consistent response themes are provided to the province and that both the upper and lower tier municipal perspective is presented. Given the very short timeframe for consultation it is not anticipated that one fully coordinated response approved by both City and Regional Council will occur in time for the January 10, 2014 input deadline.

Conclusion

The province has announced a consultation process on reform to the Development Charge, Land Use Planning and Appeal systems in Ontario that will last from late October 2013 to early January 2014. City staff will be preparing positions on the issues raised through the consultation papers and will bring this in the form of a communication to Council on December 10, 2013.

Report Prepared By:

Lloyd Noronha, Director of Development Finance & Investments Ext 8271
Roy McQuillin, Manager of Policy Planning Ext 8211