

Special Committee of the Whole (Working Session) Report

DATE: Wednesday, November 23, 2022

WARD(S): ALL

TITLE: BILL 23, MORE HOMES BUILT FASTER ACT, 2022

FROM:

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ACTION: FOR INFORMATION

Purpose

To provide an overview of Bill 23, the *More Homes Built Faster Act, 2022* and to seek Council's direction on any response to the proposed legislative amendments to be submitted on behalf of the City. The Bill proposes changes to several Acts, including the *Planning Act*, the *Development Charges Act, 1997*, the *Ontario Land Tribunal Act, 2021*, the *Conservation Authorities Act*, and the *Ontario Heritage Act* which will impact the City's planning application process and development finances.

Report Highlights

- Bill 23 is the latest proposed legislative amendment in response to the Province's newest Housing Supply Action Plan.
- The Province is aiming to create 1.5 million new homes in the next 10 years which will be facilitated through new legislation such as Bills 109, 39 and 23.
- Amendments to the *Planning Act* are proposed which would effectively remove York Region as approval authority for the City's official plan and amendments.
- The Province is receiving comments on Bill 23 until November 24, 2022.
- There are significant financial impacts to the City's development charges through proposed exemptions and development charge reductions.

Recommendations

1. That this report be received.

Background

Bill 23, *the More Homes Built Faster Act*, was introduced by the Minister of Municipal Affairs and Housing on October 25, 2022. It is described by the Ministry as an action to advance the province's plan to address the housing crisis by building 1.5 million new homes over the next 10 years. This Bill supports the Province's newest Housing Supply Action Plan with the goal of increasing housing supply and providing attainable housing options. Bill 23 is one of the latest proposed legislative amendment that has been recently introduced to address housing supply in Ontario. Earlier this year, Bill 109, *More Homes for Everyone Act, 2022* received Royal Assent on April 14, 2022.

Bill 23 is an omnibus bill that is proposing amendments to the following Acts:

- *Planning Act*
- *Development Charges Act, 1997*
- *Ontario Land Tribunal Act, 2021*
- *Conservation Authorities Act*
- *Municipal Act, 2001*
- *Ontario Heritage Act*
- *City of Toronto Act, 2006*
- *New Home Construction Licensing Act, 2017*
- *Ontario Underground Infrastructure Notification System Act, 2012*

Bill 23 (Schedule 10) also proposes new legislation, the *Supporting Growth and Housing in York and Durham Regions Act, 2022* to develop, construct and operate the York Region sewer works project.

To date, Bill 23 received first reading on October 25, 2022 and second reading on October 31, 2022. It is currently being considered by the Standing Committee on Heritage, Infrastructure and Cultural Policy. The Bill is posted on the Environmental Registry of Ontario for commentary until November 24, 2022. Staff have prepared a presentation to outline the key amendments being proposed in Bill 23 for the purposes of informing Council and to obtain instructions on any response to be filed on behalf of the City on the Environmental Registry of Ontario.

Previous Reports/Authority

None.

Analysis and Options

Bill 23 proposes significant amendments to the land use planning process and changes that are proposed to reduce the costs and fees of home construction. From the amendments being proposed, those most relevant and impactful to the City are detailed in the presentation. Among the amendments detailed in the presentation, Staff wish to highlight the following:

Residential intensification permitting three units per house is proposed.

There are amendments which have the objective of building more homes through permitting “gentle density” of allowing up to three residential units on a lot. Bill 23 proposes as-of-right subtle intensification for existing houses, semi-detached house, rowhouses, and lots zoned for residential use. These properties will be able to increase the number of residential units to a total of three without the need for re-zoning or a minor variance approval. These properties can maintain the existing parking and will not need to correspondingly increase their provided parking to reflect any increase in units. Parkland dedication, or cash-in-lieu thereof, will not be required for the increase in the residential units. Furthermore, the increase in residential units is exempt from development charges and community benefit charges.

Affordable housing and attainable housing amendments are proposed.

Bill 23 provides definitions for affordable housing and attainable housing. These types of housing will be exempt from development charges, community benefits charges and parkland dedication to encourage their supply.

Reduced site plan control matters and the elimination of public meetings for draft plans of subdivision are proposed.

Site Plan control is proposed to be eliminated for developments with 10 or fewer residential units. Furthermore, the general scope of site plans will be reduced by eliminating the exterior design as a matter of site plan control. Bill 23 also proposes to eliminate public meetings from the draft plan of subdivision approval process.

Third party appeals have been eliminated for new official plan, official plan amendments and site-specific official plan amendment applications.

Only the applicant, municipality, certain public bodies and specified persons, and the Minister will be entitled to appeal decisions to the Ontario Land Tribunal. Any appeals that have not been assigned a hearing date as of October 25, 2022 will be dismissed.

The changes to third-party appeals is meant to reduce the backlog of cases at the Ontario Land Tribunal.

Financial Impact

Deductions and exemptions are proposed for development charges (DC).

Given the scope of this omnibus bill, the key proposed amendments in Bill 23 are summarized in the presentation, together with staff commentary on the implications of the proposed amendment to the City.

Of note is that there are significant financial implications that are being proposed with the Bill 23 amendments to the *Development Charges Act, 1997*. For an existing detached house, semi-detached house, or rowhouse or parcel of land on which residential use is permitted (but not as an ancillary use) there will be as-of-right permission to have up to three total residential units. The increase in the number of units will be exempt from development charges.

Also proposed to be exempt from development charges as part of Bill 23 are the following housing developments:

- “affordable residential units” and “attainable residential units”, which are defined in the *Development Charges Act, 1997*
- Non-profit housing development
- Affordable housing units required to be included in a development or redevelopment pursuant to an inclusionary zoning by-law

Furthermore, Bill 23 will change the way development charges will be calculated due to a 5-year phase in of development charges for new development charge by-laws approved after June 1, 2022, beginning with a 20% reduction in the first year which is gradually lessened until the full rate applies in year 5. Additional development charge discounts are proposed on rental housing developments or 4 or more units, with discounts of 25% on three or more bedroom units, 20% on two bedroom units and 15% on all other rental units. These discounts and mandatory phased adjustments will result in decreased revenue collections for the City and reduce the City’s ability to fund growth related capital projects.

Bill 23 further amends the *Development Charges Act* by adjusting how the development charge rates are calculated by adjusting the service level history from 10 years to 15 years and extending the maximum DC by-law period from 5 years to 10 years. Changing the service level period to 15 years, has the affect of reducing the City’s overall funding envelope, adding pressure on the ability to collect the necessary funds to complete growth related capital projects.

The proposed amendments also remove growth related studies and land acquisition as DC eligible costs. Land acquisition is critical in capital development planning and not being able to use DCs to pay for some or all DC services will have a negative financial impact on the City. These funding implications may result in some unintended consequences such as delayed infrastructure delivery or shifting the financial burden over to the tax base, unless new funding sources can be achieved.

Deductions and exemptions are proposed for community benefits charges (CBC).

Bill 23 proposes to add further restrictions on the Community benefits charges that the City is able to collect on residential developments that are greater than 5 storeys and 10 or more residential units. The bill proposes to exempt CBCs on affordable and attainable units from the land evaluation used to determine the CBC amount. Also, the 4 percent cap is to be further reduced by a ratio of gross floor area on new development to any existing gross floor area on the lands. These restrictions will also reduce the City's ability to collect using this growth funding tool for new growth-related capital projects.

Deductions and exemptions are proposed for Parkland Dedication and Cash in Lieu Payments (CIL).

Bill 23 proposes changes that will reduce a municipality's ability to provide secure land citywide and local parks and reduces the maximum Cash-in-Lieu of parkland collection. Proposed provisions include but are not limited to:

- Reducing the maximum alternative dedication rate to 1 ha/600 units for land and 1 ha/1000 units for cash in lieu. Currently, the rate is 1 ha/300 units for land conveyed and the monetary equivalent of 1 ha/500 units for cash-in lieu. Effectively, the proposal halves the current maximum land and cash-in-lieu rates, thereby reducing the cost of high-density development by reducing the amount of parkland required for these developments.
- The maximum amount of land that can be conveyed or paid in lieu is capped at 10% of the land or its value for sites under 5 ha, and 15 % for sites greater than 5 ha. This cap may supersede the alternative revised rates of 1:600 for land or 1:100 for CIL.
- Encumbered parkland/strata parks, as well as privately owned public spaces (POPS) to be eligible for parkland credits. Landowners can identify land they intend to provide for parkland. Disputes about the suitability of developer-identified land for parks & recreational purposes would be resolved by the

Ontario Land Tribunal (OLT). Municipalities may enter into agreements with developers governing POPs which can be registered on title. The Parkland Dedication By-law 168-2022 provides for the ability for developers to seek 100% credit for POPS or encumbered lands subject to meeting criteria and entering into agreements with the City.

- Freezing parkland rates at the time of zoning/site plan application. Parkland rates would be based on the rates in effect at the time of zoning/site plan application instead of at the time of building permit issuance (i.e., earlier in the development process). Once the application is approved, parkland rates remain frozen for two years. If a building permit is not issued within the 2-year period, the parkland rate in effect at the time the building permit is issued would apply.
- Affordable housing units and Inclusionary Zoning units would not be subject to parkland dedication requirements. While a development may still be subject to parkland requirements, a pro-rated discount would be provided to account for affordable housing units. The exemption would apply to any unit that meets the following:
 - Affordable Housing - Any residential unit that is 80% of the average resale purchase price for ownership or 80% of the average market rent (AMR) for rental, for a period of 25 years. The Minister, through a bulletin published at least annually, would set the average market values/rents for geographic markets.
 - Affordable Inclusionary Zoning units – Any residential unit that meets the definition outlined in proposal 19 –Inclusionary Zoning.
 - Non-profit housing developments – Entire residential developments exempt. Would be in effect immediately at the time of Royal Assent.
 - For-profit housing developments – Any residential unit that meets the proposed definition of affordability.
 - Attainable housing - will be defined in future regulations
 - Additional housing units – exempt up to three additional residential units within the same lot including standalone units.

The Parkland Dedication By-law 168-2022 provides for exemptions on Affordable housing as defined by the Province. However, the By-law does not exempt standalone units within the same lot. The additional categories introduced by Bill 23 further expands on current list of exemptions.

- Parkland rates frozen as of the date that a zoning by-law or site plan application is filed. Freeze remains in effect for two years following approval. If no building

permits are pulled in that time, the rate in place at the time the building permit is pulled would apply.

- Requiring municipalities to develop a Parks Plan before passing a parkland by-law. Currently, municipalities are required to develop a Parks Plan before developing official plan policies that are a prerequisite to being able to use the alternative rate. This would be a new requirement for municipalities that only use the standard parkland dedication rate. However, this would not apply to by-laws already passed.
- Clarifying legislative rules so that existing residential units are fully credited toward parkland requirements (i.e., parkland requirements could not be imposed on existing developments and units).
- Municipalities will be required to spend or allocate 60% of parkland reserve funds at the start of each year starting in 2023.

Broader Regional Impacts/Considerations

The Regional Municipality of York has been identified as an “upper-tier municipality without planning responsibilities” in Bill 23. Amendments are proposed to the *Planning Act* to relinquish the upper-tier municipalities without planning responsibilities from being the approval authority for lower-tier municipalities’ new official plans and official plan amendments. This will mean that York Region will no longer approve the City’s new official plans and amendments to the current official plan; instead, the Minister is proposed to be the approval authority in respect of the approval of an official plan under s. 17 of the *Planning Act* (unless otherwise provided).

Conclusion

Given the implications to the City that Bill 23 proposes to have on the development finances and planning application processes, City staff from Planning and Growth Management; Corporate Services, City Treasurer and Chief Financial Officer; Infrastructure Development; and Legal Services portfolios will be preparing comments on Bill 23 for submission to the Environmental Registry of Ontario once Council direction is received.

For more information, please contact: Effie Lidakis, Acting Deputy City Solicitor, Planning and Real Estate Law, extension 8851

Attachments

None.

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