

Committee of the Whole (2) Report

DATE: Monday, January 25, 2021

WARD(S): ALL

**TITLE: BILL 197 - THE COVID-19 ECONOMIC RECOVERY ACT -
ENHANCED MINISTERIAL POWERS FOR MINISTER'S ZONING
ORDERS - CITY OF VAUGHAN FEEDBACK TO THE MINISTRY
OF MUNICIPAL AFFAIRS AND HOUSING**

FROM:

Nick Spensieri, Deputy City Manager, Infrastructure Development

ACTION: DECISION

Purpose

To respond to the Province's invitation to provide feedback regarding amendments to the Planning Act introduced through Bill 197, the *COVID-19 Economic Recovery Act, 2020*, which enhanced the powers of the Minister of Municipal Affairs and Housing to issue Minister's Orders to address site plan matters and apply inclusionary zoning.

Report Highlights

- Amendments to section 47 of the *Planning Act* introduced through Bill 197 became effective on July 21, 2020.
- The amendments give the Minister enhanced powers to: require inclusionary zoning for affordable housing in zoning orders; remove municipal use of site plan control; and amend that zoning orders that use any of the enhanced powers without advance public notice.

Recommendations

1. That Staff be authorized to provide feedback to the Ministry of Municipal Affairs and Housing that is consistent with the following:

- a) That Vaughan Council supports the requirement for inclusionary zoning where the Minister has issued a Minister's Zoning Order;
- b) That Vaughan Council recommends the Ministry of Municipal Affairs and Housing repeal the authority granted to the Minister, to supersede municipal site plan authority, where the Minister has issued a Minister's Zoning Order; and
- c) That Vaughan Council does not support the enhanced powers for the Minister to make amendments to Minister's Zoning Orders that use any of these enhanced authorities without first giving public notice.

Background

The Ministry of Municipal Affairs and Housing ('MMAH') is inviting comments concerning changes to legislative provisions in section 47 of the *Planning Act* effective as of July 21, 2020 that were introduced through Bill 197, the *COVID-19 Economic Recovery Act, 2020* ("Bill 197"). The MMAH is interested in hearing feedback as to whether the amendments should be expanded, repealed or otherwise adjusted. Comments are to be provided to the MMAH by January 30, 2021.

Bill 197 provided enhanced powers to the Minister to address site plan matters and apply inclusionary zoning as part of a Minister's Zoning Order ('MZO')

The Bill 197 amendments to section 47 of the *Planning Act* give the Minister of the MMAH ('Minister') enhanced order-making powers relating to "specified land". "Specified land" is defined as land other than land in the Greenbelt Area within the meaning of the *Greenbelt Act, 2005* (which includes areas covered by the Oak Ridges Moraine Conservation Plan, areas covered by the Niagara Escarpment Plan and areas described in the regulations made under the *Greenbelt Act, 2005*). The enhanced order-making powers include powers in relation to site plan control and inclusionary zoning. The enhanced authority allows the Minister to:

- Exercise any of the powers conferred on council with respect to inclusionary zoning in respect of the specified land described in the order;
- Provide that site plan control does not apply in respect of the specified land described in the order;
- Require that a person who owns all or any part of the specified land described in the order enter into one or more agreements with the municipality regarding site plan matters.

The above powers were previously limited to municipalities and were beyond the scope of the pre-Bill 197 Minister's Zoning Order ('MZO') regime and the Minister's powers.

The enhanced authority also allows the Minister to make amendments to Minister's Zoning Orders that use any of these enhanced authorities without first giving public notice.

Among other things, the enhanced powers provide the Minister with the ability to:

- require the inclusion of affordable housing units in the development or redevelopment of specified lands, buildings or structures; and
- require that the owner of the specified land to enter into an agreement with a municipality related to development and conditions required for the approval of plans and drawings in a site plan control area and give direction to the parties concerning the agreement.

The enhanced powers provide that an agreement is of no effect to the extent that it does not comply with the Minister's direction, whether the Minister's direction is given before or after the agreement has been entered.

Previous Reports/Authority

N/A

Analysis and Options

Staff recommend Vaughan Council support the requirement for inclusionary zoning where the Minister has issued an MZO

Inclusionary Zoning ('IZ') is a land-use planning tool for municipalities to require new development or redevelopment to maintain a certain portion of residential units as affordable housing. Before City Council can consider an IZ policy, City staff must complete required background work, including preparing a demographic and housing needs analysis, financial impact assessment, undertaking public consultations, and drafting Official Plan policies.

The recently enacted changes to section 47 of the *Planning Act* provide the Minister with authority, as part of an order zoning land outside the Greenbelt Area, to use inclusionary zoning to require affordable housing units in proposed developments. These changes would also allow the Minister to require agreements between the landowner and the municipality or the landowner and the Minister to address inclusionary zoning matters and to ensure continued compliance with affordable housing requirements.

Staff recommends Council support the requirement for IZ, where an MZO has been issued. The enhanced authority supports the provision of affordable housing where an

MZO has been issued for the purpose of achieving Provincial, Regional and municipal objectives related to affordable housing. An IZ provision in an MZO would clearly establish the Minister's intent to provide affordable housing as it relates to a particular development to be implemented through the development process.

Staff recommend Council not support the authority for the Minister to supersede municipal site plan authority, where the Minister so provides in an MZO and recommend this authority be repealed

Site plan is an optional tool under the *Planning Act* that allows the council of a local municipality to control certain matters on and around a site proposed for development. Vaughan Council has enacted Site Plan Control By-law 123-2013 to implement site plan control for most classes of development (excluding employment buildings on internal lots and detached residential units). This control over detailed site-specific matters, such as access (for pedestrians and vehicles), walkways, lighting, waste facilities, landscaping, drainage, and exterior design, ensures that a development proposal is properly planned and designed, fits in with the surrounding uses and minimizes any negative impacts.

The recent amendments to section 47 of the *Planning Act* allow the Minister to address site plan matters in areas covered by an MZO, where needed. The new authority to address site plan matters could be used in conjunction with a new MZO or an amendment to an existing MZO.

This authority, if utilized by the Minister, would supersede municipal site plan authority, where the Minister so provides in an MZO. Through the MZO the Minister could require a municipality and a development proponent (or landowner) to enter into an agreement dealing with matters related to site plan control (i.e., the same types of matters that may be addressed through typical site plan control). However, the Minister will be able to give binding direction outside the zoning order concerning the agreement to scope the matters that need to be addressed or to specify how the matters are to be addressed.

Staff recommend Council advise the MMAH that it does not support the power granted to the Minister to supersede the municipal site plan authority. The community planning process should involve a broad-based citizenry, including public and private sector leaders, community interest groups and multi-disciplinary professionals. A positive relationship between development and the making of community should be established through a citizen-based participatory planning and design process.

The municipal Council, informed through a site plan process with participation from local citizens, stakeholders, municipal planning professionals and other disciplines (e.g. urban design, engineering, etc.). is best positioned to understand the local context,

vision and aspirations for the community and make decisions regarding site plan approval.

The matters considered through the site plan process are shaped through municipal Official Plan policy, zoning by-laws, urban and architectural design guidelines each guiding the vision for the development of the local community and responsive to the local planning content. The enhanced Minister's power would further limit, where a MZO has been issued, public and municipal planning participation and local municipal decision making in the site plan process. For the same reasons, staff does not support the enhanced powers for the Minister to make amendments to an MZO that use any of these enhanced authorities without first giving public notice.

Financial Impact

The use of the enhanced Minister's powers, if utilized by the Minister, to supersede municipal site plan authority, where the Minister so provides in an MZO would result in the loss of Site Development Application fees received by the City charged to recover the cost related to processing these applications. The dollar amount would depend on how often the enhanced MZO power related to site plan approval is utilized and for the type of development (e.g. employment, commercial, residential) as applications fees vary for different classes of development.

Broader Regional Impacts/Considerations

N/A

Conclusion

Staff have reviewed the enhanced powers and recommend the MMAH be advised that Vaughan Council supports the requirement for inclusionary zoning in an MZO, where an MZO is issued, as it will clearly identify the Minister's intent to provide affordable housing in the development. However, Staff recommend Vaughan Council also advise the MMAH that the authority to supersede municipal site plan authority is not supported and should be repealed, as municipal Councils are best positioned to make decisions regarding site plan approval.

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