
TO: GENERAL COMMITTEE

SUBJECT: SMART GROWTH FOR OUR COMMUNITIES ACT UPDATE

WARD: ALL

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EXTENSION # 5135

SUBMITTED BY: ANDREA BOURRIE, RPP
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MANAGEMENT

CHIEF ADMINISTRATIVE OFFICER APPROVAL: C. LADD, CHIEF ADMINISTRATIVE OFFICER

RECOMMENDED MOTION

1. That staff be directed to implement the actions outlined in Staff Report in accordance with the *Smart Growth for our Communities Act, 2015*.
2. That the Terms of Reference for Heritage Barrie and the Seniors Advisory Committee be revised to fulfill the requirements of the Planning Advisory Committee as required under the *Smart Growth for our Communities Act, 2015* and that the matter of a Planning Advisory Committee be reviewed as part of the 2018 to 2022 term of Council's Committee structure.
3. That the authority and discretion to permit applications for minor variance of Zoning By-law Amendments during the "2 Year Time Out" be delegated to the Director of Planning and Building Services, or their delegate subject to the condition that site specific conditions approved as part of the rezoning cannot be revisited through an application for a minor variance.
4. That all Zoning By-law Amendments be permitted to be considered during the "2 Year Time Out", but Official Plan Amendments (OPAs) require a site-specific resolution to proceed.

PURPOSE & BACKGROUND

Report Overview

5. The purpose of this Staff Report is to provide Council with an update on the Province's changes to the *Planning Act* through the *Smart Growth for Our Communities Act, 2015* and to recommend actions that should be taken by the City to conform to this legislation.
6. This staff report is confined to the *Planning Act* changes and does not address any of the changes to the *Development Charges Act*.
7. The *Smart Growth for Our Communities Act, 2015* is intended to give residents a greater say in how their communities grow, to make the planning and appeals process more predictable, to give municipalities more independence, and to make it easier to resolve disputes at the community level.

8. The changes made through the *Smart Growth for Our Communities Act* are the result of a review of the land use planning and appeal system, and a parallel review of the development charges system, to make them more responsive to the changing needs of Ontarians. The review commenced in fall 2013 and included province-wide consultations.
9. The *Smart Growth for Our Communities Act, 2015* (Bill 73) received Royal Assent on December 3, 2015 and was fully in force and effect as of July 1, 2016. These proposed actions bring the city in conformity with the Act.

ANALYSIS

The following is a list of amendments to the *Planning Act* as a result of the *Smart Growth for Our Communities Act, 2015* that are most relevant to the City of Barrie and discussion regarding how these amendments impact the Municipality.

Requirement to Explain Effect of Public Input [ACTION TAKEN]

10. Municipalities and approval authorities are now required to explain the effect of public input, if any, on planning decisions. The intent is to provide more transparency and consistency in decision-making across all Ontario municipalities.

The new legislation allows for local discretion in how to explain effect of public input, if any, on land use decisions. Provincial Staff have confirmed that the City has complete autonomy regarding how this is implemented. Standard wording has recently been incorporated into all motions regarding planning decisions that provide a brief synopsis that refers back to the Staff Report for detail. Standard wording generally states:

“That the written and oral submissions received relating to this application, have been, on balance, taken into consideration as part of the deliberations and final decision related to approval of the application as amended, including the following matters raised in those submissions and identified within Staff Report PLNXXX-XX: [the increased density, building height and shadowing impacts, location of parking spaces, drainage and stormwater management impacts, active transportation, adherence to Zoning By-law standards, school capacity and potential light pollution/spillage]”.

This was implemented immediately after passage of the legislation.

Planning Advisory Committees (PACs) [ACTION REQUIRED]

11. All upper-tier municipalities and those single-tier municipalities in southern Ontario (except Township of Pelee) are required under the new legislation to establish PACs. All PACs must have at least one citizen member. The City of Barrie continues to have flexibility and/or discretion to determine how PACs are most effective within the community: Council can determine which planning matters the PAC can review/provide input; the City can utilize existing advisory committees to meet requirement for PAC.

Staff recommend that the Terms of Reference for Heritage Barrie and the Seniors Advisory Committee be formally revised to fulfill this requirement as currently both of these committees play a larger role in the review of planning policy. It should be noted that the PAC recommendations are not binding. This interim solution is recommended for implementation immediately and would be revisited as part of the 2018 to 2022 term of Council. If Council approves this direction, the Terms of Reference would be modified by Legislative and Court Services.

Staff recommend that the PACs be available at Council's discretion to provide further input regarding matters where Council finds that it is challenging to make a decision. Council could ask the PACs to review the matter and report back to either the Community Services Committee or the Infrastructure, Investment and Development Services Committee, as appropriate, with a recommendation.

Requirement to Include Public Consultation Policies in Official Plans [ACTION REQUIRED]

12. Municipal Official Plans must include a description of measures and procedures for informing and obtaining views of the public on OPAs, zoning by-laws, plans of subdivision and consents. A public consultation section can be incorporated into the OP as a Housekeeping Amendment along with alternative notice provisions during the Early 2017. Staff recommend the following wording:

GOALS:

- To actively encourage public participation in planning decisions and development approvals.
- To provide ample opportunity for the public to review the information on proposed plans and amendments by giving notice of public meetings in accordance with the requirements of the *Planning Act*.

Requirement to Submit Draft Official Plan/Official Plan Amendment (OP Review) to Ministry of Municipal Affairs [ACTION REQUIRED]

13. Municipalities are now required to provide copy of a proposed OP/OPA to MMA at least 90 days prior to notice of public meeting (where MMA is the approval authority and the OP is not exempt from approval). The intent is to ensure a streamlined approval process with provincial comments identified early in the process to allow time to resolve issues prior to adoption and to enable provincial comments to be available at the public meeting.

Staff Reports regarding a new OP and OPAs that are a result of an 5-year OP Review, will build in a 90 Day Provincial review time into the schedule prior to issuing a notice of public meeting.

10 -Year Review Cycle for New Official Plans [ACTION REQUIRED]

14. New Official Plans must be reviewed and revised, as necessary, within 10 years of coming into effect. The 10-year update cycle applies to new official plans. A 5-year review cycle continues to apply in situations where an official plan is being updated and not replaced in its entirety.

Staff will aim to undertake a new OP at the time of the next Provincial Policy update so that future 10-year review cycles line up with the 10-year provincial harmonized review.

Built Environment Policies in Official Plans [ACTION REQUIRED]

The new legislation provides direction that official plans are to contain policies related to the built environment. As the Province has now articulated that Built Form is a Provincial Interest OP policies must provide direction on built form that is well designed, encourages sense of place, provides public spaces that are of high quality, safe, accessible, attractive and vibrant. Staff will need to expand on Built Form policies as part of the OP review targeted to be completed by late 2017. Staff will explore general and area specific built form direction.

Some built form considerations include:

- Bringing buildings closer to the Street to improve Streetscape
- Avoiding blank walls

- Clearly defining building entrances for public buildings
- Improving the pedestrian experience by providing landscaped street edges and minimizing vehicle crossover points.
- Giving equal consideration to all facades that front onto streets
- Ensuring front yard setbacks of new development are aligned with other existing building setbacks along the block
- Arranging buildings to overlook streets, provide clear separation between the public and private realm, and minimizing the potential for pedestrian and vehicle conflict

Reporting for Density Bonusing and Parkland Fees [ACTION REQUIRED]

15. Municipal treasurers are now required to provide council with an annual financial statement that is available to the public, related to density bonusing and parkland monies. The Minister may require a copy of the statement on request.

Currently the Finance department tracks parkland fees, going forward as density bonusing applications are administered the City will need to track this revenue as well.

Parks Plans Requirement [ACTION REQUIRED]

16. Requirement for municipalities to develop parks plans, in consultation with school boards and, as appropriate, the public, prior to adopting new and/or updated alternative parkland official plan policies. The City's Parks Planning department has already prepared a Parks and Recreation Strategic Master Plan, which was updated in 2013 and will be reviewed again in 2017.

2-Year "Time-out" – New Official Plans and Zoning By-laws [DISCRETIONARY]

17. The *Planning Act* now prohibits privately-initiated applications to amend a new official plan or zoning by-law for 2 years, unless supported by municipality. The 2-year "time-out" only applies to new official plans / new comprehensive zoning by-laws. The City of Barrie can pass a resolution to allow applications to be considered during the "time-out" and the resolution can relate to either site-specific applications, a class of applications or applications generally.

Staff suggests that Council pass a resolution to permit all Zoning By-law amendments to be considered during the "time-out", but OPAs require a site-specific resolution to proceed. Staff could be given the authorization to process OPA applications upfront and bring forward a motion to permit an exception to the time out in conjunction with the approval in an effort to keep applications that have merit moving through the process.

The City's Official Plan is our highest Planning Vision Document. It is the roadmap to our future. Deviations to the City's vision should not be taken lightly. The intent of this "time-out" from the Province is to give greater control to municipalities to implement their new official plan or zoning by-law without having to contend with immediate requests/pressures for amendments. It is reasonable to proceed with Zoning amendments as it could be dealing with refinements that are necessary to implement the OP.

2-year "Time-out" for Minor Variances [DISCRETIONARY]

18. The *Planning Act* now removes the ability to apply for a minor variance for 2 years following the passing of an applicant-initiated zoning by-law amendment. The intent is to give greater control to municipalities by preventing zoning provisions that council determines to be appropriate from being reversed through the minor variance process for 2 years.

The City of Barrie continues to have ability, through resolution, to allow minor variance applications to proceed during this “time-out”. Staff recommend the authority and discretion to permit applications for minor variance of properties that have been the subject of a site-specific zoning within two years of the by-law being amended be delegated to the Director of Planning and Building Services, or their delegate.

This authority could be scoped such that provisions directly expressed by Council during the rezoning process could not be challenged. The discretion to permit a minor variance application could relate to relief from the zoning by-law that is technical in nature to address unforeseen issues that arise from the Site Plan process.

Enhanced Alternative Notice Provisions [DISCRETIONARY]

19. Municipalities are now authorized to expand alternative notice procedures for additional planning matters. This would allow the City to tailor notice procedures (e.g. who receives notice beyond minimum, how notice is given, and the timing for public meetings) through the use of the alternative notice provisions for a broader list of processes and application types (including notices of complete application and open houses, and notice procedures for plans of subdivision and consents).

Staff suggests email be used as an additional form of notice when an email address is available. Staff will continue to encourage members of the public at Neighbourhood meetings to email staff to be put on a notification list thereby addressing past concerns of legibility. This can be implemented immediately. Further, Staff suggests that the current policy relating to provision of notice be reviewed to consider of email notification and a report brought forward for General Committee’s consideration. It should be noted that the City’s current policy regarding notification exceeds Provincial requirements.

Provincial Policy Statement (PPS) Review Cycle - 10 Years [DISCRETIONARY]

20. The PPS review cycle has changed from 5 to 10 years. The harmonized Provincial review cycle means that conformity exercises could be timed with new OP requirements. In other words, Planning Staff should prepare new OP’s immediately after the Provincial Review Cycle.

Protection of Employment Lands [DISCRETIONARY]

21. Municipalities are no longer required to revise their employment land policies and/or designations at time of official plan updates. The intent is to prevent potential erosion of employment land supply through OMB appeals of employment land policies / designations at the 5-year update.

Staff may need to revise employment land policies in OP as a result of the Growth Plan review, which is currently proposing to require municipalities to identify and designate suitable lands near “major goods movement facilities and corridors” as prime employment areas, but that will be the last review mandated.

The OP Review of employment land policies should focus on excluding retail from these “Prime Employment Areas” to ensure these lands are reserved for high quality careers. The OP review is scheduled to be completed by late 2017.

90-Day “Time-Out” for Official Plan / Official Plan Amendment [DISCRETIONARY]

22. Approval authority and adopting municipality and/or applicant can agree to pause up to 90 days in 180-day decision timeline for approving Official Plans and/or OPAs. This planning tool is now in effect and can be used in the future if the appropriate opportunity arises.

Development Permit System (DPS) [DISCRETIONARY]

23. The DPS name has been changed by the new legislation to Community Planning Permit System (CPPS). Staff need to be mindful of this name change in the preparation of policy documents as the City is proposing to implement this system.

5-Year "Time-Out" for Community Planning Permit System [DISCRETIONARY]

24. The *Planning Act* now provides direction that no privately-initiated amendments to CPPS are permitted for 5 years, unless supported by municipality. Previously applications to amend DPS OP policies and/or DP By-laws could be made at any time. The 5 year time-out would commence from the day the CPPS by-law is passed.

Limit Open-Ended Appeals for Non-Decisions [DISCRETIONARY]

25. The *Planning Act* now allows approval authorities to establish an optional time limit for additional appeals, following an appeal of a non-decision of OPs and/or OPAs. The intent is to streamline OMB hearings and allow for focusing of appeals earlier in the process, facilitating effective preparation for hearings.

This new optional tool provides the City of Barrie, after receiving a notice of appeal, the authority to give a notice establishing a 20-day time limit (i.e., limit the open-ended appeal window) to appeal a non-decision of OPs and/or OPAs. Once 20-day window closes, no additional appeals of non-decisions may be permitted on any part of the OP. If the City uses this new tool, notice needs to be provided to all those that would have received a notice in the case of a decision.

Alternative Dispute Resolution (ADR) - 60-day "Time-Out" [DISCRETIONARY]

26. The *Planning Act* now allows municipal council or approval authority (as the case may be) to use alternative dispute resolution (ADR) techniques to attempt to resolve disputes when a notice of appeal is filed. If municipal council and/or approval authority chooses to use ADR, notice of its intention must be provided to all appellants. The *Planning Act* also sets out who will be given an invitation to participate in the dispute resolution. Consent from the appellants for the ADR process to be initiated is not required; however, participation of those who receive these invitations is voluntary.

This new process can help increase understanding and uptake of ADR as dispute resolution tool and enhances opportunities to resolve disputes locally before appeals are forwarded to OMB, which can help avoid potential for lengthy and costly hearings. However, ADR will only work if all parties are willing to participate.

Alternative Parkland Dedication Rate for Cash-in-lieu Dedications [DISCRETIONARY]

27. The maximum alternative parkland rate changes from 1 ha for every 300 units to 1 ha for every 500 units for cash-in-lieu. Previously, the maximum alternative parkland dedication rate was 1 hectare for every 300 units for both land dedications and cash-in-lieu. The intent is to incent acquisition of land for parks, rather than collecting money.

Staff suggests incorporating a general objective into the OP that articulates preference for land as oppose to cash-in-lieu.

Additional Criteria for Minor Variances [DISCRETIONARY]

28. There is new authority for the Province or municipalities to establish additional minor variance criteria through provincial regulation or a municipal by-law respectively. Committees of Adjustment and OMB would assess applications based on:
- The existing 4 tests in section 45 of *Planning Act* (the application is minor, is desirable for the appropriate development of the land/building/structure, and meets the general intent and purpose of the official plan and zoning by-law)
 - any additional criteria in Lieutenant Governor in Council regulation
 - any local criteria established through municipal by-law

Local criteria will include defining “minor in nature” as a 10% deviation from the zoning standards within the Zoning by-law and will provide special consideration for approving variances for legal non-conforming conditions.

Requiring Use of CPPS [DISCRETIONARY to PROVINCE]

29. The new legislation now provides authority to MMA Minister or upper-tier municipality to require local municipality to establish CPPS for purposes specified by regulation. Although no regulations to this effect are contemplated at this time, the Province is reserving the right to require Barrie to implement a CPPS. Staff are getting in front of this and exploring appropriate geographic locations for CPPS within the City at an early stage.

Complete Application Requirements for Official Plan Amendments [CLARIFICATION]

30. Change to clarify the concept of transition for OPAs in general. The new legislation provides direction that applications for OPAs are subject to previous policies and/or legislation only if the complete application was made prior to transition date. This change removes potential ambiguity by clarifying that a requested OPA is “transitioned” only if the request included required supporting material prior to the applicable transition date (i.e. only if the complete application was made prior to transition date).

No Appeal of Specific Provincial Approvals [NO ACTION REQUIRED]

31. The *Planning Act* now prohibits appeals of Official Plans and OPAs that implement specific provincially-approved matters:
- Boundary of a vulnerable area as defined in *Clean Water Act, 2006*
 - Boundary of Lake Simcoe watershed
 - Forecasted population and employment growth in accordance with the Growth Plan for the Greater Golden Horseshoe

No Appeal of Second Units [NO ACTION REQUIRED]

32. The new legislation now removes ability to appeal second unit policies at time of an OP update. Therefore second unit policies are not appealable at any time.

No Ability to Appeal Entire New Official Plan [NO ACTION REQUIRED]

33. The new legislation removes the ability for an appellant to appeal an entire OP. This applies when Official Plans are subject to a full, comprehensive update, resulting in a new OP; OPAs, including s. 26 OPAs, remain appealable in their entirety.

ENVIRONMENTAL MATTERS

34. There are no environmental matters related to this recommendation.

ALTERNATIVES

35. There is one alternative available for consideration by General Committee:

Alternative #1 General Committee could deny the motion and not support the requested implementation of the *Smart Growth for our Communities Act, 2015*.

This alternative would result in the City not conforming to Provincial legislation and the City would need to explore an alternate solution to meet the objectives of the Act.

FINANCIAL

36. There are no immediate financial implications for the Corporation resulting from the proposed recommendations beyond Staff time.

LINKAGE TO COUNCIL STRATEGIC PRIORITIES

37. The recommended motion to direct Staff to implement actions of this report in accordance with the *Smart Growth for our Communities Act, 2015* is related to the Council Strategic Priority "Build a community that respects both current and future taxpayers" because the purpose of these actions is to give residents a greater say in how their communities grow, to make the planning and appeals process more predictable, to give municipalities more independence, and to make it easier to resolve disputes at the community level.