

April 1, 2021

Planning Consultation

Provincial Planning Policy Branch
777 Bay Street, 13th floor
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VIA Email

PlanningConsultation@ontario.ca

RE: Environmental Registry of Ontario Proposal 019-3233 Comments

Please accept this letter as the City of Barrie's response to Environmental Register of Ontario (ERO) Proposal 019-3233 regarding: Proposed changes to Minister's zoning orders (MZO) and the *Planning Act*.

Upon review of the ERO posting, it is our understanding that Schedule 3 of Bill 257 (*Supporting Broadband and Infrastructure Expansion Act, 2021*) will introduce an amendment to the *Planning Act*. This amendment would allow existing and future MZOs to ***not*** be consistent with the Provincial Policy Statement (PPS). The proposed changes would permit the Minister of Municipal Affairs to take other considerations into account when making decisions to support strong communities, a clean and healthy environment and the economic vitality of the Province.

Staff are of the opinion that the proposed amendment is deeply problematic as it erodes the role of the PPS as the foundation of Ontario's policy-based land use planning framework and recommend that Schedule 3 be removed from Bill 257.

As the foundational document of Ontario's land use planning system, the PPS provides guidance for land use and development in the Province. The policies contained within the PPS create common ground and establish a set of rules for all parties with an interest in land use, be it municipalities, the Provincial government, Indigenous communities, residents, business owners or public interest groups. The proposed amendment would create an unstable environment where the Province would not be required to abide by the same policies and good planning principles they established through the PPS.

The PPS is more than a strategic land use policy document. It is an expression of values upon which all other land use planning policy documents are based. These values are expressed in PPS through policies for building strong healthy communities, wise use and management of resources and protecting public health and safety. The proposed amendment signals that Province may abandon these core values by issuing MZOs that are not consistent with the PPS. It would also be helpful to know what type of a proposal could possibly be so important and desirable in the Province of Ontario that the use is not already included and considered as part of the provisions of the PPS.

As municipal planning policies are based on the PPS and other provincial policy direction, the approval of an MZO that is inconsistent with the PPS would also result in a conflict in the local planning policy framework. This inconsistency would result in a challenging situation and would ultimately undermine the integrity of professional planners and the local decision making process. The barriers and delays that the amendment to *the Planning Act* is proposed to alleviate may result in introducing other contentious obstacles and further erode public transparency and trust in the land use planning process.

It remains increasingly important that the views of the local municipality are taken into consideration when MZO's in their jurisdiction are being considered. The Minister considering only those MZO's that are fully supported by the local municipalities will become an increasingly important consideration should this amendment be approved and consistency with the PPS is not required for development proposals. If the local municipality is not in support of the MZO, our respectful position is that the proposed MZO should not be considered or approved by the Minister.

For these reasons, it is recommended that Schedule 3 be removed from Bill 257. Further, it is recommended that the Minister consider previous comments submitted by the City of Barrie regarding the use of MZO's (see attached letter regarding ERO #019-2811). As clearly articulated in this and previous submissions, staff are of the opinion that the use of MZO's should be limited to specific situations and proposals, and that MZO's should never violate the values that underpin Ontario's land use planning framework.

Thank you for your time and consideration of our comments on this proposed amendment. If there are any questions or matters of clarification, please reach out.

Sincerely,



Michelle Banfield, RPP
Director of Development Services

cc: Andrea Miller, RPP, General Manager of Infrastructure and Growth Management

January 29, 2021

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****VIA EMAIL ****
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RE: Environmental Registry of Ontario Proposal 019-2811 Comments

Please accept this letter as the City of Barrie response to Environmental Register of Ontario (ERO) Proposals 019-2811 regarding: Proposed implementation of provisions in the Planning Act.

Amendments to Section 47 came into force on July 21, 2020 through Bill 197 adding to this authority by allowing the Minister to:

- require inclusionary zoning for affordable housing;
- remove municipal use of site plan control while requiring agreements between the municipality and developer for site plan matters, and;
- make amendments to Minister's Zoning Orders that use any of these enhanced authorities without giving public notice.

Section 47 of the Planning Act provides the Province the authority to zone any property without public or municipal involvement. There are no appeal rights or requirements for conformity with Provincial or Municipal Plans made under the Planning Act. While these added authorities do not apply within the Greenbelt Area, the original Section 47 authorities continue to apply to the balance of Ontario.

Use of Minister's Zoning Orders

Use of Minister's Zoning Orders (MZOs) should be limited to demonstrated Provincial interests guided by solid, land use planning principles. In the past, MZOs were used in areas without a local municipality or a municipality without a local zoning by-law. When used, MZOs were used infrequently to support projects in Provincial interests. This is not necessarily the modern-day application of MZOs, as many more recently have taken place outside of such areas.

The Province's *MMAH Citizen's Guide to Zoning* states that MZOs are "rarely used where municipalities have existing zoning bylaws, but can be used to protect a provincial interest. Zoning orders are used mostly in areas of northern Ontario where there is no local municipality or local zoning bylaw". MZOs were never meant to establish the 'principle of development' for a proposal of this magnitude; essentially a secondary plan in any urban municipality. This approach circumvents the technical report preparation and review process that every developer needs to undertake to establish the principle of development.

More recent MZO range from allowing outdoor patios during pandemic and the use of surplus Provincial lands for long term care facilities to urban boundary expansions and automalls. However, the Minister is also being asked to consider MZOs for speed and to support investor confidence for projects that are not strategic or unique or in the Provincial interests and are rather run of the mill residential development projects. In many cases, the justification is that it takes too long to compile appropriate supporting information for significant proposals. Proposals that fit within the visions and goals established in Official Plans and in accordance with Provincial Policy, supported by quality technical studies often move quickly through the development approvals process while providing public input and transparency.

In some instances, an MZO is being requested not only for speed, but also for projects that do not comply with existing Provincial Policy such as the Provincial Policy Statement, Provincial Plans including the Greenbelt Plan, Lake Simcoe Protection Plan, and Growth Plan, and local planning documents such as Local Official Plans and Secondary Plans, and the protection of significant natural heritage features and systems.

There are many examples of where this proposed new authority could be used to support the delivery of high order / regional transit infrastructure, true affordable housing, hospitals, solid waste management (transfer and landfill), long term care homes and significant and strategic employment land uses, all of which would be very valuable to assist in the recovery of the economy of Ontario, particularly as impacted by COVID-19, and definitely fit within the realm of being a matter of Provincial interest.

We offer the following items to consider should the proposed authority continue:

Public Input – consider adding some form of public involvement and input even if a full public process in accordance with the *Planning Act* is not a component of the approval. An online, virtual forum or least the acceptance of written submissions could support the future use of MZOs.

Local and Surrounding Municipal Input – consider adding a formal requirement for the proponent to engage with the local and / or upper-tier municipality, seek support and address any servicing elements that may be required.

Lapsing Provision to Approval – many MZOs are pursued as time is of the essence and yet development does not commence immediately. Consider adding a lapsing provision so projects that do not commence construction within a specific time frame would lose the MZO permissions.

Cost Recovery for Local Municipalities – implementing MZOs at the local level would not normally require the payment of local development application fees, yet there is a significant amount of Staff review time. Considering a fee payable to the local approval authority that would help municipalities manage their budgets and revenues.

Servicing Implications– the magnitude of some of the MZO approvals, in particular in more rural areas, the ability or lack thereof to service the proposal on full municipal services should be taken into consideration. Extension of municipal services from the closest urban neighbour is not always possible and if it is, the re-allocation of urban services to more rural areas limits the available servicing within the urban area which is not desirable and contrary to growth management principles.

Inclusionary Zoning is a helpful tool to provide affordable housing

There is a shortage of affordable housing in many municipalities and any tools that can support the development of affordable housing should be developed to the greatest extent possible. This proposed additional provision is consistent with the Provincial Policy Statement policies to provide for “affordable housing needs” and as such, ***should be maintained.***

Site Plan Control

The enhanced authority for site plan or inclusionary zoning may be helpful in siting of structures (setbacks, height, overall density) but the considerations of site plan should be limited and should not impede municipal requirements for items such as parkland, landscaping, accessibility, sustainable design, active transportation, transit, parking, and urban design.

Technical elements of site plan control such as public road widening requirements are best implemented by local municipalities and at the very least should be incorporated into any MZO site plan approval. Servicing allocation often is confirmed at the time of site plan approval to ensure adequate water and wastewater servicing is available at

the time of building permit. The details of site plan approvals are grounded in site plan agreements reflecting the approved conditions and are registered on title with securities provided to municipalities to ensure any work on municipal lands is completed to the required standards and as per the approved plans and drawings. Again, at the very least these elements should be incorporated into any MZO site plan approval.

Impacts on Municipalities in Ontario and the City of Barrie

For municipalities across Ontario the use of MZOs does not allow proper consideration to the land use as supported by technical studies. In the absence of technical studies, the benefit of public input and the consideration of these MZOs applications in the broader community context the very principles of sound land use and community planning are challenged. If the proposals were always strategic and of significant Provincial Interest that would be one thing. But as previously identified, not all of the most recent MZOs can be categorized as such.

The City of Barrie holds a unique place in Simcoe County and in the Province. As the only Urban Growth Centre in Simcoe County there are community elements within the City that serve not only City of Barrie residents but also residents across the entire region. The City has had MZOs near our municipal boundary. In the absence of any required formal engagement MZOs in applicants in neighbouring municipalities have not always directly engaged with the City prior to the request being made to County Council or the Minister. Input from adjacent municipalities should be sought out by the proponent and the local municipality, in particular where the sites are close to municipal boundaries.

In addition, some MZO projects have looked to the City to extend municipal services to service the proposals. Determining capacity and the ability to do so is something that should be explored prior to any MZO approval, in particular if servicing is intended to be extended from another municipality. The extension of services should not be considered in situations where there is not excess capacity availability. Therefore, considering MZOs in the absence of technical information is premature and can have far reaching impacts. Once again, in some instances the proposals contemplated by MZOs are indeed strategic and appropriate, however when the projects are not at that level the usual planning application channels are appropriate and should be followed.

We thank you for your consideration of our input. Should you have any questions or concerns, please reach out.

Sincerely,



Michelle Banfield, RPP
Director of Development Services

cc Andrea Miller, RPP, General Manager, Infrastructure and Growth Management