



Greater Ottawa Home Builders' Association
Association des constructeurs d'habitations d'Ottawa

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May 5, 2023

The Hon. Steve Clark
Ministry of Municipal Affairs and Housing
777 Bay Street, 17th floor
Toronto, Ontario M7A 2J3

Re: ERO 019-6821 - Proposed Planning Act City of Toronto Act and MMAH Changes

Dear Minister Clark,

Please accept the below from the Greater Ottawa Home Builders' Association (GOHBA) and its members as a submission to the government's request for feedback on 'Proposed Planning Act City of Toronto Act and MMAH Changes' (ERO 019-6821).

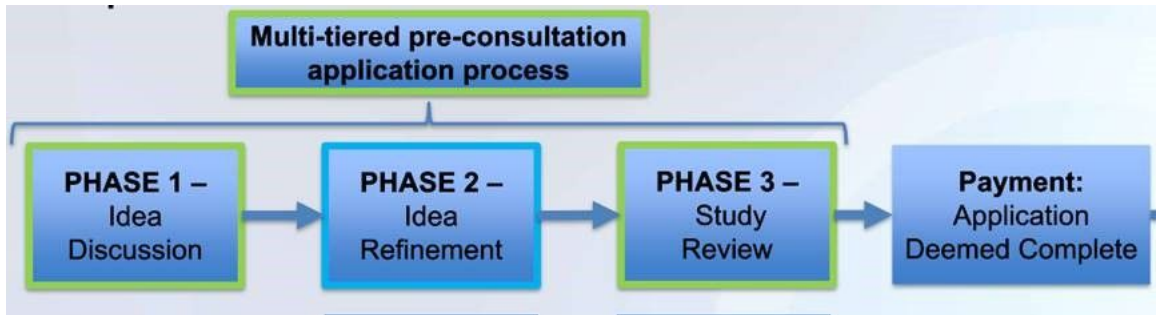
Fee Refund Provisions

- *Delay the requirement for municipalities to refund zoning by-law and site plan application fees so that it only applies to applications submitted on or after July 1, 2023.*
- *Create Minister's regulation-making authority to be able to exempt municipalities from the fee refund provisions in the future if needed (no exemptions are being proposed at this time).*

GOHBA appreciates the need to delay the implementation of application fee refunds in order for municipalities to adjust their application review processes. However, we discourage the Minister from even entertaining the ability to exempt municipalities from fee refund provisions.

While the provincial government took good steps to address development application timelines in Bill 109, municipalities have done everything in their power to look like they are complying with new timelines while avoiding any meaningful change to their application processes. In fact, GOHBA is aware of active efforts by some municipalities to thwart the intention to reduce red tape and streamline the process adding friction to the site plan approval process and lengthening timelines.

For example, in order to meet the new timelines, the City of Ottawa has proposed moving application elements – like review by an Urban Design Review Panel and the technical review of studies – to the pre-consultation process (making new requirements before they deem a submission complete). The City of Ottawa has also advised that it will implement a multi-stage pre-consultation process in order to avoid the commencement of the timeline within which a decision is to be made.



The City’s application of to a multi-phase pre-consultation process shifts the processing time burden without any timelines or accountability for the municipality to adhere to.

The City is also stopping the long-established process of allowing development and rezoning applications to be processed concurrently. Sequential applications, instead of concurrent, will result in a longer development approval process overall. It will take longer for land to be ‘shovel ready’ for new residential development.

As well, the City of Ottawa is increasing the number of studies that could be requested under a development application under their Development Application Study Policy (“DASP”) By-law.

There are 46 studies under the current DASP By-law, and staff are looking at adding several more: High Performance Development Standards; Public Consultation Strategy; Concept Plans; and Building Heights. GOHBA questions whether the City is authorized to request several of the studies or the breadth of study requested.

In order to further address municipal barriers to new housing supply, GOHBA urges the provincial government to ensure municipalities like Ottawa implement the Housing Affordability Task Force Recommendation #12 (Create a more permissive land use, planning, and approvals system)- which is not currently what Ottawa is doing.

Sub-bullets A, C and D all speak to outdated rules/regulations that inhibit development and are not appropriate for an urban metropolitan centre like Ottawa (or at least what it is striving to be).

Consequential Changes to Support Implementation of the *More Homes Built Faster Act, 2022 (Bill 23)*

- *Clarify that the existing provisions regarding parking spaces for additional residential units apply only to the second and third units on a property.*
- *Make various minor housekeeping edits to support implementation, including the use of consistent terminology.*

As per GOHBA's comments for ERO #019-6197 (Proposed Changes to Ontario Regulation 299/19: Additional Residential Units), we are extremely concerned that parking provisions will provide a potential loophole that municipalities will misconstrue to unreasonably restrict conversions, thereby severely limiting the ability to increase intensification in existing neighbourhoods and work against the government's efforts.

Current provisions in the Regulation restrict municipalities to being permitted to require up to one parking space per unit. However, demanding up to three parking spaces for three units on a typical residential lot in Ottawa will make most residential intensification or conversions unviable, and works against Ottawa's desire to utilize public transit.

Ideally, there would be no parking minimums for new infill units.

Accordingly, Ontario Regulation 299/19, section 2 should be changed as follows:

1. Each residential unit ~~may shall~~ have one parking space that is provided....

Alternatively, municipalities should only be allowed to require, at most, up to one parking spot for the primary unit, or, if more than one parking space is required, then two of the parking spaces may be tandem parking spaces.

The primary focus of Ontario Regulation 299/19, as it currently reads, is the establishment of requirements and standards relating to parking for additional residential units. The Regulation provides that each additional residential unit "shall" have one parking space provided and maintained for the sole use of the occupant of the additional residential unit. This is a more onerous than the requirement under the Planning Act following Bill 23, which states that no official plan may contain any policy that has the effect of requiring more than one parking space to be provided and maintained in connection with an additional residential unit (clearly contemplating standards of less than 1 parking space).

Municipalities should only be allowed to require up to one parking spot for the primary unit and no parking required for an additional unit.

Regulation-Making Authority for Site Plan Control for 10 Units or Less

- *Create regulation-making authority to prescribe specific circumstances where site plan control could be used for residential developments of 10 units or less.*

GOHBA appreciates that there may be extremely specific circumstances where applying site plan control may be appropriate for residential developments of 10 units or less – eg, along some shorelines and/or railway lines.

However, there is a danger that municipalities could abuse this loophole to apply site plan control inappropriately – eg, in neighbourhoods where NIMBYism is strong or along light rail lines, thereby limiting housing supply, especially in terms of intensification where it should be located.

We will elaborate on this issue in our comments on ERO 019-6822 (Site Plan for Residential Developments of 10 or Fewer Units) but GOHBA cautions against creating a regulation that may be broadly applied. GOHBA supports not requiring site plan approval for developments of 10 or fewer units except in very limited, clearly prescribed, circumstances.

Appeals of Interim Control By-laws – Section 38 of the Planning Act

- *Enable an individual who received notice of the passing of an interim control by-law to appeal the by-law at the time of initial passing (rather than only at the time of extension).*
- *Amend the notice and appeal timelines to provide 20 days for municipalities to give notice of the passing of an interim control by-law or a by-law extension (instead of the current 30 days) and for appeals to be made within 50 days of the by-law being passed.*

GOHBA supports the revision to permit an appeal of an interim control by-law (“ICB”) after it is initially passed. This appeal option will hold municipalities more accountable for their action of passing the ICB.

GOHBA also supports reducing the time period for notice down to 20 days but does not see the reason to increase the appeal period to 50 days. If an ICB has been passed, and it is to be appealed, an appeal should be submitted within 40 days after the by-law being passed so an efficient resolution may be obtained.

New Authority for Minister’s Zoning Orders -Planning Act section 47(4.0.1)

- *Provide the Minister of Municipal Affairs and Housing with the authority to exempt certain subsequent approvals required to establish uses permitted by Minister’s zoning orders from having to align with provincial plans or policies.*

GOHBA supports this amendment. It is logical that Minister’s Order should be apply to exempt an development proposal from any planning documents or policies.

Ministerial Authority to Require Development Agreements

- *Provide the Minister of Municipal Affairs and Housing with the authority to require landowners to enter development agreements in relation to lands that have been assigned to the Provincial Land and Development Facilitator.*

GOHBA does not have any immediate concerns with this proposal but reserves the right to comment after more details regarding the role and obligations of the Provincial Land and Development Facilitator are known and whether such person will be appointed for the Ottawa area. If the Province intends to appoint a Provincial Land and Development Facilitator for Ottawa than GOHBA would like to be consulted as to how the facilitator will function vis a vis city council.

Changes to Support the Review of Provincial Policies - #1 Changes to Employment Area Protections -Planning Act section 1(1) definition and 1(1.1)

- *Modify the definition of area of employment to only include heavy industry and other employment uses that cannot be located near sensitive uses, (i.e., not suitable for mixed use) to scope the applicability of existing provisions which limit appeals of municipal refusals and non-decisions.*

GOHBA does not support the proposed definition change that will preclude institutional uses from being able to locate in an area of employment. The Ottawa area does not have many, or even any, heavy industrial areas that merit such a rigid prescription of what uses should be permitted. It is GOHBA's submission that there are many examples of institutional uses, such as places of worship or even day cares, that can be located within areas of employment, in Ottawa, without conflict. It is more appropriate, in GOHBA's submission, that area or site-specific assessments be undertaken to determine what appropriate uses are rather than this being stated in the Planning Act. The area of employment definition is too rigid for application in Ottawa and the strict definition will work against providing an appropriate mix of uses on a site-specific basis.

We will elaborate on this issue in our comments on ERO 019-6813 (Review of proposed policies adapted from A Place to Grow and Provincial Policy Statement to form a new provincial planning policy instrument).

Changes to Support the Review of Provincial Policies - #2 Regulation-making Authority for New Provincial Policy Document – Planning Act s.3(6.1)

- *Create regulation-making authority to modify the application of provincial policy statements to decisions on particular matters to support the implementation of provincial policies on a case-by-case basis.*

GOHBA supports the inclusion of this in the Planning Act since it will permit the Minister to quickly respond to site-specific matters.

We will elaborate on this issue in our comments on ERO 019-6813 (Review of proposed policies adapted from A Place to Grow and Provincial Policy Statement to form a new provincial planning policy instrument).

Proposed Ministry of Municipal Affairs and Housing Act Amendment

- *Schedule 4 of the Bill proposes an amendment to the Ministry of Municipal Affairs and Housing Act to provide for the appointment of up to four Deputy Provincial Land Development Facilitators.*

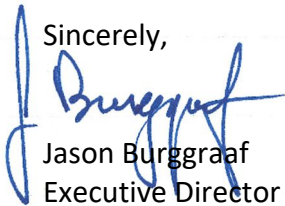
As stated above, GOHBA is cautiously optimistic that Provincial Land Development Facilitators might be an effective tool to have development proceed in a more expeditious manner. It is not clear to GOHBA whether the Province proposes to appoint one for the Ottawa area. If it does then GOHBA would like to be consulted as to what powers the Provincial Land Development Facilitator will have and how it will exercise its authority.

GOHBA will continue to follow this proposed amendment going forward.

Conclusion

GOHBA thanks the Province for the changes it continues to make in order to create a land use planning environment that strong but yet nimble enough to respond to market changes. GOHBA looks forward to continuing to discuss and provide its input to the Province in regard to the proposed changes.

Sincerely,



Jason Burggraaf
Executive Director