




CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Planning Division

TO:	Chair and Members Planning Committee
COMMITTEE DATE:	November 29, 2022
SUBJECT/REPORT NO:	Bill 23, Proposed <i>More Homes Built Faster Act, 2022</i> (PED22207) (City Wide)
WARD(S) AFFECTED:	City Wide
PREPARED BY:	Steve Robichaud (905)546-2424 Ext. 4281 Anita Fabac (905) 546-2424 Ext. 1258
SUBMITTED BY:	Jason Thorne General Manager Planning and Economic Development Department
SIGNATURE:	

RECOMMENDATION

- (a) That Council adopt the submissions and recommendations as provided in Report PED22207 regarding Schedules 2, 4, 5, 6, 7, 8 and 9 of proposed Bill 23, *More Homes Built Faster Act, 2022*;
- (b) That the Director of Planning and Chief Planner be authorized and directed to confirm the submissions made to the Province attached as Appendix "B" to Report PED22207;
- (c) That staff report back to Council should Bill 23, *More Homes Built Faster Act, 2022* be proclaimed on any required staffing, process, fee and By-law changes necessary to implement Bill 23, *More Homes Built Faster Act, 2022*;
- (d) That the Director of Planning and Chief Planner and the City Solicitor be authorized to make submissions on Bill 23, *More Homes Built Faster Act, 2022* and any associated regulations consistent with the comments and concerns raised in Report PED22207.

OUR Vision: To be the best place to raise a child and age successfully.

OUR Mission: To provide high quality cost conscious public services that contribute to a healthy, safe and prosperous community, in a sustainable manner.

OUR Culture: Collective Ownership, Steadfast Integrity, Courageous Change, Sensational Service, Engaged Empowered Employees.

EXECUTIVE SUMMARY

On October 25, 2022, Bill 23, *More Homes Built Faster Act, 2022*, was introduced at the Ontario Legislature. If enacted, this Bill would make amendments to nine different statutes. The purpose of this Report is to provide information on the changes proposed to be made to the *Conservation Authorities Act*, the *Municipal Act, 2001*, the *Ontario Heritage Act*, the *Ontario Land Tribunal Act, 2021*, and the *Planning Act*. The Province is also proposing to revoke the Parkway Belt West Plan, 1978 and apply municipal housing targets to be achieved by 2031. Corporate Services staff will be reporting to the Audit, Finance and Administration Committee on the changes to the *Development Charges Act* in a separate report (FCS22085).

The stated purpose of the proposed legislative changes is to have 1.5 million homes built over the next 10 years. The proposed changes, as outlined by the Province, is to further streamline approvals for housing and reduce barriers and costs to development so that communities can grow with a mix of housing types and tenures.

City staff support the Province's efforts to find ways to increase housing supply and streamline development approvals processes so that all residents have better access to homes that meet their needs. However, staff do have concerns that in the effort to accomplish this increase of housing supply, the quality of our communities will be compromised. Further, it is expected that there will be unintended negative consequences on the City's ability to secure and pay for growth-related infrastructure, parkland, and public service facilities, as well as resources such as natural heritage systems. As such, Staff do not support the proposed changes to the *Conservation Authorities Act*, the *Municipal Act, 2001*, the *Ontario Heritage Act*, the *Ontario Land Tribunal Act, 2021*, and the *Planning Act*.

The deadline for comments on Bill 23 is November 24, 2022 for the *Planning Act*, *Conservation Authorities Act*, and the *Ontario Heritage Act*, December 9, 2022 for the proposed changes to O. Reg 232/18 (Inclusionary Zoning) and O. Reg 299/19 (Additional Residential Units) and December 30, 2022 for additional changes to the *Conservation Authorities Act*, the discussion paper on offsetting wetlands, woodlands and other natural wildlife habitat and the proposed integration of the Provincial Policy Statement and A Place to Grow. Comments were not solicited by the Province on the 2031 Municipal Housing Targets.

Given the timing, staff-level comments have been submitted to the Province and through this Report and are contained in Appendix "A" attached to Report PED22207. If the recommendations of this Report are approved by Council, the Director of Planning and Chief Planner will notify the Province that the submissions that were made have been adopted by Council for the City of Hamilton.

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FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: Bill 23 will have financial implications on the City. The degree and magnitude of the proposed legislative changes are not fully known at this time, but largely implicate parkland dedications, and the shifting of roles and responsibilities from the Conservation Authorities to the City. Staff will continue to monitor, analyze and report back to Council as necessary.

Staffing: At this time, Bill 23 only proposes legislative changes and there are no staffing implications at this time. However, if Bill 23 is enacted as currently drafted, there will be staffing resourcing implications associated with the changes.

Legal: Legal Services and the Planning Division will continue to monitor the status of Schedules 2, 4, 5, 6, 7, 8 and 9 of Bill 23 and report back where necessary with recommendations for the implementation of Bill 23, if enacted.

HISTORICAL BACKGROUND

Over the last number of years, the Provincial Government has introduced various legislative changes which, although including some positive changes, have generally diminished the land use planning system in Ontario:

- Bill 139 (2017) - established the Ontario Land Tribunal;
- Bill 66 (2019) - amendments related to the 'open-for-business planning by-law';
- Bill 108 (2019) - changes to processes, heritage and appeals;
- Bill 276 (2021) - changes to subdivision control;
- Bill 197 (2021) - changes to site plan control and MZO's;
- Bill 13 (2021) - additional delegated authority from Council to staff; and,
- Bill 109 (2022) - fee refunds for applicants for certain development applications.

Bill 23 passed its first reading on October 25, 2022 and its second reading on October 31, 2022, November 9, 2022, November 10, 2022, November 16, 2022 and November 17, 2022.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

The Provincial Planning Policy framework is established through the *Planning Act* (Section 3) and the Provincial Policy Statement (PPS). It provides municipal governments with the direction and authority to guide development and land use planning through official plans, secondary plans and zoning by-laws. The *Planning Act*

requires that all municipal land use decisions affecting planning matters be consistent with policy statements and plans issued by the Province.

RELEVANT CONSULTATION

The Senior Leadership Team and staff from within the Planning Division, Growth Management Division, Public Works Department, Finance and Legal Services Division were consulted in the drafting of this report, recommendations and appendices.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

For the last 30+ years, the Provincial Government's direction has been a policy led planning framework with a deliberate focus on balancing various competing objectives when making planning decisions with the interests of applicants, public bodies and the public protected through notice and public meeting requirements, opportunities for meaningful engagement and participation, and protected appeal rights. The proposed *More Homes Built Faster Act* is a significant departure from this well-established planning framework.

The proposed legislative changes are contrary to balanced decision making, protection of the natural environment and parkland, building complete communities and public spaces, good quality architecture and design, and affordable or attainable housing. The legislative changes purport to be about building homes but show little regard for the other aspects that make Hamilton a unique and desirable place to live and the elements of making communities liveable and complete.

The City is facing a housing crisis and a climate crisis. The City has a responsibility to review existing practices and policies and adapt and make changes in the public interest. However, the proposal as presented by the Province fails to address the goals of increasing housing supply, housing affordability, and improved process and will result in the loss of environmental protections, heritage conservation, and urban design along with severe financial implications for the City, including the transfer of responsibilities from the Conservation Authorities to the City with no consideration of the financial and resourcing impacts this will have.

Over the last number of years, public participation in the land use planning system has been diminished, to the point where, through Bill 23, the public will have no appeal rights. Along with the fee refund requirements of Bill 109 provided decisions are not made within 90/120 days, the result is a shortened planning process with little to no opportunity for meaningful public engagement, participation and input into how communities are developed.

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In summary, staff are not supportive of Bill 23 for the following reasons:

- Proposes to limit the role of the Conservation Authorities in development approvals to natural hazards only while uploading natural heritage reviews to municipalities;
- Weakens the conservation of land and protection of significant environmental features, allowing development within areas worthy of protection;
- Limits tools for the conservation of cultural heritage resources and may result in possible loss of significant local cultural heritage resources;
- Removes mechanisms to promote good architectural design and require sustainability features through the site plan control process;
- Eliminates appeal rights for the public on *Planning Act* applications and reduces overall public engagement and involvement;
- Restricts the ability to secure appropriate parkland and recreational amenities to meet community needs;
- Limits the City's ability to require replacement rental units, cash-in-lieu for replacement units, and other tenant supports when a conversion or demolition is proposed;
- May result in cost awards being made against the City where it is unsuccessful in an appeal at the Ontario Land Tribunal; and,
- Results in unilateral decision making to the Minister on matters of Provincial Interest and removes the ability of the City to engage with the minister to resolve issues.

A more detailed analysis of the proposed changes is included in Appendix "A" attached to Report PED22207. A copy of the submissions made to the Province are attached as Appendix "B" to Report PED22207.

Should the Province proceed with the proposed changes, staff will report back to Council on any financial, process changes and staffing implications expected.

ALTERNATIVES FOR CONSIDERATION

Council may amend the staff-level comments attached as Appendix "A" to Report PED22207 or supplement the staff-level comments with additional comments.

ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN

Community Engagement and Participation

Hamilton has an open, transparent and accessible approach to City government that engages with and empowers all citizens to be involved in their community

Healthy and Safe Communities

Hamilton is a safe and supportive City where people are active, healthy, and have a high quality of life.

Built Environment and Infrastructure

Hamilton is supported by state-of-the-art infrastructure, transportation options, buildings and public spaces that create a dynamic City.

APPENDICES AND SCHEDULES ATTACHED

Appendix “A” to Report PED22207 - Summary of Changes Proposed through the *More Homes Built Faster Act, 2022* (Bill 23)

Appendix “A1” to Report PED22207 - Comments on Additional Environmental Registry of Ontario (ERO) and Ontario Regulatory Registry (ERR) Postings Accompanying Bill 23 – *More Homes Built Faster Act*

Appendix “B” to Report PED22207 - City of Hamilton Staff Submission on the Proposed *More Homes Built Faster Act, 2022* (Bill 23)

SR/AF:sd