



January 29, 2021

Sean Fraser, Director
Provincial Planning Policy Branch
Ministry of Municipal Affairs and Housing
777 Bay Street, 13th floor
Toronto, ON
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Dear Mr. Fraser:

Re: York Region Staff Comments – ERO Number 019-2811: Province’s enhanced authority for Minister’s Zoning Orders through Bill 197

York Region staff thank the Ministry of Municipal Affairs and Housing for the opportunity to comment on Section 47 of the *Planning Act* amendments approved last year. York Region is committed to good planning and streamlining processes for development review to meet our collective objectives set out in Provincial policy and municipal Official Plans. This letter provides recommendations from the view of meeting important time sensitive planning objectives while maintaining transparency. Specifically, this letter addresses amendments to Section 47 of the *Planning Act* that came into force on July 21, 2020 through Bill 197, the *COVID-19 Economic Recovery Act* adding to this authority by allowing the Minister to:

- Require inclusionary zoning for affordable housing (inclusionary zoning)
- Supersede municipal site plan authority requiring agreements between the municipality and development proponent (or landowner) concerning site plan matters, and
- Make amendments to Minister’s Zoning Orders that use any of these enhanced authorities without first giving public notice

It is understood these added authorities do not apply within the Greenbelt Plan area, which includes the land covered by the Oak Ridges Moraine Conservation Plan, however the original Section 47 authorities continue to apply to the balance of Ontario.

Use of Minister’s Zoning Orders should be limited to demonstrated Provincial interests guided by good planning principles

Minister’s Zoning Orders traditionally were used infrequently and generally for Provincial interests like limiting uses around the proposed Pickering airport, allowing for gaming uses regulated by the Province, or providing facilities for Pam Am and Parapan games as an example. Section 2 of the *Planning Act* provides a wide list of Provincial interests that planning decisions are to have regard to.

In 2020, the Province issued 31 Zoning Orders across Ontario ranging from allowing outdoor patios during the pandemic and use of surplus Provincial lands for long term care facilities to urban boundary expansions and automotive retail malls. In York Region, there were 9 zoning orders issued by the Province in 2020 with additional requests awaiting decision. Some of these have local Council support and for some, municipal Councils were informed after the fact.

It is recommended that, at a minimum, support of both the local and Regional Councils be sought prior to issuing zoning orders to help ensure proposals are in keeping with municipal plans

The Province has indicated that the increased authority could help to overcome potential barriers and development delays. The Province has also indicated the proposed new authority could be used to support delivery of transit station infrastructure and optimization of surplus lands (e.g. affordable housing and long term care homes), provide increased certainty for strategic projects, remove potential approval delays, increase the availability of affordable housing, and enable economic recovery.

Development which fits within the vision established by municipal Official Plans, that is in keeping with approved Zoning Bylaws, and supported by quality technical studies, often requires minimal approvals under the *Planning Act* and typically can proceed quickly through the planning and development approval process while providing public input and transparency.

There is concern the use of Minister’s Zoning Orders can hamper a municipality’s ability to deliver their planned vision if development is not appropriately considered in the context of:

- Provincial Policy Statement
- Provincial Plans including the *Growth Plan, Greenbelt Plan, Oak Ridges Moraine Conservation Plan, Lake Simcoe Protection Plan*
- Upper-tier Official Plans
- Local Official Plans and Secondary Plans

There is sometimes time sensitive immediate needs to develop uses unanticipated or a clearly demonstrated Provincial need, however unanticipated development can impact demand for or be

limited by municipal infrastructure such as water and wastewater servicing, transportation facilities, community and park facilities. These are all important considerations in the planning process.

Inclusionary Zoning is a helpful tool to provide affordable housing

To help combat the known shortage of affordable housing in many municipalities, the requirement for affordable housing as part of a development is important, provided it can be secured over the long-term as affordable. This is consistent with the Provincial Policy Statement policies to provide for “affordable housing needs”. **Where Minister’s Zoning Orders are used to provide for affordable housing and seniors long-term care facilities, those developments should comply with the municipal Official Plan and apply appropriate development standards including provisions to secure affordability for the long term.**

Site plan control is a beneficial tool to ensure function and fit of a development within the zoning requirements

Site plan control is a form of development control under the *Planning Act* that deals with the detailed review of the design of a building, structure and property to ensure that local municipal, Regional and other agency standards and requirements are met. Site plan control is a tool used by municipalities to ensure a development technically works and fits with approved planning policies, zoning provisions and urban design standards. It specifically addresses safe and adequate access, sustainable design elements, public road widening requirements, grading, landscaping, accessible walkways and ramps, massing and relationship of the building to adjacent buildings, streetscapes and exterior areas accessible to the public. These are important considerations that require attention to detail which dedicated municipal staff understand and effectively undertake everyday.

Site plan approval can be approved by Council, committee of Council or typically delegated to professional staff. Only the applicant can appeal conditions of site plan approval or lack of approval within 30 days of submitting the required plans and drawings. Servicing allocation is also confirmed at the time of site plan approval to ensure adequate water and wastewater servicing is available at the time of building permit. Servicing capacity can be scarce and is carefully monitored by municipal staff.

Site plan agreements reflecting the approved conditions are registered on title and securities are obtained by municipalities to ensure any work on municipal lands is completed to the required standards and as per the approved plans, drawings and executed agreements.

To ensure standards are met, technical municipal and agency review is required. Bypassing this review could lead to unsafe conditions, servicing shortfalls, compromised infrastructure and poor urban design not in keeping with Council’s vision. **It is recommended that site plan approval should remain with local municipalities that have ability to expeditiously complete the required review, collect and address necessary commenting agency requirements and do so in the context of Council approved plans.**

Public notice provides for government transparency and an opportunity to explain the need for use of Section 47

While there is no public process required in approval of Minister's Zoning Orders, nor public notice of their passing, at minimum **it is recommended that municipalities be engaged prior to Minister's Zoning Order issuance and that the public and the municipality be informed clearly of the permissions granted, the reasons for such an approval, and the subject site clearly identified on a map attached to the notice.**

Public notice is currently only required for amendments to existing Minister's Zoning Orders and not for the original order itself. **Further removing notice requirements diminishes the transparency of the decision and is not recommended.**

In contrast, zoning amendment applications require a public meeting and public notice to the applicable review agencies, surrounding property owners and residents, as well as on site signage explaining and providing notice of the requested change. There are opportunities for public and commenting agency input to inform decision making and an appeal process available to participants. This provides for a transparent and thorough review of development proposals as intended by the *Planning Act*.

The use of Section 47 of the *Planning Act* should only be used sparingly, supportive of the public interest, and when there is a demonstrated need

The Province should carefully consider the long-term impacts of frequent use of Minister's Zoning Orders and use it only as a last resort when in the public interest and there is a demonstrated need. Expediting and enabling shovel ready projects with ability to be constructed in a timely manner may be quite appropriate by way of a Minister's Zoning Order, particularly when truly related to COVID-19 recovery. However, at the other end of the spectrum, we believe the use of this tool for such approvals as urban expansion requests is more appropriate to occur following public input and a decision by a Regional Council. The additional authorities provided in Bill 197 to supersede local municipal site plan control is not recommended. As an alternative, site plan approval can and usually is already expedited through delegation of approval to municipal professional planning staff. Continued partnerships and collaboration are a more effective way of streamlining and making the planning process more efficient in delivering sustainable development enhancing the public good.

Sincerely,



Paul Freeman, MCIP, RPP
Chief Planner, Planning and Economic Development

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