



100 John West Way
Aurora, Ontario
L4G 6J1
(905) 727-3123
aurora.ca

Town of Aurora

General Committee Report

No. PDS20-061

Subject: Update on Legislative Changes to *Planning Act*, Development Charges, and the Growth Plan for the Greater Golden Horseshoe

Prepared by: Michael Logue, Senior Policy Planner

Department: Planning and Development Services

Date: November 3, 2020

Recommendation

1. That Report No. PDS20-061 be received.

Executive Summary

This report updates Council on two recently finalized pieces of legislation originating from the Ontario Ministry of Municipal Affairs, with respect to land use planning. They represent the regimes for recovering costs of growth: Community Benefits Charges (CBC's), Parkland Dedication, and Development Charges (DC's), plus the first amendment to 2019's *Growth Plan for the Greater Golden Horseshoe*.

- The Community Benefits Charge system is finalized, while Development Charges and Parkland Dedication regimes will continue with modifications
- The first amendment to the May 2019 Provincial Growth Plan was proposed in June 2020
- Parkland Dedication or Cash-in-lieu: alternative rates will continue to be permitted, and opportunities for LPAT to appeals are introduced
- Development Charges: The finite list of DC-eligible items is confirmed
- Community Benefits Charges require a by-law and is subject to LPAT appeal
- Community Benefit Charges: The maximum charge is 4% of land value, and municipalities have two years to transition from existing Section 37 bonusing
- Growth Plan: Official Plan planning horizons revised to 2051

- Growth Plan: Land Needs Assessment Methodology is now less prescriptive, with more focus on market-based housing needs

Background

The Community Benefits Charge system is finalized, while Development Charges and Parkland Dedication regimes will continue with modifications

On September 18, 2020, the remaining Bill 108 and Bill 197 amendments to the *Planning and Development Charges Acts* came into force as the same day that Regulation O. Reg 509/20 regarding CBC's and Parkland came into effect. Additional technical changes to existing regulations were also made, finalizing the new structure for municipalities to recover the costs of growth under three types of charges.

In combination with development charges and parkland dedication, the Province have positioned the new CBC system as allowing for municipalities that growth pays for growth, while proving more cost certainty to developers.

As originally proposed in Bill 108, CBC's were essentially to become a single all-encompassing charge to replace development charges, parkland dedication, and density bonusing under *Planning Act's* Section 37. However, with Bill 197 and its regulations now being proclaimed, CBC's will be a standalone charge for eligible types of development succeeding Section 37 agreements between municipalities and developers.

Parkland dedication and development charges will continue as distinct separate charges, with some revisions to how they are administered. The new regulations make efforts to distinguish what types of costs can be recouped under the three regimes (parkland, DC's, CBC's).

The first amendment to the May 2019 Provincial Growth Plan was proposed in June 2020

The Province of Ontario consulted on a proposed Amendment 1 to May 2019's *A Place to Grow: Growth Plan for the Greater Golden Horseshoe* (the Growth Plan) between June 16, 2020 and July 31, 2020.

Consistent with the Province's Housing Supply Action plan and legislation in Bills 108 and 197, the stated objectives with the latest Growth Plan changes are to increase

housing supply, attract business, create jobs, align infrastructure investment, and help municipalities plan for growth and support economic recovery from COVID-19.

Analysis

Parkland Dedication or Cash-in-lieu: alternative rates will continue to be permitted, and opportunities for LPAT appeals are introduced

Although substantial changes to parkland dedication had been proposed by Bill 108, the end result is that requirements under the *Planning Act*'s Section 42 remain relatively unchanged. The amount of land to be conveyed, or cash-in-lieu thereof, will continue to be determined as per a standard rate (calculated as a percentage of land), or an alternative unit-based rate (capped at one hectare per 300 units).

Any by-law adopting an alternative parkland dedication standard will now require notice and a forty day appeal period is introduced. Appeals will be heard by the Local Planning Appeals Tribunal, which will have broad powers to amend alternative standards.

The Town's current parkland dedication by-law includes the maximum alternative rate of one hectare per 300 units, which may continue to remain; although if an alternative rate is included the next time Aurora's parkland dedication by-law is repealed and replaced, or revised, it can be appealed to the LPAT.

Development Charges: The finite list of DC-eligible items is confirmed

Alongside the noted regulation, the Province proclaimed into force the remaining Bill 108 and 197 amendments to the *Development Charges Act*. The *Development Charges Act* will continue to govern DC's. Specifically, Section 2(4) sets out the finite or closed list of 21-items that DC's can be collected. Under this new list, the Town of Aurora will no longer be able to recover its General Government and Municipal Parking growth requirements through DC's. These two services will need to be removed from the existing DC by-law and the next updated study as they can only be recovered through a CBC.

One of the key amendment to the Development Charges Act that came into force removes the previous ten percent discount that was applied to all soft service (Outdoor/Indoor Recreation, Library, etc.) cost recoveries. Many of the other key anticipated impacts to the development charges regime were covered in the September 8, 2020 report FIN20-021.

Community Benefits Charges require a by-law and is subject to LPAT appeal

Similar to the development charges process, in order to levy CBC's, a Community Benefits Strategy must be prepared, consulted on, and incorporated into a Community Benefits Charge by-law. It must identify the facilities, services, and matters that will be funded by the CBC, estimated amount, type and location of development and redevelopment that will be subject to CBC's. There will be a forty day appeal period for a CBC by-law.

There is no itemized list of what facilities and services CBC's may be charged for, but seeing as municipalities may not charge for the same growth cost twice using the available cost recovery tools - essentially CBC's are meant to recoup for matters not prescribed under development charges, or parkland.

CBC's may be applied to zoning by-law amendments, plans of subdivisions, condominiums, minor variances, consents, a conveyance of land, and building permits. However, the Town's ability to use CBC's as a growth recover tool are limited: CBC's may not be imposed for buildings with fewer than five storeys, developments or buildings with fewer than ten residential units, long-term care homes, retirement homes, hospices, non-profit housing, and post-secondary institutions.

Therefore, CBC's would predominantly apply to higher density residential developments in Aurora. The Town's Official Plan anticipates a shift to a larger proportionate share of this type of development, in appropriate locations. Also, municipalities will not be eligible to levy CBC's in areas with a community planning permit system in force.

Community Benefit Charges: The maximum charge is 4% of land value, and municipalities have two years to transition from existing Section 37 bonusing

The maximum amount a municipality may collect for a CBC is capped at 4% of the land value for any particular development, as of the day before the first or only building permit is issued for an approved development parcel of land. The onus is on each municipality to justify their CBC rate up to this maximum, through their Community Benefits Strategy.

If a developer takes the position that their CBC charge levied exceeds 4% of their development's land value, they may pay the CBC under protest and submit their own appraisal of within 30 days. The municipality must then provide their own appraisal, or else the land owner may be entitled to a refund. And if the owner's and municipality's appraisals are within 5% of each other, the land owner may also be entitled to a refund.

If the municipality's and owner's appraisals differ by more than 5%, then a third appraisal is to be prepared.

Municipalities have two years, from September 18, 2020 when the regulations were proclaimed until September 18, 2020, to transition away from the most recent Section 37 regime and pass a CBC by-law for eligible development types. Section 37 benefits will no longer be available to municipalities after September 2020, if the Town decides not to cover those costs in a CBC.

Public annual reports will be required of municipalities that identify the balance of the CBC special account. Despite the limited applicability of CBC's, for scenarios where the Town's existing 'Guidelines for the Implementation of Height & Density Bonusing (Section 37 of the *Planning Act*)' currently apply, Aurora should be able to transition to CBC's (if the Town decides to pursue CBC's, the associated Community Benefits Strategy, and by-law).

Growth Plan: Official Plan planning horizons revised to 2051

Based on a technical report and forecasts prepared by Hemson Consulting, the Greater Golden Horseshoe's forecast horizon has been extended to 2051. Three forecast scenarios to 2051 were presented for consultation, with Reference forecast being selected over low and high scenarios. The existing Growth Plan Schedule 3 forecasts to 2031 and 2041 are to be maintained. Policies have also been revised so that Growth Plan Schedule 3 forecasts are now to be treated as minimums (as opposed to targets), and municipalities are permitted to plan higher alternative growth forecasts.

York Region's new Growth Plan Schedule 3 reference forecast for 2051 is 2,020,000 persons and 990,000 jobs. These new forecasts will be assigned to York's nine municipalities including Aurora. As the deadline for Regional conformity to the Growth Plan has not changed, Regional staff are working to release local municipal forecasts by the end of the first quarter of 2021, in advance of a targeting Regional Official Plan adoption by year-end 2021.

Growth Plan: Land Needs Assessment Methodology is now less prescriptive, with more focus on market-based housing needs

Land needs assessments allocate where residential and employment growth will occur, factoring in components such as existing inventories of approved development, prescribed intensification rates, and density targets, average household sizes. The

revised Land Needs Assessment is less detailed than previous and is now a high-level outcome-based guidance document with new focus on market-based housing need.

Other notable Growth Plan policy changes include permitting the conversion of employment lands within Major Transit Station Areas and Provincially Significant Employment Zones, prior to the next Municipal Comprehensive Review. There is also generally an alignment of terminology with Provincial Policy Statement 2020, particularly including the duty to consult indigenous communities.

Advisory Committee Review

Not applicable.

Legal Considerations

Legal considerations are throughout the report.

Financial Implications

The Town's approved 2020 capital budget includes funds to retain a consultant to assist with the assessment of the financial impacts arising from the above-noted legislative and regulatory changes relating to both the *Development Charges Act* and *Planning Act*. These detailed financial implications will be presented in a future report to Council, with recommendations for consideration and approval.

Communications Considerations

The Town of Aurora will use 'Inform' as the level of engagement for this project. There are five different levels of community engagement to consider, with each level providing the community more involvement in the decision making process. These levels are: Inform, Consult, Involve, Collaborate and Empower. Examples of each can be found in the Community Engagement Policy. These options are based on the International Association of Public Participation (IAP2) Spectrum and assist in establishing guidelines for clearly communicating with our public and managing community engagement. In order to inform, this report will be posted to the Town's website.

Link to Strategic Plan

There are two links to the Strategic Plan, under the Community Pillar – specifically one action item each under Objectives 2 and 5.

Under Objective 5, Strengthening the fabric of our community, the following action items applies: Develop a coordinated approach to Town planning that manages growth, plans for the necessary infrastructure and aligns fiscal accountability.

Under Objective 2, Invest in sustainable infrastructure, the most applicable action item is: Maintain and expand infrastructure to support forecasted population growth through technology, waste management, roads, emergency services and accessibility.

Alternative(s) to the Recommendation

None.

Conclusions

The year after a new Provincial Growth Plan came into effect, the first amendment has introduced changes to further increase housing supply, with further emphasis on a market-based approach. Removing rigor of the previous land needs assessment methodology, extending the planning horizon to 2051, treating forecasts as minimums and not targets, and allowing municipalities to plan for alternative higher forecasts than in Growth Plan Schedule 3.

After early indications of a major overhaul in how growth-related costs would be recouped by municipalities, development charges and parkland dedication remain largely in place as they were but with some revisions, and new community benefits charges essentially will replace density bonusing permitted under Section 37 of the *Planning Act*.

Attachments

None.

Previous Reports

FIN20-021: Bill 197 – Update on Proposed Legislative Changes to *Development Charges Act* and *Planning Act*, September 8 2020

FIN20-005: Administrative Changes to the Calculation and Collection of Development Charges under Bill 108 and Bill 138, April 14 2020

PDS19-017: Comments on Proposed Amendment 1 to the Growth Plan for the Greater Golden Horseshoe, February 26 2019

PDS19-012: Proposed Amendment 1 to the Growth Plan for the Greater Golden Horseshoe, February 12 2019

PBS16-083: Guidelines for the Implementation of Height & Density Bonusing (Section 37 of the *Planning Act*), October 26 2016

Pre-submission Review

Agenda Management Team review on October 15, 2020

Approvals

Approved by David Waters, MCIP, RPP, PLE, Director, Planning and Development Services

Approved by Doug Nadorozny, Chief Administrative Officer