

Request for Decision

Provincial Strategy Consultation

Presented To:	Planning Committee
Presented:	Monday, Jan 14, 2019
Report Date	Thursday, Dec 20, 2018
Type:	Managers' Reports

Resolution

THAT The City of Greater Sudbury directs staff to forward the report entitled "Provincial Strategy Consultation," from the General Manager of Growth and Infrastructure, presented at the Planning Committee meeting on January 14, 2019, to the Province of Ontario as the City of Greater Sudbury's submission on the "Increasing Housing Supply in Ontario", "Preserving and Protecting our Environment for Future Generations: A Made-in-Ontario Environment Plan" and "Bill 66, Restoring Ontario's Competitiveness Act, 2018".

Relationship to the Strategic Plan / Health Impact Assessment

The proposed Provincial Strategies to Increase Housing Supply, Preserve and Protect the Environment and Restore Competitiveness generally align with the four pillars identified in Council's 2015-2018 Corporate Strategic Plan, including: Growth and Economic Development; Quality of Life and Place; Responsive, Fiscally Prudent, Open Governance; and, Sustainable Infrastructure.

Report Summary

This report provides analysis and comments on three Provincial initiatives that seek to change land use planning and related legislation in Ontario, and for which the Province is currently soliciting comments. Staff is seeking direction to forward these comments to the Province of Ontario by January 20, 2019, the earliest of the three consultation initiative deadlines.

Financial Implications

There are no financial implications resulting from this report at this time.

Signed By

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Manager Review

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Provincial Strategy Consultation
Planning Services Division
Report Date: December 24, 2018

Background

The Province recently launched a number of strategies to facilitate development and investment in Ontario, including:

- *Increasing Housing Supply in Ontario* (see Reference 1)
- *Preserving and Protecting our Environment for Future Generations: A Made-in-Ontario Environment Plan* (see Reference 2)
- *Bill 66, Restoring Ontario's Competitiveness Act, 2018* (see Reference 3)

Collectively, these strategies focus on removing barriers to residential development, updating environmental protection and facilitating economic development and investment. The Province is seeking comments on these three strategies in January.

The relatively short consultation period precludes a full and extensive analysis of the relatively broad range of issues the Province is exploring. Staff reviewed each initiative and has considered the question being posed or proposed legislative change within our local context, including services and service standards. Staff also consulted with key internal and external stakeholders and select Council members as part of this process. This report summarizes each initiative, offers observations on what the initiative means for land use planning in Greater Sudbury and provides Council with recommendations for submission to the Province.

Initiative #1: Increasing Housing Supply in Ontario

To help increase the supply of housing in Ontario, the Government is developing a Housing Supply Action Plan that will address the barriers getting in the way of new ownership and rental housing. To inform the process, the Government issued the Increasing Housing Supply in Ontario consultation document in mid-November and invited feedback on five themes and related questions, including:

1. Theme 1. Speed: It takes too long for development projects to get approved;
2. Theme 2. Mix: There are too many restrictions on what can be built to get the right mix of housing where it is needed;

3. Theme 3. Cost: Development costs are too high because of high land prices and government-imposed fees and charges;
4. Theme 4. Rent: It is too hard to be a landlord in Ontario, and tenants need to be protected, and
5. Theme 5. Innovation: Other concerns, opportunities and innovations to increase housing supply.

This report focuses on Themes 1, 2 and 3. As Council is aware, the City of Greater Sudbury does not have a housing supply issue. The City has a more than adequate supply of designated, draft approved and zoned residential land, as well as residential vacant legal lots of record, to meet anticipated residential demand for more than 20 years. Instead, as illustrated in the discussion below, the greater concern for developers and investors is cost. This includes the time and cost associated with various provincial, municipal and public agency approvals.

Theme 1. Speed:

Within this theme, the Government is seeking feedback on how development approval processes (provincial, municipal and public agency) can be streamlined while balancing competing economic, environmental and social interests and protecting the broader public interest.

The City of Greater Sudbury provides development approval and building permit approval services to residents, investors and developers. From a development application perspective, the City processed approximately 300 *Planning Act* applications and 300 development related applications in 2017. The former category includes Official Plan Amendments, Zoning By-law Amendments, Draft Plans of Subdivision/Condominium, Site Plan, Consents and Minor Variances. The latter category includes approvals such as lot grading or the installation of utilities within the municipal right of way.

The 2017 MBNCan results demonstrate that the City of Greater Sudbury processes approximately 80 percent of *Planning Act* applications within the service standards established by the *Planning Act*. This is in line with the MBNCan average municipal result of 82%.

In the last term of Council, several changes were made to improve the transparency, efficiency and certainty of the land use planning approval process. This included the updating of the planning website, implementation of a more formalized pre-consultation, known as the Sudbury Planning Application Review Team (SPART), business process mapping for all *Planning Act* applications, the creation of citizen guides and a new site plan control guide.

It is anticipated that these improvements will continue with further improvements to the site plan approval, draft plan of subdivision registration, and lot-grading processes. As part of the 2019 Budget, City Council will also have the opportunity to consider the first phase of the Land and Property Management System which, if approved, will transform the planning and building permit approval processes, making them more transparent and accessible, improving customer service and creating more predictable outcomes.

Interviewees expressed concerns with the amount and type of regulatory requirements, from the need for Records of Site Condition for church-to-residential conversions, to environmental site assessments/impact statements regarding endangered species, to name a few examples. Of particular concern are the added costs and delays inherent to these studies. In most cases, these studies are required by Provincial statute, regulation, Provincial plan, or the "shall be consistent with" or the "shall conform or not conflict with" standards of the Provincial Policy Statement (PPS) and Growth Plan for Northern Ontario established by the Province. The PPS contains specific policy language to distinguish the nature of implementation of such policies. Words such as "shall" are requirements, while "should", "promote" and "encourage" are enabling or supportive. For example, "Development and site alteration shall not be permitted in significant wildlife habitat unless it has been demonstrated there are will be no negative impacts on the natural features or their ecological functions" and "Long-term economic prosperity should be supported by promoting opportunities for economic development and community-investment readiness." In general, policies affecting the environment have the "shall" standard, while the social and economic policies have the "should" standard. The "shall" standard typically prohibits certain types of development, unless supported by study. While the PPS contains noble goals, and while public health and safety is and should remain paramount, the PPS does not allow for the proper balancing of economic, social and environmental needs of communities across Ontario.

Interviewees also felt that the timing and costs of meeting regulatory requirements may be exacerbated by a general shortage of qualified persons to undertake the work and the resulting impact on local capacity to undertake either specialized construction or study.

Concerns were also expressed regarding the cost of building, which has steadily risen over the past decade, due in part to Provincial changes to the Ontario Building Code. There are more up-front costs associated with the goal to reach "net-zero" energy homes, for example, from energy-efficient windows to electric-vehicle charging stations. The "applicable law" associated with the Ontario Building Code has also grown and has added more costs and delays to the building process.

Based on the above, the Province should consider the following changes to improve the efficiency and certainty of the development approval process in Greater Sudbury:

- The Province should harmonize the “shall be consistent” with implementation standard of the Provincial Policy Statement with the “shall have regard to” implementation standard for matters of provincial interest in the Planning Act. This change to a uniform “shall have regard to” provide more local flexibility and maintain the balance between economic, environmental and social interests. In light of the comments above, the Province should rebalance the prescriptive and enabling language of the Provincial Policy Statement.
- The Province should also consider exempting development applications in settlement areas from a defined class of provincial requirements (e.g. an endangered species study) for a defined period of time, where it has been demonstrated appropriate through a comprehensive study. The Province may choose to partner with municipalities on such studies as they provide additional certainty for investment. Greater Sudbury's settlement areas represent approximately 5 percent of our 3,227 square kilometer city. Such a change would address concerns that, in the absence of quality one-window data, the creation of the data has been downloaded to the developer.
- The Province should continue to shield certain municipal decisions from appeal, including, for example, provincial plan implementation (e.g. Source Water Protection Plan), residential development along major transit corridors, second unit policies, and requests to expand settlement area boundaries. The Province should consider shielding more local planning decisions from appeal, and specifically in light of this consultation, residential uses where the principle of development and desired density have been established through as the municipal Official Plan process.
- The Province should review the legislated approval processes for minor planning applications to make them more efficient and timely (e.g. minor variances and consents).
- The Province should review and revise Section 50 of the *Planning Act* to update the abutting lands clauses (“merging on title”) to facilitate the re-establishment of property boundaries, where two parcels have been inadvertently merged on title as a result of a real estate transaction, and when no additional development is proposed.

Theme 2. Mix:

Within this theme, the Government is seeking feedback on how the planning and development system can better deliver a greater mix and type of housing in areas that are better served by transit, schools, workplaces and amenities. In particular, the Government references “families and seniors wishing to downsize” and highlights the “missing middle” in housing (i.e. mid rise, stacked townhouses, townhouses, duplexes and semi-detached) as examples of where additional attention is warranted.

The City's *Outlook for Growth to 2046* finds that we are expected to grow by between 6,900 to 15,000 people, 6,000 to 8,400 households, and 6,400 to 11,000 jobs under the reference and high growth scenarios over the next 30 years (see Reference 4). In terms of housing demand and type, we are projected to see the construction of 3,610 single-detached or semi-detached units, 240 row house units, and 2,240 apartment units throughout Greater Sudbury over the next 30 years.

The appropriateness of these forecasts is confirmed by recent development trends in the city and staff's consultation with key stakeholders. One of the major trends being observed since 2006 is the move away from single and semi detached as the predominant built form of new residential units (98% in 2006) to more of an even mix with apartments. The projected new residential development over the next 30 years is 60% single and semi-detached, 37% apartments and 3% row houses. Changing demographics will also have a major influence on the City over the next 20 years, with 20% of the population being over the age of 70 by the year 2036. Interviewees indicated that with an ageing population, and a decreasing household size (persons per household), there is a desire to build smaller, on-slab homes, and a general shift towards apartments, townhouses and condominium ownership. Interviewees felt that additional flexibility could be incorporated into the Zoning By-law to reduce the uncertainty and delays that are associated with a site specific zoning by-law amendment to introduce such uses in certain areas of the city.

The City's Nodes and Corridors and Affordable Housing Strategy respond to some of these concerns. The Nodes and Corridors Strategy will “pre-zone” certain areas to foster investment in higher density forms of residential development. As part of the Affordable Housing Strategy, Council has approved a new residential zone category to facilitate the creation of smaller lots and homes. The City could examine its Official Plan and Zoning By-law to determine whether additional flexibility is required in these regards.

From a provincial perspective, and as mentioned in the previous section, the Province has recently implemented changes to the Planning Act which shield

municipal decisions that increase residential densities around major transit corridors. The Province should continue these protections to enable and encourage the “missing middle” in housing.

Theme 3: Cost

Within this theme, the Government is seeking feedback on how to lower land costs and government-imposed fees and charges such as planning application fees and development charge fees.

The City is currently in the process of updating its Development Charges Background Study and By-law. This process includes public consultation and the establishment of a Development Charges Working Group with representation from the Sudbury and District Homebuilders Association, Northeastern Ontario Construction Association, Greater Sudbury Chamber of Commerce, local developers, Hemson Consulting and staff. To date, the Development Charges Working group has reviewed and provided input on the current by-law, policy items such as second units and exemption areas as well as the draft list of capital projects. Council will review and provide direction on the draft background study and by-law in early 2019, followed by a public consultation and meeting process prior to the anticipated adoption of a new Development Charges By-law before June of 2019. As part of the 2019 Budget, City Council will also have the ability to consider whether it wishes to proceed with a Development Fee Study, which would provide Council with additional information to determine the fees that it would like to charge for providing planning services.

Interviewees regard development charges as a barrier to residential development. There was an acknowledgement that costs associated with development (i.e. increase in hard and soft infrastructure needs) would alternatively have to be borne by the tax base in absence of development charges. Development charges were further mentioned as a barrier to second units, specifically in new build scenarios, and second units in accessory structures.

The City should continue to lobby the Province for new tools for increased municipal revenue, including a greater share of mining royalties, and changes to the Assessment Act to enable the assessment and taxation on underground buildings/infrastructure. The Province could also change or create legislation to implement new taxation/user fee sources similar to the City of Toronto (e.g. Toronto's additional Land Transfer Tax). These new revenue sources could help maintain and sustain the City's infrastructure, and lessen the need for development charges.

The Province has recently amended the timeframe for statutory reviews of the Provincial Policy Statement and municipal official plans. Like these initiatives, the Province should amend the statutory review of the development charge by-law from the 5 to 10-year standard.

Initiative #2: Preserving and Protecting Our Environment for Future Generations: A Made-in-Ontario Environment Plan

In late November, the Government issued the Preserving and Protecting Our Environment for Future Generations: A Made-in-Ontario Environment Plan for comment by January 28, 2019 (see Reference 2). The Government states that the proposed Plan reflects its commitment to address “the challenges of protecting our air, land and water, reduce litter and waste, and support the reduction of greenhouse gas emissions, and help communities and families prepare for climate change.” This report addresses one aspect of this plan, brownfields.

This plan includes an action plan to increase the redevelopment and clean-up of contaminated lands through the revision of the brownfields regulation and the record of site condition (RSC) guide to reduce barriers to redevelopment, as well as proposed amendments to make it easier to reuse excess soil. The brownfield modernization amendments would eliminate the requirement for an RSC when converting upper floors of low rise commercial buildings to residential use and allow the conversion of religious buildings to residential use without requiring an RSC.

When viewed within the context of Greater Sudbury, these changes are favourable. If approved, it is anticipated that these changes will support Council's strategic goals to revitalize the Downtown and Town Centres and encourage the adaptive re-use of surplus institutional properties.

The Province should be encouraged to continue with its efforts to streamline the provincial brownfield remediation approval process. As part of this process, the Province should consider how to incorporate the Sudbury Soil Study results into the framework for site specific risk assessments.

Initiative #3: Bill 66, Restoring Ontario's Competitiveness Act

In early December, the Government introduced Bill 66, which proposes changes to the Planning Act to “remove planning barriers to expedite major business investments and speed up approvals so they would be completed within one year” (See Reference 3).

As part of this change, the Government is proposing to create new discretionary planning tool for municipalities, called an “open for business by-law”. Some key features of this new tool are:

- Open for business by-laws could be used to facilitate industrial projects (but not retail, residential or mixed use) that involve more than 50 jobs in communities with populations less than 250,000.
- The new by-law appears to combine some existing zoning authorities with existing site plan control authorities, although site plan control itself would not apply to a site subject to an open for business by-law.
- Municipalities may apply to the Minister to pass such a by-law and the request must be accompanied by prescribed information, which has not yet been defined.
- Municipalities are not required to consult with the public prior to making the request to the Minister of passing the by-law itself (although public notice of passing the by-law is required).
- Decisions relating to open for business by-laws are not subject to appeal to the Local Planning Appeal Tribunal (although the Minister of Municipal Affairs and Housing may intervene before the by-law comes into effect, 20 days after its passing);
- An open for business by-law is not subject to the Provincial Policy Statement, Growth Plan for Northern Ontario, the Clean Water Act, and other prescribed provisions. The Minister and the municipality have the ability to impose conditions it considers necessary to protect public health and safety.

Greater Sudbury, through its Official Plan and other land use planning documents, has strived for sustainable and responsible development that effectively balances environmental, economic and social needs. Through the City's recent five-year official plan review process, the City has reconfirmed that we have enough residential and employment lands set aside for both the reference and high growth scenarios over the next 20 years. Public consultation helped shape the Official Plan, and obtaining the views of the public continues to be an integral part of land use planning in Greater Sudbury.

The proposed open for business by-law appears to prioritize economic goals and objectives to the exclusion of environmental, social and other goals and objectives. This is inconsistent with the more holistic and sustainable position adopted by City Council in the Official Plan. The proposed framework to formulate and approve an open for business by-law appears inconsistent with City Council's approach to community engagement and public consultation.

While the City of Greater Sudbury supports economic development and investment, the Province should clarify changes to the proposed open for business by-law framework that would result in a better balance between economic, environmental and social objectives and establish minimum standards for public consultation prior to the by-law being passed and approved.

Staff will continue to monitor these initiatives and will bring forward additional reports, as appropriate.

Summary

This report provided analysis and comments on three Provincial initiatives that seek to make changes to land use planning in Ontario, and for which the Province is currently soliciting comments. As part of analyzing the initiatives, the report provides context and details on the current state of land use planning policy in Greater Sudbury as it relates to these initiatives. Additionally, staff held interviews with key internal and external stakeholders as well as members of Council in order to provide a comprehensive set of comments to the Province.

Staff is seeking direction to forward these comments to the Province of Ontario by January 20, 2019.

References

1. "Increasing Housing Supply in Ontario - Consultation Document"
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2. "A Made-In-Ontario Environmental Plan"
<https://prod-environmental-registry.s3.amazonaws.com/2018-11/EnvironmentPlan.pdf>
3. Bill 66, Restoring Ontario's Competitiveness Act,
https://www.ola.org/sites/default/files/node-files/bill/document/pdf/2018/2018-12/b066_e.pdf
4. "City of Greater Sudbury Outlook for Growth to 2046" April, 2018.
<http://agendasonline.greatersudbury.ca/index.cfm?pg=feed&action=file&agenda=report&itemid=16&id=1221>
5. "Growth and Settlement Policy Discussion Paper", June, 2013

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