



Building Markham's Future Together
Journey to Excellence

Bill 73 – Smart Growth for Our Communities Act, 2015

Development Services Committee

May 19, 2015



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This presentation

Introduction to Bill 73

Part 1: Land Use Planning Reforms

Part 2: Development Charges System Reforms

What's Next?

Bill 73 – What is it's purpose?



- Proposed amendments to the *Development Charges Act* and the *Planning Act*
- Government response to consultations which took place in 2013/2014 throughout Ontario
- Intended to ensure both systems are predictable, transparent, cost effective and responsive to the needs of Ontario communities
- Currently in draft form, has received first and second reading in the Legislature

Province's stated intent with respect to the legislation

- Give residents more say in how their communities grow
- Set out clearer rules for land use planning
- Give municipalities more independence to make local decisions and resolve disputes
- Give municipalities more opportunities to fund growth-related infrastructure
- Make development charges, Section 37 and parkland dedication systems more predictable, transparent and accountable





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Part 1: Land Use Planning Reforms

Two-year moratorium on certain development applications

Official Plan Amendments

two years after all or part of a new OP comes into effect

Zoning By-law Amendments

two years after Council repeals and replaces all of its zoning by-laws (i.e. New comprehensive zoning by-law)

Minor Variances

two years after a zoning by-law amendment is approved



Two-year moratorium on certain development applications

Staff Position: Staff do not support the proposed moratorium

OPAs: *Certain OP amendments may be necessary after approval of the new Official Plan, in order to reflect subsequent Council decisions on land use matters*

ZBAs: *Certain Zoning amendments would be necessary, as it is not Markham's current practice to "pre-zone" lands in accordance with the Official Plan. As well, new OP provides for "discretionary uses" which require rezoning to proceed*

Variances: *Minor Variance applications within 2 years could proceed if Council permits. No criteria for this "allowance" developed, also adds time and cost to process for applicants*

Proposed limitations on appeals to the Ontario Municipal Board

OPs and OP Amendments – failure of approval authority to make a decision

Staff Position: Support. Provides more certainty with respect to the timing and costs of OMB appeals

No global (whole plan) appeals permitted

Staff Position: Support. Would reduce the resources and time needed to scope the issues to be adjudicated by the Board.

No appeal of determination that OPA is not in conformity with Regional Plan

Staff Position: Support. consistent with idea of maintaining conformity with upper-tier and Provincial policy.

Proposed limitations on appeals to the Ontario Municipal Board

Inconsistency with Provincial Plans or Upper-Tier (Regional) Official Plan

Staff Position: Support. The amendment requires appellants to provide more robust information and justification in their appeals

Greenbelt, Oak Ridges Moraine Conservation Areas, Growth Plan forecasts, others

Staff Position: Support as it applies to private-sector appeals, as it provides greater certainty with respect to the supremacy of the provincial plans over local official plans. City should retain the right to appeal upper-tier policy though.

Alternative dispute resolution may be initiated prior to referral to OMB

Staff Position: General Support. Allows for local mediation rather than OMB.. Cost of implementing such a system would have to be evaluated if this were to be considered

Changes to requirements for public consultation

Alternate forms of public consultation extended to subdivisions or consents

Staff Position: Support. Staff considers it reasonable Markham's OP already allows alternative forms of public consultation that go beyond the minimum requirements of the Planning Act

Official Plans to articulate procedures for public consultation

Staff Position: Clarification Required. The Planning Act already provides requirements with respect to public consultation. Does this amendment require repeating information from the Planning Act in our Official Plan? Require further clarification from the Province on this matter.

Council to articulate in decisions the effect of oral and written presentations

Staff Position: General Support. Our recommendation reports regularly include an explanation on how public submissions were considered. Often problematic to adequately capture/interpret oral submissions, and so they are generally characterized and categorized around common themes.

A photograph of a modern city building with a glass facade and a curved roofline, set against a clear blue sky.

Parkland Dedication

Parks Plan Required

Before adopting a by-law which provides for parkland dedication on a “per-unit” basis, a parks plan must be in place that establishes the City’s parkland needs

Staff Position: Support. Plan would be beneficial for quantifying parkland needs. Resources can then be more effectively distributed, and longer-term planning for parks may occur. Assists in justifying any parkland dedication required through development approvals.

Staff intend to initiate a parks plan exercise in 2016, subject to Council budget approval, and regardless of the status of Bill

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Parkland Dedication

Cash-in-lieu Rate Change

Current Planning Act maximum: **1.66 ha** per 500 units (1 ha/300 units)

Markham's current OP cap: **1.21 ha** per 500 units (apartments/high density)

Proposed Bill 73 maximum: 1.0 ha per 500 units

40% drop in cash-in-lieu for lower density singles/semis/townhomes development

17.6% drop in cash-in-lieu for higher density/apartment development

A photograph of a modern, multi-story building with a glass facade and a curved roofline, set against a clear blue sky. The building is partially obscured by a white horizontal bar.

Parkland Dedication

Staff Position: Non-support

Staff are not in support of this amendment, as it provides for an arbitrary figure of reduced parkland dedication cash-in-lieu, which is not tied to the actual parkland needs of the City.

The proposed amendment would have a financial impact on Markham that will have to be quantified. There would be a reduction of 40% cash-in-lieu of parkland dedication for lower and medium density units, and a 17.6% reduction for higher density apartment units.

Additional Bill 73 Changes

- ❖ Potential for new prescribed criteria for determination of “minor variance”
- ❖ Extension of review cycles for Provincial Policy Statement, Provincial Plans, OP
- ❖ Additional transparency and accounting requirements for Section 37 receipts

Staff Position: Support. Staff would like to be involved in working group discussions respecting prescribed criteria for minor variances. Staff support alignment of timelines for municipal and provincial plans, and additional transparency and accounting practices respecting Section 37 funds





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Part 2: Development Charges System Reforms

a) Expansion of Services Eligible for Development Charges (DCs)

- Waste diversion will be removed from the list of ineligible services

Staff Position

- Broaden the scope of the amendment to include all waste management
- Remove hospitals and municipal administration offices from the list of ineligible services

b) Increased Emphasis on Area-Specific Development Charges

- Municipalities will be required to examine the use of area specific development charges (ASDCs)
- Province can impose the application of ASDCs

Staff Position

- The City already uses ASDCs and would like to retain the flexibility to use it based on the City's circumstances

c) Developments Requiring Multiple Building Permits

- DCs will be payable upon the first building permit being issued
- Will impact the assessment of DCs for high-rise developments

Staff Position

- Negative Impact on Revenues – Development industry can consciously lock in DC rates early in the process
- Province will be requested to fix the date of collection of DCs at a time more closely related to the construction of a given development

d) Utilization of a Forward-Looking Service Level Calculation

- Province to set out service(s) to be changed from a 10-year historical to a forward looking calculation
- List of services that will benefit not yet available (general view – transit)

Staff Position

- It is unclear how this will be implemented but staff would like to see it expanded to include indoor recreation, park development, library services, fire services & public works

e) Transit Recovery

- Removal of the mandatory 10% reduction for transit
- Has no direct financial impact to the City but will be favourable for the Region

Staff Position

- Would like to see the amendment expanded to include all other soft services such as indoor recreation, park development and library services

f) Requirement to Adopt an Asset Management Plan

- Demonstrates that all assets funded by DCs are financially sustainable over their full life cycle
- Not clear if asset management plans prepared for other purposes will satisfy any new requirements

Staff Position

- Province requested to consult with Markham before finalizing the amendments

g) Voluntary Payments

- Municipalities will not be permitted to impose a charge related to a development, or a requirement to construct a service, except as permitted by the *DCA* or another Act
- New section will not affect charges already imposed before the amendment comes into force
- Exceptions may be made under the *DCA* but the details of these are not currently known

Staff Position

- Province requested to consult with Markham before finalizing the amendments
- May limit the services that the City can request developers to construct on its behalf

h) Improved Reporting Requirements

- Creates more detailed disclosure requirements to increase transparency
- Identify capital assets not funded through DCs
- Statement of compliance that City is not imposing voluntary payments

Staff Position

- City already tracks information and have no problem with increased transparency

Issues Not Addressed in Bill 73

i) Powers of the OMB

- OMB cannot issue a ruling that will increase DCs payable
- Creates an uneven playing field - appellants and municipalities bear different levels of risks and accountability

Staff Position

- Would like to see an amendment to the DCA to repeal this section

j) Use of Alternate Methodology to Calculate Service Levels

- The City used the Gross and Alternative methodologies in its 2009 and 2013 DC by-laws
- OMB rejected both approaches – Instituted the Net Population Approach

Staff Position

- Net Population Approach does not fully recover for the cost of growth
- Recommends that the Province expand the permitted methodologies



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What's Next?

- Bill 73 has received First and Second Reading in the Legislature
- Commenting period ends on June 3, 2015
- Province will set up working groups to address further refinements to Bill
- Staff would like to be part of any working groups formed by Province
- Recommend that this report be forwarded to the Province as our official submission
- Once Bill 73 is approved, Staff will report back to Council with additional info
- Staff will also report back to Council respecting Parkland Dedication By-law Review



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