

**COMMITTEE OF THE WHOLE SEPTEMBER 5, 2006**

**PLANNING ACT PROPOSED AMENDMENTS  
BILL 51 PROPOSED REGULATIONS  
GENERAL FILE 13.6**

**Recommendation**

The Commissioner of Planning and the Commissioner of Legal and Administrative Services recommends:

1. THAT the Province BE ADVISED that the Council of the City of Vaughan requests the following amendments to the proposed regulations for Bill 51, *Planning and Conservation Land Statute Amendment Act, 2005*:
  - a. That the list of conditions that a municipality may impose as part of zoning approval be expanded to allow for the conveyance or acquisition of natural heritage features (valleylands, woodlots, wetlands, and associated ecological buffers) at no expense to the municipality or the Conservation Authority;
  - b. That the requirement for a public open house for all applications be deleted from the Bill and the Regulation; and
  - c. That the 30-day time limit proposed for Council to reconsider its decision based on new information submitted by the Appellant to the OMB, be extended to 90 days in keeping with City of Vaughan Council's earlier recommendation on Bill 51.
2. THAT the Minutes of Council be forwarded to the Ministry of Municipal Affairs and Housing contact on the Environmental Registry before the October 2, 2006 deadline, and to York Region.

**Economic Impact**

There are no requirements for new funding associated with this report.

**Purpose**

On February 13, 2006, Development Planning and Legal staff jointly reported to Council on the First Reading of Bill 51 "*The Planning and Conservation Land Statute Amendment Act*" and recommended a number of changes to the Act to the Ministry of Municipal Affairs and Housing. One of the recommendations approved by Council was that the regulations referred to within Bill 51 be provided in advance of the completion of the legislation in order to provide a thorough review of the impact of the legislation.

A description of the regulations has been provided by the Province and has been posted on the Environmental Registry for a 90 day review and comment period. This staff report details the proposed contents of the regulations, as provided by the Province, and provides commentary for the Province's consideration in the completion of the regulations and Bill 51.

**Background - Analysis and Options**

Since staff last reported on the first reading version of Bill 51, the Bill received second reading, without amendment on April 26, 2006, and has been referred to the Standing Committee on General Government for Public Hearings. Standing Committee hearings were held in early

August, 2006. The Development Planning Department forwarded Vaughan Council's comments of February 13, 2006 to the Standing Committee prior to the August 28, 2006 deadline.

On July 4, 2006, the Province posted the proposed contents of several regulations on the Environmental Registry for a 90 day public review and commentary. The deadline for preparing comments is October 2, 2006. It is recommended that a copy of the minutes of Council's consideration of this report will be submitted to the Ministry of Municipal Affairs and Housing. It is uncertain at this point, whether Council's other recommended amendments to Bill 51 are being considered.

The regulation contents have been described in 7 different Environmental Registry Postings which are quoted below.

## **1. Transition Provisions**

The proposed transition regulation establishes the rules for planning applications at the time of proclamation of the Act and would provide certainty regarding the processing and decision making on planning applications. The proposed new provisions of Bill 51 would apply to all applications made on or after the date the legislation comes into effect.

The proposed transition provisions are consistent with typical implementation procedures, and there is no anticipated issue with the proposed transition provisions. Bill 51, however, proposes that advice, comments and decisions of Council, be consistent with the Provincial Policy Statement, and shall conform with "provincial plans" that are in effect on the date of the decision, therefore portions of the Bill, if passed as drafted will be applicable to applications in process prior to the legislation coming into effect regardless of the proposed transition provisions. These provisions in Bill 51 were supported by Vaughan Council.

## **2. Complete Applications, Official Plan Contents, and Supporting OP information**

The Province has proposed broadening the prescribed information and material that would need to be included in planning applications that involve OP amendments, zoning by-law amendments, minor variances, plans of subdivisions, amending or revoking Minister's zoning orders and consents.

The information and material in support of the application would be related to the site involved and impacts related to the development unless the PPS, a provincial plan or municipal OP requires a broader review. The proposed changes would expand the information and material that is now required, to include:

- A planning justification report demonstrating that the application is consistent with the 2005 PPS;
- conforms to or does not conflict with the applicable provincial plan or plans;
- conforms to municipal OPAs;
- Any technical reports or studies to meet the Provincial Policy Statement or provincial plan(s) requirements;
- Reports or studies related to the adequacy of infrastructure and noise attenuation, and;
- Identification of related planning applications.

Bill 51, if passed, would provide for regulations to prescribe the types of matters to be contained in an Official Plan, including:

- Land use schedules;
- Identification of definitive settlement area boundaries, where applicable;

- Performance monitoring policies measuring the implementation of the Provincial Policy Statement, applicable provincial plan(s) and official plan policies;
- Identification of the planning period for the official plan; and
- Requiring the metric system to be used where measurements are included in the OP.

Bill 51, if passed, would provide for regulations to prescribe the types of materials that must be provided to the appropriate approval authority in the course of preparing an Official Plan. These would be expanded from those presently included in O. Reg. 198/96, to include:

- Background studies and reports to demonstrate consistency with the Provincial Policy Statement and conformity with (or not in conflict) provincial plan(s);
- Housing, population, employment and land supply forecast; and
- Requiring the metric system to be used where measurements are included in the OP.

Vaughan Council requested that these details be provided prior to the finalization of the legislation in order to provide certainty when proceeding with an Official Plan review process, and staff are satisfied with the proposed contents of the regulation.

### **3. Zoning with Conditions**

Bill 51, if passed, would provide the authority to establish a regulation that would set out the conditions that a municipality may impose as part of zoning approval provided that their official plan contains relevant policies.

The conditions would need to be fulfilled and/or contained in a registered agreement on title of the land prior to the issuance of a building permit for the development. It is proposed that the regulation would set out prescribed conditions that a municipality may impose in a zoning by-law.

Proposed prescribed conditions include measures that:

- are identified in studies completed prior to enactment of the zoning by-law;
- relate to the adequate provision of permitted hard services;
- provide for energy conservation and alternative energy provisions;
- mitigate development impacts affecting public health and safety;
- secure land dedication for road widening;
- ensure the orderly development of lands, buildings and structures;
- relate to performance criteria being met prior to building permit issuance and/or any on-going monitoring or maintenance requirements tied to a registered agreement;
- promote the maintenance, restoration or improvement of the diversity and connectivity of natural features and long-term ecological function and biodiversity of natural heritage systems;
- protect and enhance heritage, archaeological and cultural resources that maintain landscapes, buildings or structures;
- relate to open space;
- relate to the provision of transportation and public transit infrastructure;
- relate to the provision of parking; and
- provide assessment and remediation of contaminated land.

The ability to apply conditions to a zoning approval is an important tool in the planning process, and this amendment to the *Planning Act* and the proposed regulation is supported. While the list of proposed prescribed conditions are comprehensive, it is recommended that this list be expanded to clearly allow for the conveyance or acquisition of natural heritage features (valleylands, woodlots, wetlands, and associated ecological buffers) at no expense to the municipality or the Conservation Authority.

#### **4. Community Improvement Planning**

The Minister may prescribe the upper-tier municipality for community improvement planning purposes. Matters that may be contained in an upper-tier community improvement plan include Regional transportation corridors; and/or Regional infrastructure.

A report has been prepared by York Region Staff to York Region Planning and Economic Development Committee for September 6, 2006, which requests that this proposed regulation be amended to enable the Region to identify other Regional matters for community improvement plans through an Official Plan Amendment process. The City of Vaughan supports the Regional Municipality of York's comments on this proposed regulation.

#### **5. Enhanced Public Record**

It is proposed that the following information and material be added to existing public record requirements, where applicable, which would be forwarded to the approval authority and/or Ontario Municipal Board (OMB) in the case of an appeal to the OMB:

- An affidavit or sworn declaration of an employee of the municipality or planning board certifying that requirements for the giving of notice and the holding of at least one open house have been complied with;
- Additional information required as part of a complete application, including when it was submitted;
- A copy of any written summaries of oral submissions made at a public meeting, where it is provided by the presenter;
- A copy of those written submissions and comments received prior to council's decision;
- A copy of the minutes of the public meeting, including the names of presenter, if any;
- The decision of the municipal council or the approval authority;
- A statement indicating how the decision of council is consistent with the Provincial Policy Statement and conforms or does not conflict with applicable provincial plan(s) that are in effect; and
- Copy of municipal staff report/justification report.

There is no anticipated issue with the proposed contents of this regulation, except the proposed requirement for a public open house for all applications. City of Vaughan Council did not support this proposal in its Report on Bill 51, submitted previously, and it is recommended that this additional requirement over and above the existing public meeting and other requirements be deleted from the Bill and the Regulation.

#### **6. Local Appeal Bodies**

Bill 51, if passed, would enable municipalities to establish a Local Appeal Body to hear appeals related to applications for minor variances and/or consents to sever. The proposed regulation would prescribe conditions on the establishment, composition and operation of Local Appeal Bodies.

It is proposed that in order for a municipality to establish a Local Appeal Body that Planning documents (official plans and zoning by-laws) are required to be up-to-date and conform to any applicable provincial plans, and be consistent with provincial policy statements; and Local Appeal Bodies would be established by by-laws.

It is proposed that the length of term for appointment to a Local Appeal Body be a maximum 5 years - staggered appointment terms if multiple members, and that the members must have the following qualifications:

- Demonstrated understanding of the provincial land use planning process, the *Planning Act* and local planning and development matters;
- Demonstrated problem solving and writing skills;
- Ability to listen and communicate clearly and effectively; and
- Understanding of the role and function of quasi-judicial tribunals.

In order to be eligible to sit on a Local Appeal Body it is proposed that the members must meet the following criteria: requirement to submit a summary of qualifications; must be of voting age; must be a resident of the municipality; and must be a ratepayer of the municipality.

In addition to the *Statutory Powers and Procedures Act*, the following rules of practice and procedure are proposed to be prescribed for a Local Appeal Body:

- Authorization for a representative to act on behalf of a party to a hearing;
- Time extensions or reductions, and commencement of oral hearing;
- The format of an application for an appeal, and application fee;
- Notices and format for notices of a hearing;
- Requirements related to the submission and distribution of documents and visual exhibits for evidence, filing reports and statements, and format for serving;
- Terms relating to making a motion, providing notice of a motion, and serving a motion;
- Procedure for settlement prior to the appeal body hearing event;
- Decision by Local Appeal Body as to how the matter will proceed in;
- The consolidation of two or more proceedings (matters) at a hearing;
- Hearing dates, and requests for adjournments;
- Procedures at the hearing;
- Requirements relating to media coverage and recording a proceeding;
- Open to public;
- Requests for compensation and costs awarded by the Local Appeal Body; and
- Local Appeal Body decisions and orders and notice requirements.

There are no anticipated concerns with regard to the proposed requirements for Local Appeal Bodies. The municipality maintains the option to establish a Local Appeal Body, which could be assessed in further detail at a future date, should Bill 51 be approved as drafted.

## **7. Timeframe for consideration of new information from the OMB**

Bill 51, if passed, would limit information and material which may be heard at an OMB hearing to generally that information and material that was provided to a municipality before the council made a decision for official plan, zoning by-law and plan of subdivision matters.

New information would only be permitted if the OMB were of the opinion that it was not reasonably possible to provide the information and material to the municipality prior to council's decision, or the information and material was introduced into evidence by a public body.

If the OMB determines that the new information and material could have materially affected the council's decision, then it is required to provide council with an opportunity to reconsider its decision in light of the information and material and make a written recommendation to the Board.

The proposed regulation would give municipal council 30 days to reconsider its decision on a plan of subdivision, official plan or zoning by-law application, based on new information and material, and provide a recommendation to the OMB.

Vaughan Council, passed a resolution on February 13, 2006 that a 90 day timeframe be provided for consideration of new information. This timeframe is considered more reasonable than the 30 days proposed as it provides adequate time for staff review of the information and material,

drafting staff reports to Council, and providing adequate time for public notice of a Council meeting and Council consideration of the new information. It is, therefore, recommended once again that the 30-day time limit proposed for Council to reconsider its decision based on new information submitted by the Appellant to the OMB, be extended to 90 days in keeping with City of Vaughan Council's earlier recommendation regarding the provision to the same effect in its Report on Bill 51.

### **Relationship to Vaughan Vision 2007**

This report is consistent with the priorities set forth in Vaughan Vision 2007, particularly 'A-5', "Plan and Manage Growth".

### **Conclusion**

The Province has posted the proposed contents of the regulations for Bill 51 on the Environmental Registry for public review and comment. Vaughan Council, in its February 13, 2006 comments to the Province on Bill 51 requested that the regulations referred to in Bill 51 be provided in advance of the completion of the legislation, in order to have a more complete understanding of the implications of the Bill. This report has been prepared to outline the proposed contents of the regulations and provide comments to the Province on their contents in accordance with the postings on the Environmental Registry which closes on October 2, 2006. Staff will continue to monitor the progress of Bill 51 and report back to Council as necessary.

### **Attachments**

N/A

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Respectfully submitted,

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