

COMMITTEE OF THE WHOLE OCTOBER 18, 2004

**PROVINCIAL LAND USE PLANNING POLICY REFORM
DRAFT PROVINCIAL POLICY STATEMENT
CITY OF VAUGHAN COMMENTS**

Recommendation

The Commissioner of Planning in consultation with the Commissioner of Legal and Administrative Services recommends:

1. THAT the following recommendations as outlined in this report BE ADOPTED;
 - i. THAT detailed guidelines, training and technical materials be made available from the Province on an ongoing basis to assist with issues arising from this change in legislation and policies, so that it is clear as to what is meant by “be consistent with”.
 - ii. THAT Provincial funding and/or funding mechanisms be provided to municipalities to support the infrastructure/transit services necessary for these growth management policies.
 - iii. THAT policies be added to assist municipalities with achieving well-designed sites and communities, and that Section 41 of the Planning Act be amended to provide municipalities with additional powers to control colour, texture, and type materials used in development.
 - iv. THAT local municipalities have the ability to distribute a broad transit-supportive density appropriately across the entire transit corridor in accordance with local conditions. To achieve this, the Draft PPS should insert the word “overall” in front of “minimum densities for transit corridors”.
 - v. THAT the Province provide the detailed definition of “affordable housing” in a guideline, and have upper-tiers set minimum targets at same time as making housing projections.
 - vi. THAT the required minimum supply of land with servicing capacity be increased from 3 years to 5 years.
 - vii. THAT the PPS clarify that the protection of local natural heritage features may be governed by local municipal policies.
 - viii. THAT language such as “should be maintained” and “generally directed away from” be strengthened or clarified.
 - ix. THAT the draft PPS make reference to Provincial Source Water Protection initiatives.
 - x. THAT Regions be allowed to approve changes to Special Policy Areas.
 - xi. THAT the Provincial position on development and redevelopment within Special Policy Areas be clarified.
 - xii. THAT the requirement for a demonstration of need for mineral aggregate resources be continued.
 - xiii. THAT the extension of timeframes for decision-making prior to an appeal be supported.
 - xiv. THAT removing the ability for appeals to the OMB for urban boundary expansions be supported.
 - xv. THAT a more thorough identification of what constitutes a “complete application” be supported, and that municipalities have the ability to further identify “complete” application requirements.
 - xvi. THAT the role of the OMB generally be supported and not be eliminated or replaced with more court-like procedures.
 - xvii. THAT improvements be made to the OMB to increase efficiency and timely decision-making.

2. THAT the recommendations BE FORWARDED to the Minister of Municipal Affairs and Housing and Region of York for their consideration.

Purpose

The purpose of this report is to provide a summary with respect to the Provincial Discussion Papers regarding Planning Reform in Ontario and to discuss potential recommendations.

Background

At the beginning of June, 2004 the Ontario Minister of Municipal Affairs and Housing released three Consultation Discussion Papers respecting Planning Reform in Ontario. In so doing the Minister requested comments from municipalities and the general public.

These Planning Reform Discussion Papers are:

- Discussion Paper #1 - "Planning Act Reform and Implementation Tools"
- Discussion Paper #2 - "Provincial Policy Statement: Draft Policies"
- Discussion Paper #3 - "Ontario Municipal Board Reform"

On September 28, 2004 Staff made a presentation and report to the Committee of the Whole Working Session that included a number of conclusions on these three Planning reform Discussion Papers. This report and discussion at that meeting form the basis for the recommendations to Council in this report.

It should be noted that previous to the release of these three Planning Reform Discussion Papers the Minister of Municipal Affairs and Housing enacted the Greenbelt Protection Act to freeze development within the "Greenbelt Study Area", including a significant area within the Greater Toronto Area. Council was informed of and considered this legislation in previous staff reports on January 19 and September 13, 2004. A formal Provincial Plan to establish the Greenbelt is scheduled for completion by December 2004.

Subsequent to the release of the Planning Reform Discussion Papers, in July 2004, the Minister of Public Infrastructure Renewal released a further planning-related document, "Places to Grow, Better Choices, Brighter Future – A Growth Plan for the Greater Golden Horseshoe". Staff will be bringing forward a report with respect to this document at the October 13 Working Session of the Committee of the Whole.

Analysis

In the hierarchy of planning policy guiding development in Ontario, the Provincial Policy Statement (PPS) is the senior level. Both Regional and local municipal plans are guided by the PPS; Regional plans directly, and local plans also through conformity with Regional plans.

- i) Same Broad Areas of Provincial Interests with More Detailed Policies

The new Draft Provincial Policy Statement addresses the same broad policy areas as the current PPS. These are:

- Managing Urban Growth
- Housing
- Infrastructure
- Environmental protection
- Protecting Agricultural lands
- Protecting lands for minerals, petroleum and aggregates

The Draft PPS, however, does contain a number of areas with more detailed and specific policy language than the current PPS. As a result, the current draft generally provides stronger, and in many cases clearer, policy direction to upper and lower tier municipalities in their delivery of provincial land use policy interests through their official plans.

ii) From “have regard to” to “be consistent with”

Currently, municipal official plans are required to “have regard to” provincial policy. A proposed change to the Planning Act is to replace the phrase “have regard to” with “be consistent with”. The intent of this shift in language is to provide a clearer test in implementing Provincial policies through municipal official plans, and to somewhat reduce flexibility in municipal decision-making. At the same time, the new language has the advantage of removing some of the current ambiguity of Provincial policy.

Under the more detailed language in the Draft Policy Statement, and under the test of being “consistent with” these policies, it is unclear what the precise impact on Vaughan’s policies would be, if any. Under such a proposed policy and legislative context, it is important that the policies themselves be clearly written, and supported by appropriate guidelines, training, and technical materials to address additional and ongoing issues that may arise from implementation of a new PPS.

Recommendation:

THAT detailed guidelines, training and technical materials be made available from the Province on an ongoing basis to assist with issues arising from this change in legislation and policies, so that it is clear as to what is meant by “be consistent with”.

iii) Growth Management – “Intensification First”

One shift in the overall approach to growth management in the draft PPS could be described as a shift towards “intensification first” policies. The draft PPS includes specific policy language to require the intensification of existing urban settlement areas prior to the justification of urban boundary expansions. For example “brownfields” are to be identified and planned for redevelopment, and infrastructure is to support priority growth areas.

The draft PPS directs upper tier municipalities to set intensification targets for local municipalities. This is currently being done through the York Regional Official Plan and Vaughan’s OPA 600 that respectively set and use an intensification target of 20% (i.e. 20% of forecasted population increase to existing built-up areas).

Staff believe including such a target policy in the Draft PPS and the York Region Official Plan as an effective growth management tool should be supported as it equally directs local municipalities to best use existing infrastructure and services and, at a minimum, maintain population levels in often older, aging communities. The Draft PPS also provides that the target will be developed in consultation with lower-tier governments.

When viewed in the light of being “consistent with” Provincial policy, there are many questions about how such a target will be implemented in the consideration of urban boundary alterations. Staff believes that the detailed implementation of this policy needs to be clarified.

Regardless of a Provincial policy of ‘intensification first’, or resulting Regional intensification targets, the ability to actually achieve growth in existing built-up areas will be most successful if the services that make intensification work for individual households are provided. In the case of Vaughan, individuals are most likely to make the choice to live in an existing built-up area where

convenient public transit service connections serve these communities. Other policies in the Draft PPS support this view (Infrastructure and Transportation systems), but funding mechanisms and investment in quality transit service are critical to actually achieving these policies. In addition, the PPS should also include distinct policies with respect to urban design that assist municipalities with providing for development that achieves well-designed sites and communities that support the overall growth-management goals.

Recommendation:

THAT Provincial funding and/or funding mechanisms be provided to municipalities to support the infrastructure/transit services necessary for these growth management policies.

THAT policies be added to assist municipalities with achieving well-designed sites and communities, and that Section 41 of the Planning Act be amended to provide municipalities with additional powers to control colour, texture, and type materials used in development.

iv) Transit-Supportive Land Use – Minimum Density for Transit Corridors

The Draft PPS puts greater emphasis and detail on land use planning that provides for transit-supportive densities and a mix of land uses. The policies support new development in transit-supportable areas. The Draft PPS also includes a policy for upper tier municipalities to set minimum density targets for transit corridors. Staff can generally support these policies since they match land use density with the provision of infrastructure investment, but is concerned, however, about the potential application of a minimum density to local municipal official plans. A minimum density at one location of the transit corridor (at a transit node for example) may not be appropriate at another location between these nodes, and local municipalities should have the opportunity to flexibly apply/distribute the minimum target density over the entire transit corridor.

Recommendation:

THAT local municipalities have the ability to distribute a broad transit-supportive density appropriately across the entire transit corridor in accordance with local conditions. To achieve this, the Draft PPS should insert the word “overall” in front of “minimum densities for transit corridors”.

v) Housing – Pre-zoning and Affordable Targets

The Draft PPS makes a subtle shift in requiring housing through intensification to be provided through a minimum 3-year supply of ‘suitably zoned’ and available lands. The determination of what constitutes ‘suitable’ or ‘available’ may prove to be a challenge. Again, while the policy is generally appropriate, clarity on this in the form of a Provincial guideline to this policy would be helpful. In addition, while the 3-year minimum supply has been a standard in the context of current provincial policy, it may be appropriate under the overall growth management goals of this Draft PPS to increase this supply to 5 years. This would match with the 5-year review cycle for Official Plans and encourage municipalities to review their zoning by-laws in lock step with municipal Official Plans/Amendments.

The definition of affordable housing in the Draft PPS is different from the current provincial policy statement. However, without data being made available that identifies, for example, the regional market area, average purchase or rental prices, and, income distributions, it is difficult to assess at this time if the resulting policies are realistic and achievable. The housing affordability policies and definitions are generally too detailed and should instead be provided through guideline documents.

The Draft PPS requires each municipality to set their own minimum affordable housing target. All that municipalities can and should do is plan for a supply of land that accommodates range and mix of housing types. In order to check whether each municipality is providing the range and mix of housing opportunities, and accommodating the market to provide affordability, the minimum target should be undertaken at the same time as making housing projections. The determination of the minimum target for affordable housing should therefore also be coordinated by the upper-tier level of government, in consultation with the lower-tier governments. From a GTA market perspective, the York Region urban municipalities collectively play a significant and similar role in the provision of housing, and are similar to other large urban municipal areas such as the City of Toronto.

Recommendation:

THAT the Province provide the detailed definition of "affordable housing" in a guideline, and have upper-tiers set minimum targets at same time as making housing projections.

THAT the required minimum supply of land with servicing capacity be increased from 3 years to 5 years.

vi) Integration of Transportation with Land Use

The draft PPS places greater emphasis on the need to integrate land use with transportation. This is consistent with the City's approach to planning.

The draft PPS speaks to not permitting development that would constrain the construction of "identified corridors". While this is an essential policy, it is equally important that corridors be identified in a timely manner and well in advance of development. This is critical so that development not be unduly delayed by indecision on future corridor protection requirements.

Recommendation:

THAT Staff provide a report to the October 13, 2004 Working Session of Committee of the Whole respecting the "Places to Grow" document describing issues associated with the extension of Highway 427 and other transportation issues.

vii) Environment

The Environmental Policy section of the proposed PPS expands the types of natural heritage features to be protected, and with the proposed "shall be consistent with" requirement, offers a potentially higher level of protection for significant natural heritage features from development and site alteration. The policies, which relate to natural heritage features, however, are generally insufficient for protecting the types of natural heritage features found in Vaughan, which may not meet Provincial criteria for significance (such as tableland woodlands and locally significant wetlands). The definition of significance should therefore be expanded to include a provision for the determination of significance on a local level, in consultation with the Region and the Province. This would allow for the protection of tableland woodlots, which may not meet the current definition of "significant" in the Draft PPS.

Otherwise, the language of the natural heritage section should be tightened to exclude terms such as "should be maintained" and "development generally directed away from" which create ambiguity within the policy statement.

Staff supports the section of the proposed PPS dealing with water. This section addresses using watersheds as a basis for planning, maintaining watershed integrity, and protecting surface and

ground water features. The City's official plan currently addresses these policy areas, and the City works closely with the Toronto and Region Conservation Authority in their watershed planning initiatives. There should also be a connection/reference in this section to the ongoing work at the Provincial level for the requirements for source water protection.

Recommendation:

THAT the PPS clarify that the protection of local natural heritage features may be governed by local municipal policies.

THAT language such as "should be maintained" and "generally directed away from" be strengthened or clarified.

THAT the draft PPS make reference to Provincial Source Water Protection initiatives.

viii) Natural Hazards – Revised 'Special Policy Area' Definition

The Natural Hazard section of the PPS has been expanded and provides a new definition for "Special Policy Areas" (SPA). A new policy has been added to the Natural Hazard Section requiring that any site-specific policies applying to a Special Policy Area must first be approved by the Ministers of Municipal Affairs and Housing and Natural Resources prior to the approval authority giving its consent for such changes or modifications.

The SPA definition has been amended to specify that SPAs are intended to provide for the viability of existing uses in flood prone communities, rather than the previous definition, which reflects the viability of flood prone communities. The Province's position on Special Policy Areas should be clarified with more specific policies relating to uses, and intensification within the Special Policy Areas. For example, the proposed changes would have significant impact on planning within the Woodbridge Special Policy Area. Adherence to the proposed PPS Natural Hazard requirements could require the approval of existing uses only, and require Ministerial approval of changes, such as those approved in OPA 597 (Islington Avenue Study), prior to Council approval.

Recommendation:

THAT Regions be allowed to approve changes to Special Policy Areas.

THAT the Provincial position on development and redevelopment within Special Policy Areas be clarified.

ix) Mineral Aggregates – Demonstration of 'Need' Removed

The policies addressing Mineral Aggregate Resources, have been expanded from the current PPS including a provision that the demonstration of need for mineral aggregate resources will not be required, including any type of supply/demand analysis. This provision is of municipal concern, as without a demonstration of need, or a supply/demand analysis, applications for mineral aggregate extraction of low quality aggregate cannot be reasonably assessed against other uses in the rural or agricultural areas and/or in close proximity to existing urban communities.

Recommendation:

THAT the requirement for a demonstration of need for mineral aggregate resources be continued.

x) Agriculture – Increased Protection

The draft PPS provides for increased protection of prime agricultural lands, and reduced conversion and lot creation of agricultural lands. These policies are consistent with the City's policies.

xi) Discussion Paper #1 - "Planning Act Reform and Implementation Tools"

In addition to the PPS (Discussion Paper #2), Discussion Paper #1 presents a number of potential Provincial initiatives to deal with Planning Act reforms. The potential reforms that are currently in draft legislation (Bill 26) include:

- increasing the timeframe for decision-making (e.g. OPAs from 90 to 180 days);
- no OMB appeals for Official Plan amendments to expand urban boundaries;
- allowing the Province authority to declare a Provincial interest and confirm, vary or rescind an OMB decision.

Other suggested ideas in Discussion Paper #1 for potential changes to the Act or regulations under the Act include:

- a more thorough identification of what constitutes a "complete application" for example by adding such things as the required studies necessary to evaluate applications;
- the use of conditional zoning to promote brownfield redevelopment, infilling, intensification;
- the use of bonusing to support the objective of compact urban form and provide for community amenities;
- the formal acknowledgement in the Planning Act of using the transfer of development rights to provide achieve density increases in appropriate locations;
- the content of official plans be specified and broadened to be more strategic in nature;
- stronger requirement to require official plans to be reviewed and kept up-to-date;
- requirements to co-ordinate or review official plans with the provision of new infrastructure;
- a regulation to harmonize the EA and Planning Act processes;
- the transition rules to implementing Bill 26 and whether/how to apply new rules/policies on all applications that have not had a final approval. One option would be for example, to have Bill 26 exempt applications on which a decision was made before Royal Assent.
- the requirement to use performance monitoring in local official plans and/or at a Provincial level to measure the effectiveness of the PPS policies

Other potential implementation tools are identified in the discussion paper including:

- permitting upper tier municipalities to the use of Community Improvement Plans to offer financial incentives to facilitate private sector initiatives such as transit corridors;
- allowing additional municipalities to develop and use development permit systems currently being tested through pilot projects;
- revising provincial standards (e.g. separation distance standards) to reflect and support urban conditions;
- providing additional best practice guides and materials (e.g. Transit-Supportive Land Use Planning Guidelines)

Recommendation:

THAT the extension of timeframes for decision-making prior to an appeal be supported.

THAT removing the ability for appeals to the OMB for urban boundary expansions be supported.

THAT a more thorough identification of what constitutes a “complete application” be supported, and that municipalities have the ability to further identify “complete” application requirements.

xii) Discussion Paper #3 - “Ontario Municipal Board Reform”

Discussion Paper #3 outlines a number of potential reforms to the Ontario Municipal Board Reform. The paper asks a number of questions about the role of the OMB including:

- whether there should be an OMB appeal process at all for land use planning decisions or whether the courts or a more court-like procedure would be appropriate;
- narrowing the scope of matters which can be appealed, for example no appeals on urban boundary expansions opposed by municipal councils (draft Bill 26);
- qualifications, compensation levels, term of appointment, training, and open recruiting process for OMB members;
- a variety of administrative improvements including improved case management, alternative dispute resolution, and addition of a Public Adviser role to assist citizen groups.

Recommendation:

THAT the role of the OMB generally be supported and not be eliminated or replaced with more court-like procedures.

THAT improvements be made to the OMB to increase efficiency and timely decision-making.

Relationship to Vaughan Vision 2007

This report is consistent with the priorities previously set by Council and the necessary resources have been allocated and approved.

Conclusion

The Draft PPS is largely consistent with current Vaughan planning policy framework. Staff will continue to monitor and report on any changes to the draft policies and Discussion Papers #1 and #3, and will be providing future reports on the other Provincial planning initiatives including the “Places to Grow, Better Choices, Brighter Future – A Growth Plan for the Greater Golden Horseshoe” and the Greenbelt Protection Act.

On September 29, 2004 the Standing Committee on General Government completed its consideration of Bill 26 and few minor amendments have been approved that do not affect the recommendations provided in this report.

If Council concurs, the recommendation in this report should be adopted and forwarded to the Minister Of Municipal Affairs and Housing and Region of York for their consideration.

Attachments

n/a

Report prepared by:

Christina Napoli, Planner, ext. 8483

Rob Gibson, Senior Policy Planner, ext. 8409

Karen Antonio-Hadcock, Senior Environmental Planner, ext. 8630

Respectfully submitted,

JOHN ZIPAY
Commissioner of Planning

WAYNE L. McEACHERN
Manager of Policy

/CM

R:\SER\WORKING\GIBSONR\Oct 13 PPS Rob1 Council.doc