



Planning and Building Services

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January 13, 2014

**DEVELOPMENT AND INFRASTRUCTURE SERVICES REPORT
PLANNING AND BUILDING SERVICES – PLANNING REPORT 2014-02**

TO: Committee of the Whole

SUBJECT: Review of Land Use Planning and Appeal System (Fall 2013)

FILE NO: NP-P13-05

ORIGIN: Ministry of Municipal Affairs and Housing

RECOMMENDATION

THAT Development and Infrastructure Services - Planning and Building Services, Planning Report 2014-02 dated January 13, 2014 regarding the Review of Land Use Planning and Appeal System be received and the following recommendations be adopted:

- 1. THAT the planning recommendations and comments with respect to the Review of Land Use Planning and Appeal System as set out in Attachment 1 be endorsed.**
- 2. AND THAT staff be directed to provide the planning recommendations and comments contained in Attachment 1 to the Ministry of Municipal Affairs and Housing, with a copy to the Regional Municipality of York.**

COMMENTS

Background

The Province is reviewing the land use planning and appeal system to ensure that it is predictable, transparent, cost effective, and responsive to the changing needs of planning, including implications of intensification and sustainability policies, planning for more compact built form and taking into consideration the increased complexity of applications.

The Town participated in a regionally led collaboration on the Review of the Land Use Planning and Appeal System as well as a Ministry led workshop. A copy of the staff recommendations and comments has been provided to the Region of York. Town staff comments generally reflect the comments provided by the Region which is being provided directly to the Ministry of Municipal Affairs and Housing.

Planning Considerations

Staff has identified a number of recommended modifications to the *Planning Act* and planning processes as identified under **Attachment 1**.

The recommendations provided respond to the 4 themes raised in the Ministry's "Consultation Document" which is attached under **Attachment 2**.

The comments and recommendations include:

1. that the Province coordinate and consolidate its review and changes to Provincial plans and policies in order to reduce the number of times official plans need to be amended to conform to these plans and policies;
2. appeals of an entire official plan or zoning by-law should be prohibited;
3. privately initiated complex official plan amendments that are contrary to the objectives and direction of an up to date official plan should be required to be deferred to the next official plan comprehensive review or update;
4. increase the prescribed time frames for municipalities to consider whether an application is complete;
5. remove the provisions for appeal of failure to declare an application complete;
6. the *Planning Act* should be clarified to ensure consistent wording with respect to the prescribed time frame within which municipalities are required to make a decision and clearly indicate that the time frame commences from the date the application is considered complete and not the receipt of the application;
7. the time frame for Council to make a decision before an appeal may be launched should be doubled, e.g., expanded to 360 days for official plan amendments and plans of subdivision, 240 days for zoning applications and 60 days for site plans;
8. pilot implementation of the Development Permitting System (DPS) should be actively encouraged and detailed training should be provided by the Province;
9. lower- tier municipalities should be required to undertake provincial conformity exercises one year after approval of the upper-tier conformity exercise in order to incorporate upper-tier interpretations, or additional amendments, where applicable;
10. notices/circulation provisions under the *Planning Act* and the OMB procedures should be updated to allow for notice via e-mail;
11. the *Planning Act* should be amended to provide clear authority (in addition to the holding, bonusing, development permitting and plans of subdivision provisions) for development proponent(s) to be required to dedicate and build new streets, implement intersection improvements and other infrastructure requirements considered necessary to support the development.
12. conformity amendments to reflect provincial plans and policy should not be subject to appeal unless the municipal official plan policy provides for more protection or is more restrictive than the provincial plan or policy;
13. where official plan policy reflects the minimum standard established in the *Planning Act*, there should be no right of appeal, e.g., alternative parkland standard (Section 51.1 (2)) of PA.
14. the *Planning Act* should be amended to address and prevent the future application of the "clergy principle" in order to prevent outdated planning document from prevailing.

BUSINESS PLAN AND STRATEGIC PLAN LINKAGES

Well-Equipped & Managed

Well managed and equipped means implementing policy and processes that reflect sound and accountable governance.

Well-Planned & Connected

Well Planned & Connected means strategically planning for the future to improve information access....

Well-Respected

Well respected means inspiring partnerships and co-operation with stakeholders that revolve around well-being, synergy and balanced living including:

- establishing effective working relationships and joint planning initiatives with municipal neighbours;
- being an influential contributor to regional and provincial affairs.

CONSULTATION

Consultation has been conducted with the Ministry of Municipal Affairs and Housing, the Regional Municipality of York, and the Town's Legal Services.

HUMAN RESOURCE CONSIDERATIONS

- a) Staffing levels are not directly impacted as a result of the recommendations in this report.

BUDGET IMPACT

Operating Budget (Current and Future)

Future operating budgets may be impacted if opportunities for appeals are reduced as recommended.

Capital Budget

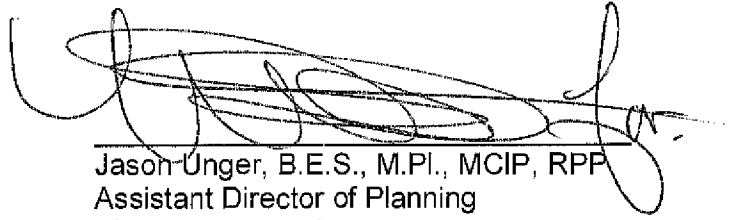
Future capital budgets may be impacted if opportunities for appeals are reduced as recommended.

CONTACT

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Attachment 1

The Town of Newmarket's Response to the MMAH Review of Land Use Planning and Appeal System

The following comments are on based on the themes set out in the Ministry's Consultation Document (Attachment 2).

Theme A: Achieve more predictability, transparency and accountability in the planning / appeal process and reduce costs

1. *How can municipalities keep planning documents including official plans, zoning by-laws and development permit system more up to date.*
 - a) The Province should coordinate and consolidate its review and changes to the provincial plan and policies e.g., PPS, and Provincial Plans i.e., Greenbelt Plan, Lake Simcoe Protection Plan, the Oak Ridges Conservation Plan, etc., in order to reduce the frequency that municipal official plans are required to be amended to be consistent with/conform to provincial plans and policy. In addition, the frequency of updates to provincial plans and policies should be reviewed.
 - b) Implementation guidelines should be developed to assist municipalities in streamlining and undertaking updates to conform to provincial plans and policy. Where applicable, consistency and/or consolidation of provincial plans and policies should be considered.
 - c) Appeals of entire official plans and zoning by-laws should be prohibited. All appeals should be required to be issue and/or site specific and supported by appropriate justification in order to be considered a valid appeal.
 - d) Where an official plan is up to date (i.e., not yet required to initiate a comprehensive review) privately initiated complex official plan amendments, that are contrary to the objectives and direction of the official plan, should be required to be deferred or delayed to the next comprehensive official plan review or update in order to ensure that municipal resources are not unduly taxed.
2. *What barriers or obstacles may need to be addressed to promote more collaborative and information sharing between applicants, municipalities and the public? What steps should be taken to limit appeals?*

Where municipalities fail to declare an application complete within 30 days, or fails to make a decision within the prescribed time frame (e.g., 180 days for OPA's and Plans of Subdivision and 120 days for Zoning) for planning applications, staff resources are diverted to address these priorities which can result in further delays of other applications and/or processes underway. The following recommendations address both collaboration in the planning process and opportunities to limit appeals.

- a) Increase the time frame for municipalities to consider whether an application is complete and remove the provisions for appeal for failure to declare an application complete.

More than 30 days is required to determine if applications are to be considered complete, particularly if the application is evaluated to determine if the necessary information has been submitted as opposed to the topics have been included in the submissions (substantive review vs. check list approach). Incomplete applications that do not address all the information at the appropriate level of detail often results in longer delays later in the process that can result in an appeal as the prescribed time frame is often exceeded due to the delay in receiving the supporting documentation.

- b) **The time that municipalities are required to make a decision on a planning application should commence from the date the application is considered complete and not the receipt of the application.**

The time lines for appeal where a municipality fails to make a decision should be clearly stated and prescribed from the date the application was declared complete rather than from the date of receipt of the application. Where an application has been declared incomplete, a significant amount of time may lapse before the report(s) are considered complete, yet the 180 or 120 day appeal period appears to apply from the receipt of application. This approach does not provide adequate time for a municipality to review an application where the submission of updated supporting reports has been delayed.

The following outlines the confusion under the current Planning Act:

OPA Section 22 (7) and (7.0.2) 1.	The council or the planning board fails to adopt the requested amendment within 180 days after the day the request is received .
Zoning Section 34 (10.3) and (11)	...or the council refuses or neglects to make decision within 120 days after receipt by the clerk of the application ...(The reference to the clerk is not clear in this section regarding whether a) it is the receipt by the clerk of a complete application or b) the receipt of the application by the municipality).
Subdivision Section 51(34)	the approval authority fails to make a decision under subsection (31)...within 180 days after the application is received by the approval authority .

- c) **The time lines for Council to make a decision before an appeal may be launched should be expanded to 360 days for official plan amendments and plans of subdivision, 240 days for zoning applications and 60 days for site plans.**

Applications are becoming more complex and municipalities generally aim to be more inclusive with respect to public engagement and attempt to resolving conflicts in advance of decisions.

The recommended increased time frame before an appeal may be launched would address a number of issues, including providing more time to:

- address complex applications, including applicable peer reviews;
- allows time to resolve conflicts and avoid expensive hearings;
- promotes a more inclusive, cooperative and collaborative engagement process between the proponent, the municipalities and the public aimed at resolving conflicts.

Note: the increased time frames also addresses the additional time to support greater leadership in resolving issues raised in Theme B - Support Greater Municipal Leadership in Resolving Issues and Theme C – Better Engagement of Citizens.

3. What barriers or obstacles need to be addressed for communities to implement the development permit system

- a) **Pilot implementation of the Development Permitting System (DPS) should be actively encouraged and detailed training should be provided by the Province to demonstrate the advantages, disadvantages, and provide a template DPS to provide a higher level of understanding to municipalities.**

The main deterrent to the implementation of the Development Permitting System is lack of knowledge and experience with the DPS. Additional training would be helpful to encourage the implementation of the system.

Theme B: Support greater municipal leadership in resolving issues and making land use planning decisions

4. How can better cooperation and collaboration be fostered between municipalities, community groups and property owners/developers to resolve land use planning tensions locally?

- a) **This issue is addressed above under Theme A, question # 2.**

5. Should the powers of a local appeal body be expanded? If so, what should be included?

- a) **No appeal body has been established in Newmarket and generally such a body may result in a financial burden on the municipalities.**

6. Should pre-consultation be required before certain types of applications are submitted? Why or why not? If so, which ones?

- a) **Pre-consultation is an essential and effective tool to ensuring that planning applications include the necessary detail for consideration by the municipality. Pre-consultation is imperative to the complete application process particularly if the failure to deem an application “complete” is no longer appealable. It also fosters a collaborative approach to implementation of the municipal planning documents.**

7. How can better coordination and cooperation between upper and lower-tier governments on planning matters be built into the system?

- a) **Lower-tier municipalities should not have the same deadlines as upper single-tier municipalities for conformity with provincial plans and policy. Lower-tier municipalities should be required to undertake provincial conformity exercises one year after approval of the upper-tier conformity exercise to avoid conflict where the upper-tier municipality may have more restrictive policies than the provincial plan or policy.**

8. *What barriers or obstacles may need to be addressed in order for citizens to be effectively engaged and be confident that their input has been considered (e.g., in community design exercises, at public meetings/open houses, through formal submissions)?*

The recommended expanded time frames addressed under Theme A 2(c) also addresses this issue.

- a) **Notices/circulation provisions under the *Planning Act* and the OMB procedures should be updated to allow for notice via e-mail.**

With a significant shift toward digital communication (e-mail), the recently announced future reduction in service by Canada Post, and the reduced use of Fax, the *Planning Act* should be updated to provide for e-mail notices by municipalities and under the OMB procedures. This would be a significant cost saving change as well as increase public notice and engagement efficiencies.

Theme C: Better engage citizens in the local planning process

Comments on this section are captured in Theme A above.

Theme D: Protect long term public interest through alignment of land use planning and infrastructure decisions and support economic growth

9. *How can land use planning support infrastructure decisions and protect employment uses to attract and encourage economic development?*

- a) **With respect to infrastructure decisions, the *Planning Act* should be amended to provide clear authority (in addition to the holding, bonusing, development permitting and plans of subdivision provisions) for development proponent(s) to be required to dedicate and build new streets, implement intersection improvements and other infrastructure requirements considered necessary to support the development.**

There is currently clear authority for the dedication of new streets through the plan of subdivision provisions and the widening of streets through the site plan application process, provided the new streets are identified in the Official Plan/Secondary Plan. However, similar provisions are not included in the *Planning Act* under zoning or site plan to provide for new streets, or intersection improvements (outside the lands that are the subject of the application), where there is appropriate policy in the Official Plan.

Currently, the plan of subdivision provision and the Holding provision under zoning are the main tools, for municipalities to ensure new public streets are provided and built by proponents.

With intensification comes the need for new or upgraded public streets and other related infrastructure. The *Planning Act* has not kept pace in this regards and should be amended to provide municipalities the clear authority to require streets, intersections and other infrastructure to be provided by development proponents at no cost to municipalities through zoning amendments, and site plans where plans of subdivision may not be required. Further consideration should be given to developing the regulation for zoning with conditions under Section 34(16) of the *Planning Act*.

10. *How should appeals of official plans, zoning by-laws, or related amendments, supporting matters that are provincially-approved be addressed? For example, should the ability to appeal these types of official plans, zoning by-laws, or related amendments be removed? Why or why not?*

- a) **Conformity amendments to provincial plans and policy should not be subject to appeal unless the municipal official plan policy provides for more protection or is more restrictive than the provincial plan or policy.**
- b) **Also, where official plan policy reflects the minimum standard established in the *Planning Act*, there should be no right of appeal, e.g., alternative parkland standard (Section 51.1 (2)) of *PA*.**

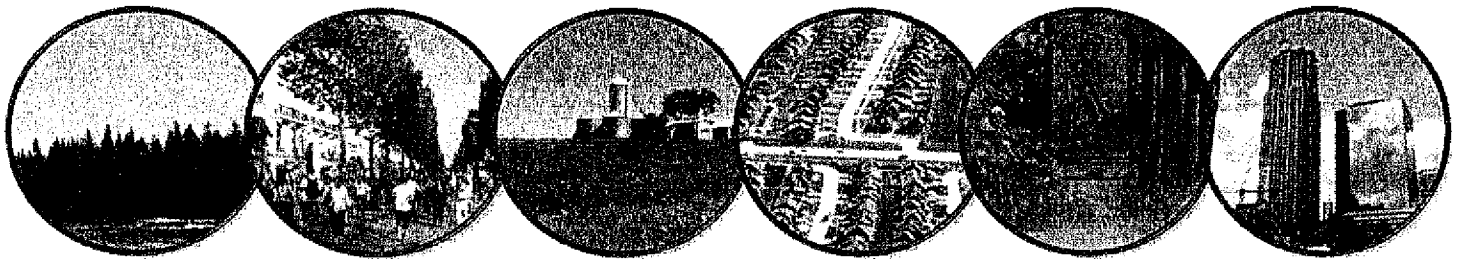
General Comments:

11. *How long should outdated planning decisions or applications not acted upon continue to have status?*

- a) **Provisions should be included in the *Planning Act* to ensure that as planning documents change, outdated official plans/zoning do not prevail where decisions have been delayed – e.g., address the clergy principle.**

The clergy principle has been applied for some time in Ontario and generally recognizing that the planning regime in effect at the time of application continues to apply, regardless of how long an application may be delayed.

Similar provisions to what is included for provincial plans and policy (Section 3(5)) should be considered with, necessary modifications, for municipal official plans/zoning so that policy in effect at the time of decision prevails.



Land Use Planning and Appeal System

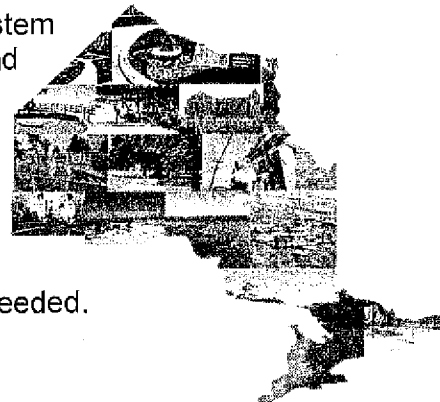
Consultation Document • Fall 2013

LAND USE PLANNING AND APPEAL SYSTEM CONSULTATIONS

Ontario is reviewing the land use planning and appeal system to make sure it is predictable, transparent, cost-effective and responsive to the changing needs of communities.

The Ministry of Municipal Affairs and Housing will be consulting in the fall of 2013 across the province with the public, municipalities, Aboriginal groups, community groups, the building and development industry and other key stakeholders on what changes to the system may be needed.

This document is intended to help focus the discussion.



LAND USE PLANNING AND APPEAL SYSTEM OVERVIEW

Ontario has many diverse communities, geographic landscapes, resources, populations, opportunities and challenges. Land use related decisions take into account these diversities and the need to balance a range of priorities.

Ontario's communities are constantly changing. These changes create challenges, but also opportunities for compact growth, intensification, more efficient use of infrastructure and greater sustainability.

Our land use planning system gives us the tools and processes to manage this change so that we can build the cities and towns we want to live and work in. The planning system helps each community set goals and find ways to reach those goals while keeping important social, economic and environmental concerns in mind. It does this by balancing the interests of individual property owners with the wider interests and objectives of the community.



Well-planned communities attract jobs and support economic development. They make effective and efficient use of their infrastructure, and offer appropriate transportation choices. They address environmental and resource concerns such as rainwater runoff and soil erosion. They offer their citizens a high quality of life, opportunities for a healthy lifestyle and safe, well-serviced places to live, work and play.

Did you know?

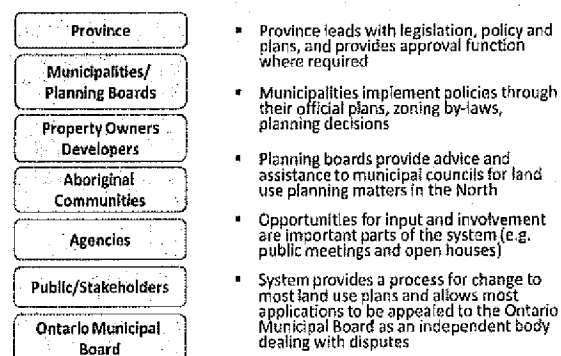
Land use planning tools can be used to support a community's sustainable planning objectives.

The keystone of Ontario's land use planning system is the Planning Act, administered by the province through the Ministry of Municipal Affairs and Housing. The *Act* sets the framework for planning and development.

Supporting these ground rules are the Provincial Policy Statement (PPS) and provincial plans, such as the Growth Plan for the Greater Golden Horseshoe, Growth Plan for Northern Ontario, Greenbelt Plan, Oak Ridges Moraine Conservation Plan, Niagara Escarpment Plan and the Lake Simcoe Protection Plan. Provincial plans provide more detailed policy directions for specific geographic regions.

The PPS is a key part of this system and is made under the authority of Section 3 of the *Planning Act*. It integrates all provincial ministries' land use interests and it applies to the entire province. The PPS includes land use policies on matters like natural heritage, agriculture, transportation, housing, economic development, mineral aggregates (rock, gravel or sand used in construction) and water resources. These policies may be further detailed in provincial land use plans, which are created under various statutes. These plans provide provincial direction for specific geographic areas of the province. They address matters such as environmental conservation, growth management and economic issues. In order for these provincial policies and plans to be implemented locally, the *Planning Act* requires that all local planning decisions shall be consistent with the PPS, and shall "conform" or "not conflict" with provincial plans in effect.

Key Participants

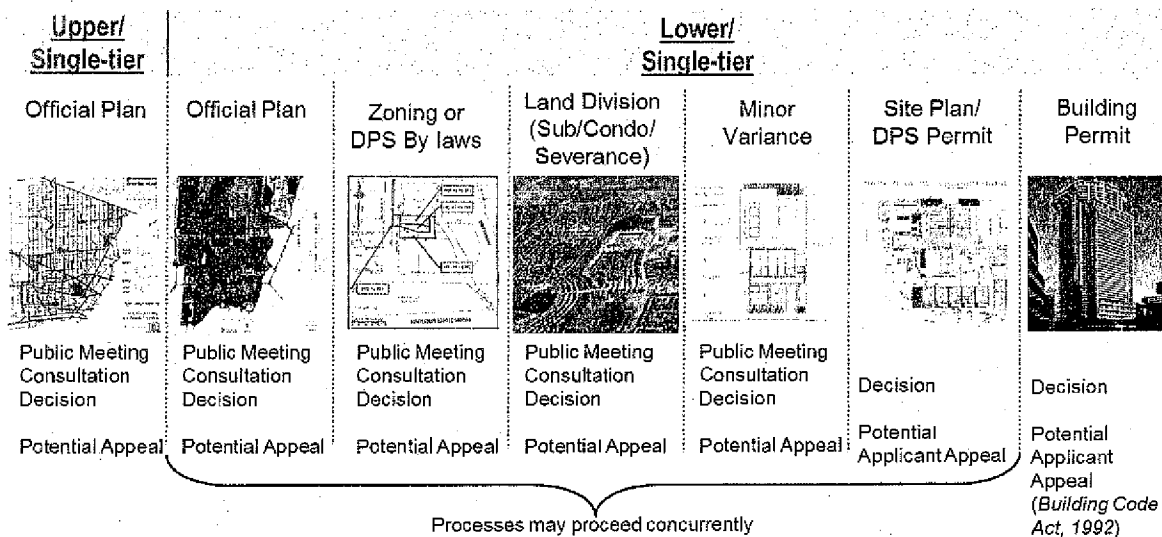


Did you know?

More information on the land use planning system can be found in the Ministry of Municipal Affairs and Housing's **Citizens' Guides to Land Use Planning**.

Within this structure, communities set out their own goals and rules in their official plans, which control how they will grow and develop. The planning system allows the public to play a key role in the planning process by giving them opportunities to review and comment on various planning matters. This is especially important in helping to shape the community vision, which the official plan seeks to achieve. Official plans are implemented through tools like zoning by-laws, site plans, plans of subdivisions, and development permits.

Policy-led Planning System



Once an official plan comes into effect, it can be amended at any time. Changes may be needed to incorporate new provincial policies or allow development that the policies in the current plan do not permit. These changes occur through an official plan amendment initiated by the municipality/planning board or a private applicant. The amendment is prepared and processed in the same manner as the plan itself. In some instances the official plan may be up-to-date; however the related zoning by-law may not reflect the updated official plan.

Did you know?

In 2011, 45 per cent of municipalities had up-to-date official plans.

In those cases, a rezoning would be necessary to permit a development that conforms to the official plan. In addition, in order to obtain a building permit, the development must conform to zoning by-law requirements. As the needs of communities change, it is important that official plans and zoning by-laws are kept up-to-date, not only to reflect the changing needs of communities, but also to reduce the number of site-by-site amendments. By doing this, communities can reduce the likelihood of disputes that may result in Ontario Municipal Board (OMB) appeals.

Decision Timelines under the *Planning Act*

Application Type	Timeline to Trigger Appeals where Non-Decision
Official Plan Amendment for Municipal Decision	180 days
Official Plan/Amendment for Approval Authority Decision	180 days
Zoning by-law Amendment	120 days
Subdivision	180 days
Consent	90 days
Site Plan	30 days

The planning system also sets out timelines for decision-making on planning matters. If a decision isn't made within these timelines, the matter can be appealed to the Ontario Municipal Board. The timelines are based on application types. For example, an official plan amendment timeframe is 180 days, regardless of whether it is a simple amendment or a complex amendment.

Land use planning often brings together a number of competing interests. Since people have different ideas about what planning and development should accomplish, disputes are not uncommon.

If an application is challenged or disputed, it can generally be appealed to the Ontario Municipal Board. The OMB is responsible for hearing appeals on matters concerning planning

disputes and gets its authority to hear planning matters from the *Planning Act*. It is a quasi-judicial tribunal which makes legally-binding decisions independent of the government. The OMB's authority also includes hearing disputes related to fees and amount of parkland dedication, etc.

Did you know?

Almost all other provinces have boards that hear appeals from land use planning decisions. The types of land use planning matters that come before them may vary.

Did you know?

The OMB bases its decisions on:

- evidence presented
- relevant law
- municipal land use planning policies
- Provincial Policy Statement and provincial plans
- principles of good planning

Ontario Municipal Board Caseload

Files (Applications and Appeals)	2007/08	2008/09	2009/10	2010/11	2011/12
Minor Variance	578	552	363	495	581
Consent	279	260	176	229	305
Zoning By-laws	275	190	187	197	159
Official Plans	198	162	169	172	120
Zoning Refusal or Inaction	172	163	146	160	125
Plans of Subdivision	95	68	76	98	68
Municipal and Misc. (including site plans)	92	83	68	90	115
Development Charges	16	15	60	9	18
Land Compensation	25	29	42	34	31
Capital Expenditures	8	9	11	9	5
Joint Board	0	2	1	1	0
Site Plan after Nov. 15	25				
Other		48	33		
Total	1763	1581	1332	1494	1527

Planning
Act

- A large number of appeals from decisions/lack of decisions of approval authorities in respect to the updating of major planning documents to implement the Growth Plan for the Greater Golden Horseshoe and PPS, led to a number of OMB files.

*Source: Ontario
Municipal Board
Annual Reports

Did you know ?

*In 2011/12, minor variances and consents made up 58 per cent of the OMB's planning application caseload.

Did you know ?

*In 2011/12, the majority of the OMB caseload originated from the following areas:

- Toronto: 30 per cent
- Greater Toronto Area (excluding Toronto): 16 per cent
- Ottawa: 9 per cent

Did you know ?

*Planning Act files received by the OMB decreased by 14% from 2007/08 to 2011/12 fiscal years.

*Source: Ontario Municipal Board Annual Reports

LAND USE PLANNING REFORMS

Since 2003, the province has undertaken a comprehensive review of the land use planning system. It introduced various legislation, policies and plans such as the:

- Revised PPS, which provides direction on building stronger communities, the wise use and management of resources and protecting public health and safety;
- Greenbelt Plan, which established a permanent greenbelt of approximately 2 million acres across the Greater Golden Horseshoe to ensure the long-term protection of agriculture, natural heritage systems, water resources, recreation and tourism;
- Growth Plan for the Greater Golden Horseshoe, which was created to better manage growth in the Greater Golden Horseshoe by creating compact, complete communities, supporting a strong economy, efficiently using land and infrastructure and protecting agricultural land and natural areas; and
- Growth Plan for Northern Ontario, which aims to strengthen the economy of the north by providing a framework for decision-making and investment by both the province and local governments.



Along with these policies and plans, planning legislation and regulations have also undergone a number of major reforms. The goal of these reforms was to address concerns with how the system was working, and to build strong, prosperous communities within a healthy environment.

Some of the most recent legislative efforts to reform the system occurred in 2004 and 2007. Changes were made to:

- Provide clear rules and protection of public interests, such as:
 - requiring stronger adherence to the PPS;
 - introducing the requirement to consult with a municipality before making a planning application;
 - giving communities the authority to set out complete application requirements; and
 - requiring that planning documents be updated.
- Encourage public participation, such as:
 - enhancing public notification and requiring public open houses in some circumstances; and
 - increasing decision timelines.

- Introduce planning and financial tools, such as:
 - limiting ability to appeal settlement area boundary and employment land conversion;
 - allowing municipalities to have architectural controls;
 - enhancing development permit system (DPS) and community improvement plan provisions; and
 - introducing an option for local appeal bodies to adjudicate minor variances and consent disputes.
- Provide clear rules for planning applications at the OMB, such as:
 - allowing repeat applications to be dismissed;
 - restricting OMB decisions to matters considered by municipal council;
 - dismissing substantially different applications than those originally submitted for a local decision; and
 - requiring OMB to have regard for local decisions and information and materials provided to council.

Did you know?

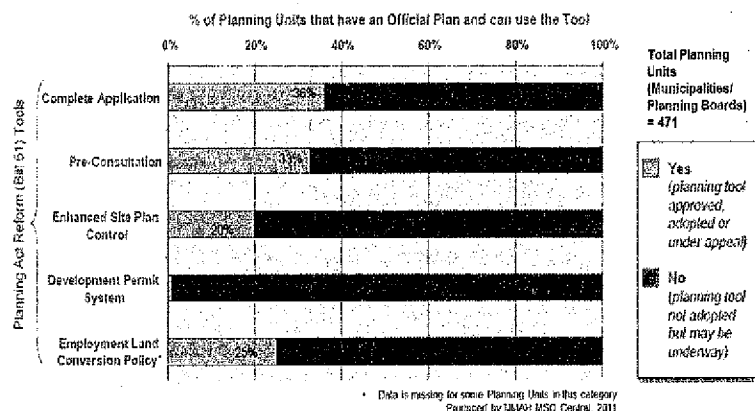
Since 2007, municipalities have had the authority to establish their own local appeal body to adjudicate specific local disputes.

The figure below provides an overview of the uptake of some of the major planning tools on a province-wide basis. These tools include:

- Complete applications – municipalities can set out what additional information beyond those set out in regulation is required when a planning application is submitted.
- Pre-consultation – municipalities can pass a by-law requiring applicants to consult with them before submitting a planning application.
- Enhanced site plan – municipalities can consider the external and sustainable design of buildings.
- DPS – a land use planning tool that combines the zoning, site plan and minor variance processes into one application and approval process.
- Employment land conversion – municipalities have the ability to have the final say

on whether designated employment lands can be changed to other uses.

Uptake of Planning Tools - State of land use planning in Ontario (July 2011)



CURRENT CONTEXT

Given the number of changes made to the planning system over recent years and some continuing concerns that have been raised about parts of the system, Ontario is reviewing the land use planning and appeal system to make sure it is predictable, transparent, cost-effective and responsive to the changing needs of communities.

Concerns about the system have focused around four key themes, which will be the focal point for the review:

Theme A	Achieve more predictability, transparency and accountability in the planning/appeal process and reduce costs
Theme B	Support greater municipal leadership in resolving issues and making local land use planning decisions
Theme C	Better engage citizens in the local planning process
Theme D	Protect long-term public interests, particularly through better alignment of land use planning and infrastructure decisions, and support for job creation and economic growth

We are interested in hearing your views on how the land use planning and appeal system is working. Any proposed new approaches or changes should consider the following guiding principles:

- the public is able to participate, be engaged and have their input considered;
- the system is led by sound policies that provide clear provincial direction/rules and is also led by up-to-date municipal documents that reflect matters of both local and provincial importance;
- communities are the primary implementers and decision-makers;
- the process should be predictable, cost-effective, simple, efficient and accessible, with timely decisions; and
- the appeal system should be transparent; decision-makers should not rule on appeals of their own decisions.

Please note that while we are interested in hearing your views, recommendations that would result in a complete overhaul of the land use planning and appeal system are not being considered at this time.

More specifically, this consultation will **not** discuss or consider:

- elimination of the OMB;
- the OMB's operations, practices and procedures;
- removal of the provincial government's approval role;
- the restriction of the provincial government's ability to intervene in matters; and
- matters involving other legislation, unless housekeeping changes are needed.

Comments on issues that are not the focus of the consultation will be shared with the ministries or agencies responsible.

The government will give serious consideration to all of the comments and information received. The comments and suggestions will be used to help inform the government on what changes to the system may be needed.

ISSUES AND QUESTIONS TO DISCUSS

Theme A: Achieve more predictability, transparency and accountability in the planning / appeal process and reduce costs

The *Planning Act* requires communities to update their official plans on a five-year basis, and zoning by-laws within three years of the official plan update. A common concern is that local planning documents are not updated regularly enough to reflect the changing needs of a community.

1. How can communities keep planning documents, including official plans, zoning by-laws and development permit systems (if in place) more up-to-date?
2. Should the planning system provide incentives to encourage communities to keep their official plans and zoning by-laws up-to-date to be consistent with provincial policies and priorities, and conform/not conflict with provincial plans? If so, how?

Another concern is the number of times that planning documents are amended. It has been suggested that a way of achieving more predictability is to limit the number of times these are changed. It should be noted, however that a reduced ability to change documents could affect the flexibility of the land use planning system, the ability to make local decisions, and the ability to address emerging issues.

3. Is the frequency of changes or amendments to planning documents a problem? If yes, should amendments to planning documents only be allowed within specified timeframes? If so, what is reasonable?

Since issues are becoming more complex, and decisions on planning matters must be well informed, there are often significant costs involved in amending planning documents or seeking approvals. These increasing costs have placed pressures on municipalities, applicants and the general public to find ways to reduce costs.

It has been suggested that costs may be reduced by promoting more collaboration between applicants, municipalities and the public through the sharing and exchange of information such as resource materials and reports.

4. What barriers or obstacles may need to be addressed to promote more collaboration and information sharing between applicants, municipalities and the public?

Appeals are often broad in scope and there may be many matters under appeal at the same time, resulting in long, complex and costly Ontario Municipal Board (OMB) hearings. Although the *Planning Act* currently requires the person or body making the appeal (the appellant) to specifically identify what is being appealed and why, sometimes the entire planning document (e.g. official plan) is appealed to the OMB by one appellant. This causes extensive appeal process delays and increases costs for the community in managing these types of far-reaching appeals.

5. Should steps be taken to limit appeals of entire official plans and zoning by-laws? If so, what steps would be reasonable?

Sometimes a matter is appealed to the OMB because a council did not make a decision within the required timeframe. In these cases, there is no time limit on when additional appeals may be filed on the same matter. As appeals continue to flow into the municipality, it can be very challenging to prepare for OMB hearings. The additional appeals result in delays in the OMB's hearing processes, increasing costs for everyone involved.

6. How can these kinds of additional appeals be addressed? Should there be a time limit on appeals resulting from a council not making a decision?

7. Should there be additional consequences if no decision is made in the prescribed timeline?

The Development Permit System (DPS) is a land use planning tool that combines the zoning, site plan and minor variance processes into one application and approval process. The tool shifts the focus upfront, creating a policy-led process, which promotes strategic, integrated long-term planning and provides certainty, transparency and accountability for the community. In order to implement a DPS, a municipality must undertake the following:

- Engage the public through enhanced public consultation opportunities;
- Amend its official plan to identify DPS area(s) and set out its goals, objectives and policies;
- Identify the types of conditions and criteria that may be included in the by-law, including discretionary uses, by which applications will be evaluated;
- Enact a development permit by-law to replace the zoning by-law, which provides flexibility by specifying minimum and maximum development standards and by allowing for a specified range of variation; and
- Identify what matters may be delegated from council to staff.

When the new system was introduced during the last round of planning reforms, it aimed to streamline local planning approvals while promoting development, enhancing environmental protection and supporting key priorities such as community building, brownfield redevelopment, greenspace preservation and environmental protection. To date,

only four municipalities have adopted this tool.

8. What barriers or obstacles need to be addressed for communities to implement the development permit system?

Theme B: Support greater municipal leadership in resolving issues and making local land use planning decisions

Municipalities have an integral role in the local land use planning process through decision-making, preparing planning documents and ensuring a balance of wider public interests and those of their local community. Achieving collaboration and consensus is often difficult, which may result in land use planning appeals.

9. How can better cooperation and collaboration be fostered between municipalities, community groups and property owners/developers to resolve land use planning tensions locally?

Municipalities have the authority to create optional local appeal bodies that can hear appeals on local planning disputes involving minor variances and consents. To date, no municipality has established a local appeal body.

10. What barriers or obstacles may need to be addressed to facilitate the creation of local appeal bodies?

11. Should the powers of a local appeal body be expanded? If so, what should be included and under what conditions?

Municipalities have the authority to pass by-laws that require applicants to consult with the municipality before they submit their planning application. There are two clear advantages to this: the municipality knows about potential development pressures and can advise the applicant if technical information or public consultation is needed.

12. Should pre-consultation be required before certain types of applications are submitted? Why or why not? If so, which ones?

In some Ontario communities, land use planning documents and decisions are made at a regional or upper-tier level, which impact lower-tier municipalities. The *Planning Act* requires that all lower-tier official plans conform with upper-tier official plans. At the same time, it does not prevent lower-tier municipalities from **adopting** amendments that **do not** conform with the upper-tier plan.

This causes tensions and pressures in the planning system. The upper-tier may be prematurely forced to deal with lower-tier planning matters. The premature amendments may get appealed to the Ontario Municipal Board, cluttering the appeal system and adding more costs.

13. How can better coordination and cooperation between upper and lower-tier governments on planning matters be built into the system?

Theme C: Better engage citizens in the local planning process

Public participation is important to the land use planning system. However, at times the public may feel the process is too difficult to access, or they may believe they lack influence in planning decisions.

14. What barriers or obstacles may need to be addressed in order for citizens to be effectively engaged and be confident that their input has been considered (e.g. in community design exercises, at public meetings/open houses, through formal submissions)?
15. Should communities be required to explain how citizen input was considered during the review of a planning/development proposal?

Theme D: Protect long-term public interests, particularly through better alignment of land use planning and infrastructure decisions and support for job creation and economic growth

Well planned communities with good infrastructure are better able to accommodate new development and investment. Aligning the land use planning process with infrastructure investment, not only reduces costs and supports economic competitiveness, it also improves the economic well-being of the community.

16. How can the land use planning system support infrastructure decisions and protect employment uses to attract/retain jobs and encourage economic growth?

In some cases, amendments to local planning documents are made to put in place a policy following significant public consultation, or to put in place something that's already been provincially approved (such as Source Protection Plans). These amendments can still be appealed.

17. How should appeals of official plans, zoning by-laws, or related amendments, supporting matters that are provincially-approved be addressed? For example, should the ability to appeal these types of official plans, zoning by-laws, or related amendments be removed? Why or why not?

SUBMIT YOUR COMMENTS AND IDEAS

You are invited to share your comments and ideas by **January 10, 2014**. You can:



Share your views at a meeting or regional workshop



Submit your comments through an online version of this guide at www.ontario.ca/landuseplanning

Environmental Bill of Rights Registry Number: 012-0241
<http://www.ebr.gov.on.ca/>



Email a submission to PlanningConsultation@ontario.ca



Write to us at:
Land Use Planning and Appeal System Consultation
Ministry of Municipal Affairs and Housing
Provincial Planning Policy Branch
777 Bay Street, 14th Floor, Toronto, ON M5G 2E5

Preparing an Email or Mail Submission

Please structure your submission as answers to the question listed above or submit responses in each of the theme areas.

Personal Information

Personal information you provide is collected under the authority of the *Ministry of Municipal Affairs and Housing Act*.

Thank you for your interest in Ontario's Land Use Planning and Appeal System.

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Produced by the Ministry of Municipal Affairs and Housing, Provincial Planning Policy Branch
ISBN 978-1-4606-3205-5 (Print)
ISBN 978-1-4606-3207-9 (PDF)
3M/10/13
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Paid for by the Government of Ontario
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