HOUSING SUPPLY CONSULTATION
SUBMISSION TO MINISTRY OF MUNICIPAL AFFAIRS AND HOUSING
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INTRODUCTION

If you view the amount of development activity underway, compared to other major centres, it becomes nearly incomprehensible to state that our current progress is "too slow". It's even more incomprehensible when you factor in the lack of public investment in infrastructure, transportation, schooling, community services, etc. It is utterly ridiculous to attempt to ”reduce red tape” without addressing the need to increase investment in public infrastructure.
The Housing Supply document appears to start from the premise (frequently expressed by the private sector), that the housing supply issues may largely be blamed on government “red tape”, and difficulties in delivering housing as being snarled in delays and confusion. - Meanwhile, they advance development proposals that in many cases are half-baked, inappropriate, and poorly configured.

The currently mandated planning process clearly recognizes the need/benefit of consultation amongst the 'triangle' of industry, public agencies AND the public. When a proposal meets resistance, resulting in time delays it generally indicates that the triangle's consensus is lacking and that a best-result solution is still to be achieved.

In many instances, the parties entrench themselves into static positions, awaiting a formal hearing date - when they should be using the time interval 'constructively' to delve more thoroughly into the shortcomings within the proposal AS WELL AS the planning difficulties and the public perspective. The best decisions are those that have been pre-scripted by the triangle of interests and simply confirmed by City Council.

The Davisville apartment area in Toronto is a case in point, where suddenly seven projects have emerged that will double the area's population. The proposals are essentially solutions that evolved for the Yonge Eglinton Growth Centre, not the Davisville area, which is an Apartment Area. A better resolution is required than simply allowing or denying these proposals.

When a resolution cannot be reached, the process waits to address on some future date what is effectively already day-old bread. The tribunal's turn towards mediation is somewhat restricted to considering "quick tricks" - a snip here, and acceptance there, but they are unable to reframe the question at hand, as this takes time. Instead, they are likely to arrive at a decision that reduces a tower by removing all the floor numbers with a prime number square root.

To effectively reduce the time required, it's not a matter of removing the gateways, but getting on with resolving the underlying issues. Otherwise, we're just speeding up the delivery of poorly planned development. Almost all projects are much improved through the iterative process, and one that many developers don't object to, often welcoming another set of eyes. Frequently, they are not strongly opposed to the timelines, due to not being ready for other reasons such as financing, internal resourcing, market timing, etc.

1. PLANNING ACT ISSUES

1.1 SPEED: FASTER DECISION-MAKING, STREAMLINING PROCESS

1.1.1 Timelines

Decision timelines for municipal approval are counter-productive

- One size does not fit all. Applications differ in size and complexity. Large or complex applications inherently require more extensive consideration. Thoughtful but expeditious consideration of an application, including open and inclusive public consultation, must be the goal. This should not be compromised by artificial timelines that merely shift consideration of the application's issues from a municipality to the LPAT tribunal.
- Meeting timelines can result in missing steps in municipal approvals.
- Applicants can exploit municipal timeline requirements to avoid municipal review, resulting in premature appeals to the LPAT tribunal that actually extend the total timeline for such applications, even in the absence of bottlenecks at the LPAT tribunal.
- Deadlines at each stage should be evaluated in terms of their impact on the total timeline for development applications.
- Delays resulting from current bottlenecks at the LPAT tribunal are dealt with in section 1.1.4.

Reducing timelines through improved municipal processing

- A central application management portal could be used to monitor and report on actual timelines to ensure that applications are being considered in a timely way. The processing times should be monitored to ensure coordination between the many different inputting departments and agencies and resolution of priorities.

Municipal application requirements

- Pre-application meetings between applicants and staff are essential in ensuring that complete applications that are well planned can be submitted and accepted in the most expeditious manner.

1.1.2 Modernizing procedures

Public notices

- On-site notices remain an important way to provide notice to all in the surrounding community and applicants should be required to clearly explain the proposal.
- Advances in information technology (IT) can make access to information significantly easier. Toronto has pioneered in making information on applications available through its onine portal.
- Municipalities must ensure that their residents can access information about development applications. While more information about applications is being provided on their websites, they need advice as to how to find it. Access to information remains a major barrier particularly for low income and disadvantaged populations.
- Easy to understand language is essential for public notices.

Site Plans

- Why is this a separate bullet? In our experience there are similar issues to other parts of the planning process. In this phase it is imperative that the immediately adjacent residents are properly consulted and respected.

1.1.3 Planning Appeal Process — General

Rule-based planning should be the rule, not planning by exception

- Official Plans and secondary plans and the related zoning bylaws should be the primary means by which planning is implemented. Unfortunately, planning in Ontario (especially in Toronto and Ottawa) has become overwhelmed by LPAT/OMB decisions on appeals of single-property applications. Unilateral OMB decisions have often overridden Official Plans and secondary plans, rendering approved municipal Official Plan policies “moot” or of questionable relevance.

- Allowing arbitrary decisions on single-property developments without regard for their cumulative and precedent-setting effects results in development that is not supported by municipal infrastructure once other developments use the precedents to obtain similar exemptions from municipal plans. Developments do not exist in isolation, they depend on and require community services and infrastructure. Efficient investments in infrastructure require long-term planning along with careful projections of community-wide demand

Rule-based planning must respect municipal decisions

- There is an essential issue which the Province needs to face. Do municipalities matter in the planning process? Are municipal politicians merely a nuisance, appropriately cast to the sidelines by planning decisions made by one-person un-elected tribunals? Or should people —voters in municipal and provincial elections— determine through their elected representatives the future of the cities, towns, and neighbourhoods in which they live?
- The OMB effectively disenfranchised citizens — the people. Nowhere else in Canada has a tribunal like the OMB existed. Other provinces rely on the courts to handle appeals and ensure that municipal planning decisions follow rules of natural justice.
- That is not to say that there is no room for a tribunal that can hear appeals from those decisions. Reliance on the courts makes appeals a matter of law, and planning decisions can be arbitrary, unfair, or even corrupt. An administrative tribunal such as the LPAT can provide a more effective means of recourse than the courts.
- While these are early days, it appears that Bill 139 will reduce the arbitrary nature of appeal tribunal decisions, increasing the municipal role by (1) limiting the reasons for appeal (discussed below) and (2) changing tribunal decision powers. The requirement that LPAT rejections of a municipal decision must be sent back to the municipality for reconsideration is an essential step toward restoring the role of elected officials in determining the future of the areas for which they are responsible to their voters.

Single-property OMB decisions have ignored community requirements

- Appeal hearings on single towers (as in the Yonge-Eglinton area) tend to consider only the impact of the single application before the tribunal, for the most part ignoring the community requirements (e.g. schools, parks, infrastructure) that are affected by the cumulative impact of individual development applications. Planning focus should be on “complete communities” — ensuring access to parks, social services, retail stores, etc. — and on matching new development with infrastructure.
- The result at Yonge and Eglinton has been massive over-development that is in excess of what existing infrastructure can support. For example, sSchool enrolments exceed capacity, and land is not available; for new schools. Transit (notably Line 1 (Yonge)line) cannot safely handle current demand, let along anticipated demand. Sewer and water service capacity is being stretched. All this because the City was not able to manage the amount and size of development projects, thanks to myopic decisions on appeals of single-property applications at the OMB.

Support Centres

We strongly support the establishment of Planning Appeal Support Centres. Residents are strongly disadvantaged without them and we must be able to have an effective voice in hearings.

1.1.4 Planning Appeal Process — Specific issues

Matters subject to appeal

- The new provisions introduced by Bill 139 (appeals to the LPAT tribunal only on grounds of nonconformity with provincial policies or municipal Official Plans etc.) should be maintained. They reduce the number of appeals, and therefore reduce the actual total timeframes for approval. More time is generally taken in waiting for a hearing before the appeal tribunal than would have normally elapsed if the municipal review process had continued.
- The new provisions will curtail single-property Official Plan appeals, and so will significantly reduce the municipal and tribunal resource requirements required to deal with appeals. This will enable more municipal planning resources to be allocated to planning.
- They increase the importance of Official Plans and so make provincial regulation and approval of Official Plans and secondary plans more important. They also add to the importance of keeping Official Plans updated. (See comments below on OP updates.)
- In addition to restricting appeal grounds to non-conformity with provincial policies and municipal Official Plans, Bill 139 also prohibited applications for Official Plans and secondary plans within two years of their coming into effect. This prohibition is appropriate.

The OMB-based process distorted the allocation of planning resources

- Too many municipal planning resources are currently diverted to preparing for and participating in LPAT/OMB appeals, at the expense of putting municipal planning resources into planning. And dealing with these appeals takes priority over planning, since the hearings process is beyond municipality's ability to influence or control.
- As a result, updates of Official Plans and secondary plans are delayed, resulting in failures to meet Provincial direction re updating. This in turn makes Official Plans vulnerable to being treated as non-governing at the tribunal.
- The hearing process under the former OMB was heavily biased in favor of developers, even allowing them to bring forward a revised application that had never undergone municipal review in that form.
- The excessive costs required to participate effectively in the OMB hearing process deterred and often excluded input from residents and other affected interests.
- The changes in hearing procedures introduced as part of Bill 139 go a considerable distance towards making LPAT hearings less frequent, less costly and fairer.

The current LPAT backlog

- The recent flood of LPAT/OMB appeals resulting from the ill-designed transitional provisions of Bill 139 has significantly increased delays in approvals, both directly at the tribunal level and indirectly at the municipal level through the diversion of municipal planning resources.
- (Repeat)In addition, there are potential efficiencies to be gained by consolidating hearings on appeals of similar applications in the same areaa . The Province should encourage the LPAT to consolidate hearings of single-property applications in a neighbourhood that are

being heard under the former OMB rules into a single hearing that can address the neighbourhood-wide planning issues raised by the cumulative impact of those applications.

1.1.5 Official Plan updates

Official Plans should be required to specify clear rules

- Too often, municipal Official Plans and secondary plans consist of vague statements of objectives that do not provide clear limits.
- The Province should require municipal Official Plans to specify upper bounds on as-of-right zoning densities and heights that apply in all areas where a secondary plan has not been updated and approved. In addition, Official Plans should set out population and employment targets for those areas as well as for areas governed by secondary plans.
- Where it is appropriate to permit specific developments that exceed the limits of as-of-right zoning, the Official Plan should specify clear requirements (e.g. additional parkland provision, heritage protection, other community benefits) that govern the provision of density benefits, along with upper limits on such density bonuses.

Official Plan Review need to be accelerated

At least in Toronto, the OP Review process takes far too long. However the greatest concern is the ability of interests to appeal the completed and municipaly approved Plan despite having gone though full public and developer input and consultation.

1.2 SPEED: NEED FOR GREATER CERTAINTY

1.2.1 Zoning by-laws

Updates of Zoning Bylaws

- At least in Toronto (we cannot speak for other municipalities) zoning is in many areas inconsistent with approved Official Plan policies. While the Planning Act requires municipalities to bring zoning by-laws into conformity with current Official Plans, this requirement is not enforced. This is further enhanced by long delays in LPAT/OMB approvals of Official Plan policies.
- This is effectively the community planning permit system The zoning by-law update corresponding to an Official Plan Review could be developed in concert and considered by City Council at the same time (if sufficient resources were employed) (This occurred with the Central Area Plan in the former City of Toronto. This was beneficial in that people could see what was really happening in their area.
- Official Plans, and secondary plans, should set out minimum as-of-right zoning policies applying to “normal” developments in an area and, where appropriate, criteria for re-zonings.

LPAT hearings on zoning by-law updates

- The updating of zoning by-laws is severely hindered by long delays in LPAT/OMB approvals. In the case of Toronto, the OMB hearing on the initial post-amalgamation zoning by-law consolidation (#569-2013) has gone on for five years. Coming on top of an already-long municipal process due to the complexity of amalgamating the by-laws of former municipalities, such excessively long hearings make a mockery of the updating process.
- The long delays in approving updated zoning results in yet further delays in updating the zoning by-law, since it makes little sense to amend a by-law which is still in the process of being approved.
- The Province should encourage the LPAT tribunal to separate hearings on the area-wide updates of the zoning by-law from site-specific appeals, conducting separate hearings on each site-specific appeal only after the area-wide zoning update has been approved or sent back to the municipality for revision.
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Establishing holding by-laws

- Holding Bylaws are important tools in such cases where municipal infrastructure (sewers, water, transit, schools) are inadequate to service the cumulative effect of development that has been or may be approved under updated as-of-right zoning, a municipality should be permitted to enact holding by-laws that reduce as-of-right zoning heights and densities. Where infrastructure is lacking, in an area municipalities should be permitted to specify lower maximum densities in Official Plans until the infrastructure deficits are eliminated.
- While the Planning Act does allow for holding by-laws (section 36), permitted appeals to the LPAT tribunal effectively limit the application of such holding by-laws to a maximum of two year. This will often be an inadequate length of time in which to make up the infrastructure deficit. The Planning Act should be revised to allow for up to 5 years in order to provide additional time forthe infrastructure gap to be rectified.

Community planning permit systems

- Developing area plans under the community planning permit system takes time and requires staff resources up front but experience in western Canada has shown that they can operate effectively and efficiently to ensure appropriate development. The OMB has ordered Toronto to undertake a pilot project. We look forward to the results of this study.

Protected Major Transit Station Areas

- Again, one size does NOT fit all. Major Transit Station Areas (MTSAs) differ in parkland, heritage areas, and neighbourhoods. Areas like Yonge and Eglinton are over-developed alreadyand lack essential community services. Line 1(Yonge Subway) is over capacity.
- Municipalities should be required to ensure that Official Plan and zoning provisions meet Growth Plan targets for the entire municipality, setting their own targets for each major transit station area (MTSAs). The Province can ensure through its approval process that the total effect of such targets for the municipality conforms to the overall targets set by the Growth Plan.

- Provincial approval authority will ensure that secondary plans conform to targets set out in a municipal Official Plan.

1.2.2 Air rights

- There are many opportunities to develop the “air rights” of underutilized land. The Mimico GO Station proposal is a good example, using the large surface parking lot to develop a new community. But it is difficult to create “certainty” in advance of the necessary planning for such large developments, .especially given the varied opportunities in likely potential locations. This is clearly an area where one size does not fit all.
- The planning for such developments should be undertaken through secondary plans or site specific OPAs to ensure a comprehensive planning consideration of relevant factors for the site, including the provision of services and integration with surrounding neighbourhoods.
- Use of air rights must result in securing needed public benefits such as needed community facilities, parkland, and importantly, affordable housing, including the much needed addition to the subsidized housing supply. .

1.3 COSTS: CERTAINTY OF COSTS

Density bonuses (Section 37)

- Financial contributions under Section 37 should be determined based on the value of the increased density and height. Toronto uses a formula to determine a dollar value for the benefits and the projects to fund are determined by the priority needs of the community where the project is located. This seems fair.
- All the information on the transaction (amount and uses of the financial contributions) should be made public and transparent.

Parkland

- The requirement for parkland contribution where new development adds population must be maintained. The additional park space required should not be at general taxpayers’ expense. While developers are required to provide land or cash-in-lieu for park space, land is increasingly preferred by municipalities to cash, due to increasing land costs exceeding the inflation allowance.
- Additional multi-family residential development creates a concomitant need for additional park space, and it is best located near that additional new population. Such contributions should be in addition to cash contributions for neighbourhood parks that are larger than what can be provided within a development. Cash contributions can be pooled across developments in an area to provide for the acquisition of land for larger open spaces, in that area.

Development charges

- Municipalities should continue to be required, as at present, to adopt and publish a pre-defined set of development charges that are justified by infrastructure requirements. Where

there is a significant deficit in infrastructure capacity in an area, municipalities should be permitted to impose higher development charges in that area.

- Higher development charges in an area requiring infrastructure investments will encourage development to locate where infrastructure capacity is in excess of demand.
- Infrastructure requirements should explicitly include the provision of schools, and other community services as well as transit and hard service (sewer and water) capacity.
- While beyond the terms of reference of this consultation, Education Development Financing (EDF) levies should be required from development applications for ALL school boards.

1.4 MIX AND INNOVATION: INCREASING HOUSING OPTIONS

Enabling second units

- Secondary suites are an important way to increase density while maintaining neighbourhood character. More than one additional unit may be acceptable in larger houses as occurs in many of the inner Toronto neighbourhoods. How such a policy applies should be determined by the municipality.
- What is a house form building? We have single family ”modern” homes that look like apartment buildings. But apartment buildings are located on major roads not “willy nilly” in the middle of neighbourhoods.

Inclusionary zoning

- Given the extreme need for housing for lower income people, this tool should be implemented as soon as possible. But without government subsidy from federal or provincial governments, a requirement for smaller development to include rent-geared-to-income units will simply push up the cost (and therefore price) of other units in those developments. A provincial program should be developed to support inclusionary zoning projects.
- The time allowed for municipalities to implement inclusionary zoning (amendments to the Official Plan and zoning by-laws) should be reduced to much less than 8 years.

2. PROVINCIAL POLICY STATEMENT, GGH GROWTH PLAN

We need to look broadly at new policy frameworks to successfully see more housing development and redevelopment at higher densities, particularly in areas not well served by transit and other community services.

Increasing housing supply must be done through building complete communities

- The development industry focuses on building housing where they get the highest returns but these do not necessarily comprise complete communities. Isolated subdivisions are difficult to live in, costly and lack services and represent urban sprawl. Develop new housing where all necessary community aspects can be present —ranges of housing types and forms, schools and community uses, employment and transit opportunities.

- This means looking at our municipalities and at the changing job world and making adaptations, recognizing many people now work from home and that IT is changing how cities work.
- What and where housing gets built should be looked at through this lens. Successful communities and neighbourhoods will attract new housing while retaining the best of what is there.

The region needs better public transit

- Years of underinvestment inpublic mass transit in the GTHA has resulted in some of the worst travel times to work in North America. Long travel times to work from many suburban locations has resulted in a lessened incentive to intensify development in those areas, such as Etobicoke and Scarborough in Toronto. .
- Investing in significantly improved transit to major employment centres from suburban locations and throughout the region can increase the demand for housing in suburban locations that will open in turn up opportunities for development that can, through increasing overall supply, lower housing prices throughout the GTHA. Doing so will also take some of the pressure off the existing transit corridors that has led to excessive development pressure in areas such as the Yonge Corridor in Toronto (from Bathurst to Don Valley, from Lakeshore to Finch).

Bringing jobs to where people live

- Incentivizing the development of suburban employment centres that provide attractive foci for new job creation will lessen the need for travel to work, reducing the need for investment in expensive downtown-oriented transit.
- It can also contribute significantly to making suburban intensification more attractive, reducing the cost of housing in the GTHA and other large Ontario cities through distributing it more broadly into areas where land cost are lower.

Need for Provincial-level planning

- The Province should take a more proactive role in regional planning, providing incentives for development outside the GTHA and/or redirecting some government functions to those areas.
- Attracting more employment to areas outside the GTHA will lower demand for housing where cost pressures are highest, and so reduce average housing prices across the province.