

(by email)

31 October 2015

Dear Members of the Standing Committee on Social Policy,

We the undersigned are very pleased to provide these comments on Planning Act changes proposed in *Bill 73 – Smart Growth for Our Communities Act 2015*. We are grateful for the opportunity to highlight the opportunities that Planning Act reform creates. The views expressed, of course, do not necessarily represent the position of Ottawa City Council, and we make no representation as to whether they are shared by our colleagues or the staff of the City of Ottawa.

Bill 73 proposes rules that would increase citizen participation in planning matters, create greater certainty with respect to land use planning, and take a forward-looking view of transit expansion.

The proposed changes address, in our view, some of the critical issues facing Ontario cities. As councillors for urban wards, we have developed an understanding of how 20 years of intensification policies at the provincial level have created challenges and opportunities for municipalities and the residents who live in them. This proposed legislation is timely.

Summary

For your consideration, we offer the following comments on Bill 73.

We are very supportive and congratulate the Ministry for proposing to:

- require Official Plans to contain the measures and procedures for informing and obtaining the views of the public in respect of a variety of planning policies such as Official Plan amendments and zoning by-law changes;
- require that decision-makers explain the effect of written and oral submissions on their decisions;
- remove right to appeal the whole of new Official Plans;
- extend the time required to submit a record to the Ontario Municipal Board (OMB) by 60 days when mediation, conciliation and other alternative dispute resolution mechanisms are pursued to settle appeals;
- eliminate Official Plan appeals for the two year period following its adoption;
- require Council concurrence for applications for minor variances in the two-year period following an owner-initiated rezoning;
- provide greater transparency by requiring the City Treasurer to provide an annual report of monies collected under section 37 and cash-in-lieu of parkland and kept in a special account;
- enable municipalities to adopt a development permit system, and to prevent applications for amendments to new development permit by-laws for five years;
- require that the estimate of the cost in the need for transit service be based on the planned level of service for the 10 years following the date of the background study.

We would ask the Ministry to re-consider proposals to:

- reduce the calculation of cash-in-lieu of parkland from the value of one hectare of land for each 300 dwelling units to one hectare per 500 dwelling units;
- require a review of the Provincial Policy Statement every 10 years instead of every five years;

Where we have not addressed a change proposed by the Ministry, this implies neither support nor opposition.

Detailed comments:

As noted in our summary, we are fully supportive of measures that will address the concern expressed by many of our residents about ensuring their voices are heard equally in the development process. Respectfully, the Province's policies and City's Official Plan are high-level statements that promote – appropriately – urban intensification. We wish to be clear in our support for this direction. Land use planning directions that seek to mitigate urban sprawl are key to Ottawa's sustainability.

At the level of zoning and variances, the implementation of these high-level policies has often, however, resulted in intensification pursued to the maximum extent possible without due consideration for the balancing the goals of bolstering safe, affordable, active-transit-oriented communities. Residents question whether intensification policies are in the public interest in the face of thoughtless planning: large towers in the midst of residential neighbourhoods, traffic speed and volumes without mitigating measures, and the loss of housing affordability and community diversity.

Current processes for balancing the interests of various stakeholders in the face of these tensions are inadequate to obtain the views of community members who are not professionally engaged with these questions. Residents have increasingly lost faith that planning processes are meaningful when responses to their concerns are *pro forma*, and they have few opportunities to provide input. The development community is well-served by professional planning consultants and lobbyists that are able to devote hours to achieving their clients' desired outcomes. While not a part of this consultation, we are also supportive of efforts to reform municipal elections: the fundamental tension between allowing municipal candidates to accept campaign donations from corporations and unions exacerbates a growing cynicism about the system.

The reforms proposed by the Ministry would help considerably, we consider, in addressing these challenges.

We foresee that the Ministry proposal to **require Official Plans to contain the measures and procedures for informing and obtaining the views of the public** in respect of a variety of planning policies such as Official Plan amendments and zoning by-law changes could be a very helpful reform. This requirement would bring a new level of accountability and certainty to public consultation. Where consultation mechanisms require improvement, the regular Official Plan review process would provide an opportunity and nudge to do so. Such a reform would further provide for regular input from citizens as part of Official Plan reviews with respect to what changes might be productively made.

We look forward particular to a new Planning Act requirement that **decision-makers explain the effect of written and oral submissions on their decisions**. Currently, in Ottawa, the Planning Committee either accepts or not the recommendations made by staff planners with respect to re-zonings, Official Plan amendments, etc. In staff reports, there are responses made by planners to considerations raised by stakeholders, but decision-makers have no such requirement. In principle, the Planning Committee meeting constitutes the public meeting required for, for example, re-zonings. Yet, the positions put forward by stakeholders in these meetings, written and oral, are not dealt with in any substantive way except that, by default, they may be assumed to have either swayed the Committee recommendation to Council or not.

We are supportive of a proposal that would see planning committees deal more substantively with the positions put forward and how they have rejected, accepted, or considered those in making their own recommendation. This would bring a level of accountability and clarity to planning processes that is currently lacking.

We are also supportive of a new proposed **prohibition against appeals at the Ontario Municipal Board of the whole of new Official Plans**. Where the tenor of recent Official Plan amendments has been toward greater certainty and clarity for residents of the City of Ottawa, it is important that new

protections and positive directions be implemented as quickly as possible. Global appeals can be used by some stakeholders to wrap the appeals process in red tape, making it difficult for ordinary citizens to follow the various settlement and hearing machinations. In the same vein, we are supportive of the extension of time required to submit a record to the Ontario Municipal Board by 60 days when mediation, conciliation and other alternative dispute resolutions are pursued to settle appeals. This proposal facilitates the use of less expensive dispute resolution by communities and citizen appellants.

We are also particularly supportive of the proposal to **eliminate new Official Plan appeals for two years following their adoption**. In rapidly intensifying urban areas, we consider that this will provide considerably more certainty for residents and other stakeholders, particularly if combined with the proposal to require a new Official Plan at least every ten years.

The proposal to **require Council concurrence for applications for minor variances in the two-year period following an owner-initiated rezoning** is particularly welcome. The unpredictability of Committee of Adjustment decisions renders it critical that planning committees be assured that sensitive re-zonings can be undertaken with certainty about the final result. Particularly with respect to small-scale infill, we feel it is important to ensure building envelopes adhere to existing land-use policy. To the greatest extent possible, these should not be subject to quick changes soon after approval.

While not generally problematic in Ottawa, we take this opportunity to voice our support for the proposal to **provide greater transparency by requiring the City Treasurer to provide an annual report of monies collected under section 37 and cash-in-lieu of parkland payments** to be kept in a special account. Both sources are intended to offset the impact of development in communities, and this measure will help bolster trust in the system. Section 37 and CiL funds mitigate the worst effects of intensification, and are particularly sensitive in fast-developing wards such as ours.

We are particularly supportive **of extending the Development Permit System (DPS) to municipalities across the province**, with municipal discretion to determine the parts of their geography to which those will apply. We consider that the DPS, at least in concept, provides a greater level of certainty to communities than now exists. While we recognize that there is still considerable uncertainty with respect to exactly how DPS are implemented, and that those require significant consultation and study before being ordered, we are supportive of extending those.

Finally, we also congratulate the Province for its proposal to **require that the estimate of the cost in the need for transit service be based on the planned level of service for the 10 years** following the date of the background study. We consider that this will enable more progressive, better-funded transit solutions for municipalities as we see an accelerating modal shift and pursue intensification policies that are transit-oriented.

As is clear from the above, we are generally supportive of the directions being taken by the Province in Bill 73. There are two proposals being made that we would respectfully request the Province re-visit.

First, the proposal to **reduce the calculation of cash-in-lieu of parkland** from the value of hectare of land for each 300 dwelling units to one hectare per 500 dwelling units is, on the face of it, a substantial reduction. Urban areas such as we represent are faced with significant intensification pressure – both in the form of apartments and of low-rise infills. Population growth is putting strains on our parks and recreational facilities. Municipalities across the province are struggling to provide from tax revenues the park infrastructure necessary to support intensification. We urge the Province to ensure that there is no reduction in the funds available to do so.

Secondly, the Province has proposed that **reviews of the Provincial Policy Statement take place every 10 years instead of every five**. We again respectfully ask that this be re-considered. The PPS' central role in planning is unquestionable. Local planners, Councils and the Ontario Municipal Board must work within its parameters, and the degree to which it is achieving public interest objectives is critical to understand in detail. The relationship between macro- and micro-economic trends, changes in building technology, changes in population trends, technology trends and others can all shift the assumptions that underlie the policy statement. A ten-year review is too long a cycle to detect and react to key

demographic and economic shifts should those occur. We urge the Province to reconsider whether a 10-year review is in the public interest given the importance of this policy.

Conclusion

The challenge faced by the residents in our wards with respect to land use planning is that they do not have the legal and financial resources to participate fully in these discussions. The Ministry's proposed changes will help create more accountability, transparency and fairness in the process. We look forward to remaining engaged with you through this process.

Signed:

A handwritten signature in black ink, appearing to read 'Tobi Nussbaum', with a stylized, cursive script.

Tobi Nussbaum, Councillor, Ward 13, City of Ottawa

A handwritten signature in black ink, appearing to read 'Catherine McKenney', with a cursive script.

Catherine McKenney, Councillor, Ward 14, City of Ottawa

A handwritten signature in black ink, appearing to read 'Jeff Leiper', with a cursive script.

Jeff Leiper, Councillor, Ward 15, City of Ottawa

CC: Minister Ted McMeekin, Minister Yasir Naqvi, Minister Madeleine Meilleur