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November 23, 2022

The Honourable Steve Clark  
Minister of Municipal Affairs and Housing  
Ontario Ministry of Municipal Affairs and Housing  
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To The Honourable Steve Clark:

**Re: Proposed Changes through Bill 23, More Homes Built Faster Act, 2022 - ERO 019-6141, 019-6172, 019-6196 and 019-6163**

Please find the City of Peterborough's comments regarding Bill 23, the More Homes Built Faster Act, 2022, and the corresponding changes to the Conservation Authorities Act, Development Charges Act, Ontario Heritage Act and Planning Act herein:

## **Conservation Authorities Act (ERO 019-6141)**

The City of Peterborough does not support the changes to the Conservation Authorities Act and Planning Act proposed via Bill 23, which effectively reduces the role of Conservation Authorities (CAs). Since 1996, the City has worked to establish a cooperative working relationship with the Otonabee Region Conservation Authority for environmental planning advisory services. The City and the CA have developed an efficient plan review process that results in both a timely review and consistent application of natural heritage and water resource policies across the watershed. This consistent approach and watershed-based lens applied to decision-making are beneficial for all adjacent municipalities as it ensures the actions in one jurisdiction, does not negatively impact another.

At present, the City does not have the capacity nor the technical expertise to review and comment on studies required to conform to natural heritage policies and relies on this expertise from the CA. The City considers it critical to continue this review and ensure protection and enhancement of these resources. As such, should the Province remove the ability of the CA to offer this service, the City would need to:

- a) Outsource this work to a third-party peer review at the expense of the applicant; or,
- b) Hire additional staff with the necessary subject matter expertise.



Option (a) will likely not result in any improvements to the timeliness of technical reviews and both options will result in additional expense to the applicant or ratepayers based on current fee schedules and review times at the CA.

The exemptions to CA permits for planning applications will also place additional responsibilities on municipalities. Placing the responsibility for protecting the natural heritage system solely on the municipality and removing a watershed-based lens from decision making are concerning for the City. This has the potential to increase the City's flood risk, impair water quality and degrade the natural heritage system resulting in a reduced resilience to climate change impacts. Noting the historic occurrence of recent major community flood events in Peterborough and significant property damage associated with these events, the inheritance of any increased liability and risk due to the reduced role of the CA are of particular concern for the City and public safety.

## **Development Charges Act (ERO 019-6172)**

The proposed changes to the Development Charges Act will overturn the long-established principle that growth is intended to pay for growth. The proposed changes will burden existing taxpayers with the financial obligation to contribute to growth as a result of the short-fall created by the proposed five-year phase-in of development charges, removal of eligible costs (i.e., housing services, land and growth-related studies) that are clearly driven by development, in addition to the various exemptions and discounts, is akin to imposing further taxation on existing residents to offset costs to developers. The City understands the government's mission to encourage the building of more housing units, however, municipalities will require a new revenue stream to offset the foregone development charge revenue resulting from this legislation. Without a new revenue stream the City's ability to deliver growth-related infrastructure will be hampered. The City also notes that there is no obligation on developers to pass on any savings in their costs to purchasers.

Administratively, the imposition of a phase-in at the time of royal assent will require multiple development charge rate adjustments during one calendar year, creating volatility and uncertainty for developers. The alignment of the phase-in to coincide with the annual indexing of rates would alleviate this uncertainty and administrative burden.

## **Ontario Heritage Act (ERO 019-6196)**

### **Municipal Heritage Register**

The City is concerned with the proposed changes to remove non-designated properties from the heritage register if the municipality does not give notice of an intention to designate the property within two years of being placed on the register and to restrict properties from being relisted for five years. Peterborough has many historically significant properties – many of which are located downtown where there is significant and increasing development pressure.



Listing buildings on the heritage register is recognized as a best practice for heritage resource management and is an important tool to assist a municipality in understanding the extent of its heritage resources and managing future development. At present, the City has more than 700 Listed properties on the municipal heritage register. The City does not have adequate time and staff resources to consider all the current properties on the heritage register within the two-year timeframe. The timeframes proposed through Bill 23 are arbitrary and do not account for the significant time and staff resources that went into compiling and developing the heritage register. Should the proposed amendments come into effect, it is likely that buildings with potential heritage significance will be lost.

The City supports the proposed requirement to make the municipal heritage register available on a publicly accessible municipal website as this offers opportunities for greater transparency and public education. This information is already publicly available through the City's website.

## **Designation of Individual Properties**

The proposed amendments providing further rigour in the designation process by increasing the threshold to require that a property meet two or more of the criteria prescribed in regulation is also concerning. In the absence of any updates to the Provincial criteria to provide adequate consideration of Indigenous intangible cultural heritage and underrepresented cultures and groups, the City is concerned the increased threshold will further impair issues of diversity, equity and inclusion in the conservation of cultural heritage resources.

## **Planning Act Changes (ERO 019-6163)**

### **Additional Residential Units**

The City is generally supportive of changes to allow up to three residential units on parcels of urban residential land, but is concerned about the lack of opportunity to implement appropriate zoning regulations prior to the effective date. This direction is consistent with the City of Peterborough's new Official Plan to encourage a range and supply of affordable housing options through the creation of additional residential units provided there is adequate parking and servicing capacity. The proposed restriction on minimum parking requirements and removal of minimum floor areas are also consistent with the City's direction, where the City has determined that the minimum unit size requirement could be eliminated from the zoning by-law in the future and left to the minimum size requirements in the Building Code.

The City requests that the Province remove the 'no effect' provisions related to a zoning by-law for at least 6 months to provide the City with an opportunity to implement these provisions via the introduction of zoning regulations related to parking and servicing. The City has concerns where current downstream improvements are required, noting the proposed exemptions to development charges will require the City to fund



improvements through other sources (i.e., by transferring higher development charges to other classes of development or through the general tax levy).

The City also encourages the Province to facilitate requirements for builders to offer options to buyers for built-in or roughed-in additional residential units within new builds. These options can be more cost-effective than retrofitting once the primary dwelling unit is already built and also ensures that these units are built to current building and fire code standards.

## **Affordable and Attainable Housing**

The City is supportive of affordable housing and has created an Affordable Housing Community Improvement Plan (CIP) with a municipal incentive program, together with a development charges grant program. These programs have successfully resulted in agreements to ensure affordability for periods of 20 to 25 years at a defined annual cost.

The City is concerned that the blanket exemption language proposed through Bill 23 for affordable housing will have unknown financial implications and place the responsibility of growth-related costs including parkland demand on the existing taxpayers. In addition to the undetermined loss of revenue from exemptions related to gentle intensification and attainable housing, the City is concerned that the exemptions will place a potentially significant demand on services and parks that will require alternative forms of funding or result in delay or reduced service. Further, the exemptions to development charges, community benefits charges and parkland dedication appear to lack any obligation for the developer to share the cost savings with the purchaser or provide a long-term commitment that the units remain attainable into the future.

## **Third-Party Appeals**

Public engagement and participation are important parts of the planning process to better understand the diverse needs and priorities of the community. While it is agreed that NIMBY (Not In My Backyard) and BANANA (Build Absolutely Nothing Anywhere Near Anyone) are not conducive to good city building, the City is concerned that the continued reductions to the democratic planning process will diminish public trust and engagement.

Members of the public may be less inclined to participate in the planning process if they no longer have an appeal right or, on the other hand, members of the public may place more pressure on Council, City staff and the Committee of Adjustment to refuse planning applications. It is also unknown whether the restriction of third-party appeals may also reduce any incentive for the developer to work collaboratively with the public or make changes to a development application to address relevant and reasonable concerns from the public since there is no longer an appeal right. A publicly funded appeal process may also be challenging if the public no longer has an appeal right.



## Public Meetings – Plans of Subdivision

It is the understanding of the City that the removal of the requirement for public meetings for applications of draft plan of subdivision is not a prohibition and that public meetings may still be held at the discretion of the City. It is not clear why this requirement is being removed when Bill 108 has restricted third party appeals of plans of subdivision. Public meetings represent an important part of the land use planning process and provides an opportunity for the public to be informed and participate in the planning process.

## Site Plan Approval

The City has concerns regarding the removal of residential development with 10 units or fewer from site plan approval. The impacts of 10-unit residential development can be significant with regard to parking layout, functionality, stormwater management and servicing. Site plan approval is an important tool to mitigate these potential impacts and ensure adequate regard for accessibility. As such, the City suggests that the Province permit each municipality to determine the classes of development that are exempt from site plan approval.

The City also has significant concerns with respect to the removal of exterior design from consideration of site plan approval. Site plan approval is one of the key tools for implementing the City's policies on urban design in accordance with the Official Plan and established Urban Design Guidelines. As such, the consideration of exterior design through site plan approval is critical to the achievement of multiple planning objectives, including promoting a high-quality built form and public realm, ensuring compatible development and supporting a healthy and sustainable urban environment.

A potential unintended consequence of removing such considerations from site plan approval is that municipalities will use alternative processes and tools to regulate the same matters but in a less efficient way than the established process for site plan applications. For example, the design principles as outlined in the Official Plan and Urban Design Guidelines could be shifted to zoning regulations, which would offer much less flexibility and potentially trigger the need for more zoning by-law amendments; thus increasing the development approvals timeframe and the overall cost of development.

Further, the changes undermine the ability for municipalities to implement Green Development Standards through site plan approval. While the City of Peterborough has not implemented Green Development Standards at this time, the new Official Plan identifies the creation of Green Development Standards as a future consideration. Sustainable design elements are attributed to a number of benefits, including water conservation and energy efficiency, which support overall affordability by reducing long-term operating costs. For those reasons, the City urges the Province to reconsider the outright removal of exterior design from consideration of site plan approval and instead consider parameters to ensure the matters associated with exterior design are necessary, reasonable and clear.



## Parkland Dedication

In 2019, the City completed a comprehensive review of the City's municipal parks and open space system to evaluate the quantity and quality of parkland and guide priorities related to municipal parks and open space. Based on best practices, the City has established Parks Development Standards for various parkland categories. In particular, a provision standard of 1 hectare for every 1,000 population was established for neighbourhood parks.

Neighbourhood parks are intended to serve the close-to-home social and recreational needs of a neighbourhood or part of a neighbourhood. The 2019 Study acknowledged that the current parkland conveyance rate through the Planning Act was usually sufficient to only meet the needs of neighbourhood parkland and local connecting links to support walkways and local trails, as well as to protect minor watercourses within suburban residential development. The Study also noted that the current City-wide ratio for neighbourhood parkland is deficient at 0.75 hectares per 1,000 population and as residential density increases, especially in built-up areas, the ratio will worsen unless more parkland is acquired.

The 2019 Municipal Parks and Open Space Study also identified a shortage of 50-75 hectares of medium and large size tableland-quality Regional and Community parks to accommodate the outdoor and indoor culture and recreation facilities that will be required as the city grows. Between the proposed changes to parkland rates and development charges exemptions, municipalities will need to compromise between improvements to neighbourhood parks and regional/community parks.

As such, the reduced parkland rate proposed through Bill 23 is not supportive of the parkland targets in the City's Parks Development Standards and has negative implications to overall park equity. Should the proposed amendments take effect, additional funding for parks will need to be generated through the general tax levy.

The City has concerns regarding accepting encumbered lands as parkland as this may limit the ability for the City make future improvements to the land. The City will wait for the defined criteria to be set out in future regulation. However, the City is generally supportive of the ability provided for municipalities to require an agreement for non-fee simple interests and privately owned public spaces as the City needs to be satisfied that the park space component is accessible to the public, safe for use, has been designed to City standards and is to be maintained to City standards.

The City does not support the requirement to spend or allocate 60% of the parkland reserve funds at the start of each year as this requirement may limit the ability for the City to accumulate sufficient funds for strategic acquisitions, noting there are much higher land costs for downtown, waterfront and prime table land properties. Additional clarification is also needed regarding what criteria needs to be met to be classified as "spending" and "allocating".



Without clarification as to what constitutes “spending” and “allocating”, the City is concerned that the minimum annual requirement may encourage piecemeal improvements to the parks and open space system. For small to mid-sized municipalities, the funds received each year may largely vary. If a minimum spending or allocation amount must be established, consideration should be given to the size of the municipality and an alternative timeframe (e.g., every 3-5 years) to enable more strategic improvements.

## Conclusion

The City is not confident that the proposed amendments will constitute quicker timeframes or result in the creation of more affordable housing. Nothing in the amendments places any obligation on the development community to pass on any cost savings to homebuyers. If enacted, Bill 23 will shift the financial burden for growth from those who profit from growth on to existing taxpayers. While the City agrees that increasing the supply of housing is an important priority, the proposed amendments through Bill 23 are unlikely to achieve that goal and will compromise every municipality's ability to achieve other important objectives, such as ensuring a high-quality built environment and public realm, heritage conservation, environmental protection, climate change resilience and fiscal sustainability. The City of Peterborough remains committed to working with the Province to find mutually agreeable solutions to improve development timelines and enhance the supply of housing in a manner that supports livable and sustainable communities.

Sincerely,

A large, stylized handwritten signature in blue ink, appearing to read "Jeff Leal".

Jeff Leal  
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CC: Sandra Clancy, Chief Administrative Officer, City of Peterborough

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