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Staff Report PL2022-080

Title of Report: PL2022-080-Bill 23 Impacts on Southgate
Department: Planning Services
Council Date: December 7, 2022

Recommendation:

Be it resolved that Council receive Staff Report PL2022-080 for information.

Background

Bill 23 the more Homes Built Faster Act, 2022 was introduced on October 25. This legislation proposed sweeping changes to a number of Acts including the Planning Act, Development Charges Act, and Conservation Authorities Act. These changes and their potential impacts were summarized in a County Staff report PDR-CW-37-22. This report was forwarded on to Council Elect for information but can be reviewed as Attachment 1 to this report.

On November, 28, 2022, Royal Assent was given to Bill 23, the [More Homes Built Faster Act, 2022](#). The Act, which was introduced on October 25, has been passed quickly, but did undergo some important changes after public hearings and debate at the legislative committee stage. These changes are summarized in the staff comments below.

Staff Comments

The original proposal to eliminate all third party appeals was dropped, with the result that there are no changes to the ability to appeal official plan and zoning by-law amendments. Third party appeals are now no longer possible for the approval of minor variances or consent applications. In Southgate this means that Official Plan and Zoning Amendments can still be appealed by local individuals while Consent and Minor Variance Applications can not.

The existing prohibition on applications to amend certain documents within two years of approval, including new official plans, secondary plans and minor variances within two years of a re-zoning application, has been eliminated. For Southgate that means even after just approving our new Official Plan, Developers can request to amend it without giving the plan a change to work. Amending a plan just because a developer comes along is development facilitation not planning.

The five year phase-in period for development charge increases now applies to by-laws passed after January 1, 2022 (the original date had been June 1). This will have a significant effect on the municipality with the loss of 10's of thousands of

dollars to the phasing period only to have to redo it again. So in actuality a municipality will only ever be able to collect 100% of its DC's after 4 years..

Where in-kind contributions are made by a developer to satisfy community benefit charges requirements, an agreement regarding those contributions can now be made and registered on title. This is not relevant to Southgate as we do not have a community benefit charge.

The Site plan process which was restricted to matters of functional servicing (grading and drainage and sewer and water supply) can now apply to:

- matters related to green roofs;
- building construction requirements related to environmental conservation, where permitted, under the Building Code Act;
- the appearance of building elements if it impacts health, safety accessibility or sustainable design.

The biggest impact for Southgate in this regard is that we can no longer require any form of landscaping in a Site Plan. If the developer wants to leave the front lawn as gravel the Township can no longer require grassing or trees if it is not specifically related to grading and drainage.

Not all proposed changes come into force immediately. The Table below drafted by the Osler law firm sets out those changes that are now in force, as well as those that won't come into force until a later date to be confirmed by the government.

Not particularly relevant to Southgate but interesting none the less, Bill 23 does not make any changes to the Greenbelt despite media coverage to the contrary. While the consultation on changes to the Greenbelt was announced the same day that Bill 23 was introduced, the Bill itself does not propose changes to the Greenbelt.

Issue	Proposed changes and impacts on Southgate	In force date
Inclusionary Zoning/Affordable and Attainable Housing	Exempt affordable housing (generally defined as being priced at no greater than 80% of the average price/rent in the year a unit is rented or sold) and inclusionary zoning units from DC, CBCs and parkland dedication. Comment: Inclusionary Zoning does not apply to Grey County as we do not have any major transit hubs. Generally defining 80% of the average price/rent per unit as affordable housing does have a significant impact Southgate. 80% of the current	Nov. 28, 2022

	market rate is still out of reach for many families in Southgate. Furthermore exempting these proposed units from DC essentially allows developers , under the guise of affordable housing to avoid paying Development Charges.	
	<p>Introduce a category of “attainable housing” which will be defined in future regulations.</p> <p>-Presumably this would be at a rate higher than the affordable threshold however unless there is meaning policy affordable and attainable housing in Southgate is not being addressed.</p>	TBD
	<p>An upper limit of 5% of the total number of units in a development that can be required to be affordable as part of inclusionary zoning, and a maximum period of 25 years over which the units would be required to remain affordable (this is a proposed regulation change, not in the legislation itself)</p> <p>Comment: The Township does not have inclusionary zoning but still 5% is a pitiful number to even make a dent in the affordable housing needs of the province or Township</p>	TBD (regulation not yet in force)
Parkland	<p>The maximum amount of land that can be conveyed or paid in lieu is capped at 10% of the land or its value for sites under 5 ha, and 15 % for sites greater than 5 ha.</p> <p>This provision is likely overdue to limit overcharging by some municipalities but given the limiting of DC charges to pay for development this is one more tool that has been removed from the municipal tool box to now make the tax payer pay for development.</p>	Nov. 28, 2022

	<p>Maximum alternative dedication rate reduced to 1 ha/600 units for land and 1 ha/1000 units for cash in lieu.</p> <p>Comment: This severely limits the amount of parkland that a Township can require for parkland. For the alternative rate this would mean that for all of Flato East we would require 1.5 ha of land.</p>	Nov. 28, 2022
	<p>Parkland rates frozen as of the date that a zoning by-law or site plan application is filed. Freeze remains in effect for two years following approval. If no building permits are pulled in that time, the rate in place at the time the building permit is pulled would apply.</p> <p>Comment: this is another form of phasing that ultimately costs the Township money. Rates for Parkland dedication are frozen from the time the application is made and for 2 years following the approval of the by-law or site plan.</p>	Nov. 28, 2022
	<p>Encumbered parkland/strata parks, as well as privately owned publicly accessible spaces (POPS) to be eligible for parkland credits</p> <p>Comment this is currently not an issue for Southgate.</p>	TBD
	<p>Landowners can identify land they intend to provide for parkland, with the municipality able to appeal to the Tribunal if there is a disagreement.</p> <p>Comment: now the developer can dictate which land the municipality should accept as parkland and if the Municipality does not agree then they must appeal to the OLT.</p>	TBD
	<p>Parks plans to be required prior to the passing of any future parkland dedication by-</p>	Nov. 28, 2022

	<p>law (would not apply to by-laws already passed).</p> <p>Comment: A comprehensive Park Plan must be in place prior to passing any future parkland dedication by-law. This is a potential cost and impediment to a municipality collecting parkland dedication fees.</p>	
	<p>Parkland dedication will apply to new units only (i.e., no dedication can be imposed for existing units)</p> <p>Comment- This makes sense except that it also applies to second and third units within existing homes.</p>	Nov. 28, 2022
	<p>Municipalities will be required to spend or allocate 60% of parkland reserve funds at the start of each year.</p> <p>Comment: This will be a critical part of municipal budgeting to ensure that parkland dedication fees are not wasted. It could however severely limit the municipalities ability to save for larger projects.</p>	Nov. 28, 2022
Development Charges	<p>Five year phase-in of DC rate increases, beginning with a 20% reduction in the first year, with the reduction decreasing by 5% each year until year five when the full new rate applies. This is proposed to apply to all new DC by-laws passed since January 1, 2022</p>	Nov. 28, 2022
	<p>Historical service level for DC-eligible capital costs (except transit) extended from 10 to 15 years</p> <p>Comment: As stated previously this means that a DC by-law will be at 100% for only</p>	Nov. 28, 2022

	half of the time before it is required to be refreshed with a new bylaw. This will be a significant reduction in revenues that would go to help provide new infrastructure in Southgate.	
	<p>DC by-laws will expire every 10 years, instead of every five years. By-laws can still be updated any time.</p> <p>Comment: This will not negatively affect the Township as we still can update the by-law at any time.</p>	Nov. 28, 2022
	<p>Cap the interest paid on phased DCs for rental, institutional and non-profit housing to prime plus 1%.</p> <p>Comment: This is again limiting the Townships ability to recoup costs.</p>	Nov. 28, 2022
	<p>DC/CBC/parkland exemptions for attainable housing, which will be projects designated by future regulations.</p> <p>Comment: These exemption will have an effect of the Townships finance but it is unclear by how much.</p>	TBD (attainable housing regulations not yet released)
	New regulation authority to set services for which land costs would not be an eligible capital cost recoverable through DCs	TBD
	<p>Exclude the cost of studies (including background studies) from recovery through DCs.</p> <p>Comment: This again limits what the Township can recover as far as development costs. DC studies will now be paid for by the Tax payers.</p>	Nov. 28, 2022

	<p>Municipalities will be required to spend at least 60% of DC reserves for priority services (i.e., water, wastewater and roads).</p> <p>Comment: THIS will have a tremendous effect on Southgate. Spending 60% of DC reserves for priority services will severely limit the ability of the municipality to save for larger projects in future years. This could be a major concern for funding eco park road expansions as well as waste water expansions.</p>	Nov. 28, 2022
	<p>Discount for purpose-built rental units, with a higher discount for larger units, on top of the existing DC freeze and deferral of payments over five years.</p> <p>Comment , this again puts the Township in a position of having DC discounted on top of deferral payments for purpose build rental units. The Taxpayer will be directly subsidizing development of rental units.</p>	Nov. 28, 2022
Community Benefit Charges	<p>Maximum CBC payable to be based only on the value of land proposed for new development, not the entire parcel that may have existing development</p> <p>Comment, The Township does not have a Community Benefit Charge.</p>	Nov. 28, 2022
	Maximum CBC to be discounted by 4% of land value divided by the existing building size, as a proportion to total building square footage	Nov. 28, 2022
Removal of Upper Tier approval powers	Upper tier municipalities will be removed from the Planning Act approval process for both lower tier official plans and amendments and plans of subdivision	TBD

	Comment: The act originally indicated the Growth Plan and Greater Golden Horseshoe upper tiers would be the ones losing their approval powers. I believe e\this is still the case but may change.	
	Minister would (unless otherwise provided) therefore become the approval authority for all lower tier OP and OPAs, and Minister's decisions are not subject to appeal	TBD
Zoning in MTSA's	<p>Municipalities will be required to update zoning to include minimum heights and densities within approved Major Transit Station Areas (MTSA) and Protected MTSA's within one year of MTSA/PMTSA being approved</p> <p>Comment: The Township does not have a major Transit Area.</p>	Nov. 28, 2022
Third-party appeals eliminated – minor variances and consents	<p>No one other than the applicant, the municipality, certain public bodies, and the Minister will be allowed to appeal minor variance or consent decisions.</p> <p>Comment: Southgate members of the public can no longer appeal minor variances or consents. So the brunt of any decisions made by the Committee of Adjustment will be felt by Council. The only recourse for the public is to complain directly to Committee members to affect change prior to a decision being made on an application.</p>	Nov. 28, 2022
	Existing third-party appeals where no hearing date has been set. as of October 25, will be dismissed. The scheduling of a case management conference or mediation will not be sufficient to prevent an appeal from being dismissed	

<p>Gentle Density/Intensification</p>	<p>As of right zoning to permit up to three residential units per lot (two in the main building and one in an accessory building), with no minimum unit sizes.</p> <p>Comment: This will have an affect within the Township with homes having two or even three units provided they can provide the required parking. The Township's by-law should be strengthened to clearly indicate how much frontage is required for snow storage and how much can be utilized for parking.</p>	<p>Nov. 28, 2022</p>
	<p>New units built under this permission would be exempt from DC/CBC and parkland requirements, and no more than one additional parking space can be required</p>	
<p>Subdivision approvals</p>	<p>Public meetings no longer will be required for applications for approval of a draft plan of subdivision.</p> <p>COMMENT: This has a major affect on the Township as a public meeting is no longer required for the MZO lands in effect. The Township was under the understanding that a public meeting at the Subdivision stage would still be there to educate and inform the public. This is not the case and the public will not have knowledge about what is to transpire within the MZO lands without inquiring with staff.</p>	<p>Nov. 28, 2022</p>
<p>Site plan control</p>	<p>Developments of up to 10 residential units will be exempted from site plan control.</p> <p>Comment: This could have a problem from a lot servicing and stormwater management perspective.</p>	<p>Nov. 28, 2022</p>

	<p>Architectural details and landscape design aesthetics will be removed from the scope of site plan control.</p> <p>Comment: The Township can no longer require any trees or landscaping. IF the developer wants to put gravel they are free to do that. This is a loss for the Township that will encourage “ugly” development. It won’t necessarily be all development but there will be instances.</p>	Nov 28 2022
Rental Replacement	<p>Minister to be given the authority to enact regulations related to the replacement of rental housing when it is proposed to be demolished or converted as part of a proposed development.</p> <p>This has not been an issue in Southgate.</p>	Nov. 28, 2022
Heritage	<p>Municipalities will not be permitted to issue a notice of intention to designate a property under Part IV of the Ontario Heritage Act unless the property is already on the heritage register when the current 90-day requirement for Planning Act applications is triggered</p> <p>Comment: Heritage under Part IV of the Heritage Act has not been a priority for Southgate.</p>	TBD
	Heritage registers to be reviewed and a decision made whether listed properties are to be designated, and if not, removed from the register	TBD
	A process is proposed which will allow Heritage Conservation District Plans to be amended or repealed	TBD
	Criteria for Heritage Conservation District Plans can be established for regulation	TBD

Ontario Land Tribunal procedures	The Tribunal will have increased powers to order costs against a party which loses a hearing at the Tribunal	All OLT Act changes not yet in force – date TBD
	Comment: This may be beneficial to the Township but with limiting third party appeals it could also work against the Township where it loses the hearing.	
	The Tribunal is being given increased power to dismiss appeals for undue delay	
	The Attorney General will have the power to make regulations setting service standards with respect to timing of scheduling hearings and making decisions	
	Regulations can also be made to establish priorities for the scheduling of certain matters	
Conservation Authorities	Permits will not be required within regulated areas (including wetlands) for activity that is part of a development authorized under the Planning Act	TBD
	Comment- This has the effect of allowing those areas of land where “fingers or patches” of wetland exist to be developed. This will benefit the Township in areas like the ecopark where they were farmed in the past but have developed since.	
	A single regulation is proposed for all 36 Authorities in the province	TBD
	Clear limits are proposed on what Authorities are permitted to comment on as part of the planning approvals process, which will keep their focus on natural hazards and flooding	January 1, 2023
	Comment: the Single regulation area is really good as it provides consistency across Ontario. The downside to this legislation is	

	that Natural Heritage is not being addressed at all anymore. So Private development will now be required to hire someone to provide comments on natural heritage. Alternatively natural Heritage comments could be provided at the County level where there is some economy of scale by hiring one person to comment for all the municipalities within the County.	
Consumer protection	Proposed increases to penalties under the New Homes Construction Licensing Act, 2017 of up to \$50,000	Nov. 28, 2022

Financial Implications

Many of these changes will have significant negative consequences on the financial ability of the Township to require growth to pay for growth. Growth will now be paid for in part by the taxpayer.

Conclusions

There are lots of changes to various legislation which will achieve the goal of providing more housing that is clear. The costs to the environment and the taxpayer are not clear however and it remains to be seen if the Province will step up with more infrastructure funding. Based on the above it is recommended to accept this report as information.

Respectfully Submitted,

Municipal Planner: *Original Signed By*
Clinton Stredwick, BES, MCIP, RPP



CAO Approval: *Original Signed By*
Dave Milliner, CAO

Attachments:

1. **County Staff Report PDR-CW-37-22**