
HALDIMAND COUNTY

Report PDD-24-2019 Final Updated Growth Plan and Bill 108 For Consideration by Council in Committee on June 18, 2019



OBJECTIVE:

To provide Council with information on the updated Growth Plan and Bill 108 - “More Homes, More Choice – Ontario’s Housing Supply Action Plan” (“Action Plan”) and make recommendations relating to comments to be provided to the Province.

RECOMMENDATIONS:

1. THAT Report PDD-24-2019 Final Updated Growth Plan and Bill 108 be received;
2. AND THAT the following concerns be submitted to the Province:
 - i. Request the Province to consult with Ontario municipalities prior to issuing any draft regulations associated with proposed Bill 108 such that municipalities can fully understand and be able to analyze the impact of the proposed Bill changes comprehensively, including the cumulative financial impacts to municipalities;
 - ii. Request the Province to enshrine revenue neutrality in the proposed legislation and if not, create a municipal compensation fund to support municipalities whose revenues decline under the proposed community benefit charge regime; and
 - iii. Request the Province to provide a transparent and thorough stakeholder consultation process in the development of all regulations associated with proposed Bill 108.
3. AND THAT a copy of Report PDD-24-2019 be provided to MPP Toby Barrett and the Ontario Minister of Municipal Affairs and Housing;
4. AND THAT the Chief Financial Officer and Treasurer report back to Council as part of the 2020 budget process on any impacts on growth-related or other capital expenditures resulting from the enactment of the proposed Bill 108.

Prepared by: Mike Evers, MCIP, RPP, BES, Director of Planning & Development

Respectfully submitted: Craig Manley, MCIP, RPP, General Manager of Community & Development Services

Approved: Donald G. Boyle, Chief Administrative Officer

EXECUTIVE SUMMARY:

A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2019 came into effect on May 16, 2019 and Bill 108, *More Homes, More Choice Act*, 2019 was passed into legislation on June 6, 2019. The updated Growth Plan is consistent with the proposed changes the Province put forwards (and which staff reviewed/commented on) earlier in the year. The changes will be worked through and incorporated into the County’s new Official Plan as the update of that instrument moves forward. The updates are generally supported by staff and represent a series of changes that allow flexibility and recognize regional differences in growth demand and patterns across the Greater Golden Horseshoe.

Bill 108 introduces a series of planning process changes that are generally supported by staff; however, it also introduces significant changes to how/what Development Charges can be applied. It appears these changes will have the effect of decreasing the value of the Development Charges municipalities receive while at the same time, increase the municipal administrative burden. The true financial impacts of this tool, and the County's ability to recover soft service costs and parkland will be unknown until the key details (regulations and transitions) are released. Staff are of the opinion that Bill 108 will impact the County's financial strategy for its 10-year capital plan which supports critical infrastructure investments, including: library expansion and renovation projects; a new emergency service station, new or expanded parks and playgrounds; and a new recreation centre to support population growth. In addition, these changes will impact the ability to implement existing approved financing plans for recent major capital works (arenas, libraries and emergency service facilities) where the County anticipated the ability to recover future Development Charges to fund the debt payments for these facilities.

BACKGROUND:

A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2019 ("Plan") came into effect on May 16, 2019. It replaces the 2017 Growth Plan and is part of the Province's "More Homes, More Choice: Housing Supply Action Plan". The Plan contains a series of significant amendments that were overviewed by staff in PDD-M01-2019 as part of the April 16, 2019 Council in Committee meeting. The Plan closely tracks the proposed amendments first announced by the Province in January 2019. The main change, mapping relating to provincially significant employment zones (i.e. for Lake Erie Industrial Park), is in line with the request of the County for said mapping to be expanded and is examined in the Analysis section of this report.

On May 2, 2019, the Province of Ontario unveiled "More Homes, More Choice – Ontario's Housing Supply Action Plan" ("Action Plan"). This Action Plan includes proposed amendments to several pieces of legislation that affect the planning process in Ontario via Bill 108, the *More Homes, More Choice Act*. The *More Homes, More Choice Act* was passed and received Royal Assent on June 6th, 5 days after the Environmental Bill of Rights (EBR) posting closed (June 1st). The Province did not make any changes to the legislation as a results of the EBR posting/commenting period. The report focuses on the key amendments to the *Planning Act*, *Development Charges Act* and *Heritage Act* which are of significance to Haldimand County and makes recommendations for Council to consider in terms of response to the Province.

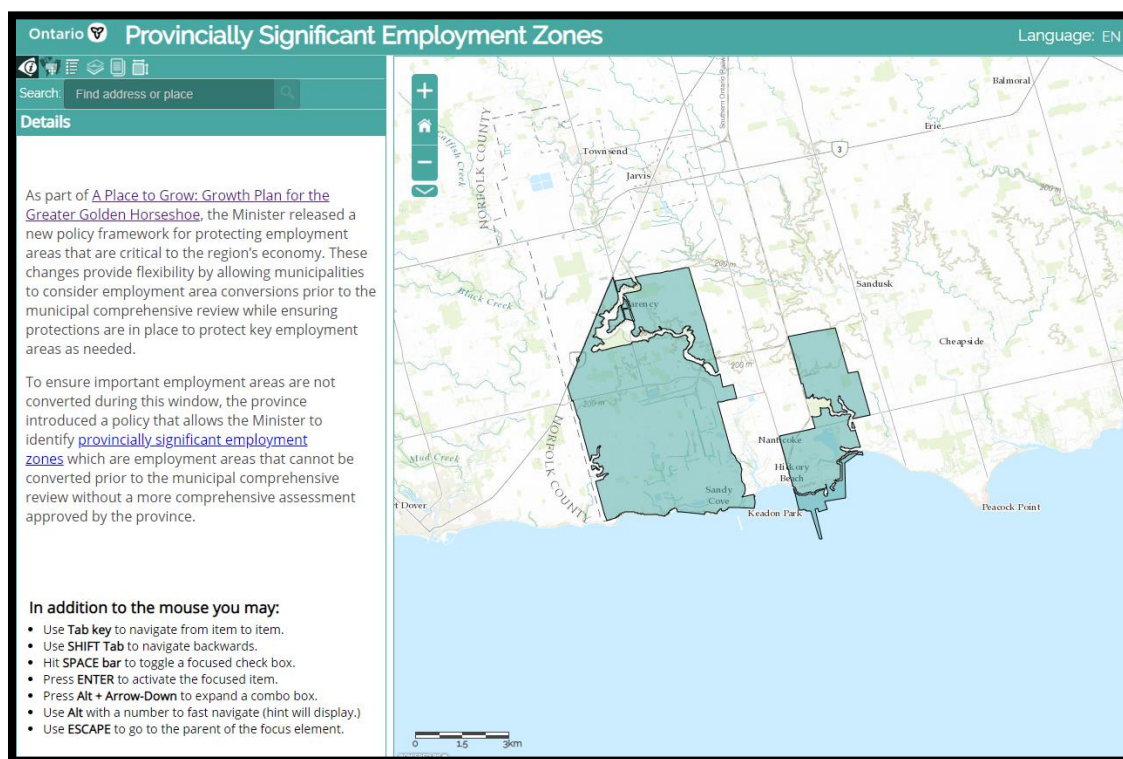
ANALYSIS:

Updated Growth Plan – "A Place to Grow"

A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2019 ("Plan") came into effect on May 16, 2019. It replaces the 2017 Growth Plan and is part of the Province's "More Homes, More Choice: Housing Supply Action Plan".

The Province first announced the proposed amendments on January 15, 2019. The amendments were summarized by staff in previous memo PDD-M01-2019 Proposed Growth Plan Amendment Number 1 which was presented at the April 16, 2019 Council in Committee meeting. After undergoing a 45-day commenting and review period, the majority of the proposed amendments have been incorporated into the Plan as they were initially drafted. Significantly, however, the new Plan introduces for the first time a definition of *provincially significant employment zones (PSEZ)* that can consist of *employment areas* or mixed-use areas that maintain a significant number of jobs. The County raised concerns that the extent of the PSEZ initially proposed for the Lake Erie Industrial Park (LEIP) was much smaller than is shown in the County Official Plan. The Province has responded favourably to the County's request to

extend the mapped area to cover all of the designated/zoned employment lands within the LEIP to correspond to the County's Official Plan. A snapshot of the defined lands from the Province's mapping portal is included below.



Growth Plan Transition Matters:

As noted above, the revised Growth Plan is now in effect. The proposed transition regulation requires all planning decisions to conform to the new Plan moving forward. The requirement for municipalities to update their Official Plans to conform to the new Plan by July 1, 2022 is unchanged from the 2017 Growth Plan. The County has initiated its update to its Official Plan and expects to be able to achieve this timeframe.

Bill 108 – Housing Supply Action Plan Legislation

On May 2, 2019, the Province of Ontario unveiled “More Homes, More Choice – Ontario’s Housing Supply Action Plan” (“Action Plan”). This Action Plan includes proposed amendments to several pieces of legislation that affect the planning process in Ontario via Bill 108, the *More Homes, More Choice Act*. Bill 108 received Royal Assent and came into law on June 6th, 2019. The analysis below focuses on the key amendments to the *Planning Act*, *Development Charges Act* and *Heritage Act* which are of significance to Haldimand County. They include:

Planning Act

- Amendments to the *Planning Act* (and *Local Planning Appeals Tribunal Act*) that will broaden the Local Planning Appeal Tribunal’s (LPAT) powers and restore many of the Ontario Municipal Board-era rules for appeals and hearings. In particular:
 1. **Grounds for appeal:** Bill 108 proposes to repeal the requirement that appeals be exclusively on the basis that approval of the instrument is inconsistent with the Provincial Policy Statement, fails to conform or conflicts with a provincial plan or fails to conform with an Official Plan. Appellants can still raise these grounds of appeal (and provide supporting reasons), but would no longer be limited to just those grounds.

2. **No two-step appeal process:** Bill 108 proposes to return to a single hearing where the LPAT would have the power to make a final determination approving, refusing to approve or modifying all or part of the instrument under appeal. Bill 108 also proposes to amend restrictions in the current *LPAT Act* on parties' ability to introduce evidence and examine or cross-examine witnesses at hearings. The Tribunal will, however, have the authority to limit evidence at a hearing.
3. **Restriction on third party appeals of plans of subdivision:** Only the applicant, municipality, Minister, public body or prescribed list of persons (including utilities) are proposed to have the right to appeal an approval authority's decision on a draft plan or subdivision, lapsing provision or any condition of draft plan approval.

Staff Comment: staff do not have any specific concerns with the changes to the appeal process. In simplest terms, these changes will essentially revert the appeal system back to how it was prior to 2017 – i.e. the old Ontario Municipal Board (OMB) rules. While the LPAT changes were intended to streamline, limit appeal matters and make process more simplified, in many cases the opposite has resulted. In staff's view the OMB system represented significantly less 'front end' work for staff leading up to a hearing and was a known established process. Reverting back to the old appeal process is preferred by staff.

In terms of the restriction on subdivision appeals by the general public (item 3 above), staff do not have any significant issues with this change. The subdivision approval process is a technical approval process that typically follows the analysis, public process and Council decision relating to the principle of land use - i.e. Official Plan and zoning amendment. The process to establish principle of land use remains an appealable process.

In addition to the above, in practice here at the County, the public process that leads up to a decision on a subdivision has a large amount of public input and plan proposals have typically been revised to accommodate public interest matters and neighbourhood concerns. Thus, the plans that are typically placed before Council for final consideration are fully vetted by the public and have taken into account public input where appropriate. Further, plans are only presented to Council in final form once all functionality aspects (traffic, stormwater, servicing) and policy conformity matters (density, design/layout) have been addressed – meaning: the plans have been deemed appropriate by County staff. In short, limiting 3rd party appeals on plans that are influenced by public input and have been demonstrated to be technically sound/appropriate, makes sense and ensures that staff time and significant financial resources do not get tied up in unnecessary appeals.

- An amendment to 'speed up' local planning decisions by establishing the following timelines for municipal decisions:

Instrument	Current <i>Planning Act</i> Timeframe	Bill 108 – Proposed Timeframe
Official Plan/Official Plan Amendment	210 days	120 days
Zoning By-law Amendment	150 days	90 days
Draft Plan of Subdivision	180 days	120 days

Staff Comment: As Council is aware, Planning has developed a series of service standards that have been adopted by Council for all types of applications since 2010. The changes put forward by the Province, as set out in the table above, align with the County's service standards. These standards, in particular for *standard* planning applications (the majority of applications received), are achievable as evidenced by the compliance rate reported on each year (typically around 90%). Staff do note that for complex major applications in any of the above noted categories, the Bill 108 timelines would be a challenge to achieve and additional time is typically required to complete a fulsome review, obtain additional information/clarification from applicants and bring forward

recommendations to Council. Thus, these timeframes will not be achieved in all circumstances nor all the time.

- Changes to the *Planning Act* would extend permissions for Secondary Suites, authorizing additional units in detached, semi-detached and row houses, in both the primary dwelling and ancillary buildings or structures (e.g. a coach house or granny flat). Previously, policies were required to permit a secondary unit in either the primary residence or ancillary structure.

Staff Comment: Staff have no concerns with this proposal and are working on incorporating these permissions into the new County zoning by-law. The by-law will incorporate certain criteria that must be met to facilitate permissions for these units (e.g. 1 parking space per additional unit, maintaining zone setbacks, etc.) which will provide the necessary safeguards relative to functionality of property and limiting impact to surrounding lands.

- Section 16 (5) of the *Planning Act* is amended to restrict Inclusionary Zoning to specific high-growth areas, including Major Transit Station Areas (MTSAs) and areas where a development permit system is established (neither of which apply in the County at present). The existing legislation gave municipalities permission to introduce Inclusionary Zoning – in which a percentage of units in a development of 10 or more units must be set aside as “affordable” units, and they were free to do so in all or part of the municipality.

Staff Comment: While the County has not to date considered use of this regulatory tool, it was available as an option should the County wish to pursue it. Given these changes, the tool will no longer be available to the County unless it first implements a development permit system (DPS). Establishing a DPS would require extensive study, cost and resources to be assigned and thus makes it far more challenging for the County to pursue or consider moving forward with Inclusionary Zoning.

- Municipalities would also be required to implement Community Planning Permit Systems (CPPS) in specific areas (Section 70.2.2), including provincially significant employment zones. Planning approval timelines would then be reduced to 45 days and appeals associated with implementing planning documents removed.

Staff Comment: The County does have a provincially significant employment zone within the Lake Erie Industrial Park as examined in the first part of this report and identified in the new Growth Plan. This means that the County would be required to implement a CPPS for that area of the County. The details on this obligation are not yet known in terms of when this would be required, the parameters of the permit CPPS (e.g. for specific types of developments?; sizes of developments?; etc.). A CPPS is the new *Planning Act* term for ‘development permit system’ (DPS) (also referred to in the section above) which is an approval system developed by a municipality that combines zoning, minor variance, site plan and site alteration into a single application approval framework. While the authorities to use the tool have been around for many years under the *Planning Act*, its use has been limited across the Province due to the complex administrative requirements associated with the program and the transfer of decision making authority from Council/Committee of Adjustment to staff (i.e. approvals are dealt with by a permit officer similar to how building permits are currently dealt with). Staff will continue to monitor this aspect of the Bill and report back to Council as more information is made available by the Province. In general, the concept of a streamlined permit process for employment uses in the significant employment zone is supported by Staff.

- Introduce a community benefits charge (CBC) to replace Section 37 (‘Bonusing’) of the *Act*, and to replace ‘Soft Services’ as matters to which a Development Charge can apply. This new CBC charge would allow municipalities to impose CBCs against land to pay for facilities, services, and matters such as libraries, parks and other soft services required to develop or re-develop the area. This

would replace the parkland dedication provisions in some cases. The Province will have the authority to exempt certain types of development from this charge. Before a municipality passes a CBC, local governments will be required to develop a strategy and identify the facilities, services, and matters that will be funded. The amount charged will be capped as a percentage of land values. At this point no details or regulations have been provided.

Staff Comment: Many key details and components related to the implementation of a CBC have not been provided by the Province. However, it appears that Bill 108 will complicate the local public administration of development charges. There is concern that these changes will have the effect of decreasing the value of the DCs municipalities receive while at the same time, increase the municipal administrative burden. The true financial impacts of this tool, and the County's ability to recover soft service costs and parkland will be unknown until the key details are released. The implications of passing legislation without fully being able to comprehend the fiscal implications to municipalities is troublesome. Staff will continue to monitor this and report back to Council once more details are available. Additional/more detailed concerns have been raised by the County's DC consultant (Watson & Associates) in a letter to the Province which is included as Attachment 1. Many of the concerns raised within the letter are similar to those of County staff as well as the majority of municipalities that have commented on the Bill.

Development Charges Act

- Amendments to the *Development Charges Act* will exempt secondary suites in prescribed classes of new residential buildings and ancillary structures.
- A new section of the *Act* will also freeze development charge rates at the point of filing an application, rather than at the issuance of the first building permit. The timing of payment will remain unchanged; and
- Amend rules for when Development Charges (DCs) are payable if the development is rental housing, institutional, industrial, commercial, and non-profit housing. Unless certain exceptions apply, the charge is payable in 6 annual installments when occupancy takes effect for all listed development types save and except non-profit housing, which is to be spread out over 20 years. Local governments may charge interest from when a building permit is issued with the interest rate determined by regulation.

Staff Comment: While it is uncertain if these changes will contribute to the development of (rental/affordable) housing stock that is needed within the community, there will be additional administrative duties, potential collection issues and high probability there will be a loss of revenue for growth related capital needs. By effectively exempting secondary suites, the growth related costs of infrastructure needs for these developments will have to be funded from non-DC related sources resulting in a loss of development related revenues. Modifying the timing of DC payments/collection or when the amounts are determined will impact cash flow from this revenue stream and likely result in loss of growth related revenues. Allowing DC payments over a period of 6 years (20 years for non-profit housing) will substantially increase the administrative time and costs associated with collection of DCs, and will likely lead to delays/defaults in payments and additional revenue loss. Some revenue generation impacts could occur with the freezing of DCs at the point of application filing, but these would be limited to those situations where a project extends across/into an annual indexing (increase) period or when the 5 year DC Background Study & Update takes place.

- Amendments would change the Development Charge treatment of 'Soft Services' as part of the introduction of a community benefits charge (CBC). Under the new CBC, municipalities will be able to charge developers directly for community benefits such as libraries and daycare facilities. The

new CBC would also replace discounted services/soft services from the *Development Charges Act* such as libraries, parks, child-care and recreational facilities and therefore, only hard services/infrastructure costs and other prescribed eligible costs would be eligible for collection through DC's including roads, water, wastewater, stormwater, waste diversion and the protection services of policing and fire. Although no details are available, it appears that the proposed charges permitted under the CBC would be capped based on a portion of the appraised value of land.

Staff Comment: As noted above, many key details and components related to the implementation of a CBC have not been provided by the Province. The true financial impacts of this tool, and the County's ability to recover soft service costs and parkland will be unknown until the regulations are released. The implications of passing legislation without fully being able to comprehend the fiscal implications to municipalities is troublesome. Attachment 1 (Watson letter to Province) also reflects more details relative to staff concerns on these changes. Staff will continue to monitor this and report back to Council once more details are available.

In summary, Bill 108 undermines the County's ability to ensure that "growth pays for growth" through substantive amendments to the *Planning Act* and the *Development Charges Act*. Combined, these tools account for an important part of the County's financial strategy for its 10-year capital plan which supports critical infrastructure investments, including: library expansion and renovation projects; new or expanded parks and playgrounds; and a new recreation centre to support population growth. In addition, these changes will impact the ability to implement existing approved financing plans for recent major capital works (specifically arenas, libraries and emergency service facilities) where the County anticipated the ability to recover future Development Charges to fund the debt payments for these facilities. Given these concerns, staff is recommending a series of requests (comments) be provided to the Province as laid out in Recommendation 2 of this report.

Heritage Act

- Amendments to the *Ontario Heritage Act* will establish new, mandatory standards for designation by-laws and new time limits for confirming complete alteration and demolition applications, as well as designation decisions.
- Amendments will require municipalities to notify owners if their properties are on a cultural heritage value list. If owners believe their lands should not be designated as a heritage property, they can appeal to the municipality to remove their property from the list and challenge the designation further at the Local Planning Appeal Tribunal's (LPAT).
- Municipal decisions on designations and alterations will now be subject to appeals to the LPAT, whose decisions will be binding (replacing the current, non-binding decisions of the Conservation Review board).
- Timeframes for notices and decisions are also proposed, such as a requirement for municipalities to respond to an objection from an owner within 90 days.

Staff Comment: While the proposed amendments grant authority to the LPAT, to manage and decide on heritage matters are removing some of the current Council decision-making authority in heritage matters, the changes are consistent with how other zoning and land use matters are managed.

FINANCIAL/LEGAL IMPLICATIONS:

It appears that changes proposed in Bill 108 will have the effect of decreasing the value of the Development Charges municipalities receive while at the same time, increase the municipal

administrative burden. The true financial impacts of this tool, and the County's ability to recover soft service costs and parkland will be unknown until the key details are released. Staff are of the opinion that Bill 108 will impact the County's financial strategy for its 10-year capital plan which supports critical infrastructure investments, including: library expansion and renovation projects; a new emergency service station, new or expanded parks and playgrounds; and a new recreation centre to support population growth. In addition, these changes will impact the ability to implement existing approved financing plans for recent major capital works (arenas, libraries and emergency service facilities) where the County anticipated the ability to recover future Development Charges to fund the debt payments for these facilities.

STAKEHOLDER IMPACTS:

Not applicable.

REPORT IMPACTS:

Agreement: No

By-law: No

Budget Amendment: No

Policy: No

ATTACHMENTS:

1. Watson & Associates Letter.