

January 18, 2019

Mr. Ken Peterson
Provincial Planning Policy Branch
Ministry of Municipal Affairs and Housing
777 Bay Street, 13th Floor
Toronto, ON M5G 2E5

Mr. Michael Helfinger
Intergovernmental Policy Coordination Unit
Ministry of Economic Development, Job Creation and Trade
900 Bay Street, Hearst Block, 7th Floor
Toronto, ON M6H 4L1

Re: Proposed Open-For-Business Planning Tool and New Regulation Supporting Proposed *Bill 66, Restoring Ontario's Competitiveness Act, 2018*

Dear Mr. Peterson and Mr. Helfinger,

Thank you for the opportunity to comment on the proposed open-for-business planning tool and new regulation supporting proposed *Bill 66, Restoring Ontario's Competitiveness Act, 2018*. To allow for meaningful public input, it is requested the commenting period be extended for a minimum of 30 days beyond the January 20, 2019 deadline. Please note this letter represents preliminary comments from City of Markham staff and is subject to Council's support. The comments contained in this letter will be considered by Markham Council, following which additional comments on behalf of Council will be submitted.

Comments on the open-for-business planning tool

According to background information provided on the Environmental Registry of Ontario, the Province is proposing to make changes to the *Planning Act* to create a new economic development tool called the open-for-business planning tool. The open-for-business planning tool is part of the legislative changes the Province is proposing as part of *Bill 66, Restoring Ontario's Competitiveness Act, 2018* to facilitate job creation in a number of sectors.

The open-for business planning by-law (referred to hereafter as the 'proposed planning by-law') is intended to be available to all local municipalities to ensure they can act quickly to attract employment uses seeking development sites. A local municipal planning by-law would require Minister approval before it is approved by Council, and would be subject to certain criteria. Of note, the proposed planning by-law would allow employment uses to be approved without being subject to a number of Provincial land use planning related policy statements and plans (including the Provincial Policy Statement, Growth Plan, Greenbelt Plan, and Oak Ridges Moraine Plans, among others) or regional and local official plans and zoning by-laws.

While we appreciate the initiative to streamline planning approvals, especially at the Provincial level where much work needs to be done with various Ministries involved with development approvals, there are comments and questions regarding several of the provisions of the proposed planning by-law as follows.

1. Clarity is requested on the nature of the barriers to economic development being addressed by the proposed planning by-law

The City of Markham supports economic development opportunities, and has for many years very successfully planned for and delivered employment in accordance with various provincial legislation, policy statements and plans (e.g., *Planning Act*, Provincial Policy Statement, Growth Plan, Greenbelt Plan and Oak Ridges Moraine Conservation Plan, etc). The PPS and Growth Plan both require municipalities to specifically plan for employment uses and to protect employment lands.

The proposed planning by-law provides the opportunity to establish employment uses, subject to specific requirements, without due consideration of the provincial planning framework that has been carefully established over the past 25+ years. However, staff could find no mention in the consultation documents of the specific barriers to major employment uses that the proposed planning tool is meant to address, e.g., whether the barriers are province-wide or more regional in nature, or related to a specific sector. Identification of the specific barriers would assist in better understanding and commenting on the proposed planning by-law and its relevance to Markham.

2. The proposed planning by-law should not over-ride the established planning framework in the Greater Golden Horseshoe, and particularly not the Provincial Policy Statement (PPS)

As the introduction to the PPS indicates, the provincial policy-led planning system recognizes and addresses the complex inter-relations among environmental, economic and social factors in land use planning. The PPS supports a comprehensive, integrated and long-term approach to planning, and recognizes the linkages among policy areas. The City of Markham recognizes the need for an integrated and long term approach to land use planning, and has strongly supported the PPS and provincial plans which provide for this balanced approach. This approach is reflected not only in the City's Official Plan, but also in the City's overarching Greenprint Sustainability Plan which addresses environmental health, social and cultural well-being, and economic vitality.

Allowing employment uses to be approved without regard for environmental or social factors such as natural heritage protection, land use compatibility, and impact to existing nearby residents as provided for in the PPS is not consistent with the progressive planning policy framework established in Ontario and in Markham. It is recommended that at minimum, the proposed planning by-law has regard for the Provincial Policy Statement, Greenbelt Plan, Oak Ridges Moraine Conservation Plan, and *Clean Water Act*.

3. The implications of the proposed planning by-law on Provincial, Regional and local infrastructure investment and urban structure must be fully understood

Staff are concerned that allowing development on lands not identified for potentially urban uses in Regional or local official plans may require more costly infrastructure to service the new uses (e.g., roads, transit, water, wastewater, stormwater management, electricity). In addition, the extension of infrastructure to areas not planned for employment uses will create pressure for additional development (e.g., residential, retail, etc) nearby to maximize the new investment in infrastructure, potentially undermining the urban structure, land use and associated infrastructure policies of official plans. These pressures could result in the unintended redistribution of infrastructure investments from areas already planned for growth, resulting in these areas not achieving their development potential.

In addition to the unintended impact on infrastructure costs, staff are concerned of the potential impact of the proposed planning by-law on designated employment lands, identified in official plans from reaching their full potential. By allowing employment uses to be located on lands not identified for employment uses in an official plan, designated employment lands may remain undeveloped longer, and may be under greater pressure to be converted to non-employment uses.

4. The public should have the right to be notified prior to Council approval of the proposed planning by-law

Staff support the right of the public to be notified of planning decisions, especially those that are inconsistent with a municipality's official plan. At minimum, notice provisions after the passing of a by-law should be such that the by-law cannot come into force before the end of the notice period.

5. Additional information is sought on how delivery of the minimum jobs will be ensured

Staff suggest that, in addition to minimum jobs, density and land area be considered as the amount of land area could further negatively impact areas not subject to Provincial plans and policies such as the Greenbelt Plan. More information on the reasoning/justification behind the 100 job threshold for municipalities over 250,000 population is requested.

6. Non-employment uses should not be permitted and clarification is requested on the extent of a by-law beyond the area of a site-specific use

The proposed regulation states that residential, commercial or retail are not to be the primary use permitted by an open-for-business planning by-law. Staff are concerned that allowing these uses as secondary uses will further undermine the land use planning framework in official plans. If the proposed tool is to be used to attract employment uses, there need to be controls in place to ensure the by-law does not become an opportunity for non-employment uses to 'creep in' over time.

Further clarification is also requested on whether the proposed tool is solely for site-specific employment uses or whether the by-law may apply over a larger contiguous area reserved for a specific type of employment. While staff assume the former case is the intent, we would not recommend consideration of approval of a by-law extending beyond the area of a site-specific use.

7. Conditions related to natural and cultural heritage should be included in the proposed tool

The proposed regulation associated with the proposed planning by-law includes the requirements for a reduced form of site plan control and allows conditions to be attached to approvals. However, there is no mention of conditions related to environmental protection such as protecting ground and surface water and terrestrial features, or of cultural heritage protection. Staff recommend inclusion of both these considerations in the proposed new Section 34.1 of the *Planning Act* which provides for the open-for-business by-law. Clarity is requested on the role of other levels of government and agencies such as Regional municipalities and conservation authorities in the review of a proposal.

8. Province's goal for provincial approvals within 1 year

The background information on the Environmental Registry website notes that introduction of the proposed planning by-law would support the government's 1-year service standard for Provincial approvals. Staff would be interested in more information on the Province's 1-year service standard, and what measures are being taken to allow these timelines to be met by Provincial ministries.

As a final comment, the City is concerned with the relatively limited 45 day commenting period for a proposed planning tool that has potentially major implications on land use planning in Ontario. Staff request that in further consultation, the commenting period be sufficient to allow for meaningful public input.

Thank you for the opportunity to provide comments on the proposed open-for-business planning tool and new regulation supporting proposed *Bill 66, Restoring Ontario's Competitiveness Act, 2018*. As stated previously, these comments will be followed by Markham Council comments.

If you have any questions about the comments provided above, please contact me or John Yeh, Manager of Policy at 905-477-7000 ext. 7922, or at jyeh@markham.ca.

Sincerely,

A handwritten signature in black ink, appearing to read 'Arvin Prasad'.

Arvin Prasad, RPP, MCIP, MPA
Commissioner, Development Services Commission

c.c.

Andy Taylor, Chief Administrative Officer, City of Markham
Biju Karumanchery, Director, Planning & Urban Design Department, City of Markham
Marg Wouters, Senior Manager, Policy & Research Group, City of Markham