



Report to: Development Services Committee

Meeting Date: October 1, 2024

SUBJECT: Provincial Planning Statement, 2024 and Ontario Land Tribunal Rules of Practice and Procedures Review

PREPARED BY: Duran Wedderburn MCIP, RPP, Manager, Policy (ext. 2109)

RECOMMENDATION:

- 1) That the report dated October 1, 2024, titled " Provincial Planning Statement, 2024 and Ontario Land Tribunal Land Rules of Practice and Procedures Review " be received;
- 2) That the Province include Employment Areas as a matter of transition to facilitate implementation of the Provincial Planning Statement, 2024 by maintaining the PPS, 2020 definition of Employment Area and not enabling privately initiated employment conversion applications, until such time as the next municipal official plan review is complete;
- 3) That this report be forwarded to the Ministry of Municipal Affairs and Housing as the City of Markham's comments on transition matters to facilitate the introduction of the PPS, 2024 (ERO-019-9065);
- 4) That Staff be directed to host a special meeting of Council in accordance with Section 26(3)(b) of the *Planning Act* to discuss the revisions that may be required to the official plans; and
- 5) That Staff be authorized and directed to do all things necessary to give effect to this resolution

PURPOSE:

This report is to provide an overview of the new Provincial Planning Statement, 2024, the Ontario Land Tribunal Rules of Practice and Procedure consultation and provide comments on ERO post [019-9065](#) to address matters of transition to facilitate implementation on the PPS, 2024.

BACKGROUND:

On August 20, 2024 the Province of Ontario announced the release of the [Provincial Planning Statement 2024](#).

According to the Province, the release of the 2024 PPS is the culmination of two years of consultation on the development of a new land use planning framework that would streamline the land use planning system in Ontario by replacing the Growth Plan for the Greater Golden Horseshoe, 2019 and the Provincial Policy Statement, 2020 with a single province-wide planning document. The City provided comments to the Province

throughout the various consultations undertaken on the development of the new land use planning framework including:

- [Review of A Place to Grow and Provincial Policy Statement \(2022\) - Markham Comments](#)
- [Review of proposed policies adapted from A Place to Grow and Provincial Policy Statement to form a new provincial planning policy instrument \(2023\) - Markham Comments](#)
- [Review of proposed policies for a new provincial planning policy instrument \(2024\) - Markham Comments](#)

The PPS 2024 will come into effect on October 20, 2024, and subject to transition regulations, all planning decisions made after the effective date will be required to be consistent with the new PPS.

The Province is also consulting on matters of transition to facilitate implementation of the PPS, 2024 through the Environmental Registry of Ontario (ERO) post [019-9065](#). The consultation period is 45 days ending October 4th, 2024 and the Province is seeking specific feedback on matters such as in-process development applications and planning matters under appeal.

In addition, on August 20th the Province also announced that it is reviewing [The Ontario Land Tribunal Rules of Practice and Procedures](#) (OLT Rules) with the stated intent to enhance the way land appeals are managed. The deadline for comments on the OLT Rules is September 27, 2024.

OPTIONS/ DISCUSSION:

The following section provides an overview of Provincial Planning Statement 2024 and Ontario Land Tribunal Rules consultation.

Provincial Planning Statement, 2024

The PPS 2024 released on October 20, 2024 is similar to the proposed Provincial Planning Statement that was reviewed by staff in the Spring of 2024. The majority of the City's comments have not been addressed, Appendix 1 to this report provides a summary of comments from Markham and if they have been addressed in the new PPS, 2024.

The new land use planning document represents a foundational change to the land use planning framework that has been in place in Ontario since the early 2000's. The PPS, 2024 establishes a new vision for land use planning which links to the provincial government's commitment for 1.5 million homes to be built by 2031 and further states an intended outcome of increasing the supply and mix of housing options in Ontario to support a growing population and workforce.

Staff maintain the opinion that the new land use planning framework places too much emphasis on housing and not enough emphasis on community services and employment thus it will negatively impact the ability of the municipality to undertake comprehensive planning and economic development to support complete and sustainable communities. In particular, Staff are concerned with policy direction that enables privately initiated Settlement Area Boundary Expansions, Employment Conversions, and the restriction of uses in defined Employment Areas.

Notable changes to the land use planning framework include:

Municipal Comprehensive Review

Municipalities are no longer required to undertake comprehensive reviews (MCR) to inform growth management. Under the previous land use planning framework, comprehensive reviews undertaken by a municipality were required to inform land use planning matters related to growth and land supply such as Settlement Area Boundary Expansions (SABE) and Employment Conversions and privately initiated development applications were not permitted outside of an MCR. Further, Council decisions to refuse privately initiated SABE and Employment Conversions applications were restricted from appeals.

Under the new PPS, 2024, conversion of lands within employment areas and SABE can be undertaken at any time through privately initiated development applications and Council decisions on privately initiated SABE applications are no longer restricted from appeal via amendments to the *Planning Act* through Cutting Red Tape to Build More Homes Act, 2024 (Bill 185).

Employment Areas

The PPS, 2024 introduces a new definition for 'Employment Area' that is consistent with the definition of 'Area of Employment' introduced in the Helping Homebuyers, Protecting Tenants Act, 2023 (Bill 97). The new definition excludes institutional and commercial uses, including retail and office uses from Employment Areas. As a result, lands with an institutional or commercial use within an Employment Area will be permitted to be converted to non-employment use without the need to address employment conversion criteria in PPS, 2024 and decision of Council would be subject to appeal. The definition of 'Area of Employment' in the *Planning Act* will also come into effect on October 20, 2024.

It should be noted that the *Planning Act* does allow the City to bring forward an Official Plan Amendment that would allow institutional and commercial uses to be maintained as a part of the definition of Employment Areas if the use was existing prior to the in-effect date of the legislation.

The new PPS, 2024 further provides policy direction for planning authorities to assess and update employment area lands within official plans to ensure the designation meets the new definition.

Staff Recommendation

Given the scope of the changes to the Employment Area policies in the PPS, 2024. Staff recommend that as a matter of transition to implement the PPS 2024, lands identified as Employment Area in municipal official plans be maintained under the PPS, 2020 definition and privately initiated amendments for employment conversions not be enabled until completion of the next official plan review. This transitional period would provide municipalities with an opportunity to respond to policy 2.8.2.4 in the PPS, 2024 and undertake the necessary work to appropriately assess and determine the employment lands to be protected over the long-term to support a range and mix of employment uses.

Employment Area Conversions

Privately initiated applications to remove land from employment areas are now permitted at any time, subject to tests being met including a need for the removal and the land not being required for employment uses over the long term. However, Section 22 (7.3) of the *Planning Act* still prohibits landowners from appealing decisions of Council to refuse applications to remove lands from Areas of Employment.

Protecting Employment Uses

A new policy has been introduced that states all development within 300 metres of Employment Areas shall avoid, or mitigate, potential impacts on the “long term economic viability” of employment uses. This new provision is intended to preserve and protect Employment Areas in lieu of the new definition of Employment Areas and policies that make it easier to re-designate certain lands in Employment Areas.

Growth Forecasting

The PPS, 2024 requires municipalities to have enough land designated to meet the projected needs for a time horizon of at least 20 years, but not more than 30 years. The new forecasts are to be based on the Ministry of Finances population projections for Ontario and further informed by provincial guidance.

Under the previous planning regime, the planning horizon and minimum population and employment forecasts were provided to upper- and single-tier municipalities to guide growth. The PPS, 2024 now requires municipalities to determine their own planning horizon between 20-30 years and population and employment projections will be informed by the provincial guidance and the Ministry of Finance population projections.

Affordable Housing

The definition of Affordable Housing for low- and moderate-income individuals from the PPS, 2020 has been maintained, with a slight modification to recognize the market area for the ‘municipality’ instead of ‘regional market area’.

The new approach is intended to support the use of local data to inform the affordable housing threshold, which should result in figures that reflect local needs.

Settlement Area Boundary Expansion

Settlement Area Boundary Expansions can now be considered at any time through a municipal or privately initiated development application that addresses technical criteria including but not limited to capacity in infrastructure and public service facilities, phasing, avoidance of prime agricultural areas, and consideration of the minimum distance separation formulae.

Consideration of settlement area boundary expansion requests through private applications may impact the ability of the City to comprehensively plan for boundary expansion to support complete and sustainable communities including undertaken technical studies that support a systems-based approach to planning. It should also be noted that Council decisions to refuse settlement area boundary expansions can now be appealed to the Ontario Land Tribunal.

Growth Targets and Intensification

The 2024 PPS introduces the concept of “large and fast-growing municipalities”, which are identified on Schedule 1 of the 2024 PPS. These municipalities are encouraged to plan for a target of 50 residents and jobs per gross hectare in designated growth areas. The City of Markham is identified as one of the 29 large and fast-growing municipalities in Ontario and policies in the 2022 York Region Official Plan and 2014 Markham Official Plan include minimum density targets for new communities/designated greenfield areas above 50 residents and jobs per gross hectare.

The PPS 2024 also supports intensification in general with new references to underutilized shopping malls and plazas and lands adjacent to existing and planned frequent transit corridors. Planning authorities are required to establish and maintain minimum targets for intensification and redevelopment within built-up areas, based on the local context. Municipalities are also encouraged to plan for strategic growth areas as the focal point to population and employment growth, including Major Transit Station Areas.

Watershed Planning

The PPS 2024 requires large and fast-growing municipalities to undertake watershed planning in collaboration with conservation authorities to inform planning for sewage, water services, and stormwater management when planning for growth. This includes consideration for the improvement or restoration of the quality and quantity of water.

Agriculture

Updates to the agricultural policies in the PPS 2024 now requires planning authorities to take an agricultural systems approach with provincial guidance to maintain and enhance a continuous agri-food network.

Implementation

The PPS, 2024 comes into effect on October 20, 2024 and all planning decisions will be required to be consistent with the document, subject to transition. During the period before the document comes into effect, staff will continue to review and evaluate the new policies with its stakeholders to ensure we are in a position to begin implementing the new land use planning framework on the in-effect date. Staff are recommending as a next step that the City host the statutory special meeting of Council that is required for the Official Plan Review.

Matters of Transition related to the PPS 2024

The Province is seeking comments on land use planning matters of transition to facilitate the implementation of the PPS, 2024 under the *Planning Act*. Matters identified as transitional would allow them to be exempt from specific policies in the PPS 2024 or allow decision making to be made consistent with the PPS, 2020. Staff have reviewed active and appealed development applications and there are no matters that require a transition provision, outside of the matter related to Employment Areas noted above in the report.

Ontario Land Tribunal Rules Consultation

There are proposed changes to the OLT Rules posted for consultation until September 27th. Legal Staff have reviewed the proposed changes and revisions and are of the view that most changes are administrative in nature. As such, Staff is not recommending any comments to the changes. However, it is worth noting the following proposed revisions:

- Parties - Those granted party status are required to participate fully in a proceeding (Rule 8.1). The Tribunal's power to add or substitute a Party requires the consideration of 'reasonable grounds' (Rule 8.2). Participation from Non-Appellant Parties, those who may not raise new issues, have been expanded to appeals related to Community Benefits Charge By-laws (s.37(17)), Parkland By-laws (s.42(4.9)), and Development Charge By-laws under the Development Charges Act. Lastly, the Rule limiting the ability for non-appellant parties to continue any appeals which have been withdrawn by an appellant party has been removed (Rule 8.3).

Dismissal of Proceeding - The Tribunal may, on its own initiative or by motion of a party, dismiss an appeal if the Tribunal is of the opinion that the proceeding has no reasonable prospect of success, among other reasons (Rule 15.4). Currently, the ability to

dismiss a proceeding is limited to vexatious and frivolous appeals or appeals where the Tribunal does not have jurisdiction. The proposed Rule is similar to summary judgement motions in civil proceedings before the Court.

- Communications with presiding Tribunal Member - There is an explicit prohibition against communicating with any presiding Tribunal member (Rule 22.10).
- There are also a number of new Rules regarding expropriation proceedings, specifically to the manner in which costs may be determined.

Next Steps

In May 2024, staff advised that due to the changes proposed in the Cutting Red tape to Build More Homes Act (Bill 185) and the Proposed Provincial Planning Statement, 2024, the scope of the Official Plan Review would have to be re-evaluated.

With the enactment of Bill 185, the 2022 York Region Official Plan became part of Markham's official plan on July 1, 2024 and now the Provincial Planning Statement, 2024 has been released and comes into effect on October 20, 2024. Staff are requesting direction to host a special meeting of Council in accordance with Section 26(3) of the *Planning Act* to discuss revisions required to the City's official plans and get input from the public and stakeholders to inform the Official Plan Review. Staff is targeting Q4 2024 to host the special meeting of Council.

Further, staff comments will be submitted to the Ministry of Municipal Affairs and Housing on matters on transition to implement the PPS, 2024 prior to Council adopting the resolution and forwarding the report to ensure the commenting deadline of October 4th is met.

FINANCIAL CONSIDERATIONS

This report has no anticipated financial impact to the Operating Budget or Life Cycle Reserve Study.

HUMAN RESOURCES CONSIDERATIONS

There are no direct human resource implications related to this report.

ALIGNMENT WITH STRATEGIC PRIORITIES:

The Provincial Planning Statement, 2024 supports some of the objectives of Goal 3.2 of Building Markham's Future Together, 2023-2023 (BMFT): Build complete communities that offer a range of housing and employment opportunities, transportation options and community amenities. However, it is anticipated that some of the policies may negatively impact the ability of the City to undertake comprehensive planning to support complete communities.

BUSINESS UNITS CONSULTED AND AFFECTED:

All impacted City departments including Legal, Finance, and Economic Development were consulted on this report.

RECOMMENDED BY:

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Commissioner, Development Services

ATTACHMENTS:

Appendix 1 - Overview of Markham Comment on Proposed Provincial Planning Statement, 2024 and Status in the New Provincial Planning Statement, 2024