November 24, 2022

Environmental Registry of Ontario

By email only

To whom it may concern:

**Re: Bill 23, More Homes Built Faster Act**

Thank you for providing the Town of Smiths Falls the opportunity to review and provide our comments on the draft of Bill 23, the More Homes Built Faster Act. The Government’s stated goal of enabling the construction of 1.5 million homes over the next 10 years is an important one, and we have seen first-hand in our own community the social and economic challenges arising from a lack of housing. The Town of Smiths Falls will support policy modernization that increases the supply of good quality housing for all socio-economic needs that provide a good quality of life for new and existing residents. Council has reviewed the proposed changes to development related legislation it appears that the amendments, as presented, do not achieve this. Further, it is not clear from our review that the proposed changes would lead to reduced costs for future buyers or renters, nor would it address supply chain and labour shortages that, in Smiths Falls, are a more significant encumbrance in completing development projects.

Our specific comments on the proposed legislation are outlined below.

Site Plan Control:

* While the Bill curtails municipal ability to use site plan approval to regulate built form, particularly where residential developments of less than 10 units are proposed, under Section 3(5) of the Planning Act, municipal decisions “shall be consistent” with the Provincial Policy Statement. The Provincial Policy Statement obligates decision makers to consider a range of public interest items such as cultural heritage, natural heritage, serviceability and land use compatibility. Site plan control is a key planning tool that is used to ensure buildings and sites are designed to create desirable streetscapes, improve quality of life and are appropriately integrated into the neighbouring community. This would also limit our ability to address heritage sympathetic design downtown and address snow storage, lighting, garbage removal, stormwater management and trees. As contemplated, this Bill would appear to constrain municipalities from fulfilling their decision-making obligations under the PPS and constrain municipalities in working with developers to establish high quality developments that provide a high quality of life for residents, including new occupants of these buildings. While we understand that further changes to the PPS may be coming, these should be looked at first or together rather than piecemeal in order to clarify how we should balance these matters.
* The legislation should be clarified to address whether a mixed-use (residential/commercial) development containing 10 or fewer residential units would be subject to site plan control.

Public Consultation

* An appeals body that functions efficiently is an important part of a public planning process as it allows for a third party determination on a contested application, which, depending on the context, can be of benefit to the local community, the developer or the municipality. Rather than removing the right altogether for third party appeals, we encourage that the appeals process instead be reformed to adjudicate decisions quickly, establish clear and consistent thresholds for what constitutes a “valid appeal” and strike a proper balance between being accessible to members of the public while quickly excluding appeals that are vexatious or frivolous.

Changes to Conservation Authorities

* In the event that RVCA will no longer be able to comment on stormwater management, natural heritage or any other matter within their current regulatory sphere, municipalities will need to contract review work to the private sector, which already has its own capacity constraints. With review costs ultimately being passed to developers, it appears unlikely that this will reduce costs for developers and likewise may not meaningfully reduce review times. The municipality should have the flexibility to enter into service agreements with whichever provider provides the best value and expertise respecting the unique particulars of the community.
* We appreciate the value of assessing where regulatory applications can be harmonized and duplications removed, however the proposal to remove conservation authority approvals where a Planning Act approval is required creates an undue burden on the municipality. Municipal and conservation authority approvals are usually not redundant to each other as they assess different public interests and jurisdiction. If passed, municipalities will assume a greater responsibility and liability for the impact of development on flooding, erosion, slope stability and water quality within municipal boundaries as well as in upstream and downstream communities, of which there is currently limited in-house expertise within most small municipalities. This would not remove the need for technical studies but it may impose greater compliance monitoring obligations on municipalities.
* Any updates to natural heritage (wetlands, etc) related policies need to consider the interconnectedness between people, infrastructure, ecology and economy *over the long term.* Wetlands are a form of natural infrastructure “that absorb and retain a significant volume of snow melt and rain which reduces flood levels during spring runoff and storm events” and release this water throughout the rest of the year, which reduces drought conditions. This is especially integral in a community such as ours where our rivers, lakes and wetlands are a source of drinking water and economic vitality. Any regulatory changes that have the effect of potentially degrading wetland protection will likely result in negative impacts on existing and future residents over the long term.
* Reductions in wetland areas will have a significant impact on raw water quality and will measurably increase municipal costs to treat source water to the high standards expected within the Clean Drinking Water Act.
* Freezing fees gradually moves conservation authority review costs away from a user-pay model where “growth pays for growth” and instead subsidizes this service, which will in turn need to be covered through other funding sources such as increases to the municipal levy (i.e. the municipal taxpayer).
* Council acknowledges the intrinsic value of watershed based planning as activities up and downstream can cause effects across municipal lines. Conservation authorities, in general, provide a regional perspective that allows for more consistent standards and approaches across communities, which provides certainty to developers and municipalities.

Financial Sustainability

* The scaled approach to discounting development charges for larger rental units will promote family sized rental development, which is positive. That being said;
* The principle of development charges is that “growth pays for growth” and legislation carefully identifies what sort of growth resultant infrastructure is eligible to be funded this way. Removing this revenue stream from municipalities means that the overall taxpayer is left needing to pay for infrastructure upgrades resulting from new development, as well as infill development such as additional residential units. Unless off-set by funding from other levels of government, this will have a budgetary impact and may impede our ability to provide necessary human services or growth related infrastructure to new or existing residents.
* Removal of development charges for defined affordable housing has merit and is a very helpful incentive for development of affordable units. Many municipalities, including our own, are exploring this approach through community improvement plans. If Bill 23 supersedes that work, “affordability” needs to be defined appropriately so that it actually captures a true affordable threshold in a community. We do not currently have enough information to assess the financial impacts of this and whether this would actually incent the creation of truly affordable housing.
* Removal of parkland dedication requirements associated with affordable housing introduces a social equity and health concern within the community.
* Prescribing spending (60%) of development charges revenue to specific services could constrain needed investments based on local circumstances.

Heritage

* Many municipalities, including Smiths Falls, “list” properties as a way to recognize and promote properties of interest in collaboration with the owner, and which incurs almost no obligation. One unintended consequence of forcing the designation or removal of listed properties is that properties that are in no danger of demolition may face a more expensive process of designation that may not be desired either by the property owner or the municipality, and may burden property owners, the municipality and the Ontario Land Tribunal with costly appeals. This may not further the goal of unlocking housing supply, however it *will* incur costs for the municipality over this period of time to review and draft by-laws and litigate appeals.
* Council supports the requirement to publicize the municipal heritage register. This is a good practice that promotes an open and accessible heritage program.

While some of the proposed legislative changes have merit and are worth further investigation, our review finds that the proposed changes as a whole will remove decision making from local elected officials as well as reduce our financial sustainability, with little benefit to the objective of creating an inclusive housing stock for Ontario residents. Instead, they degrade the municipality’s ability to plan for a high quality of life and create desirable communities, which will have a much costlier impact over the longer term, including on those who this legislation is supposed to help. The Association of Municipalities Ontario (AMO) stated that “the Province has offered no evidence that the radical elements of the bill will improve housing affordability“ and Council agrees that “[s]chemes designed to incentivize developers at the expense of property taxpayers and the natural environment will not get the job done” AMO notes that “previous governments have downloaded costs to municipalities and cut environmental protections to disastrous effects. At some point the bill will come due, and there will be a heavy price to pay.” Instead, Council strongly urges that the Province pause any further consideration of this Bill in order to give the opportunity to work with all of its housing partners towards advances in land use planning and an integrated approach to economic, social and environmental policy that create solutions that unlock the needed housing and enhance and support our communities.

Respectfully yours,

Shawn Pankow, Mayor