



As you are likely aware, Bill 185, the Cutting Red Tape to Build More Homes Act, was given Royal Assent on June 6th. Bill 185 brings into force a number of amendments to the Planning Act, Development Charges Act and Municipal Act, among others. We wanted to highlight a few of the changes that are likely to impact land use planning matters within Middlesex County.

Planning Act

Pre-Consultation Meetings

Bill 185 removes a municipality's ability to require pre-consultation meetings for OPAs, ZBAs, site plan approval and plans of subdivision / condominium and instead makes it optional for applicants. Applicants are also able to seek a motion before the OLT to determine reasonableness of complete application requirements if dissatisfied with municipal specifications. Notwithstanding this change, it is recommended that municipalities proceed with the practice of pre-application consulting which has been beneficial for all participants.

Third Party Appeals

Bill 185 amends the Planning Act to allow only certain persons to appeal approved OPAs and ZBAs, including the applicant, the Minister, public bodies, a "specified person" and / or the registered owner(s) of any land to which the OPA or ZBA would apply. As required by the previous iterations of the Planning Act, appellants must have made an oral or written submission to municipal council prior to a decision on the OPA or ZBA. These changes remove many but not all third-party appeal rights.

The "specified person" definition has been expanded to include private bodies such as holders of an environmental compliance approval undertaking activity on lands within an area of employment and aggregate licensees or permittees, if any part of their site is within 300 metres of the area to which the planning matter would apply.

These changes likely impact several existing OLT appeals within Middlesex given that the legislation provides that existing third party appeals that do not satisfy the new eligibility requirements are to be retroactively dismissed if a hearing on the merits of the appeal was not scheduled before April 10th, 2024. The changes also raise several interpretation questions and staff will continue to work with Legal on these matters and provide updates as more information becomes available.

Appeal Rights for Settlement Area Boundary Expansions

Bill 185 amends the Planning Act to provide applicant rights to appeal a refusal or non-decision on a private application to expand an existing settlement area boundary whereas previously council decisions were not appealable.



Minister's Regulations for Additional Residential Units (ARUs)

Bill 185 amends the Planning Act to expand the scope of the Minister's ability to regulate ARUs by providing for the authorization of regulations establishing requirements and standards with respect to any ARUs in a detached, semi-detached or rowhouse, a residential unit in a building or structure ancillary to such house, a parcel of land where such residential units are located or a building or structure within which such residential units are located. It is noted that no regulation relating to ARUs has been filed at this point in time.

Fee Refund Provisions

Bill 185 removes the Bill 109 fee refund requirements, which came into effect July 1, 2023, where decision timelines are not achieved. Applications filed after July 1, 2023 but before June 6th, 2024 would still be eligible for fee refunds where decision timelines are not achieved. It is noted that the language is essentially reverting to what existed prior to Bill 109, meaning that decision timelines still exist, however municipalities will no longer be monetarily penalized where timelines are not met.

Lapsing Provisions

Bill 185 imposes lapsing provisions on site plans if a building permit is not issued within a period of time, which until prescribed by regulation can be no less than three years. Bill 185 also automatically lapses in three years pre-1995 plans of subdivision that do not currently have a lapse date.

Provincial Planning Statement

The passing of Bill 185 was not accompanied by the passing of a new Provincial Planning Statement. The potential timing of the potential new PPS is not yet known.

Development Charges Act

Several changes were made to the DC Act including that the phasing in over five years of development charge increases that was implemented by Bill 23 has been repealed. Transition provisions provide that any development charge that was imposed between November 28, 2022, and June 6, 2024, will continue to be subject to the phasing in provisions. Bill 185 also reinstates the ability to include costs to undertake studies in the calculation of DCs. Transition provisions provide municipalities with six months to amend their DC by-laws to include study costs and adjust rates due to the removal of the phase-in. Staff encourage municipalities to speak with your DC consultant to assist with implementation and transition.

Municipal Act

Amendments to the Municipal Act provide for municipalities to pass bylaws that would allow for the allocation of water and sewage capacity, the withdrawing of such, including criteria for when allocation would be provided as well as requiring for the delegation of such authority to an officer,



employee or agent of the municipality. These “use it or lose it” authorities align with potential changes in the proposed Provincial Planning Statement. Staff encourage municipalities to speak with your engineering consultants to assist in implementing these permissions.