

The Local Planning Appeal Tribunal: Resident Information Session

Tuesday September 25, 2018
Council Chambers



Presentation Overview

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 - Summary of Bill 139
 - Land Use Planning in Ontario
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Purpose & Disclaimer

- This presentation provides information about the recent planning legislation changes that impact how planning decisions are made at Council and changes to the appeal process should Council's decision be appealed
- The purpose is to raise awareness about the changes so that ratepayers can continue to effectively participate in the Council decision-making process and on appeal
- The contents of this presentation are intended to provide information only and do not constitute professional advice

Summary of Bill 139

- *Building Better Communities and Conserving Watersheds Act, 2017* came into force April 3, 2018 (“Bill 139”)
- Changes by Province are intended to
 - “Giving Communities a Stronger Voice”
 - “Faster, Fairer and More Affordable Planning Appeals”
 - “Sheltering Major Planning Decisions from Appeal”
 - “Free Legal and Planning Support”
- Local Planning Appeal Tribunal (LPAT) replaced the Ontario Municipal Board (OMB)

Summary of Bill 139

- Appeals to LPAT
 - New Rules of Procedure
 - New Timelines for Issuing Tribunal Decisions
 - More written and fewer oral hearings for certain types of appeal
- Local Planning Appeal Support Centre
 - Information on land use planning
 - Guidance on Tribunal procedures
 - Advice or representation
 - Any other services prescribed by the regulations

LAND USE PLANNING IN ONTARIO

Land Use Planning in Ontario

- The [Planning Act](#) sets out the ground rules for land use planning in Ontario and describes how land uses may be controlled, and who may control them.
- The Act provides the basis for:
 - considering provincial interests, such as protecting and managing natural resources
 - preparing official plans and planning policies
 - tools that municipalities can use to facilitate planning for the future
 - establishing planning processes that emphasize local autonomy in decision-making
 - regulating land uses through zoning bylaws and minor variances
 - dividing land into separate lots for sale or development through subdivision or severance
 - ensuring the rights of local citizens to be notified about planning proposals, to give their views to their municipal council and, where permitted, to appeal decisions to the Local Planning Appeal Tribunal (LPAT)

Land Use Planning in Ontario

- **Provincial Role**
 - issues provincial policy statements under the *Planning Act*
 - promotes provincial interests, such as protecting farmland, natural resources and the environment, and promotes development that is designed to be sustainable, supportive of public transit and oriented to pedestrians
 - prepares provincial plans (e.g. Growth Plan for the Greater Golden Horseshoe)

Land Use Planning in Ontario

What is the Provincial Policy Statement (PPS)?

- applies province-wide and contains overall policy directions on matters of provincial interest related to land use planning and development, including:
 - the efficient use of land and infrastructure
 - the provision of an appropriate range and mix of housing types, including affordable housing, and densities to meet the needs of current and future residents
 - the protection of employment areas to promote economic development and competitiveness
 - the promotion of healthy, integrated and viable rural areas.

Land Use Planning in Ontario

What is the Growth Plan for the Greater Golden Horseshoe?

- Long-term plan provides framework for regional growth management. Key goals for the 2017 Growth Plan include:
 - Encouraging development of communities that provide affordable housing options and easy access to the businesses and public services residents of all ages use every day.
 - Improve and increase transportation options while reducing congestion.
 - Focus investments in regional public service facilities in downtown areas.
 - Build communities that maximize infrastructure investments.
 - Increase and promote economic growth.

Land Use Planning in Ontario

- The **Region of Peel** is an upper-tier municipality.
 - Upper-tier municipalities deal with broad land use planning issues that concern more than one local municipality.
 - Upper-tier municipalities have their own official plans and have the power to approve local official plans

Land Use Planning in Ontario

- **City of Mississauga's Role**
 - makes local planning decisions that will determine the future of communities
 - prepares planning documents, such as:
 - an official plan, which sets out the municipality's general planning goals and policies that will guide future land use
 - zoning bylaws, which set the rules and regulations that control development as it occurs.
 - ensures planning decisions and planning documents are consistent with the Provincial Policy Statement and conform or do not conflict with provincial plans, and applicable official plans.

Land Use Planning in Ontario

What is an Official Plan?

- An official plan contains the municipality's policies on how land in your community should be used.
- It is prepared with input from the community and helps to ensure that future planning and development will meet the specific needs of the community.
- An official plan deals mainly with issues such as:
 - where new housing, industry, offices and shops will be located
 - what services like roads, watermains, sewers, parks and schools will be needed
 - when, and in what order, parts of your community will grow
 - community improvement initiatives.

Land Use Planning in Ontario

What is a Zoning By-law?

- A zoning bylaw controls the use of land in your community. It states exactly:
 - how land may be used
 - where buildings and other structures can be located
 - the types of buildings that are permitted and how they may be used
 - the lot sizes and dimensions, parking requirements, building heights and setbacks from the street.

LOCAL PLANNING APPEAL TRIBUNAL

No changes to process or tests for many appeals including, for example:

- Minor variance and consent applications to Committee of Adjustment
- Subdivision refusals, approval or conditions
- Ontario Heritage Act matters, such as heritage conservation districts
- Development Charges Act, Expropriations Act and Municipal Act matters, including ward boundary reviews, and approvals of local improvement charges by-laws.

Committee of Adjustment Appeals

What's New?

- Hearing Dates being scheduled within 2-3 months
- Decision issued within 6 months
- LPAT Rules of Practice & Procedure apply
- New forms for filing an appeal

What Stays the Same?

- Traditional oral hearing
- Individuals can appeal, or attend the hearing to request party or participant status
- \$300 fee for filing the appeal

Official Plan & Zoning By-law Appeals

What's New?

- Council has more time to make a decision
- Two-stage appeal process
- Appeals based on consistency and conformity with provincial and applicable official plans
- Pre-file written submission to seek party or participant status
- Different roles for participants at Stage 1 v. Stage 2 hearing

What Stays the Same?

- Oral submissions at a public meeting or written submissions before Council decision required

Appeals of Council's Approval

- Significant changes to appeal of Council's decisions on Official Plans (OP) and Zoning By-laws (ZBL) and any amendments (OPA/ZBLA)

LPAT must decide if the OP/OPA or ZBL/ZBLA, in whole or in part,

- is consistent with the applicable provincial policy statement;
- conforms with the applicable provincial plan; and
- conforms with the applicable official plans.

- If no, LPAT will send it back to the City for review/reconsideration
- If yes, LPAT will dismiss the appeal

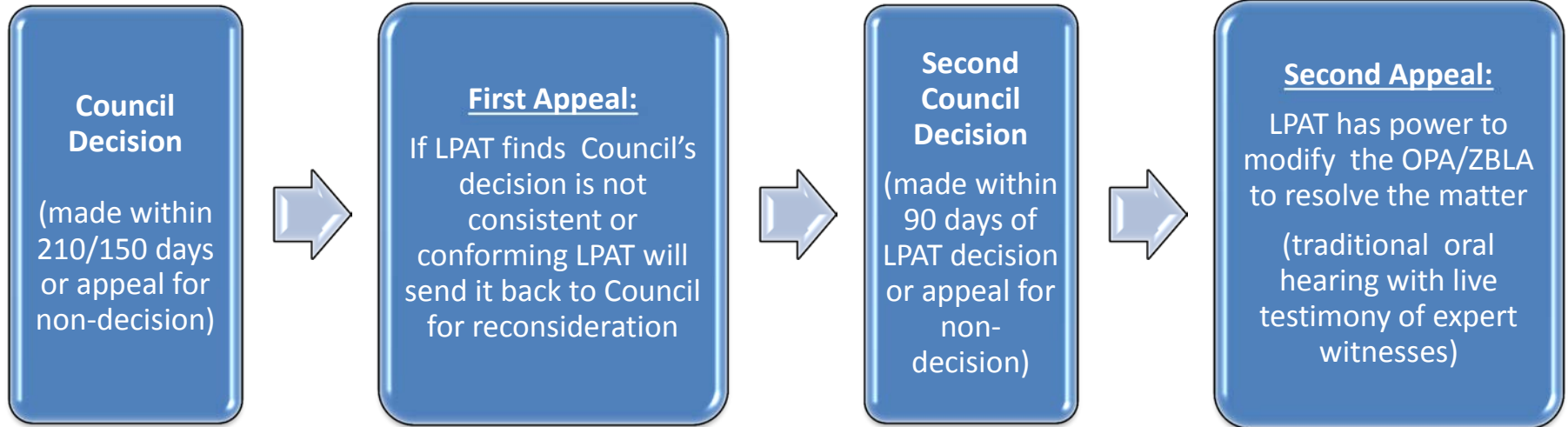
Appeals of Council's Refusal or Non-Decision "Dual Test"

Appellant (person who wants to challenge Council's decision) must demonstrate how existing parts of the OP or ZBL to be affected by the amendment are:

- Inconsistent with a provincial policy statement
- Fail to conform with or conflicts with a provincial plan; or
- Fails to conform with upper-tier municipalities OP or an applicable OP.

AND how the proposed OP or ZBL Amendment do meet these tests

2-Stage Appeal Process: OPA & ZBLA



Timelines for LPAT

- Regulations institute timeframes for disposing of appeals by LPAT

Zoning By-law (Amendment)	10 months
Official Plan (Amendment)	10 months
Second Decision Appeals	6 months
Non-decision of Official Plans (by approval authority) and plans of subdivision	12 months
All other Planning Act appeals (e.g. minor variance)	6 months

LPAT Appeal Steps – Stage 1

1. Notice of Appeal Filed with Municipality
2. Notice of Appeal & Enhanced Municipal Record sent to LPAT
3. Notice of Appeal Screened for Validity by LPAT
4. Appellant's Appeal Record & Case Synopsis filed

LPAT Appeal Steps – Stage 1

5. Respondent's Appeal Record & Case Synopsis filed
- 6. Parties/Participants apply for status (30 days prior to CMC)**
7. Mandatory Case Management Conference (CMC) held
8. Hearing

LPAT: Stage 1 Appeal

Basis of Appeal

- Notices of appeal to set out how Council's decision is inconsistent/ non-conforming with provincial policies and plans & applicable official plan objectives.

LPAT: Stage 1 Appeal

Municipal Record

- When an appeal is filed, the Clerk is required to forward the appeal and all required background documents to LPAT.
- This includes for example supporting studies, staff reports and a video of the public meeting.
- The Clerk is required to retain a paper copy for public access.

LPAT: Stage 1 Appeal

Validity of Appeal

- LPAT required to screen the appeal
- If the Tribunal is satisfied there is merit to the appeal, notice of commencement is given, which triggers the decision timelines
- Case Management Conference (CMC) is scheduled.

Public Participation at LPAT: Stage 1

Case Management Conference (CMC)

Notice is typically given to the following:

1. All appellants and their representatives
2. The applicant, if any, and their representative,
3. **Every person who has given to the clerk of the municipality a written request for notice of the hearing**
4. Appropriate Municipal Staff

Public Participation at LPAT: Stage 1

Requesting Party or Participant Status:

- Pre-file written submission with LPAT, City and appellant 30 days before the CMC.
- The submission must explain
 1. the nature of your interest in the matter
 2. how your participation will assist LPAT in resolving the issues raised in the appeal
 3. whether any decision or non-decision of the municipality under appeal is inconsistent with a Provincial Policy Statement, fails to conform with a provincial plan, or fails to conform with an applicable official plan.

Public Participation at LPAT: Stage 1

Case Management Conference:

- LPAT will identify parties/participants, narrow issues and explore opportunities for settlement or mediation
- LPAT will decide at the CMC whether to add you as a party or participant based on your written submission

LPAT – Stage 1 Hearing

- LPAT may direct a written or oral hearing
- If LPAT directs an oral hearing, submissions will be limited to 75 minutes for parties and 25 minutes for participants – at LPAT’s discretion
- Hearings will be argued based on the written record
- Only LPAT may call or examine witnesses; no cross-examination by parties

LPAT – Stage 1 Decision

1. Do the City's Official Plan and Zoning provisions (relevant to the application) conform to the Growth Plan and are they consistent with the Provincial Policy Statement (PPS) and the applicable OP's?
 - **If yes, the City's decision is upheld. If no, then go to second test.**
2. Does the application conform to the Official Plans and Growth Plan, and is it consistent with the PPS?
 - **If no, then appeal dismissed. If yes, then City Council given opportunity to reconsider taking into account the LPAT's findings.**

Council's Reconsideration & New Decision

- Council has 90 days to either refuse the application or make a new decision (pass a new OPA or ZBLA)
- Intent is to make a decision that responds to LPAT's findings regarding conformity and consistency tests
- Council must provide public notice and hold a public meeting
- Council's decision, or non-decision after 90-days, can be appealed by the same or different appellant

LPAT – Stage 2 Hearing

- Functions like a traditional OMB hearing
 - witness and participant testimony and cross-examination,
 - pre-filing of expert witness statements and reports, and
 - may include submission of new information.
- LPAT can
 - uphold Council’s new decision, or
 - make a final decision to amend the OP and/or the ZBL in a way that conforms to applicable plans and is consistent with provincial policy, and represents good planning.

PLANNING & DEVELOPMENT COMMITTEE AND COUNCIL MEETING PROCESS

City Process Considerations

- Community Engagement
 - City will continue to engage residents through public information centers and other outreach opportunities on City-initiated policy projects
 - Early engagement by staff, ward councillor and/or developer on private development applications to amend the Official Plan and/or Zoning By-law
 - Statutory public meetings are required prior to Council's decision
- Early participation in the municipal planning process is critical to making sure views are known and considered prior to Council making a decision

City Process Considerations

- Public Meeting Notices
 - Certain Notices will be revised to state that Council's decision is final (e.g. major transit station area policies)
 - Timing of Public Meeting Notices

City Process Considerations

- Staff Reports
 - New sections to specifically address the consistency/ conformity tests
 - More detailed reports including supporting technical comments may be included

City Process Considerations

- Public Access to Information
 - Digital strategy to make public access to application materials more readily available throughout the application review process
 - Encourage public participation throughout the application review process via written submissions

City Process Considerations

Committee and Council Meeting Procedures

- Deputations process
 - Speakers are required to register their full name and address prior to speaking
 - No need to repeat what others say – can register yourself and indicate your agreement with previous comments
- Written submissions
 - Put your views in writing! These are encouraged and equally effective
 - Written submissions can be submitted anytime prior to Council's decision

City Process Considerations

- Committee and Council Meeting Procedures
 - Planning & Development Committee (PDC) meetings may be longer with fewer items per agenda
 - Additional PDC meetings may need to be scheduled
 - Additional material during meetings
 - Anticipating more detailed presentations by applicants and staff on private development applications

Questions?

RESOURCES

- Citizens' Guides to Land-use Planning, Ministry of Municipal Affairs & Housing: <http://www.mah.gov.on.ca/Page338.aspx>
- The Local Planning Appeal Support Centre (LPASC) provides guidance, assistance and in some cases legal representation to the public: <https://www.lpasc.ca/>
- LPAT Q&A Guides for the various types of appeals: <http://elto.gov.on.ca/tribunals/lpat/lpat-process/>
- LPAT Rules of Practice and Procedure: <http://elto.gov.on.ca/wp-content/uploads/2018/04/LPAT-Rules-of-Practice-and-Procedure.pdf>
- LPAT Webinars: <http://elto.gov.on.ca/local-planning-appeal-tribunal-lpat-webinar/>
- If you wish to file an appeal, there are specific forms, timelines and filing fees that are required. Contact LPASC, LPAT or City Clerk's Office for more information.