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BILL 136 - PLACES TO GROW ACT, 2004

The Planning and Economic Development Committee recommends the adoption of the recommendations contained in the following report, November 18, 2004, from the Commissioner of Planning and Development Services:

1. RECOMMENDATIONS

It is recommended that:

1. The recommendations contained in this report form the basis of the Region's response to the Province on the legislation.
2. This report be forwarded to the Minister of Public Infrastructure and Renewal.
3. The Regional Clerk circulate this report to the local municipalities for information.

2. PURPOSE

The purpose of this staff report is to review and comment on Bill 136 - *Places to Grow Act*, 2004 and to make recommendations to Committee and Council for submission to the Province as part of the legislation's consultation process.

3. BACKGROUND

The Minister of Public Infrastructure Renewal, David Caplan, released the discussion paper *Places to Grow - A Growth Plan for the Greater Golden Horseshoe* (Places to Grow) on July 12, 2004. The comment deadline for the discussion paper was September 24, 2004. York Region Council at its meeting of September 23, 2004, adopted clause 10 of Report 8 of the Regional Planning and Economic Development Committee which provided detailed comments on the discussion paper.

Introduction and first reading of Bill 136 occurred on October 28, 2004, and a final growth plan is proposed to be released in late 2004.

4. ANALYSIS AND OPTIONS

The proposed *Places to Grow Act, 2004* along with the Places to Grow Discussion Paper are critical elements in the Province's overall policy for municipal planning and infrastructure in the Greater Golden Horseshoe. Along with the Provincial government's ongoing Planning Reform, review of the Provincial Policy Statement and the proposed *Greenbelt Act* and Greenbelt Plan, *Places to Grow* represents the most significant

statement of Provincial planning policy since the Toronto Centred Region Plan of 1970. Reversing over a decade of a diminishing Provincial role in GTA urban affairs, *Places to Grow* illustrates the Province's recognition of the need to take a leadership and visionary role in the current and future development of Canada's most important economic engine.

York Region is well positioned to implement *Places to Grow* from a policy perspective as the Provincial document and this proposed legislation builds upon the Region's existing key strategic growth management directions including the Regional Official Plan, York Rapid Transit Plan, the Greening Strategy and the Housing Supply Strategy.

Places to Grow also directly supports the Region's Centres and Corridors Strategy – *Making it Happen!* and proposed Regional Official Plan Amendment 43- Centres and Corridors.

The following sections provide detailed discussion of the proposed *Places to Grow Act*.

4.1 Overview of Proposed *Places to Grow Act*

The proposed *Places to Grow Act, 2004* states that the purpose of the Act is:

- a) to enable decisions about growth to be made in ways that sustain a robust economy, build strong communities and promote a healthy environment and a culture of conservation;
- b) to promote a rational and balanced approach to decisions about growth that build on community priorities, strengths and opportunities and makes efficient use of infrastructure;
- c) to enable planning for growth in a manner that reflects a broad geographic perspective and is integrated across natural and municipal boundaries;
- d) to ensure that a long-term vision and long-term goals guide decision-making about growth and provide for the co-ordination of growth policies among all levels of government.

The proposed Act outlines provincial/municipal roles, responsibilities and powers.

The Province's roles and responsibilities include:

- Designating growth plan areas.
- Preparing proposed growth plans.
- Appointing person(s) and advisory committees to:
 - Carry out consultation.
 - Provide advice to the Minister on plan preparation.
 - Prepare, implement, amend or make revisions to growth plans.
 - Facilitate resolution of issues arising from implementation of and amendments/revisions to growth plans.
- Consulting on a proposed growth plan.
- Approval, modification and revocation of a growth plan.
- Amendments to a growth plan that are not considered significant can be approved by the Minister alone.

- If a municipality does not bring its official plan into conformity with the plan, the Minister may:
 - Advise the municipality of the non-conformity.
 - Invite the municipality to submit proposed resolutions to the non-conformity within a specified time.
 - Along with the Minister of Municipal Affairs and Housing, may, by order, amend the official plan to resolve the non-conformity.

The Act states that decisions on growth plans including approval, modification and revocation are final and not subject to appeal.

Municipal roles and responsibilities include:

- Municipal councils must amend their Official Plans to conform with the Provincial growth plan for their area no later than their next scheduled 5 year review.

The proposed Act outlines that the contents of growth plan may include:

- Population projections and identification of priority growth areas.
- Growth strategies prepared by upper tier municipalities in consultation with the Minister.
- Policies, goals and criteria around intensification; density; land supply; expansion of urban boundaries; transportation planning; waste management; growth related capital spending/financing; affordable housing and community design.

The Province's growth plan will take precedence over official plans and zoning by-laws (S. 14(2)), and if conflicts exist between the PPS and the growth plan, whichever provides more protection to the natural environment or human health prevails.

Finally, Bill 136 proposes that the provincial growth Plan be incorporated into municipal planning documents as part of the normal five-year review process required under Section 27 of the *Planning Act*, with the normal OMB appeal provisions in the event of objections to the Amendment.

4.2 Comments on Proposed *Places to Grow Act*

On September 23, 2004 the Region forwarded 30 detailed recommendations to the Province on its *Places to Grow* Discussion Paper (Consolidated Recommendations, Attachment 2).

A number of these recommendations related directly to the proposed *Places to Grow Act*. A number of additional recommendations will still need to be addressed either through the Provincial growth plan or through the Provincial and/or Federal Governments' financial and taxation legislation and policies.

4.2.1. A Comprehensive Public Communications Strategy is Needed

One of the main obstacles to achieve intensification is public misunderstanding of what compact communities will look like, often reacting to proposals with immediate

resistance. In addition to significant infrastructure investment, public awareness of the social, economic and environmental benefits of intensification is required to implement the desired growth patterns.

It is recommended that *Section 6: Contents of Plan* in the proposed legislation include a requirement that the Provincial growth plan contain a comprehensive communications strategy to address residents' issues regarding the perceived impacts of intensification on communities. The Region again recommends that:

The Province, in consultation with its municipal partners, develop a comprehensive communications strategy to address residents' issues regarding the perceived impacts of intensification on communities with an emphasis on the overall "public interest" over localized neighbourhood issues. (Recommendation 5)

4.2.2 A Provincial Vision is Needed for Employment Areas

The Region is supportive of the economic development principles contained in *Places to Grow Discussion Paper*, and strongly supports a cluster-based approach to business location and development; something the Region currently takes an active role in promoting. However many new employment lands are typically low density. The role and function of employment areas needs to be re-examined in relation to densities, clustering of businesses, and location in relation to place of work, and this can again be re-enforced through the growth plan requirements set out in *Section 6: Contents of Plan* of the proposed act. The Region again recommends that:

The Province to adopt a vision for employment areas that encourages diversity of employment types, and development that is more compact and provides for higher employment densities. Where possible, office type development should be directed to centres and corridors. (Recommendation 6)

4.2.3 Clear Criteria is Needed for Boundary Expansions

Land supply is mentioned in the list of items that the Provincial growth plan may contain in *Section 6: Contents of Plan* of the proposed act. If more specific criteria and measurements are not included in the legislation around urban boundary expansions as they relate to achievement of intensification targets, etc. then the Region strongly encourages the Province to include this criteria in the final growth plan. The Region again recommends that the Provincial growth plan:

Include clear and measurable criteria to justify urban boundary expansions; including the achievement of intensification targets and population to employment ratios set by the Provincial growth plan. (Recommendation 18)

4.2.4 More Detailed Requirements Needed for Official Plan Conformity

Section 6: Contents of Plan in the proposed legislation does address this recommendation at a high level. However, the Region encourages the Province to include more detailed requirements for municipal official plans in the final growth plan. The Region again recommends that:

The Province enact legislation requiring Greater Golden Horseshoe municipalities to adopt the principles of *Places to Grow* in the form of official plan amendments that:

- **Designates the “Priority” and/or “Emerging” urban centres within their boundaries.**
- **Identifies Key Development Areas (as contemplated within ROPA 43) as places for intensification, in keeping with the Provincial policies for Centre-focused development and intensification.**
- **Establishes long-term density targets for Priority and Emerging Urban Centres, Key Development Areas and connecting corridors.**
- **Identifies and protect short, medium and long-term transit corridors.**
- **Places infrastructure investment priority in existing urban areas, with emphasis on Centres and Key Development Areas.**
- **Establishes urban design criteria to achieve an urban landscape that is attractive, creates a sense-of-place, supports transit, and provides safe and pleasant places for pedestrians and cyclists.**

(Recommendation 21)

4.2.5 Ministerial Approval of OPAs Must Not Be Subject To Appeal

The requirement that growth plans be incorporated into municipal official plans through the 5-year review process is an issue that must be addressed. There appear to be no changes to the current municipal official plan amendment process in the proposed *Places to Grow Act* and therefore, any amendments to bring municipal plans into conformity with the Province’s growth plan could potentially be subject to appeals to the Ontario Municipal Board (OMB).

The current proposed process will very likely result in the Region and area municipalities being obligated to defend the Province’s growth plan at the Board. This is a major issue for a number of reasons.

Firstly, the Region and area municipalities will be defending the Amendment based on a Provincial Plan to which the Region and area municipalities have had only minimal input. Moreover, we may not have access to the full range of background materials used by the Province in its decision making. The costs for such hearings should not be borne by the taxpayers of this Region and its area municipalities.

More importantly, appeals of this nature may result in significant delays in implementing the Province’s Growth Plan, and decisions by the OMB regarding Regional or area municipal OPAs could undermine the intent and purpose of the Province’s Growth Plan. This is unacceptable.

The Region recommends the proposed *Place to Grow Act* process be changed to an amendment approval process similar to that used in the ORMCP exercise, i.e. that the Province approves municipal amendments to bring their official plans into conformity, with the Ministerial decision not subject to appeal.

Further it is recommended that the Province consider a deadline for the adoption of amendments to bring municipal Plans into conformity with the Provincial growth Plan.

While the *Oak Ridges Moraine Conservation Act* legislated a very tight time-frame, we suggest that an appropriate timeframe would be approximately 3 years. This time would allow municipalities adequate time to review existing growth management work and population and employment projections and update them along with Policies to reflect the new paradigm for development in the greater Golden Horseshoe. The recommendation previously forwarded to the Province specifically requests that:

Consistent with the process followed for the *Oak Ridges Moraine Protection Act*, the Province's implementation plan should specify that:

- **Greater Golden Horseshoe municipalities are required to adopt official plan amendments and appropriate zoning by-laws within a specific and reasonable timeline.**
- **Key Development Areas within Priority and Emerging urban centres and connecting corridors be pre-designated and pre-zoned for compact, mixed-use, transit-supportive development. With this framework in place, future development in these sites would proceed through either site plan approval and/or development permitting.**
- **The Minister is the Approval Authority; and that decisions are final, and are not subject to appeal.**

(Recommendation 22)

4.2.6 Additional Changes Needed in Draft Legislation

In addition to the recommendations that have already been sent to the Province, the Region requests that the following specific changes be made to the draft legislation:

- That the *Places to Grow Act* and the *Greenbelt Act* specify which act takes precedence over the other in the case of a conflict.
- That reference be made in *Section 6: Contents of Plan*, that growth plans will contain detailed information on implementation timing, deliverables and Provincial commitment to funding and financial tools.
- That the required contents of growth plans listed in *Section 6: Contents of Plan* also include employment projections and protection of employment lands.
- That in *Section 6: Contents of Plan*, intensification rates required under growth plans be clearly defined.

4.2.7 Review of Recommendations for Provincial Policy

Of the 30 recommendations that Regional Council has already submitted to the Province, a number of the recommendations still need to be considered for the Province's final growth plan, including:

- **The Province incorporate the revised and updated population forecasts into the Greater Golden Horseshoe's growth plan. (Recommendation 1)**
- **The Province adopt an urban-focused policy approach within all ministries and prioritize investments in infrastructure, government institutions, facilities and services in the 26 urban centres identified in *Places to Grow*. (Recommendation 19)**
- **In addition to requiring municipalities to measure themselves against the plan, the Province must also measure its own actions and implementation against the plan in order to ensure it achieves its vision. (Recommendation 20)**
- **The Province develop a more sustainable waste management policy as part of its growth management plan. (Recommendation 25)**
- **The Province recognize the importance of human services planning in its ultimate growth plan and that new models of funding based on population and principles of adequate, equitable, affordable, stable, flexible and accountable funding be introduced to encourage the location of major public services in centres and along corridors for both Emerging and Priority Urban Centres. (Recommendation 26)**

At least three of the Region's 30 recommendations need to be considered under the Province's funding, financial and tax policies and legislation and in future and necessary coordination efforts of financial and tax policies between the Provincial and Federal Governments. These include:

- **The Province develop an overall investment strategy for areas outside the urban centres, to ensure that continuing growth in these areas reflects and supports the Province's growth plan. (Recommendation 4)**
- **Both the Province and the Federal governments provide stable, long-term and sufficient funding to develop affordable housing in both the private and public sectors. (Recommendation 13)**
- **Both the Province and the Federal government return to the more favourable tax environments that permit and encourage the construction of rental housing. (Recommendation 14)**

4.2.8 Infrastructure Investment and Approvals to Support Growth

Places to Grow is clear that we must maintain the infrastructure we currently have, and, at the same time, ensure that we accommodate new development in an effective manner.

For example, the discussion paper states that the costs of providing the infrastructure we need for growth is tied directly to how and where we grow. *Places to Grow* endorses infrastructure investments that protect the natural environment by supporting a pattern of development that emphasizes a compact urban form.

York Region supports the principles of sustainable development and will continue to work with our local and provincial partners in providing cost-effective and sustainable infrastructure solutions.

The Region of York has already planned for and committed to significant growth over the next 20 years. Although the growth has been planned in detail and is fully approved, servicing approvals (particularly water EA's) are significantly delayed. There is a need to integrate land and servicing approvals so as to better coordinate growth management.

- **The Province incorporate the revised and updated population forecasts into the Greater Golden Horseshoe's growth plan. (Recommendation 1)**
- **The Province adopt and urban-focused policy approach within all ministries and prioritize investments in infrastructure, government institutions, facilities and services in the 26 urban centres identified in *Places to Grow*. (Recommendation 19)**

The Province has designated all four of York Region's approved Regional Official Plan Regional Centres as "Emerging Urban Centres". However, given the level of growth expected and the high level of intensification envisioned by *Places to Grow*, Council strongly recommended that:

- **Emerging Centres and Corridors in York Region receive funding and infrastructure investment at a level necessary to achieve the Province's vision for growth and intensification, as well as the Region's planned growth and infrastructure plans. (Recommendation 3)**

Finally, changes to the *Environmental Assessment Act* need to be considered in order to ensure the effective implementation of the Province's growth plan. Regional Council on a number of occasions has requested that:

- **The Province amend the *Environmental Assessment Act* and other necessary approvals to streamline their processes and applications in Priority and Emerging Growth areas, and consider eliminating it altogether for approved priority projects for higher order transit infrastructure in the Greater Golden Horseshoe. (Recommendation 24)**

4.3 Relationship to Vision 2026

The proposed *Places to Grow Act* directly supports all eight goal areas of Vision 2026, including: Quality Communities for a Diverse Population; Enhanced Environment, Heritage and Culture; A Vibrant Economy; Housing Choices for Our Residents;

Managed and Balanced Growth; Infrastructure for a Growing Region, and; Engaged Communities and a Responsive Region.

5. FINANCIAL IMPLICATIONS

The Province's proposed *Places to Grow Act* will support the Region in achieving its objectives in city-building and transit, affordable housing, the protection of agricultural lands and the protection and securement of key environmental lands.

However none of the financial drivers identified in the Region's review of the Discussion paper have yet been brought forward.

There are a whole series of financial tools that need to be explored including development charges policy, tax increment financing and corporate policy tax.

In order for municipalities to be able to accommodate the expected growth anticipated in *Places to Grow*, access to significant infrastructure funding to support this growth is necessary.

Municipal financial tools and tax policy need to be explored in more detail to encourage the private sector to build the compact urban form that is now being promoted by the Province. Further, the cost of encouraging the private sector to undertake more of this type of development cannot be carried as an additional cost to the municipality. Currently, the Region has a limited ability to impact fiscal policy as many of the tools presently available, such as property taxes, development charges and building of rental units are governed and defined by Provincial and Federal legislation.

Finally, if passed, the Province's proposed *Places to Grow Act* will require future Official Plan Amendments to implement the Province's proposed intensification target of 40 per cent.

6. LOCAL MUNICIPAL IMPACT

Local municipalities have made significant strides and have demonstrated leadership in advancing the kind of growth called for in both the *Places to Grow* Discussion Paper and the proposed *Places to Grow Act*.

Implementation tools like tax incentives are needed now to further strengthen local municipalities' ability to implement good planning through and beyond zoning, site plan and official plan policy controls. The Region is requesting that the Province provide whatever mechanisms are possible to support these financial tools through this proposed legislation.

The Region will continue to work closely with the local municipalities to develop a suite of implementation tools to more fully implement local plans. The local municipalities have played a key role in developing a smart growth plan for York Region through the York Region Centres and Corridors Strategy - *Making it Happen!* and proposed ROPA 43 – Regional Centres and Corridors. This work is a good launching-point for further collaboration with the Province. The Province, through *Places to Grow*, has underscored the need for and importance of implementation tools to advance Regional and local planning objectives.

7. CONCLUSION

The Province's proposed *Places to Grow Act*, 2004-Bill 136 received first reading on October 28, 2004. This legislation will enable the Province to implement a growth plan for the Greater Golden Horseshoe Area. However, the Region strongly suggests that the Province consider specific recommendations from Council's response to the Province (September 23, 2004, clause 10 of Report 8 of the Regional Planning and Economic Development Committee) on its *Places to Grow* Discussion Paper as well as previous comments on the *Environmental Assessment and Planning Acts*. These changes are necessary in order to strengthen the proposed *Places to Grow Act*, and to provide municipalities with the legislative and financial tools necessary to implement Provincial growth plans. If the Province intends that the legislation to merely provide a broad framework to enable implementation of growth plans, these detailed recommendations must be considered in the final Greater Golden Horseshoe Area Growth Plan, expected to be released in late 2004.

York Region is well positioned to implement the roles and responsibilities outlined for municipalities in the proposed *Places to Grow Act* from a policy perspective as the Provincial document and this proposed legislation builds upon the Region's existing key strategic growth management directions including the Regional Official Plan, York Rapid Transit Plan, the Greening Strategy and the Housing Supply Strategy.

Places to Grow also directly supports the Region's Centres and Corridors Strategy – *Making it Happen!* and proposed Regional Official Plan Amendment 43- Centres and Corridors.

Finally, the Region recommends the proposed *Place to Grow Act* process be changed to an amendment approval process similar to that used in the ORMCP exercise, i.e. that the Province approves municipal amendments to bring their official plans into conformity, with the Ministerial decision not subject to appeal.

Appeals to Ministerial decisions will result in significant delays in implementing the Province's Growth Plan, and decisions by the OMB regarding Regional or area municipal OPAs could undermine the intent and purpose of the Province's Growth Plan.

The Senior Management Group has reviewed this report.

(The attachments referred to in this clause are included with this report.)