



Staff Report

Planning and Development Services – Planning Division

Report To: Committee of the Whole
Meeting Date: January 14, 2019
Report Number: PDS.19.05
Subject: Open For Business – Bill 66 Restoring Ontario’s Competitiveness Act Information Report
Prepared by: Shawn Postma, Senior Policy Planner

A. Recommendations

THAT Council receive Staff Report PDS.19.05, entitled “Open for Business – Bill 66 Restoring Ontario’s Competitiveness Act Information Report” for information purposes;

AND THAT Staff be authorized to submit comments to the Province substantively in the form as those outlined in Attachment #1.

B. Overview

The purpose of this report is to provide an overview of proposed changes to the Planning Act through Bill 66 – Restoring Ontario’s Competitiveness Act. Changes include the introduction of a new tool being an “open-for-business zoning By-law” to allow local municipalities to fast track qualifying developments through the Planning review process.

C. Background

On December 6, 2018, the provincial government introduced Bill 66, titled Restoring Ontario’s Competitiveness Act, 2018. Bill 66 proposes more than 30 amendments to existing legislation, including the Planning Act. The Bill has undergone First Reading only and is considered in its preliminary stages. However, if it becomes law in its current state local municipalities will have a new planning tool to enact an “open-for-business zoning By-law”. The entire Bill is available for download at the Legislative Assembly of Ontario Website [here](#).

The open-for-business zoning By-law is intended to cut red-tape and burdensome regulations so businesses can grow, creating and protecting Ontario jobs. An open-for-business zoning By-law will significantly speed up the processing time to facilitate new major employment uses by exempting certain development projects from many existing Planning Act requirements as well as land use restrictions set out in various provincial plans and policies.

Bill 66 identifies that an open-for-business Zoning By-law is only available to authorize uses of land for “prescribed purposes”. The prescribed purposes are not yet defined and will be released through a future regulation. It is Staff’s understanding at this point that new major employment uses that meet a minimum job creation threshold of 50 jobs for The Blue Mountains (higher job creation thresholds in larger municipalities) and that the primary land use is related to manufacturing would be eligible for consideration.

As listed in the Bill (Section 34.1(6)), the following provisions of the Planning Act do not apply to an open-for-business zoning By-law enacted in the Blue Mountains:

1. Subsection 3 (5). – Consistency with the Provincial Policy Statement and Provincial Plans
2. Section 39 of the Clean Water Act. – Project does not have to have regard to drinking water source protection plan
3. Section 24. – Consistency with the Town of The Blue Mountains Official Plan
4. Sections 34 (10.0.0.1) to 34. - An applicant is permitted to apply within 2-year moratorium
5. Section 36. – Holding ‘h’ symbol does not apply
6. Section 37. – Bonus provisions do not apply (increased height and density)

Bill 66 also provides that certain sections of the Great Lakes Protection Act, Greenbelt Act, Lake Simcoe Protection Act, Metrolinx Act, Oak Ridges Moraine Conservation Act, Ontario Planning and Development Act, Places to Grow Act, Resource Recovery and Circular Economy Act do not apply, but these pieces of legislation do not directly impact the Town of The Blue Mountains.

If a municipality would like to enact an open-for-business zoning By-law to facilitate development, the bylaw requires approval by the Minister of Municipal Affairs. The Minister’s approval may also include conditions such as minimum application requirements, site plan approval conditions, any reasonable requirement that the municipality considers necessary for the protection of public health and safety, and a requirement that the landowner enter into an agreement(s) with the Town respecting the conditions imposed on the project. In addition, an open-for-business zoning By-law does not require advance notice to be provided, and once passed there is no right of appeal to the Local Planning Appeal Tribunal (LPAT).

Bill 66 will be read for a second time and debated after the Legislature reconvenes on February 19, 2019. Requests for comments are now being requested by the Province.

D. Analysis

It would appear at this stage that an open-for-business zoning By-law targets large scale employment uses.

Planning Staff have reviewed the potential changes to the Planning Act and the ability to use a new “open-for-business zoning By-law”. Planning Staff fully support the concept of being able to speed up review and processing time, reduce duplication, and finding efficiencies on new and expanding employment development applications, but are extremely cautious that eliminating a number of environmental protections and land use policies will lead to long term negative environmental impacts and undesirable growth particularly in our small municipality.

The Town of The Blue Mountains prides itself and relies upon the significant environmental features in our Town. The Vision as stated in our Official Plan is based on the fact that our area is “generously endowed with natural features and scenic attributes, which have created substantial opportunity for recreational, residential and resort development. Based on the prominence of the natural features of the Niagara Escarpment Commission, Nipissing Ridge and Nottawasaga Bay, the Town serves as a four seasons recreational and tourism destination...” (Town of The Blue Mountains Official Plan Section A1). The 2010 Blue Mountains Sustainable Path was endorsed by Council in 2010 providing a 50 year vision for the Town to 2060. The Sustainable Path states that “we are a connected and caring Community that blends our heritage with a thriving diverse economy based on the continual preservation and protection of nature...” (Blue Mountains Sustainable Path). These documents highlight the importance of environmental preservation and environmental enhancements throughout the Municipality. All development projects are subject to this environmental direction to ensure the continued protection and enhancement of our natural environment. Staff recommend that comments be sent to the Province to put a higher level of environmental protections in place. Including the exclusion of permitting an open-for-business zoning By-law in areas that include significant provincial features such as Significant Wetlands, ANSI, Woodlands, Wildlife Habitat, Valleylands and Fish Habitat. These features are already identified in local and County documents.

Planning Staff also recognize the need to continue to balance the needs of both environmental protection and economic growth.

These same Town documents also seek out ways to promote economic growth, economic diversification and support for small business. Small business rather than individual large scale employment uses are the general focus and are further described in the Official Plan, Sustainable Path and Red Hot and Blue Economic Development Plan. Staff recommend that the Province take a more balanced position on the need for economic development while also protecting and enhancing the natural environment.

The Town of The Blue Mountains has areas set aside in the Official Plan for future employment uses including Urban Employment Areas (Grey Road 2 and Highway 26) and Rural Employment Areas (Grey Road 2, Grey Road 40, 30th Sideroad). Employment uses including manufacturing are permitted, but are subject to Official Plan policies requiring the review of parking, traffic, building design, massing and character, servicing, and landscaping and buffering especially adjacent to existing residential areas. Planning Staff note, that through the new Comprehensive Zoning By-law 2018-65 that all Employment Areas have now been pre-zoned to permit employment uses without having to go through a Zoning By-law Amendment application process. New projects would be subject to Site Plan Approval where Town Staff can review the Official Plan policies plus the technical design of the site in detail prior to recommending Site Plan Approval and the execution of a Site Plan Agreement. The current process may also include review and sign off from the Conservation Authority (area watercourses and other regulated areas) the Source Water Protection Authority (those uses that may be deemed a potential threat to municipal drinking water sources).

Should Council wish to enact an open-for-business zoning By-law for the Town of The Blue Mountains and if approved by the Minister, a new major employment use could bypass the

Official Plan direction and environmental checks previously identified. Essentially a new major employment use could be located in more areas of our municipality. Planning Staff has reviewed the potential impact of a new major employment use within lands under Niagara Escarpment Development Control, and it is not entirely clear if an open-for-business zoning By-law can be enacted on Niagara Escarpment lands. Bill 66 does not make a specific note about the Niagara Escarpment Plan, however it would appear at this time that an open-for-business zoning By-law could not be enacted in an area of Niagara Escarpment Development Control as Zoning does not apply to these lands. However, the Niagara Escarpment Plan covers additional lands outside of Development Control, and the Niagara Escarpment Plan is a Provincial Plan regulated by the Niagara Escarpment Development Act. Clarification is required from the Province on the applicability of an open-for-business zoning By-law on lands within the Niagara Escarpment Plan Area.

It would appear that an open-for-business zoning By-law would be used at a minimum in the Town of the Blue Mountains and other rural municipalities based on the target for larger scale employment uses and the related minimum requirements. As a rural municipality, the Town could look at expanding the powers of the open-for-business zoning By-law to also help tackle some of the pressures that our municipality is facing. Enhanced application processes and timing could benefit local projects in particular attainable housing projects that can meet certain development standards and price guarantees.

Council is also able to provide further direction to Staff during this commenting period on other opportunities that an open-for-business Zoning By-law can provide.

Based on the foregoing, it is recommended by Planning Staff that the summary comments attached to this report be supported to Council and forwarded to the ERO office prior to January 20, 2019

E. The Blue Mountains Strategic Plan

Goal #1: Create Opportunities for Sustainability

Objective #1 Retain Existing Business

Objective #2 Attract New Business

Objective #3 Promote a Diversified Economy

Goal #3: Support Healthy Lifestyles

Objective #1 Promote the Town as a Healthy Community

Objective #2 Increase the Range of Housing Choices and Promote Housing Affordability

Objective #3 Manage Growth and Promote Smart Growth

Objective #4 Commit to Sustainability

F. Environmental Impacts

Could be significant environmental impacts where further review/study is not required.

G. Financial Impact

Could be significant investment in new large scale employment uses.

H. In consultation with

Nathan Westendorp, Director of Planning and Development Services

I. Public Engagement

The topic of this Staff Report has not been subject to a Public Meeting and/or a Public Information Centre as neither a Public Meeting nor a Public Information Centre are required. Comments regarding this report should be submitted to Shawn Postma at planning@thebluemountains.ca

J. Attached

1. Bill 66 Summary Comments from The Blue Mountains.

Respectfully submitted,

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Senior Policy Planner

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January 14, 2018

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**RE: Request for Comments – ERO Number 013-4293
Schedule 10 to Bill 66, Restoring Ontario's Competitiveness Act, 2018
Town of The Blue Mountains, County of Grey, Province of Ontario**

Dear Mr. Helfinger;

The Town of The Blue Mountains has reviewed the first reading of proposed Bill 66 and offers the following comments for your consideration:

1. The Blue Mountains supports the Province in finding ways to reduce 'red-tape' and to speed up application processing time.
2. The Blue Mountains requires the Province to take a more balanced position on the need for economic development while also protecting and enhancing the natural environment
3. The Blue Mountains prides itself on the significant natural and environmental features. These significant features are a priority and must continue to be protected and enhanced wherever possible. The Blue Mountains has been identified as a four-seasons recreation area used by residents inside and beyond our provincial borders. The Town relies on these features to continue to provide exception recreational and resort opportunities for the Province. Current land use planning and environmental protections are paramount when considering all development applications. At a minimum an 'open-for-business zoning by-law' should not apply to areas of Provincial and Local Significance including the Niagara Escarpment Plan Development Control Area, Wetlands, Areas of Natural and Scientific Interest (ANSI), Woodlands, Wildlife Habitat, Valleylands, Fish Habitat, Source Water Protection Areas.
4. The Blue Mountains seeks to attract many small scale employment uses rather than one larger large scale employment uses. The Province can support rural Ontario economic growth by modifying the minimum 50 job threshold for a municipality of 250,000 people or less to also include new employment uses that can create 15 full time jobs in a municipality of 20,000 people or less.

5. The Blue Mountains struggles with more significant issues that are not employment uses but are directly related to job recruitment and retention. Bill 66 should be modified to also include Affordable Housing Projects that directly address local municipal affordable housing goals. Less red-tape and faster application processing times should be available to housing projects that are proposed by a public body or not-for-profit organization, can meet a minimum standard for affordability, minimum density targets, and measures are imposed to ensure continued affordability.

Yours truly,

TOWN OF THE BLUE MOUNTAINS