



# Memo

## Planning Services Department

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TO: Mayor and Members of Council

FROM: David J. Crome, Director of Planning Services  
Andrew Allison, Municipal Solicitor

DATE: November 1, 2016

RE: **Bowmanville East Landowners Group**  
**File Number: COPA 2016-0001**

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Further to Council deliberation and the suggestions from the Bowmanville East Landowners Group (BELG) and BILD, Planning Services, Staff are enclosing the recommended policy changes.

In the opinion of staff, there are 2 main problems with the changes proposed by the BELG.

First, when read together, the proposed changes to sections 23.3.2 and 23.3.6 conflate sections 21 and 22 of the *Planning Act*. Section 22 (private amendments) provides that “if a person or public body requests a council to amend its official plan, the council shall, ... (b) hold a public meeting ...”. Section 21 (municipal amendments) provides that “[e]xcept as hereinafter provided and except where the context requires otherwise, the provisions of this Act with respect to an official plan apply, with necessary modifications, to amendments thereto or the repeal thereof, and the council of a municipality that is within a planning area may initiate an amendment to or the repeal of any official plan that applies to the municipality, and section 17 applies to any such amendment or repeal.”

No public meeting is required for a municipally-initiated amendment other than “in the course of preparing” the amendment. Under BLEG’s proposed changes, the mere request by a landowner would “initiate” an amendment and trigger the need for a public meeting irrespective of whether the timing was appropriate to do so. The intent behind staff’s recommended policies was to allow landowners to fund a secondary planning process in order to expedite the plan’s preparation, but that the details of that process would be agreed upon before the process is “initiated”.

Second, the proposed changes suggest that every secondary plan requires the Municipality to sit down with landowners to establish an implementation framework when only secondary plans that landowners want to fund need to have those formalities injected into the approval process. The original purpose of this Public Meeting prior to Council's authorization to initiate a Secondary Plan Study was to ensure that non-participating landowners are aware of the Study and their potential obligations under any cost-sharing arrangements.

The objective that underlies BELG's proposed changes to these sections is to ensure that the preparation of a secondary plan that landowners are prepared to fund is not unduly delayed.

In the opinion of staff, the attached modifications, now contained in policies 23.3.5 to 23.3.7, address all of the above points.

For reasons discussed, we feel that the 75% threshold should remain as a precondition to a privately funded secondary plan process, but we have inserted the word "generally" so that it is not as prescriptive. Every secondary plan area will have slightly different circumstances but the principle that there should be a critical mass of landowners, more than a simple majority, that want to proceed with development.

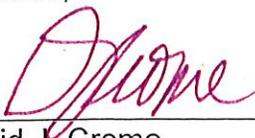
The other proposed changes outlined in the Planning Department Memo dated October 31<sup>st</sup> have been incorporated, specifically:

- a reference to integrated Environmental Assessment in Section 23.3.10;
- relocation of the policy on cost-sharing agreements for capital works within a Secondary Plan area being moved to Section 23.12.

The issue of contributions from non-participating landowners is explicitly referenced as a matter to be addressed in cost-sharing agreements, both for the preparation of a Secondary Plan and for capital works within a Secondary Plan area. While the policies previously put forward considered development charge credits, it is likely that with advancing so many Secondary Plans at once, there will not be sufficient funding in the development charges collections so that it would have to be addressed otherwise through endeavours to collect. Furthermore, the use of endeavours to collect was always anticipated for capital works. Now the policy explicitly makes this influence.

Staff have had further conversations with the Landowners Group and discussed these changes that are now being presented to you. As of the writing of this memo, we have not heard back from them.

Regards,



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David J. Crome,  
Director of Planning Services



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Andrew Allison,  
Municipal Solicitor

Encl.- Proposed Policy Changes

## Attachment – Proposed Policy Changes

- 4.6.1 Secondary Plans, as shown on Map C, will be prepared by the Municipality to provide for a detailed planning framework for these lands.
- 23.3.1 Secondary Plans shall conform to and implement the principles, goals objectives, policies and land use designations of this Plan. Upon approval by the Region of Durham, the Secondary Plan shall be incorporated under Part VI of this Plan.
- 23.3.2 The Municipality will prepare Secondary Plans in cooperation with area landowners, the Region, private and public agencies. The process for preparing, adopting or amending Secondary Plans will be subject to the procedures contained in this section and under Section 23.2 and other applicable policies of this Plan.
- 23.3.3 During the review and update of an approved Secondary Plans, the Secondary Plans will be amended to conform to the policies of this Plan.
- 23.3.4 Where there is a conflict or inconsistency between the parent Plan, the Secondary Plan will prevail, unless the conflict is associated with the density and intensification policies of the parent Plan, in this case, the parent Plan shall prevail.
- 23.3.5 Any landowner or group of landowners who wish to fund the preparation of a Secondary Plan in order to advance to timing of the plan's preparation shall provide the Municipality with proposed terms of reference. It shall address matters relating to the proposed scope of work, public consultation process, funding of supporting studies, cost sharing principles and other considerations described in Section 23.13.1. Within 90 days of receipt of proposed terms of reference, Council shall determine whether to proceed under Section 23.3.8.
- 23.3.6 Where private funding is provided in accordance with Section 23.13 by a landowner or a landowner's group, generally they must own 75% of the developable area within the Secondary Plan area prior to Council considering whether to initiate a Secondary Plan study.
- 23.3.7 Prior to the Municipality initiating a privately-funded Secondary Plan study, Council shall hold a public meeting inviting all landowners within the Secondary Plan Area to advise them of the proposed Secondary Plan study and the terms of reference.
- 23.3.8 Council shall approve the terms of reference, and, if applicable, cost sharing agreements and any other necessary agreements prior to the Secondary Plan study being initiated.

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23.3.9 Secondary Plans shall implement the policies of this Plan and the Durham Regional Official Plan policies for Secondary Plans, in particular:

- a) the growth management objectives of sequential development, full municipal water and sanitary systems, a minimum density of fifty residents and jobs per gross developable hectare, and a variety of housing types and densities;
- b) the financial capacity of the Municipality to provide for the capital and operating costs of municipal services and facilities required to support the development;
- c) the provision of a diverse and compatible mix of land uses to support vibrant neighborhoods, and the use of urban design principles to create high quality public open spaces and achieve an appropriate level of connectivity and transition to adjacent areas;
- d) the design of a connected system of grid streets and an *active transportation* network as the key design element of the public realm with pedestrian connections to transit, community facilities, schools, and parks. Higher density housing will be strategically located along or within Priority Intensification Areas to create a transit supportive development pattern;
- e) the integration into the design of the site and buildings of this Plan's policies for Sustainable Design and Climate Change and related standards/guidelines adopted by the municipality including *green infrastructure* and low impact development measures;
- f) the protection and incorporation of *natural heritage* and *hydrologically sensitive features* including surface and ground water features, as well as the connections among these natural features in order to inform the location, type, and amount of development;
- g) residential neighbourhoods will be "designed with nature" to minimize grade changes, preserve mature trees and enhance open space linkages;
- h) the measures to mitigate the potential conflicts between the development and existing agricultural uses;
- i) level of visual interest achieved by incorporating different built forms, landscaping, open space and environmental and

## Attachment – Proposed Policy Changes

natural and *cultural heritage resources* and the creation of view corridors and vistas of significant natural areas and public buildings;

i) the location of prominent public buildings, including schools and spaces on prominent sites with significant street frontage and oriented to the street;

k) *cultural heritage resources* will provide the context for new development. New development will be compatible with and complementary to its context with regard to siting, height, scale and design. In new areas, heritage buildings will be incorporated in a sensitive manner;

l) the principles of *Crime Prevention Through Environmental Design (CPTED)* will be used; and

m) inclusive lifetime neighbourhoods where the built environment promotes a safe inclusive space with access to services and amenities and a range of housing choices to meet the needs of residents throughout all phases of their lifetime.

23.3.10 The following background studies and analyses are generally required in support of new Secondary Plans:

a) A Subwatershed study including natural heritage, fisheries, hydrogeology, and hazard lands;

b) A municipal-wide *financial impact analysis* of growth and development;

c) A Landscape Analysis;

d) A Planning Background Report

e) A Master Drainage Plan;

f) A Water and Wastewater Servicing Plan;

g) A Transportation Master Plan;

h) An assessment of potential impact on adjacent *agricultural* operations and recommendations for mitigation;

i) A Sustainability Plan addressing Green Infrastructure and Net Zero development and building practices;

j) A Commercial needs and impact analysis when a commercial uses are proposed;

k) An Urban Design Report;

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- l) A Cultural and built heritage assessment including archaeology;
- m) A housing needs analysis (including affordable housing); and
- n) An integrated Environmental Assessment for municipal public works as may be appropriate.

23.12.7 Prior to development approvals within a Secondary Plan area, landowners may be required to enter into a developer's group agreement(s), or implement other alternative arrangements to ensure the equitable distribution of the cost of community infrastructure, facilities such as public schools, parks, roads, etc. within a Secondary Plan area. The agreements(s) shall distribute, in a fair and equitable manner, the costs of community infrastructure and facilities to ensure an orderly sequence of development, and shall address matters related to non-participating landowners.

23.13.1 Where this Plan identifies Special Study Areas or requires studies or plans (including Secondary Plans) to be undertaken, it does not necessarily ~~imply that~~ obligate the Municipality, the Region of Durham and any other governing agency ~~will to~~ expend public funds to finance such reports, studies or plans. Council The Municipality shall will determine whether or not it will commence the preparation of any such report, study or plan based on Municipal priorities, and available financial and staff resources. This Plan, however, does not prohibit private funding of any study or plan provided arrangements are made to the satisfaction of the Municipality to ensure study objectivity.

This Plan, however, allows for and contemplates the possibility that funding for any required report, study or plan, may come from landowners who may be impacted provided such landowners enter into an agreement with the Municipality. Such agreement shall, amongst other matters, specify the scope of work to be undertaken, the means of procuring the work, ensure study objectivity, and cover project management and administrative costs incurred by the Municipality. Such agreements shall also address matters relating to non-participating landowners, and may allow for development charges credits. The decision to enter into any such agreement shall be at the discretion of the Council.