

City of Mississauga Corporate Report



9.13

Date: January 22, 2021

To: Chair and Members of General Committee

From: Andrew Whittemore, M.U.R.P., Commissioner of
Planning & Building

Originator's files:

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LEGISLATION

Meeting date:
January 27, 2021

Subject

City of Mississauga's Comments on Enhanced Ministerial Zoning Orders (MZOs)

Recommendation

1. That the report titled "*City of Mississauga's Comments on Enhanced Ministerial Zoning Orders (MZOs)*" from the Commissioner of Planning and Building, dated January 22, 2021, be received for information.
2. That Council endorse the positions and recommendations contained in this report.
3. That the Mayor or designate be authorized to provide comments in writing to the Minister of Municipal Affairs and Housing as part of the Ministry's public consultation process.
4. That the City Clerk forwards this report to the Ministry of Municipal Affairs and Housing; Mississauga's Members of Provincial Parliament, the Association for Municipalities Ontario, and the Region of Peel.

Report Highlights

- Bill 197 enhanced Ministerial Zoning Order (MZO) powers. The Province is now seeking feedback on if these MZO powers should be further expanded, repealed or otherwise adjusted, as well as how the current powers ought to be used in the future. The deadline for this feedback is January 30, 2021.
- City staff do not support the routine use of MZOs as they circumvent municipal autonomy and community engagement. Additionally, MZOs often involve significant deviations from in-force planning, heritage and environmental regulations. City staff are also not convinced that their use will always result in more timely development outcomes.
- If the Government does continue to use MZOs, City staff suggest their use be limited to situations where development has a clear public benefit, such as affordable housing, long term care homes and certain institutional uses, and that the order has been reviewed and is supported by both lower and upper-tier councils.

Background

The *Planning Act* has long afforded the Minister of Municipal Affairs and Housing (the Minister) the authority to directly zone land through an MZO. However, in recent decades this power was rarely used.

Recently MZOs have been used more frequently, and MZO powers were expanded in July 2020 as part of Bill 197. Specifically, the Minister now has the authority to address site plan matters and require inclusionary zoning (IZ). Staff support the expanded use of IZ. Staff also appreciate other policy revisions in relation to development charges, the community benefits charge and parkland dedication based on municipal feedback.

At the AMO Conference in August 2020, Minister Clark stated that enhanced MZOs are intended to “*cut red tape*” and “*get shovels in the ground faster*,” as well as “*help our municipal partners reduce delays on critical projects that local communities need*.” He went on to say the focus of the enhanced MZOs is to help build more housing, long-term care facilities, and leverage transit investments. Staff support these objectives but question whether MZOs are required to address these goals.

Some of the Government’s recent MZOs have worked to accelerate the creation of long-term care homes and support housing for seniors. While other MZOs have had a less direct connection to local community need e.g. settlement area expansions and/or employment area conversions for housing to be sold at market rates.

The Province is now seeking feedback on if these MZO powers should be further expanded, repealed or otherwise adjusted, as well as how the current powers ought to be used in the future. The deadline for this feedback is January 30, 2021.

Comments

1. Ministerial Zoning Orders should not be used routinely

Staff are of the opinion that in most cases the benefits derived from MZOs are not worth deviation from the standard planning process.

The frequent use of MZOs can undermine the Growth Plan, Official Plan and Zoning frameworks that were established through a public process to carefully balance social, economic and environmental considerations in planning matters.

Moreover, MZOs result in local communities and adjacent landowners having no practical or meaningful influence over development outcomes and remove any opportunity for redress by

way of appeal to the Local Planning Appeal Tribunal (LPAT). Public engagement is an important component of community planning and leads to better projects and improved support of planning outcomes.

The use of an MZO can also set a precedent that may lead to more MZO requests from other landowners. Staff and Councillors have been receiving an increasing number of inquiries to support site-specific MZO requests given the recent orders in Mississauga and elsewhere in the Greater Toronto Area.

2. MZOs may not provide a more timely response to zoning changes than the regular statutory process

Mississauga's Planning and Building Department is proud of its service record in issuing planning and building permits. In response to the COVID 19 pandemic, the Department shifted to fully online operations through e-Plans and all planning and building permits have continued to be issued without interruption.

The Department also has other measures in place to ensure that developments can quickly move through the planning process. For example, the City has used development liaisons, who can help large scale and complex applications move through the planning process. The Department frequently receives positive feedback from the development sector on how smoothly applications are able to move through the City's processes.

Given this, City staff question if MZOs would provide a much more timely response to zoning changes than the regular statutory process.

3. Regional growth amendments require substantial infrastructure investments that benefit from a comprehensive review process to reduce costs over the long run

An MZO can lead to a quicker settlement area expansion or a conversion of an employment area to residential land use. However, piecemeal decisions on these matters can lead to the creation of communities that are fragmented, more costly to service, and have less access to services such as transit, parks and schools. There could also be land use compatibility (air quality, noise etc) and potential environmental impacts associated with the premature change of land-use designations. City staff suggest that these regional planning matters benefit from undergoing a MCR process.

Additionally, City staff do not consider MZOs should be used where they result in the need for a municipality to make multi-million dollar investments in infrastructure. For example, large settlement area expansions create new servicing requirements and these types of decisions benefit from being made in a coordinated manner.

4. MZOs require the Province to be involved in highly localized planning matters and impact the City's ability to cover development related costs

The Province has recently issued two MZOs in Mississauga:

- MZO 448/20 – 600 Eglinton Avenue East – Long-term care, residential single detached, semi detached, townhouse and apartment uses.
- EMZO 477/20 – 210 Speakman Drive – long-term care, hospital, retirement home, hospice, adult day care facility for seniors, medical office and accessory uses.

These two MZOs are the City's first experience with these orders; as such, some coordination and process challenges have been experienced.

City staff have found that the details contained in these two MZOs do not align with Mississauga's current Zoning By-law (i.e. zoning and land use definitions). The proposed developments do not meet some of the City's engineering requirements, nor do they clarify how engineering costs are to be covered (e.g. costs associated with new road access etc). City staff also consider that the Province should take the lead in communicating the contents of this MZO to the local community.

These MZOs result in the Province being involved in highly localized planning matters. The Province does not have the expertise to implement detailed municipal planning provisions nor are they sufficiently proximate to the local municipal context to have a full and proper appreciation of local land use circumstances. Moreover, by up-zoning lands, the Province is making it difficult for the City to negotiate for costs associated with a development to be covered by the applicant and not passed onto the municipality.

5. If the Government decides to frequently use of MZOs, it should only support use of this tool where it will provide direct public benefits

The Province should consider establishing clear criteria to guide its use of MZOs. This could involve projects that support affordable housing, public health and significant job creation. There should also be a requirement to have lower and upper-tier Council support.

MZOs should not be used to support market rate residential developments. Mississauga currently has over 20,000 zoned residential units that are awaiting development. MZOs are not likely to address housing affordability challenges unless the orders explicitly require affordable units. If the Province is looking to support affordable housing, it should use MZOs to mandate inclusionary zoning on government owned lands before they are sold or developed.

More long-term care beds are clearly needed in Mississauga and the Province should consider locating future facilities on land it owns where conversions are not required.

Financial Impact


There is no financial impact associated with this report.

Conclusion

City staff support the Government's commitment to streamline the development process and make housing more affordable. However, MZOs are blunt force tool that reduces the role of council and the public in the planning process.

If the Government intends to continue to make frequent use of MZOs, then City staff suggest that their use should be limited to situations that have a clear public benefit and supporting rationale and that consultation with upper and lower-tier municipalities be a mandatory part of the process.

To increase the supply of affordable housing units staff suggest the Province consider expanding IZ city wide, allowing conditional zoning and adhering to housing first principles. This would include mandating affordable housing units as a condition of sale on government owned lands before disposition occurs. Further, the Province could also streamline approvals by reducing the role of LPAT in local municipal decision making.



Andrew Whitemore, M.U.R.P., Commissioner of Planning & Building

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