



The Corporation of the Town of Tecumseh

Planning & Building Services

To: Mayor and Members of Council

From: Brian Hillman, Director Planning & Building Services

Date to Council: October 8, 2019

Report Number: PBS-2019-36

Subject: Provincial Policy Statement
Summary of Proposed Changes and Administrative Comments

Recommendations

It is recommended:

That PBS-2019-36, Provincial Policy Statement, Summary of Proposed Changes, **be received;**

And that PBS-2019-36 **be submitted** to the Province through the Environmental Registry of Ontario as comments from the Town of Tecumseh on the proposed changes to the Provincial Policy Statement.

Background

On July 22, 2019, the Province of Ontario released a revised Provincial Policy Statement (PPS) for review and comment on the Environmental Registry of Ontario (ERO). The deadline for the comments is October 21, 2019.

The PPS is a statement of provincial policies on land use planning and is issued under section 3 of the *Planning Act*. It applies province-wide and sets out the provincial policy direction for matters of provincial interest related to:

- The efficient use and management of land and infrastructure;
- Ensuring the provision of sufficient housing to meet changing needs, including affordable housing;

- Protecting the environment and resources including farmland, natural resources (e.g., wetlands and woodlands) and water;
- Ensuring opportunities for economic development and job creation;
- Ensuring the appropriate transportation, water, sewer and other infrastructure is available to accommodate current and future needs; and,
- Protecting people, property and community resources by directing development away from natural or human-made hazards – such as flood prone areas.

The *Planning Act* requires that decisions on land use planning matters be “consistent with” the PPS. The Town implements the policies of the PPS through policies in the Official Plan, regulations in the Zoning By-law and by way of a range of planning-related decisions.

The purpose of this report is to provide comments on the proposed PPS changes that are most relevant to land use planning in the Town of Tecumseh. These changes, broadly categorized, include:

- 1) “Market-based” Range of Housing Types
- 2) Climate Change
- 3) Employment Areas and Land Use Compatibility
- 4) Employment Land Conversion
- 5) Settlement Area Boundary Adjustments
- 6) Planning Horizon and Land Supply
- 7) Natural Hazards and Special Advisor on Flooding
- 8) Servicing
- 9) Change of term “Shall” to “Should”
- 10) Expediting Applications

Upon approval by Council, this report will be forwarded to the province as the Town’s comments on the proposed changes, in advance of the commenting deadline.

Comments

The following are the key areas of proposed policy change and the associated Administrative comments (significant new text is bolded throughout):

Policy Change 1: “Market-based” Range of Housing Types

The policies of the 2014 PPS require municipalities to plan for the provision of a range and mix of residential units. This requirement remains in the proposed revised policies, but there is a new emphasis on the provision of a “market-based” range of housing supply, as per the following policies:

“1.1.1 Healthy, liveable and safe communities are sustained by:

- b) accommodating an appropriate **market-based** range and mix of residential types (including single-detached, additional residential units, multi-unit housing, affordable housing and housing for older persons), employment (including industrial and commercial), institutional (including places of worship, cemeteries and long-term care homes), recreation, park and open space, and other uses to meet long-term needs;
- 1.4.3 Planning authorities shall provide for an appropriate range and mix of housing options and densities to meet projected **market-based** needs of current and future residents of the regional market area...
- 1.7.1 Long-term economic prosperity should be supported by:
- b) encouraging residential uses to respond to dynamic **market-based needs** and provide necessary housing supply and range of housing options for a diverse workforce;”

Further, proposed policy 1.1.3.8 a) links the requirement to satisfy market demand with the justification for urban (settlement area) boundary expansion:

- “1.1.3.8 A planning authority may identify a settlement area or allow the expansion of a settlement area boundary only at the time of a comprehensive review and only where it has been demonstrated that:
- a) sufficient opportunities to accommodate growth and to satisfy **market demand** are not available through intensification, redevelopment and designated growth areas to accommodate the projected needs over the identified planning horizon;”

Administrative Comment

“Market-based” is a completely new term proposed to be added to the PPS. It may be that this term ultimately provides some level of clarity in the application of the various policies sections to which it has been introduced. However, the term has a real estate and transactional connotation that has not typically applied to planning and housing needs. The approach may inadvertently place too much emphasis on supplying the types of housing that are theoretically “desired” by the population simply based on past “market” conditions. There is a concern that planning based on a “market-based” approach will, in the absence of a fully defined term, result in maintaining a market ‘status quo’ that is, for example, primarily based on a perceived desire for low density housing as a “market condition”. This will do nothing to encourage a shift to an urban form that is based on increased density and the provision of a more fulsome range of housing types. Depending on how the term is defined, there are questions regarding how “market-based” demand will assist in meeting community affordability needs.

Further, it is not clear who will define the market need and demand, and what methods would be used to arrive at the definition. Market need and market demand are subjective terms and clarity is required as to how this determination will be made, and by whom. Accordingly, as is the case with many other terms in the PPS, it is requested that “market-based need” and

“market demand” be fully defined. In addition, additional information should be provided by the Province for review by municipalities providing a methodology for how these terms will be calculated.

Policy Change #2: Climate Change

The proposed PPS emphasizes the need to respond to the impacts of climate change throughout the proposed policies. A new definition of “Impacts of a changing climate” has been added:

“Impacts of a changing climate: means the potential for present and future consequences and opportunities from changes in weather patterns at local and regional levels including extreme weather events and increased climate variability.”

There is reference throughout the revised policies to preparing for the impacts of a changing climate, as related to land use patterns (policy 1.1.1, 1.1.3.2), provision of infrastructure (1.6.6.1), stormwater management (1.6.6.7), watershed planning (2.2.1) and hazard planning (3.1.3).

Administrative Comment

Administration is supportive of the greater recognition throughout the document for the need to respond to the impacts of climate change, including the added definition of “impacts of a changing climate”. However, there are no policies within the document which speak to the importance of taking measures now to slow the advancement of climate change. Urgent action is needed to prevent irreversible impacts from climate change. Accordingly, policies that include direction to mitigate the progression of climate change at both the provincial and local levels through a variety of actions are necessary. By only addressing the “impacts of a changing climate” in the policies, it leaves the impression that climate change is an inevitability and the only options now are to address the consequences.

Policy Change #3: Employment Areas and Land Use Compatibility

The following new policies related to employment areas have been added:

“1.3.2.2 At the time of the official plan review or update, planning authorities should assess employment areas identified in local official plans to ensure that this designation is appropriate to the planned function of the employment area.

Employment areas planned for industrial and manufacturing uses shall provide for separation or mitigation from sensitive land uses to maintain the long-term operational and economic viability of the planned uses and function of these areas.

1.3.2.3 Within employment areas planned for industrial and manufacturing uses, planning authorities shall **prohibit** residential and institutional

uses that are not ancillary to the primary employment uses in order to maintain land use compatibility.

Employment areas planned for industrial and manufacturing uses should include an appropriate transition to adjacent non-employment areas.”

There are also changes proposed to the policies of section 1.2.6 regarding land use compatibility, particularly separation between sensitive land uses and major facilities (i.e. manufacturing uses, transportation corridors, etc.):

“1.2.6.1 Major facilities and sensitive land uses **shall** be planned **and developed** to **avoid**, or **if avoidance is not possible, minimize and** mitigate **any potential** adverse effects from odour, noise and other contaminants, minimize risk to public health and safety, and to ensure the long-term **operational and economic** viability of major facilities **in accordance with provincial guidelines, standards and procedures.**”

Further, a new policy 1.2.6.2 has been added:

“**1.2.6.2** Where avoidance is not possible in accordance with policy 1.2.6.1, planning authorities shall ensure that the planning and development of sensitive land uses adjacent to existing or planned industrial, manufacturing, or other uses that are particularly vulnerable to encroachment are only permitted if:

- a) alternative locations for the proposed sensitive land uses have been evaluated and there are no reasonable alternative locations; and
- b) potential impacts of these uses are minimized and mitigated in accordance with provincial guidelines, standards and procedures.”

Administrative Comment

Administration supports proposed policies 1.3.2.2 and 1.3.2.3.

The current requirement for appropriate design, buffering and separation has been removed from the PPS. The proposed revisions to policy 1.2.6.1 require that major facilities and sensitive uses should be planned so that adverse effects are avoided, or if that is not possible, minimized or mitigated. The current policy requires adverse effects to be mitigated. The proposed policy 1.2.6.2 establishes that, where avoidance of sensitive uses adjacent to industry or manufacturing is not possible, alternative locations must be considered.

It is noted that the proposed revised policies continue to reference “provincial guidelines, standards and procedures” (commonly referred to as the “D-Series Guidelines”) on compatibility between industrial and sensitive land uses. These guidelines were established in the 1990s and recent experience with their application, combined with the proposed new policy direction in 1.2.6.1, warrants that they be updated by the Province.

Policy Change #4: Employment Land Conversion

The following new policy related to employment land conversion has been added:

- “1.3.2.5 Notwithstanding policy 1.3.2.4, and until the official plan review or update in policy 1.3.2.4 is undertaken and completed, lands within existing employment areas may be converted to a designation that permits non-employment uses provided the area has not been identified as provincially significant through a provincial plan exercise or as regionally-significant by a regional economic development corporation working together with affected upper-and single-tier municipalities and subject to the following:
- a) there is an identified need for the conversion and the land is not required for employment purposes over the long term;
 - b) the proposed uses would not adversely affect the overall viability of the employment area; and
 - c) existing or planned infrastructure and public service facilities are available to accommodate the proposed uses.”

Administrative Comment

Employment lands (industry and manufacturing) are an important component in the establishment of a complete and sustainable community. They offer economic activities that provide benefits to the broader population through employment opportunities while also assisting in ensuring a municipal tax assessment base that has an appropriate mix and is therefore more resilient during times of economic turbulence.

The current PPS only permits the removal of employment lands for conversion to other uses as part of a comprehensive review. Such a review takes into account all of the long term needs of the municipality, including having regard to competing interests, and is undertaken as part of an official plan review process. Proposed new policy 1.3.2.5 allows consideration of such land use conversions by way of amendments and outside of a comprehensive review. Experience has informed us that the process of introducing new employment lands comes with many challenges. Therefore, any consideration to remove employment lands should be given considerable care and approached with great caution and only as part of a comprehensive review. Employment lands have come to be synonymous with agricultural lands from the perspective that they warrant enhanced protection over the long term.

Given the considerable amount and importance of employment lands in the Town and based on the preceding comments, it is recommended that proposed policy 1.3.2.5 not be included in the new PPS as it may inadvertently have adverse impacts on long term Town and public interests.

Policy Change #5: Settlement Area Boundary Adjustments

A new policy has been added to the settlement area policies:

“1.1.3.9 Notwithstanding policy 1.1.3.8, municipalities may permit adjustments of settlement area boundaries outside a comprehensive review provided:

- a) there would be no net increase in land within the settlement areas;
- b) the adjustment would support the municipality’s ability to meet intensification and redevelopment targets established by the municipality;
- c) prime agricultural areas are addressed in accordance with 1.1.3.8 (c), (d) and (e); and
- d) the settlement area to which lands would be added is appropriately serviced and there is sufficient reserve infrastructure capacity to service the lands.”

Administrative Comment

The proposed policy permits settlement area adjustments in the absence of a “comprehensive review” provided there is no net increase in land within the total settlement area within the municipality. This approach implies that a corresponding land area must be removed from a settlement area designation for every area of land added.

The criteria listed in proposed subsection 1.1.3.9 are reasonable for this type of consideration. However, these decisions must also be made in the context of other planning criteria such as the establishment of complete communities (i.e. full range of community services/amenities), access to transit and compatibility. These considerations are typically part of a comprehensive review.

Another challenge associated with this type of boundary trading relates to the question of how a landowner whose land is removed from a settlement area (i.e. land that has some level of development rights) is to be compensated for that loss of development opportunity. Further guidance from the Province on this issue is necessary.

Policy Change #6: Planning Horizon and Land Supply

Revisions are proposed to the policies to reflect a change in the planning horizon from 20 to 25 years

“1.1.2 Sufficient land shall be made available to accommodate an appropriate range and mix of land uses to meet projected needs for a time horizon of up to **25** years, informed by provincial guidelines. However, where an alternate time period has been established for specific areas of the

Province as a result of a provincial planning exercise or a provincial plan, that time frame may be used for municipalities within the area.

Within settlement areas, sufficient land shall be made available through intensification and redevelopment and, if necessary, designated growth areas.

Nothing in policy 1.1.2 limits the planning for infrastructure and public service facilities **and employment areas** beyond a **25**-year time horizon.

- 1.3.2.7 Planning authorities may plan beyond **25** years for the long-term protection of employment areas provided lands are not designated beyond the planning horizon identified in policy 1.1.2.”

Further, policy 1.4.1 regarding housing supply is proposed to be changed to an increased requirement for municipalities to maintain a 12-year supply for housing (up from 10) and up to a five-year serviced land supply:

- “1.4.1 To provide for an appropriate range and mix of housing options and densities required to meet projected requirements of current and future residents of the regional market area, planning authorities shall:
- a) maintain at all times the ability to accommodate residential growth for a minimum of **12** years through residential intensification and redevelopment and, if necessary, lands which are designated and available for residential development; and
 - b) maintain at all times where new development is to occur, land with servicing capacity sufficient to provide at least a three-year supply of residential units available through lands suitably zoned to facilitate residential intensification and redevelopment, and land in draft approved and registered plans.

Upper-tier and single-tier municipalities may choose to maintain land with servicing capacity sufficient to provide at least a **five-year** supply of residential units available through lands suitably zoned to facilitate residential intensification and redevelopment, and land in draft approved and registered plans.”

Administrative Comment

Administration is not concerned about changing the time horizon from 20 to 25 years, particularly given the fact that the Town's current supply exceeds 25 years.

The greater challenge currently facing the Town relates to the implementation of regional stormwater facilities for the benefit of multiple landowners. In the absence of arriving at agreeable regional stormwater servicing solutions, the supply of residentially zoned, draft approved and/or registered plans of subdivision has been significantly delayed in the Town.

Accordingly, it has not been possible for the Town to achieve the proposed five-year supply of land in draft approved and registered plans. In order to assist municipalities in this regard, changes by the Province to the rules and regulations in the Environmental Assessment Act would provide clarity and certainty around the timing and responsibilities (municipal vs. developer) related to the implementation of regional stormwater management projects.

Policy Change #7: Natural Hazards and Special Advisor on Flooding

Section 3 of the PPS addresses Public Health and Safety, including policy direction on natural hazards (e.g. flood hazards, unstable soils). The revised PPS policies include the following note at the beginning of Section 3:

“(Note: policies in this section related to natural hazards are subject to ongoing review by the Province’s Special Advisor on Flooding. Further changes may be considered as a result of this review.)”

The description of the proposed changes on the Environmental Registry notes that the current policies related to natural and human made hazards will be maintained while work by the Special Advisor is underway. There is no indication of the timing of this work, how the review of the Special Advisor will be undertaken, or when results are expected for release.

Administrative Comment

It will be important for municipalities and conservation authorities to play a role in the ongoing work of the Special Advisor. Natural hazard planning is more important than ever given the potential impacts of climate change and the anticipated increase in severity and frequency of storm events and the corresponding potential flood risk. The Province should take leadership and provide assistance in the preparation of on-going hazard mapping updates. Just as many components of community planning are currently predicated on undertaking certain tasks relative to an identified period of time in the PPS, the Province should also enshrine the need for regular updates to hazard maps by way of strong policy in the PPS. This is particularly relevant as we move forward into the unstable conditions propagated by climate change. In addition, consideration should be given by the Province to include stronger language regarding development constraints and potential full development prohibition in hazard areas as a result of climate change. Further discussion on this issue is requested.

Policy Change #8: Servicing

Changes are proposed to the servicing policies, particularly for rural areas without municipal sewage and water services. The policies of Section 1.6.6 – Sewage, Water and Stormwater identify a servicing hierarchy for the preferred method of providing services to new development.

The existing PPS policies as well as the proposed revisions generally identify the preferred order of servicing as follows (most preferred to least preferred): municipal services, private

communal services, individual on-site services, partial services (combination of municipal / communal and individual services). While this general hierarchy has been maintained in the proposed revisions, the changes appear to remove the flexibility for the municipality to support the type of servicing preferred within its jurisdiction.

“1.6.6.1 Planning for sewage and water services shall:

- a) direct and accommodate forecasted growth in a manner that promotes the efficient use and optimization of existing:
 - 1. municipal sewage services and municipal water services; and
 - 2. private communal sewage services and private communal water services, where municipal sewage services and municipal water services are not available **or feasible**;
- e) be in accordance with the servicing hierarchy outlined through policies 1.6.6.2, 1.6.6.3, 1.6.6.4 and 1.6.6.5. **For clarity, where municipal sewage services and municipal water services are not available, planned or feasible, planning authorities have the ability to consider the use of the servicing options set out through policies 1.6.6.3, 1.6.6.4, and 1.6.6.5 provided that the specified conditions are met.**

1.6.6.3 Where municipal sewage services and municipal water services are not **available, planned or feasible** private communal sewage services and private communal water services **are the preferred form of servicing for multi-unit/lot development to support protection of the environment and minimize potential risks to human health and safety.**

1.6.6.4 Where municipal sewage services and municipal water services or private communal sewage services and private communal water services are not **available, planned or feasible**, individual on-site sewage services and individual on-site water services may be used provided that site conditions are suitable for the long-term provision of such services with no negative impacts. In settlement areas, **individual on-site sewage services and individual on-site water** services may be used for infilling and minor rounding out of existing development.

At the time of the official plan review or update, planning authorities should assess the long-term impacts of individual on-site sewage services and individual on-site water services on the environmental health and the character of rural settlement areas...and the feasibility of other forms of servicing set out in policies 1.6.6.2 and 1.6.6.3.

1.6.6.5 Partial services shall only be permitted in the following circumstances:

- a) where they are necessary to address failed individual on-site sewage services and individual on-site water services in existing development; or
- b) within settlement areas, to allow for infilling and minor rounding out of existing development on partial services provided that site conditions are suitable for the long-term provision of such services with no negative impacts.

Where partial services have been provided to address failed services in accordance with subsection (a), infilling on existing lots of record in rural areas in municipalities may be permitted where this would represent a logical and financially viable connection to the existing partial service and provided that site conditions are suitable for the long-term provision of such services with no negative impacts. In accordance with subsection (a), the extension of partial services into rural areas is only permitted to address failed individual on-site sewage and individual on-site water services for existing development.”

Administrative Comment

The proposed policy changes appear to provide greater opportunity for new development to be serviced with partial services with respect to water and waste water. For example, the wording of policy 1.6.6.3 has been changed from “municipalities may allow the use of private communal services” to “private communal services are the preferred form of servicing for multi-lot/unit development” where municipal services are not “available, planned or feasible”. This approach is contrary to the servicing plans and significant municipal investments in municipal waste water and municipal water infrastructure that the Town (and in some instances with significant assistance of Federal and Provincial governments) has made to date.

Allowing water and waste water servicing to proceed in an alternative form for new development (i.e. to permit private communal systems) appears contrary to the long term investments in trunk infrastructure that the Town has made and could undermine the ultimate implementation of these long range servicing plans. From an environmental and financial sustainability perspective, combined with the desire to ensure the advancement of orderly development, allowing private communal servicing would not be in the Town’s or public’s best interest.

Policy Change #9: Change of term “Shall” to “Should”

There are several policies which have been modified through a change in the direction from “shall” to “should”. Under Part III of the PPS - How to Read the Provincial Policy Statement, there is a section that stipulates when applying the PPS, it is important to consider the specific language of the policies. In planning policy, the difference between a ‘shall’ direction and a ‘should’ direction is significant, as ‘shall’ represents a mandatory requirement while ‘should’ represents an encouraged direction.

Given the importance of ensuring orderly and efficient development on an ongoing basis, the following examples are illustrative of the potential impact of the proposed change:

- “1.1.3.6 New development taking place in designated growth areas should occur adjacent to the existing built-up area and **should** have a compact form, mix of uses and densities that allow for the efficient use of land, infrastructure and public service facilities.
- 1.1.3.7 Planning authorities **should** establish and implement phasing policies to ensure:
- a) that specified targets for intensification and redevelopment are achieved prior to, or concurrent with, new development within designated growth areas; and
 - b) the orderly progression of development within designated growth areas and the timely provision of the infrastructure and public service facilities required to meet current and projected needs.
- 1.6.7.2 Efficient use **should** be made of existing and planned infrastructure, including through the use of transportation demand management strategies, where feasible.”

Administrative Comment

The direction being provided by the aforementioned policies relates to built form and efficient use of land and infrastructure. These are important objectives and are especially critical as municipalities throughout the province are grappling with financial challenges and the future unknown implications of climate change. The directions of these policies to promote efficient use of land through compact form and mixed density and efficient use of existing and planned infrastructure can assist with addressing these challenges.

With a change from “shall” to “should”, these important policy objectives and the means by which they may be accomplished have changed from being “required” to “suggestions.” Although this might find favour with certain proponents in the short-term, it may not provide for decisions that meet the long-term needs of the community. Although only comprising a change of one word, it appears that this change in wording could shift planning approvals from a municipal-lead approach to a developer-lead one.

It is administration’s opinion that, for the policies identified above, the ‘shall’ direction of the existing PPS policies should be retained.

Policy Change #10: Expediting Applications

A new policy has been added to the implementation section regarding streamlining the approval of development approvals for priority applications:

- “4.7 Planning authorities shall take action to support increased housing supply and facilitate a timely and streamlined process for local development by:
- a) identifying and fast-tracking priority applications which support housing and job-related growth and development; and
 - b) reducing the time needed to process residential and priority applications to the extent practical.”

Administrative Comment

The Town uses an approach that, on balance, reasonably expedites the planning process while ensuring a thorough and complete technical review process. More recently, this has been done while also ensuring an enhanced and rigorous public consultation process is undertaken.

It is further noted that under Bill 108, the legislated timelines for decision making on development applications has already been reduced and the ability to reduce these timelines even further for certain applications may be faced with challenges. Notwithstanding, streamlining and fast-tracking priority applications is a sound objective and given its proposed inclusion in the PPS will allow the Town to consider various means of implementation.

Consultations

None

Financial Implications

None

Link to Strategic Priorities

Applicable	2019-22 Strategic Priorities
<input checked="" type="checkbox"/>	Make the Town of Tecumseh an even better place to live, work and invest through a shared vision for our residents and newcomers.
<input checked="" type="checkbox"/>	Ensure that Tecumseh's current and future growth is built upon the principles of sustainability and strategic decision-making.
<input checked="" type="checkbox"/>	Integrate the principles of health and wellness into all of Tecumseh's plans and priorities.
<input type="checkbox"/>	Steward the Town's "continuous improvement" approach to municipal service delivery to residents and businesses.
<input type="checkbox"/>	Demonstrate the Town's leadership role in the community by promoting good governance and community engagement, by bringing together organizations serving the Town and the region to pursue common goals.

Communications

Not applicable ☒

Website ☐ Social Media ☐ News Release ☐ Local Newspaper ☐

This report has been reviewed by Senior Administration as indicated below and recommended for submission by the Chief Administrative Officer.

Prepared by:

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Reviewed by:

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Director Planning & Building Services

Recommended by:

Margaret Misek-Evans, MCIP, RPP
Chief Administrative Officer

**Attachment
Number**

None

**Attachment
Name**

None