

Date: 2022-04-20

Subject: **RECOMMENDATION REPORT - Ministerial Zoning Orders – An Overview**

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Report Number: Planning, Bld & Ec Dev-2022-420

Recommendations:

1. **THAT** the report titled Recommendation Report - “Planning, Building & Economic Development – Ministerial Zoning Orders – An Overview” dated April 20, 2022, to the Planning and Development Committee meeting of June 20th, 2022, be received; and,
2. **THAT** Council endorse the framework for decision making as outlined in report Planning, Bld & Ec Dev-2022-420; and,
3. **THAT** the framework for decision making as outlined in report Planning, Bld & Ec Dev-2022-420 be used to inform Council’s decision in future Ministerial Zoning Order requests.

Overview:

- **On January 19th 2022, Council Resolution C004-2022, directed staff to report back on the Auditor General Report regarding Minister Zoning Orders (Appendix A).**

- According to the Provincial Auditor General Report (2021), the Province of Ontario issued 44 Ministerial Zoning Orders (MZO) from March 2019 to March 2021.
- Since December 2020, the City of Brampton has received approval for four MZO requests, and another six are awaiting ministerial approval to help facilitate residential, commercial and institutional developments.
- Staff recommends that MZO requests be limited to situations where the MZO supports Provincial policies and legislation such as:
 - Providing a direct public good;
 - Consulting with affected stakeholders; and,
 - Maintaining key elements of the City’s development review process (i.e. Draft Plan of Subdivision, Site Plan Approval) prior to issuance of building permits.
- MZO powers were expanded in July 2020 as part of Bill 197, *COVID-19 Economic Recovery Act* and again in March 2021 as part of Bill 257, *Supporting Broadband and Infrastructure Expansion Act, 2021*.
- Bill 109, *the More Homes for Everyone Act, 2022*, introduced a new Community Infrastructure and Housing Accelerator (CIHA) tool which allows the Minister to request expedited zoning for areas outside of the Greenbelt (similar to an MZO).
- The CIHA tool requires municipalities to undertake public consultation and provide public notice.

1.0 Background:

At its’ meeting on January 19, 2022, Committee of Council, passed Resolution C004-2022 / Recommendation CW007-2022 (ratified at the January 26, 2022 Council meeting)," *Therefore, be it resolved that, it is the position of the Environment Advisory Committee that:*

“City Council discontinues supporting the use of Ministerial Zoning Orders as a planning tool until the impact of these orders is better understood in relation to environmental protection and the ability of the City to fulfill the 2040 Vision and meet its carbon reduction targets or;

In the event City Council decides to continue using MZOs as a planning option then BEAC recommends the City create a procedural bylaw for MZOs mandating the preparation of a staff report accompanying each MZO request, including an analysis of servicing costs, an environment impact assessment of the proposal, as well as two public meetings, all to be completed before Council votes on whether to send the MZO to the Province or not.”

In light of the above direction to staff, this report provides:

- An overview on the legislative and policy framework for Ministerial Zoning Orders (MZOs) in Ontario;
- A review of the Auditor General of Ontario’s report, dated December 2021 that speaks to MZOs;
- An overview of MZOs in the City of Brampton; and,
- A proposed framework for Council’s consideration in future MZO requests.

2.0 Ministerial Zoning Orders – Historical Overview and Current Context

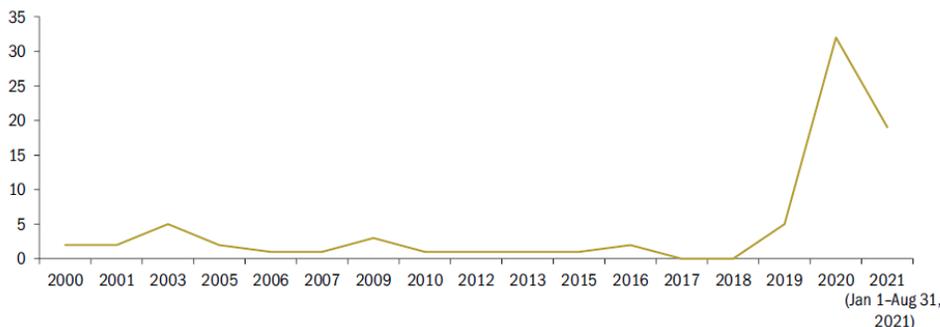
Section 47 of the *Planning Act* allows the Minister of Municipal Affairs and Housing (Minister) to make “Minister’s Zoning Orders” (MZOs), to govern land uses within areas subject to the order. An MZO takes precedence over any other zoning by-law regulations in effect for the subject area. This tool gives the Minister complete authority to regulate land use on specific lands. Section 47(1) (a) of the *Planning Act* states the Minister may by order, in respect of any land in Ontario, exercise any of the powers conferred upon council by section 34, 38 or 39, but subsections 34(11) to (34) do not apply to the exercise of such powers.

MZOs may be used to support and accelerate the delivery of government priorities including transit-oriented communities, affordable housing, long-term care homes and strategic economic recovery projects. With this in mind, data across Ontario, from 2000-2018 displays a flat line followed by an increase in use of MZOs post-2019, part of which is attributable to the economic recovery from the COVID-19 Pandemic.

The Provincial Auditor General released a report in December 2021 titled “*Value-for-Money Audit: Land-Use Planning in the Greater Golden Horseshoe*”. This report analyzed the effectiveness of land-use planning for achieving key goals of the Growth Plan for the Greater Golden Horseshoe and the use of Ministerial Zoning Orders. The audit found that:

- MZOs are being used to fast track development and circumvent normal planning processes;
- There are no established or consistent criteria to which the Minister assesses requests for MZOs; and,
- MZOs disrupt other planning processes that require years of preparation and consultation and present significant challenges to the fiscal planning process.”

Figure 1: Minister Zoning Orders Issued January 1st, 2000 – August 31st, 2021



Bill 197, the *COVID-19 Economic Recovery Act, 2020*

The Province has indicated the primary reason for the increase in MZOs is to help overcome potential barriers and development delays. Bill 197, enhanced the Minister’s authority when issuing MZOs outside the Greenbelt. Enhanced MZOs allow the Minister to override the use of site plan control, by which a municipality examines the design and technical aspects of a proposed development to ensure it is attractive and compatible with the surrounding areas. Enhanced authority through Bill 197 allows the Minister to require the inclusion of affordable housing units in the development or redevelopment of specified lands, buildings or structures.

Bill 257, the *Supporting Broadband and Infrastructure Expansion Act, 2021*

Bill 257 amended the Planning Act by exempting MZO’s from the legislative requirement to be consistent with fundamental land use planning principles and requirements, set out in the Provincial Policy Statement (PPS).

Bill 109, the *More Homes for Everyone Act, 2022*

Bill 109 received royal ascent on April 14, 2022 and amended the Planning Act by establishing a new “Community Infrastructure and Housing Accelerator (CIHA)” tool. Similar to an MZO, this tool allows the Minister to make orders requesting expediting zoning for areas outside of the Greenbelt. This tool introduces two new requirements; that Council pass a resolution requesting the Minister to make an order and that municipalities undertake public consultation and provide public notice. Similar to an MZO, any orders passed through the CIHA tool are exempt from the requirement to be consistent with the Provincial Policy Statement and conform to Provincial and Official Plans.

3.0 MZO’s: A Review of Municipal Application

Staff have reviewed MZOs that were issued between 2020 to 2022 within nine municipalities including the Towns of Ajax, Caledon, Innisfil, Milton and Oakville, and the Cities of Mississauga, Markham, Vaughan and Toronto. See **Appendix B: Benchmarking**. The table below identifies the quantity and nature of MZOs issued for adjacent municipalities.

Table 1 – Municipal Application of MZOs

Municipality	Total	MZO Application/Description
Town of Caledon	2	<ul style="list-style-type: none">• 1 issued to facilitate a mobility transit hub and residential uses• 1 issued to facilitate residential uses
City of Mississauga	3	<ul style="list-style-type: none">• 1 issued to facilitate development of film studio• 2 issued to facilitate development of long-term care facilities
Town of Milton	1	<ul style="list-style-type: none">• Issued to facilitate institutional uses
City of Toronto	13	<ul style="list-style-type: none">• 1 issued to expand Sunnybrook Health Science Centre• 3 issued to facilitate development of long-term care facilities

		<ul style="list-style-type: none"> • 2 issued to permit mixed use residential uses (including affordable housing) • 7 issued to facilitate different forms of supportive and modular housing
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4.0 MZOs: Applications in Brampton

Since December 2020, ten MZO requests have come before Brampton’s City Council to facilitate development of a wide range of uses. Four of the requests have received approval and six are awaiting ministerial decision. Table 2: MZOs in the City of Brampton, provides an overview of the requested and approved MZOs. For a list of anticipated community benefits and outcomes resulting from the MZOs, see **Appendix C**.

Table 2 – MZOs in the City of Brampton

MZO Proponent	Date Requested at Council	Overview of Request	Status (Approved/Waiting Ministerial Decision)
TACC Holborn	December 16, 2020	To permit residential high-density uses.	Approved
Lark Investments (Emerald Heights)	October 20 th 2021 December 8 th 2021	To permit a mixed-use community.	Awaiting Ministerial Decision
Gobind Marg Charitable Trust	September 29 th 2021	To permit development of a detached private school and integrated place of worship.	Approved
Guru Nanank Long Term Care	September 29 th 2021	To permit development of a long-term care home.	Approved
Kaneff Properties Limited	September 29 th 2021	To permit development of a mix of residential uses, public parks and open spaces for community use.	Approved
Solmar Development Corp	September 29 th 2021	To permit two 48-storey towers with commercial uses.	Awaiting Ministerial Decision
Rafat Construction	October 20 th 2021	To permit a new Corporate Head Office and Skilled Labour Training Centre.	Awaiting Ministerial Decision
Argo TFP	November 24 th 2021	To permit residential uses and potential sites for Peel Regional Police Headquarters, an Elementary School Block, a SWM Block and Open Space Blocks.	Approved
Rogers 1	January 26 th 2022	To permit the development of the site with Rogers Brampton Downtown Campus as a state-of-the-art, sustainable, transit-oriented, mixed-use development.	Awaiting Ministerial Decision
Rogers 2	January 26 th 2022	To permit redevelopment of a portion of the property for a mix of housing types.	Awaiting Ministerial Decision

5.0 MZOs: A Framework for Considering Future MZO Requests

Based on a jurisdictional scan consisting of two municipalities (City of Toronto, City of Mississauga), staff uncovered various criteria to inform staff reports on future MZO requests put before Council, although there is no obligation for Council to consider an MZO. It is noted that Council's decision to entertaining the MZO requests to date, generally align with the proposed framework and have underscored the need for elements of the development review process to occur after issuance of an MZO. Comparisons are also drawn between the proposed framework and draft guidelines for the CIHA tool.

Table 3 – Proposed Framework for MZO Requests

Theme	Rationale	Comparison to Community Infrastructure and Housing Accelerator Tool – Draft Guidelines (as of March 30 th 2022)
Is consistent with and/or in conformity with Provincial policies and legislation, including the Provincial Policy Statement (PPS).	The PPS plays a key role in Ontario's planning system by providing the policy foundation necessary to regulate the development and use of land. Moreover, the PPS provides a policy framework to assess environmental and servicing implications of developments.	An exemption from provincial plans, the Provincial Policy Statement and municipal official plans may be provided, but only if requested by the municipality and, conditions may be imposed by the Minister on the municipality and/or the proponent. A community infrastructure and housing accelerator order will address zoning matters and will not address environmental assessment matters related to infrastructure.
Provides a direct public good.	To support City-building initiatives around job creation, development of affordable housing, transit-oriented communities, long-term care homes and institutional uses.	The Community Infrastructure and Housing Accelerator Tool is intended to expedite priority developments such as housing (community, affordable and market-based), developments that would facilitate economic development and mixed use developments.
Engagement and consultation of the affected municipality and key stakeholders.	Provincial staff have advised City staff that a key criteria of the Minister's review is the extent of which a municipality has undertaken public consultation with key stakeholders. Collaboration and consultation with municipalities and key stakeholders can encourage better quality development proposals and allow for early feedback and information sharing.	Municipalities are required to provide public notice and undertake public consultation. No further details are provided for this requirement by the Province.

Ensuring development review	Should Council consider support for an MZO request, staff have and will continue to recommend that pending the outcome of the ministerial decision, elements of the planning review process still occur (i.e. Site Plans, Plans of Subdivision etc.). This ensures key technical reviews are completed prior to building permit issuance.	The Minister can waive the requirement for the planning review process (Site Plans, Subdivisions) at the request of a local municipality.
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It is noted there is a significant level of effort put forth by staff for a MZO request, in acting as a liaison between the proponent, the City and the Province. The City is unable to recover the true costs associated with the review and administration of MZOs, since they are not subject to development fees. This should be taken into consideration for future MZO requests put before Council.

Corporate Implications:

Financial Implications:

There are no financial implications associated with this report.

Conclusion:

The City of Brampton has experienced a significant increase in the number of requested and approved MZOs, since September 2021. These MZOs were requested to support key City building initiatives, aligned with job creation to support recovery from the COVID-19 Pandemic as well as to advance provincial initiatives such as providing long-term care facilities and increasing the housing supply. Should the City receive future MZO requests, the proposed framework in this report can be used as a tool to help guide Council’s decision making process.

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Appendices

Appendix A: CW007-2022

Appendix B: Benchmarking

Appendix C: Anticipated Community Benefits/Outcomes of Requested MZOs in Brampton