

July 31, 2001

Ms. Joanne Lynch  
Policy Advisor  
Ministry of Municipal Affairs and Housing  
Housing Development and Buildings Branch  
Building and Development Policy Section  
777 Bay Street, 2<sup>nd</sup> Floor  
Toronto, ON  
M5G 2E5

Dear Ms. Lynch,

**RE: BRRAG Proposal On Site Plan Review**

Thank you for providing an opportunity for the Ontario Professional Planners Institute to send a delegate to your recent meeting on the Building Regulatory Reforms discussion regarding the interface between site plan approval under Section 41 of the Planning Act and building permit issuance.

We have reviewed the proposal outlined in your powerpoint presentation dated July 16<sup>th</sup>, 2001, and have the following comments.

With respect to slides #6 to #9 – “Clarifying Applicable Law”, the Ministry of Municipal Affairs and Housing is proposing that matters specified by Section 41(7) of the Planning Act be divided into two groups – one which would be considered to be applicable law for building permit issuance and one that would not be considered applicable law. The Ministry also suggested that the “trigger” on this matter would be site plan approval and not site plan agreements under 41(7) (c) of the Planning Act. Finally, the Ministry suggested that remaining matters could be addressed before an occupancy permit is issued.

The Ontario Professional Planners Institute believes there are serious flaws in this proposal as follows:

1. The proposal to divide the matters under site plan control into two groups is not enforceable. Once builders have a building permit, municipalities will be unable to achieve compliance with the remaining matters under site plan control other than by prosecuting builders through the court system under Section 67(1) of the Planning Act. This is a very onerous process and is not an efficient use of municipal government’s resources under conditions of fiscal restraint.

2. The proposal to use the approval decision as the trigger for the release of building permits is not logical. To make this work, municipalities would be forced to have a two-stage approval process, one for the matters which are applicable law and another for the matters that would not be applicable law. This would also be an onerous and bureaucratic process. On the other hand, if municipalities choose not to have a two-stage approval process, any timing gains made by splitting the matters under site plan control into two groups would be lost, since all site plan matters would still have to be reviewed before approval.
3. The list of matters proposed by the Ministry, that would not be considered to be applicable law, does not take into account the realities of how these matters can affect building locations. For example:
  - a) Outdoor recreational space and facilities are usually required under the landscaping provisions of the Act. The location of these facilities can change through the site plan approval process, resulting in a change in building location.
  - b) Significant existing vegetation, such as mature trees, can sometimes be preserved by shifting building locations.
  - c) The location of vaults, hydro transformers, Canada Post super-mailboxes, garbage containers and other facilities can change through the site plan approval process, resulting in a change in building location.
  - d) The conveyances of land to municipalities can affect building location.
  - e) During the review process, lighting poles may have to be relocated. On occasion, this can result in a shift in the parking lot layout and as a result a change in building location.

These are just some of the examples of matters that fall into your category of exempted matters that can still affect building location. Site Plan review must take into account all matters to be addressed on-site before building locations can be frozen.

4. The use of occupancy of a building as a trigger for agreement on the rest of the site plan matters will not work because the Building Code Act does not have an occupancy permit system, even though such systems are used in some Ontario Municipalities.

With respect to slides #10 to #13, “Expedited Appeals to the Ontario Municipal Board”, we are concerned about the impact that the expedited appeals process would have on municipal planning resources. In particular, we are concerned that if an appeals process were constricted to the Board’s offices in Toronto, the travel costs for municipal legal council and expert planning witnesses to travel to Toronto from across Ontario for regular short hearings would be onerous on

municipalities and on planning resources that would be better put to use on reviewing development applications expeditiously.

Thank you again for the opportunity to submit our concerns with the BRRAG proposals on site plan review. It is our belief people of Ontario have been very well served by Section 41 of the Planning Act and the ability of municipalities' to control site plan matters, guided by recommendations from their professional planning staff. The result has been development that meets the needs of private landowners, but ensures compatibility and enhancement with neighbouring communities and municipal objectives. The site plan approval process helps existing communities to deal with the inevitable changes caused by development. Good site plan will help the Smart Growth initiative by helping to ensure that development in existing serviced areas is compatible and that impacts from growth are mitigated where possible. Proper site planning is good for the development industry, the public and municipalities.

We would welcome an opportunity to further discuss our comments. To schedule a meeting, please contact Loretta Ryan, MCIP, RPP, Manager, Policy and Communications at (416) 483-1873, ext. 26.

Sincerely,

A handwritten signature in black ink, appearing to read 'D Hardy', with a long, sweeping underline that extends to the right.

David Hardy, MCIP, RPP  
Director, Policy Development  
Ontario Professional Planners Institute