

CEAC Report 2004-01

Report to: The Mayor and Members of Council

From: Debbe Crandall, Chair, Caledon Environmental Advisory Committee (CEAC)

DATE: February 18, 2004

Re: CEAC's Response to EBR Posting AF03E0001 on Bill 26 - Strong Communities (Planning Amendments) Act, 2003

Recommendations:

- 1) That Council receive CEAC Report 2004-01; and
- 2) That Council authorize CEAC to submit this brief as a response to EBR Posting AF03E0001: Bill 26 – Strong Communities (Planning Amendments) Act, 2003 prior to the deadline of March 15, 2004.

Background:

The Ontario Ministry of Municipal Affairs has been reviewing the *Planning Act*, the Provincial Policy Statement and the Ontario Municipal Board (OMB) operations for about three years. During this time both the Town and CEAC, through Caledon Council, have commented and made recommendations on these matters.

As a result of considerable public consultation undertaken by the previous government, the Ministry is proposing Bill 26, which would amend the *Planning Act* for matters that affect both the OMB operations and interpretation of the Provincial Policy Statement (PPS).

The Ministry of Municipal Affairs has posted Bill 26 on the electronic environmental bill of rights registry (EBR) for comment until March 15, 2004.

Purpose of Report 2004 – 01:

The purpose of this brief is to provide Council with comments on Bill 26, in accordance with Activity #11 of the CEAC 2004 work plan approved by Council on January 20, 2004.

Discussion:

- CONSISTENCY WITH THE PROVINCIAL POLICY STATEMENT (PPS)

Bill 26 proposes to require that land use decisions must "be consistent with" Provincial Policy Statements rather than the current wording which is "have regard for".

This change will provide more certainty that the PPS will be adhered to by municipalities and proponents of development.

- **Problems With Current Provincial Policy Statement**

The PPS currently declares that development will not be permitted in significant wetlands and significant portions of the habitat of endangered and threatened species and these areas are, therefore, protected by the PPS. However, during past consultations with regard to the PPS, CEAC has noted that there are other provincially significant natural heritage features and areas (significant woodlands, valleylands, wildlife habitat or ANSIs) and regionally or locally significant features that are not afforded the same degree of protection by the PPS despite the importance of these features to Caledon's environment. In fact, these areas are subject to development in the current PPS if it can be demonstrated that 'there will be no negative impacts on the natural feature or on the ecological functions for which the area is identified'. This is a continuing cause for concern in Caledon as development interests can fund a "no negative impact" case to a greater degree than can the Town argue otherwise. The result is that the Town, in attempting to go beyond protecting just the provincially significant areas, encounters difficulty, expense and time in protecting other equally environmentally significant areas.

This matter, ironically, of "going beyond" minimum standards established in specific PPS policies is, in fact, recognized as a municipal option in making land use decisions in the Implementation/Interpretation section IV.2 of the PPS. However there is no corresponding statement in the *Planning Act* that supports or 'backs-up' this municipal option. This addition to the *Planning Act* would reinforce this principle and give greater certainty to municipalities when faced with an appeal to the Ontario Municipal Board.

CEAC believes that it would be much better for sustaining environmental health for Caledon to be able to prohibit any development on areas, which it, as a municipality, considers significant, in addition to provincially significant areas. One way this could be done would be to increase the scope of section 2.3 (Natural Heritage) of the PPS to prohibit development in regional or locally significant environmental areas.

CEAC has noted one other matter of concern in the current PPS, namely section 1.2.1 (a) and (b) which requires municipalities to maintain at all times 10 years supply of land designated for residential development and residential intensification and at least three years supply of residential units with servicing capacity in draft approved or registered plans. CEAC believes these sections need to be eliminated from the PPS. Caledon and particularly Bolton are experiencing an unmanageable rate of growth already with a predominance of proposals for single-family homes. Caledon will continue to suffer needless pressure and expense in reviewing and contesting new housing plans unless it has the power to more efficiently restrict its own rate of growth. In addition, more residential growth will create further imbalance to Caledon's residential-commercial tax base.

Recommendation:

CEAC only supports the change to the *Planning Act* that would require decisions affecting a land use planning matter to “be consistent with” provincial policy statements if there is a concurrent change to the PPS, as noted above.

Recommendation:

CEAC proposes an additional change to the *Planning Act* that would include wording in the Act to support the principle that planning authorities and in particular municipalities may go beyond the minimum standards as included in the Implementation/Interpretation section IV.2 of the PPS.

- REVIEW TIME INCREASED

Bill 26 increases the time period for decision-makers, such as Caledon Council, to make decisions before appeals are made to the OMB for official plan amendments, plans of subdivisions, zoning by-laws holding by-laws and consent applications.

Recommendation:

CEAC advises Council that the Committee supports this proposal.

- MINISTER MAY RESTRICT OMB DECISIONS

Bill 26 will provide for the Minister of Municipal Affairs to restrict an OMB decision if the Minister says the decision affects a matter of Provincial interest. While this proposal could be seen as allowing municipalities to, for example, declare areas as so environmentally significant as to be of Provincial interest, CEAC believes that directly changing the PPS would be the most efficient approach, as noted above.

Recommendation:

CEAC supports this proposal.

- APPEAL DENIED TO BOUNDARY CHANGE APPLICANTS IF MUNICIPALITY DENIES

The current *Planning Act* provisions granting right of appeal to OMB are proposed to be eliminated where a municipality does not support applications for new settlement areas and changes to urban boundaries. This proposal may be an answer to part of the concerns CEAC has with section 1.2.1 (a) and (b) noted above.

Recommendation:

CEAC supports this proposal.

- PERSONS DENIED APPEAL TO OMB FOR NO PUBLIC MEETING WITHIN 65 DAYS

Bill 26 would eliminate a person's right to appeal to the OMB if Caledon did not hold a public meeting on application within 65 days.

Recommendation:

CEAC supports this proposal.

Summary and Conclusion:

CEAC is generally supportive of the proposed amendments to the *Planning Act*, subject to the concerns expressed in this report.

CEAC does, however, have concerns as to how, and when the Provincial Policy Statement will be reviewed and modified in the near future, as the Ministry of Municipal Affairs states it intends to do. To this end, CEAC strongly recommends that the amendments to the Planning Act the PPS be undertaken concurrently. CEAC looks forward to reviewing PPS proposals in the near future in accordance with Activity #11 of the CEAC work plan.

CEAC also recommends that the Minister make an additional change to the *Planning Act* to include a supporting statement that municipalities may go beyond the minimum standards as currently stated in the PPS (section IV.2).

Debbe Crandall
Chair, Caledon Environmental Advisory Committee