

## Report to Planning and Environment Committee

**To:** Chair and Members  
Planning and Environment Committee  
**From:** Scott Mathers, MPA, P.Eng.  
Deputy City Manager, Planning and Economic Development  
**Subject:** Review of Minister's Zoning Orders  
**Date:** December 3, 2024

## Recommendation

That, on the recommendation of the Director, Planning and Development, the following report on Minister's Zoning Orders **BE RECEIVED** for information.

## Executive Summary

### Summary of Request

On July 24, 2024, the Mayor directed that staff bring forward a report on municipally requested Minister's Zoning Orders (MZOs) with a policy framework (e.g., evaluation criteria, request process) for any class of development. The following report provides an overview of MZOs with considerations for Council's endorsement of future requests.

## Linkage to the Corporate Strategic Plan

Receipt and consideration of this information report supports the following Strategic Areas of Focus:

**Economic Growth, Culture and Prosperity** by supporting London to be a regional centre that proactively attracts and retains talent, business, and investment.

**Housing and Homelessness** by supporting faster/streamlined approvals and increasing the supply of housing with a focus on achieving intensification targets.

A Climate Change/Emergency was declared by City Council on April 23, 2019. The subsequent Climate Emergency Action Plan (April 2022) states several goals being undertaken simultaneously. The informed use of MZOs can address several Areas of Focus for climate change mitigation and adaptation:

- Transforming Buildings and Development.
- Transforming Transportation and Mobility.
- Adapting and Making London More Resilient.
- Improving the physical and social resilience of existing community in the face of climate change.

## Discussion and Analysis

### 1.0 Background

#### 1.1 Council Direction

On July 24, 2024, Mayor Josh Morgan directed Civic Administration to develop, and bring to the Planning and Environment Committee, a report to include:

- a) The impacts and opportunities of municipally requested Minister's Zoning Orders; and

- b) A policy framework that includes evaluation criteria and a process for initiating a request for a Minister's Zoning Order for any class of development in the City of London.

The City of London has historically not been subject to MZOs and does not have policy framework in place for requesting MZOs from the Province.

## 1.2 Use of Minister's Zoning Orders in Ontario

The *Planning Act* authorizes the Minister of Municipal Affairs and Housing to issue Zoning Orders that may exercise any of the powers Council has through its Zoning by-laws, Interim Control By-laws, Temporary Use Provisions, or Subdivision or land. This allows the Minister through a Minister's Zoning Order (MZO) to:

- permit the use of land (e.g., manufacturing, affordable housing, health care, long-term care);
- prohibit the use of land (e.g., to protect an environmentally sensitive feature); and
- regulate the use, location, height, size, and spacing of buildings and structures.

MZOs are exempt from the standard *Planning Act* requirement for decisions on planning matters to be consistent with policy statements, including the Provincial Planning Statement 2024, and a MZO prevails over any municipal regulations that apply to land use or development. Further, a MZO may include that Site Plan control does not apply to lands subject to the MZO.

Compared to other planning processes governed by the *Planning Act*, MZOs may expedite otherwise untimely or difficult approvals for urgent projects. MZOs take precedence over conflicting municipal policies, including overriding official plans for licences, permits, and land use approvals. The *Planning Act* does not allow MZO appeals to the Ontario Land Tribunal (OLT). However, planning processes that follow an issued MZO may be subject to OLT appeals.

Prior to 2019, only a handful of MZO's were issued in Ontario. However, between March 19, 2019, and January 20, 2023, over 100 MZOs were issued, with the MMAH issuing between 15 to 35 MZOs annually. The vast majority of MZOs in recent years have been from smaller municipalities (often for rural/agricultural land conversion) and municipalities in the Golden Horseshoe. Although some projects have involved multiple MZOs, a municipality's past use of MZOs is a strong indicator of that municipality's future use.

Some municipalities have utilized MZOs to advance developer requests and projects that contribute to public infrastructure or community health. The COVID-19 pandemic necessitated rapid infrastructure development to accommodate migrating populations and long-term care. The Cities of Toronto, Markham, and Richmond Hill all used MZOs for long-term care facilities during this time.

## 1.3 Changes to Provincial Legislation and Policy

Bill 197, the *COVID-19 Economic Recovery Act*, 2020, expanded the Minister's MZO authority outside of the Greenbelt. Although uncommon, the Minister can override Site Plan Control with Provincial agreements and require or remove inclusionary zoning (affordable housing). Bill 257, *Supporting Broadband and Infrastructure Expansion Act*, 2021 allowed MZOs to override planning principles and requirements.

Effective October 20, 2024, the *Provincial Planning Statement, 2024* (PPS, 2024) replaced both the *Provincial Policy Statement, 2020* (PPS, 2020) and *A Place to Grow, 2019*. The new PPS removes the requirement for a Municipal Comprehensive Review and Land Needs Assessment, which were common reasons for past MZOs. Now, the conversion of employment lands to non-employment lands and the expansion and creation of new settlement areas may occur at any time, provided that the requirements have been met. Although municipal requests of this nature may still be appealed to the

OLT, recent legislative changes restrict third-party appeals to affected individuals only, such as landowners.

## **2.0 Policy Framework**

### **2.1 Criteria for Requests for Zoning Orders**

Although there are no statutory requirements for MZO requests, MZOs are still subject to Federal law and various Provincial laws. The Provincial Government has developed a “Zoning Order Framework” that includes “Intake Thresholds” and “Submission Expectations.” This framework provides important guidance to the level of information that should be included with a municipally-requested MZO.

Intake Thresholds include that the MZO meets at least one of the following:

- The request delivers on a provincial priority that is supported by a minister, or
- The request is supported by a municipality through either a Council resolution or a letter from the mayor of a municipality with strong mayor powers.

There are no restrictions on who may request a MZO from the Minister, as long as submission criteria are met. This means that Council may initiate a MZO request of its own through a resolution or pass a resolution to support another party’s MZO request. In either scenario the MZO request would meet the intake threshold of a municipally supported MZO.

Submission expectations for a MZO request includes a requirement for a rationale that must be given for why the project requires Ministerial zoning relief rather than following standard planning processes. The Ministry emphasizes the need for due diligence, that includes engaging the public, local Indigenous communities, and applicable authorities. Supporting materials such as planning justification or other technical planning reports may be required to support a request. Site specific issues that may need to be assessed include impacts on archaeological or heritage resources, environmental impacts, servicing requirements, or other matters. Where the MZO is intended to support a specific development opportunity anticipated timelines for subsequent approvals and the project to be completed are also required.

### **2.2 Process for City-Requested Zoning Orders**

As MZOs are intended only for exceptional circumstances, as such most municipalities lack a specific framework for MZO requests. Given the high standard that should be met to warrant such actions it is expected that coordination between various City Service Areas and the Ministry will take place, and specific submission requirements will be developed prior to making a MZO request.

When determining whether to submit a MZO request, Council must satisfy itself that the project is exceptional enough to justify an exemption from provincial and municipal planning policies, as well as the typical review process for development proposals. This may include:

- a minimum threshold on the number of local full-time jobs provided,
- a focus on targeted industries as per the Industrial Land Development Strategy (ILDS),
- higher income and diversity of employment potential,
- minimum value added to the local economy, or
- a number of affordable housing units created.

The City may also assess whether a project qualifies as a regional attraction by its purported number of onsite users (e.g., patients, students, or customers). Civic Administration would consult with our economic partners on any MZO request.

The Minister will evaluate the public benefit of a proposal by how it addresses affordable housing, economic growth, or other benefits. MZO timelines vary since there are no fixed requirements from submission to decision. The MMAH typically provides notice on

the Environmental Registry of Ontario (ERO) of potential MZOs under review. If the Minister refuses a MZO request, the MMAH will notify the requester. Following issuance, the Provincial Government requests quarterly updates on each MZO in order to assess development status. If development does not proceed on time, Council reserves the right to request the Minister to revoke the MZO.

### **3.0 Issues/Analysis**

#### **3.1 Considerations**

MZOs are perceived to offer advantages, such as expediting planning approvals, bypassing public consultation requirements, and gaining immunity from appeals, but each of these advantages comes with caveats.

Previously, OPAs and ZBAs could take well over a year and risk appeals, while other matters (e.g., annexation and environmental approvals) created further complications. By comparison, the MMAH could issue a MZO request within a year, especially for a high-quality submission aligned with Provincial priorities. However, recent changes to the timelines associated with applications ensure that OPAs and ZBAs are processed in an expedient manner, whereas MZO requests have no official timelines associated with their processing.

The approval of a MZO may not appreciate local considerations. Concerns can arise when MZOs bypass local input or potentially overlook sensitive issues. MZOs can bypass development review and limit municipal input on design and layout. Projects on sensitive lands (e.g., heritage, archaeological, and ecological concerns) risk impacting cultural and natural resources. Permitting projects without the cooperation of a conservation authority risks further conflict. Proposed projects not properly vetted through engineering may strain existing infrastructure (i.e. sanitary, storm and water servicing, and road improvements), which may affect capacity and long-term servicing needs.

If a municipality seeks to amend an issued MZO, the MMAH treats the amendment request as a new request with full requirements. The Minister also has the discretion to hear different requests from other parties. Furthermore, the Minister may refer a MZO process to the OLT.

#### **3.2 Standard Procedure for Council to Request MZO**

Municipal MZO requests must be supported by a council resolution or letter from a mayor with strong mayor powers. At the direction of Council, Civic Administration would process the request and submit to the MMAH.

Council should ensure that submission expectations are met as per the requirements of the MMAH, including the following information:

- a description of the project and how it would support governmental objectives
- a map and description of the subject lands
- a copy of a draft zoning order
- a description of consultation with the public and engagement with Indigenous communities
- for municipally-supported zoning order requests:
  - evidence of municipal support for the proposed project
  - information related to land ownership and name of the requestor
- rationale on why the project requires ministerial zoning relief rather than following municipal planning processes
- a description of any licences, permits, approvals, permissions or other matters that would be required for the project after a zoning order is made
- justification for the exemption of the application of provincial and local land use policies to downstream approvals, where requested

- anticipated timelines related to applying for downstream approvals (for example, site plan, plan of subdivision, building permit)
- anticipated timing for project completion
- justification for the use of any of the enhanced authorities, where requested
- information related to how and when servicing (water/wastewater) will be addressed
- a commitment that if a zoning order is made, the landowner will notify the minister 30 days in advance of the sale of any land it applies to.

Where Council initiates a MZO request they should ensure the criteria above are included as part of the submission. If Council is supporting a MZO request they should ensure the package includes all of the required information and achieves the established criteria prior to passing the resolution indicating support. For greater assurance, the City may request control over the ensuing development review, prior to the issuance of any building permit. For sites without servicing, the City may require remuneration or onsite facilities. To further protect taxpayers, the City may ensure the collection of all relevant fees, securities, and community benefits.

#### **4.0 Financial Implications**

There are no direct municipal financial expenditures. Future consideration of a MZO would be subject to review for financial impact.

### **Conclusion**

As London faces increasing development pressures, MZOs offer the promise of accelerating urgent developments. However, the use of MZOs may sacrifice municipal autonomy, valuable public consultation, and the protection of sensitive matters. MZOs bypass municipal planning processes to streamline development, yet in recent years, the use of MZOs have not shown significant time advantages when compared against typical planning application review processes.

The Provincial Government has also revoked many MZOs and removed common reasons for their use. Municipal planning processes are designed to address issues and avoid and mitigate against potential future issues. Furthermore, the Provincial Government has increasingly modelled MZO expectations on municipal planning processes. If London considers a MZO request, the proposal will require justification. A Council-endorsed MZO request should be reserved for exceptional circumstances only.

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