



# **The Planning Act: Bill 51 What's New, What Remains, What You Must Know – Part II**

## **Processing Official Plan and Zoning Matters**

February 2007

# CHANGES TO APPLICATION PROCESS

- Pre-application consultation
- Complete applications
  - what constitutes completeness
  - notification of completeness
  - determination if dispute
- Information available to public
- Public meetings / Open houses
- Participation on Public Process and Right to Appeal
- Information before Council

## PRE-APPLICATION CONSULTATION

- New provisions:
  - - official plan amendments – s. 22(3.1)
  - - zoning by-law amendments – s. 34(10.0.1)
- Shall permit applicants to consult
- May require applicants to consult
  - - must pass by-law
- Codifying “best practices”, advantageous to both applicant and municipality

## PRE-APPLICATION CONSULTATION - PRACTICE TIPS

- Use to discuss “complete application” requirements, context, issues, and processing
- Consider consultation forms to organize
- Municipality to consider regular review committee meetings for pre-consultation with applicants
  - - ensure key agencies available
  - - easier scheduling

# COMPLETE APPLICATION

- Complete Application:
  - “Prescribed Information”
  - “Additional Information”
- Prescribed information :
  - as per Regulations, requirement unchanged
- Additional Information
  - before Bill 51 - at discretion of municipality
  - after Bill 51 – required as long as requirement in official plan  
Bill 51 s. 22(5),(6), and s.34(10.2), (10.3)
- No complete application
  - may refuse to accept or process application
  - time for private appeal not start

# COMPLETE APPLICATION

- Complete application should in theory, move the process quicker; no waiting for initial comments
- Official Plans will have to set out requirements
- Official Plan policies :
  - comprehensive but allow for flexibility in application
  - provide a long list with exemptions at pre-application stage
  - scale and context

# COMPLETE APPLICATION – PRACTICE TIPS

- Wide range of possible studies, especially in urban areas
- Flexibility will be necessary in determining required studies
- Clarify complete application requirements at pre-application meeting
- Prepare and review terms of reference before initiating study

# COMPLETE APPLICATION – NOTIFICATION

- municipality to notify applicant that application complete/not within 30 days
- If notice of incomplete application given, municipality or applicant can bring a motion to OMB within 30 days
  - has material been provided?
  - are requirements for Additional Information reasonable?
- Applicable subsections same for OP, zoning, plan of subdivision, consent application



# INFORMATION PROVIDED TO PUBLIC

- Bill 51 clarifies and broadens requirements for disclosure to public
- General requirement for information to be made public (s. 1.0.1)
  - all “complete application” information and material
  - other information?
- All types of applications
- Information to be available to public within 15 days after confirmation of complete application

## INFORMATION PROVIDED TO PUBLIC

- Present practices vary in municipalities, some even require FOI applications be made
- What information is confidential and can be held back?
  - land value?
  - retail market data?
- How should information be made available?
  - viewing at Planning or Clerk's office
  - copy at public cost
  - website posting

# INFORMATION PROVIDED TO PUBLIC - PRACTICE TIPS

- Applicants
  - assume that all information contained applications and required studies will become public
  
- Determine if any information should be confidential, and is it required?

# INFORMATION PROVIDED TO PUBLIC BODIES

- Additional requirements for consultation with:
  - approval authorities
  - prescribed public bodies
- Approval Authority – prior to complete application to be provided with:
  - notice of application
  - a copy of the “complete application”
- Public Bodies – within 15 days of complete application to be provided with:
  - notice of application
  - prescribed information

## PUBLIC MEETINGS

- Provisions essentially unchanged for OPA and ZBLA public meetings
- At least one public meeting to be held for public input prior to decision

## OPEN HOUSES

- Required in limited circumstances
  - Subsection 17(16): 5 year OP review
  - Subsection 34 (12)(b): ZBA for OP conformity
  - Subsection 17(16), 17(19.4): OPA relating to development permit system
  - Subsection 34(12)(b), 34(14.4): ZBLA relating to development permit system
- Open house a minimum 7 days prior to statutory public meeting
- Open houses for private applications required in earlier drafts of Bill 51 now deleted

# COUNCIL DECISION – SUPPORTING INFORMATION CONSIDERED

- Bill 51 intended to require Board to give deference to council decision
- Board now required to have regard to:
  - Council’s decision
  - supporting information and material that council considered
- Information and its consideration could impact on the weight that the Board gives to a council decision

# COUNCIL DECISION – SUPPORTING INFORMATION CONSIDERED

- Council procedures to evidence that council considered:
  - application information
  - municipal staff information, issues and recommendations
  - public issues and submissions
- Council review of applicant's reports?
  - entire report
  - executive summary
  - staff synopsis



# COUNCIL DECISION – SUPPORTING INFORMATION CONSIDERED

- Content of staff report?
  - complete record of all issues and material reviewed
  - synopsis of applicant's reports
  - complete record of all submissions by public
- Council not accept staff recommendation
  - what weight will Board give to expert opinion obtained after council decision?
    - should council seek expert advice before making a decision?
- Conduct and record of council meetings:
  - record of public input, how detailed?
  - evidence that information “considered”

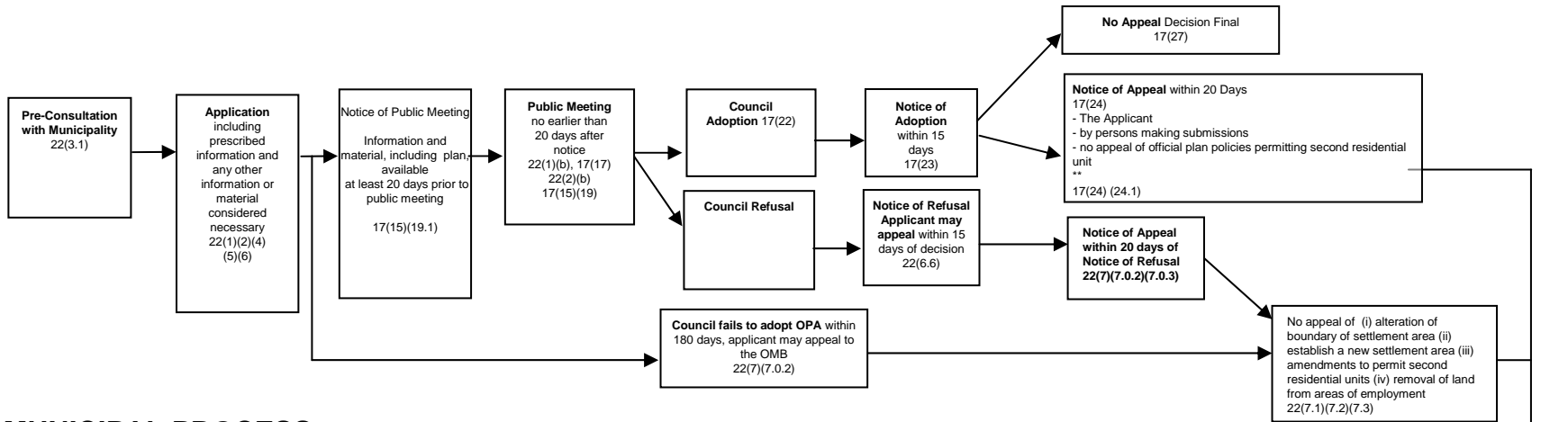
# COUNCIL DECISION – SUPPORTING INFORMATION CONSIDERED

- New level of responsibility for municipalities at Board: carefully consider process, comprehensiveness of staff report, reporting of public meeting
- Balance between comprehensive council consideration and reality of busy council agenda
- Applicants: make sure sufficient information is before Council – when in doubt, do the study
- Municipalities: may be prudent to seek alternative advise/peer review on certain applications before making decision

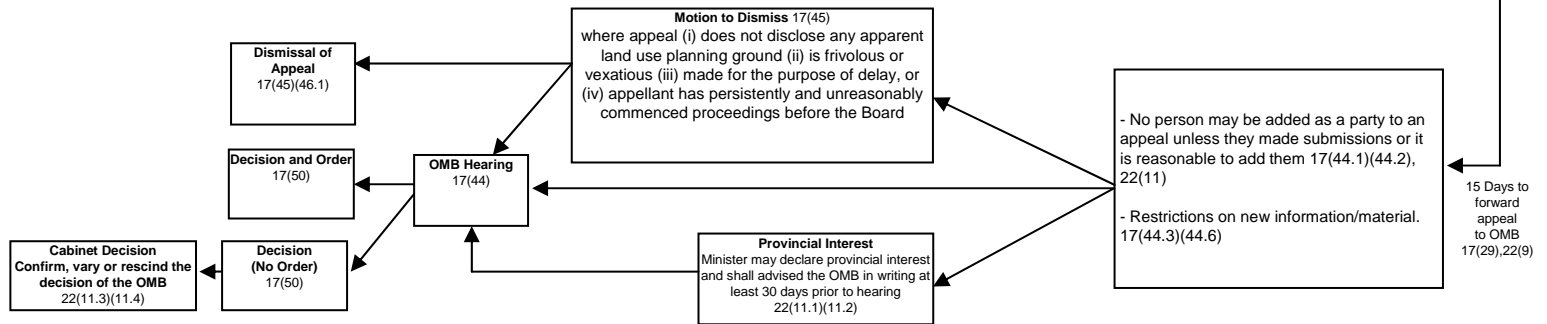
## CONCLUSION

- Changes to front-end of planning process largely codify best practices
- Clarify information requirements
- Municipalities have greater power, but new responsibilities as well
- Need to review process and procedures and establish new protocols

# OPA INITIATED BY APPLICANT AND EXEMPT FROM APPROVAL

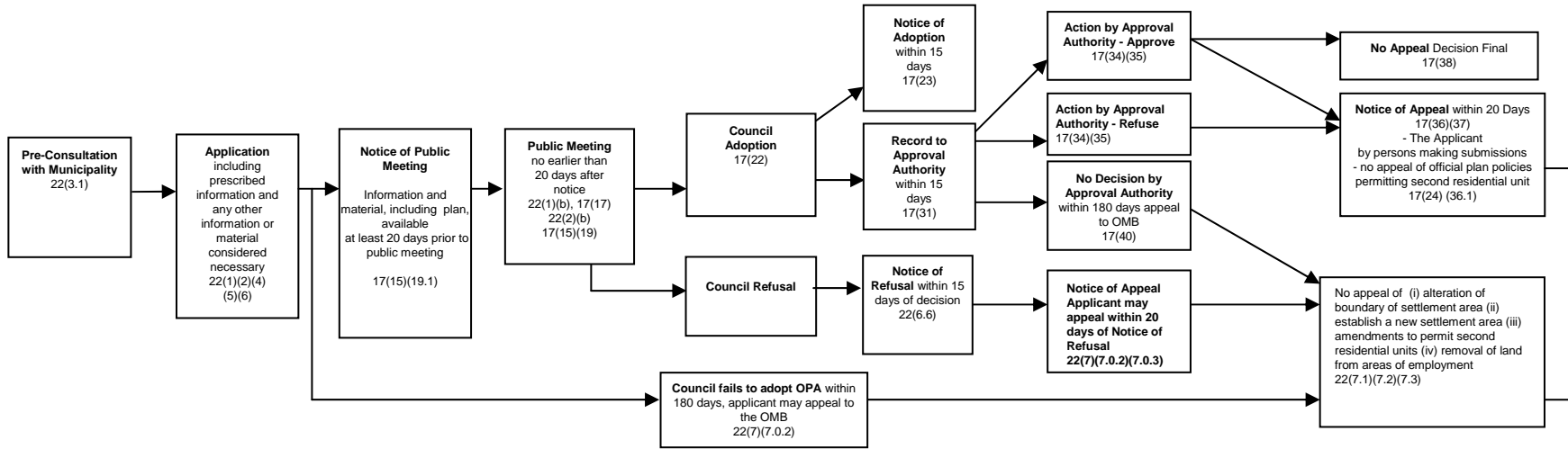


## MUNICIPAL PROCESS

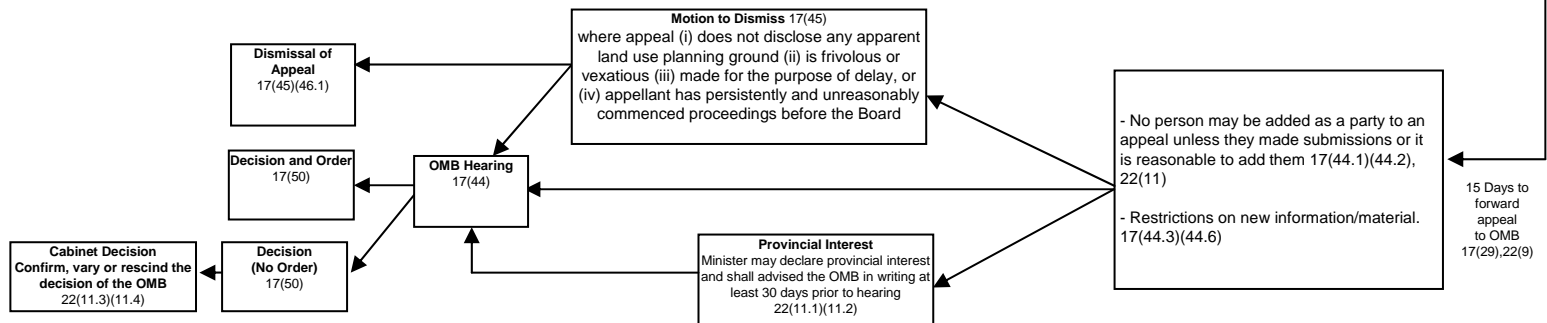


## OMB PROCESS

# OPA INITIATED BY APPLICANT AND NOT EXEMPT FROM APPROVAL

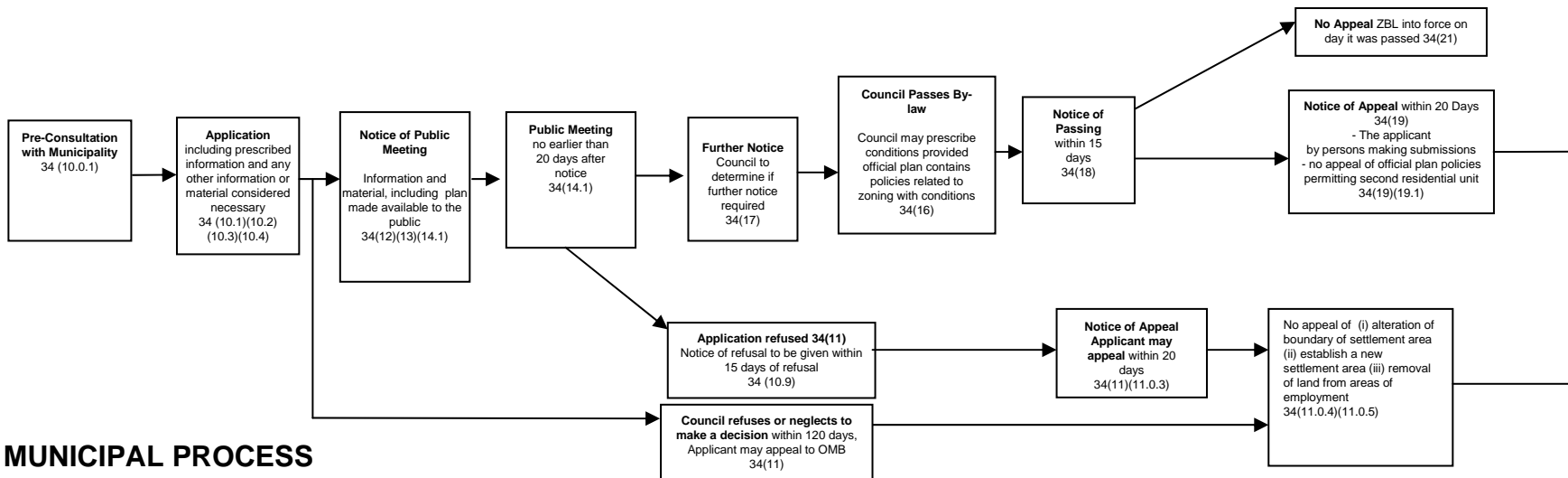


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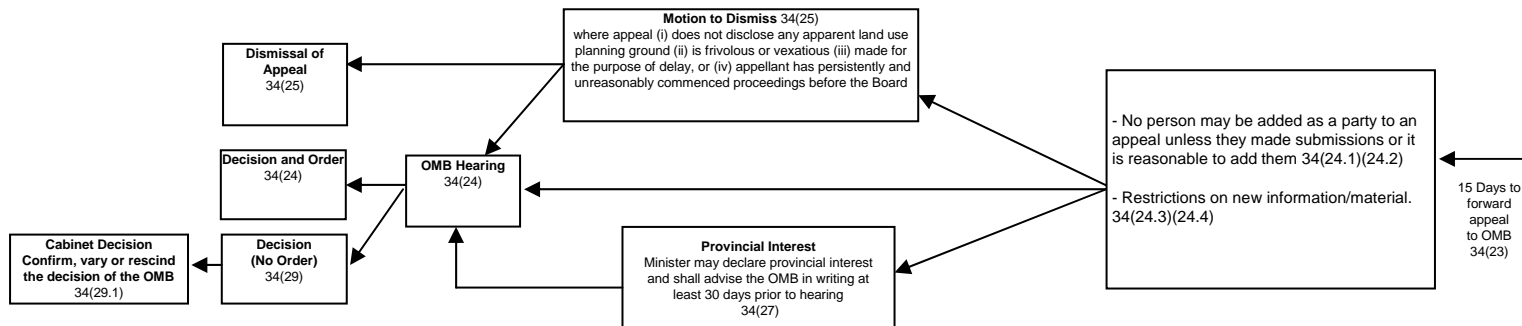


## OMB PROCESS

# ZONING BY-LAW AMENDMENT



## MUNICIPAL PROCESS



## OMB PROCESS



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