

The logo for Wood Bull LLP is centered on a red background. It consists of a light blue square with a thin black border. Inside the square, the word "Wood" is written in a large, black, serif font. Below it, the word "Bull" is written in the same font, followed by "LLP" in a smaller, black, sans-serif font. Below the square, the text "Barristers & Solicitors" is written in a black, serif font, enclosed in a thin black rectangular border.

Wood
Bull_{LLP}

Barristers & Solicitors

8th Annual Essentials of Real Estate Development

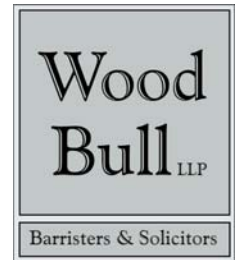
May 25th, 2010

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Barristers & Solicitors

**Development Approvals Process:
From Land Acquisition
to Building Permit**

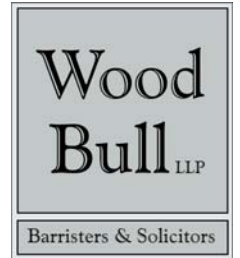


Attributes of Success

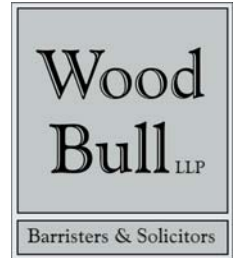
Be a good listener



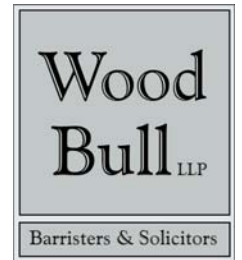
Carry out careful analysis



Exercise good judgment



Be persuasive, politely



Be persistent

Make careful notes from the beginning of a process

“Memory, it turns out, is often more a reconstruction than a reproduction.”

(Joseph T. Hallinan, *Why We Make Mistakes* (2009, Broadway Books, a division of Random House), page 9)

**Site
Selection**

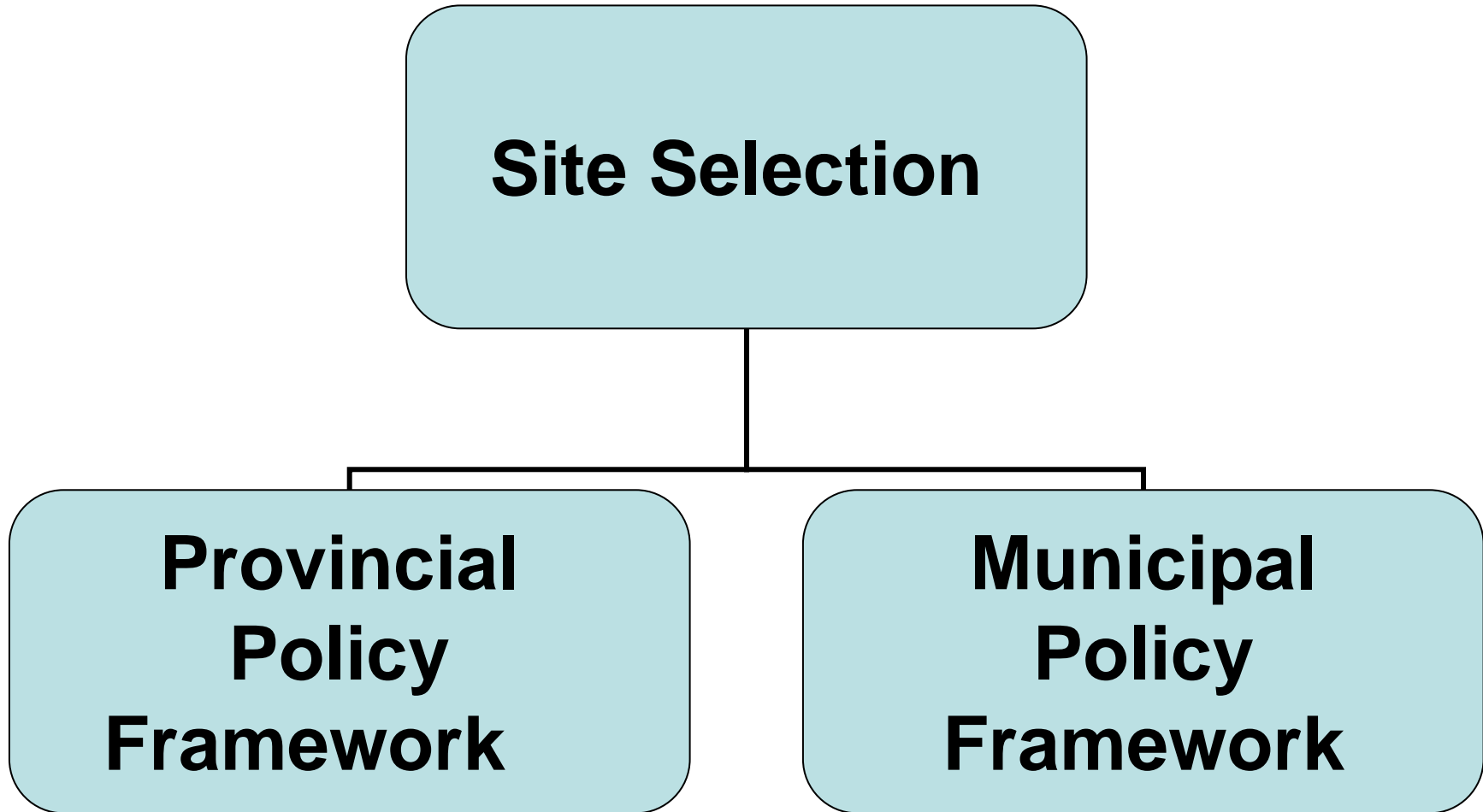
**Development
Feasibility
Analysis**

**Pre-Application
Consultation**

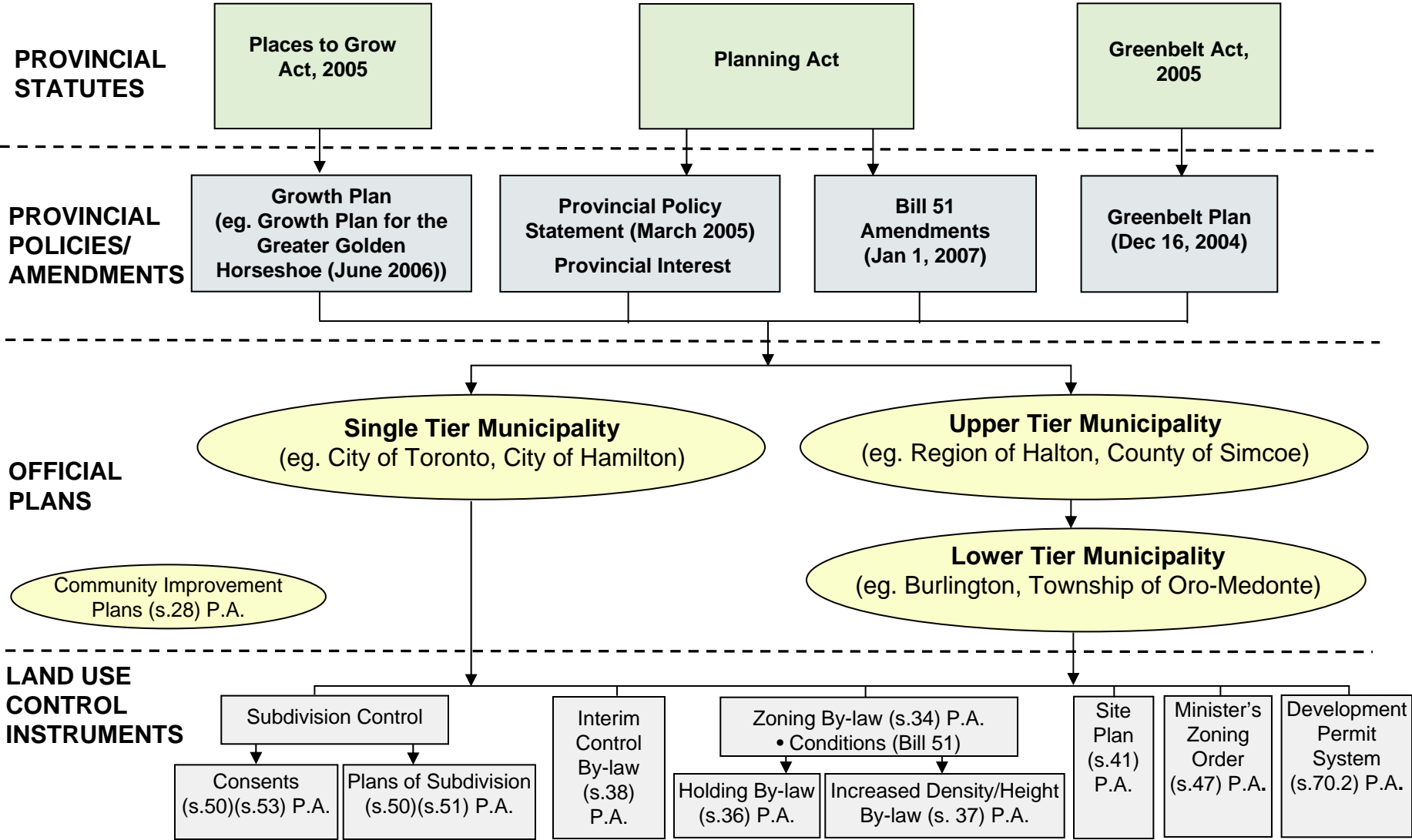
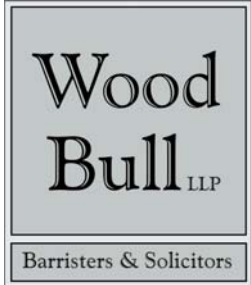
**Complete
Application
Submission**

**Application
Processing /
Decision**

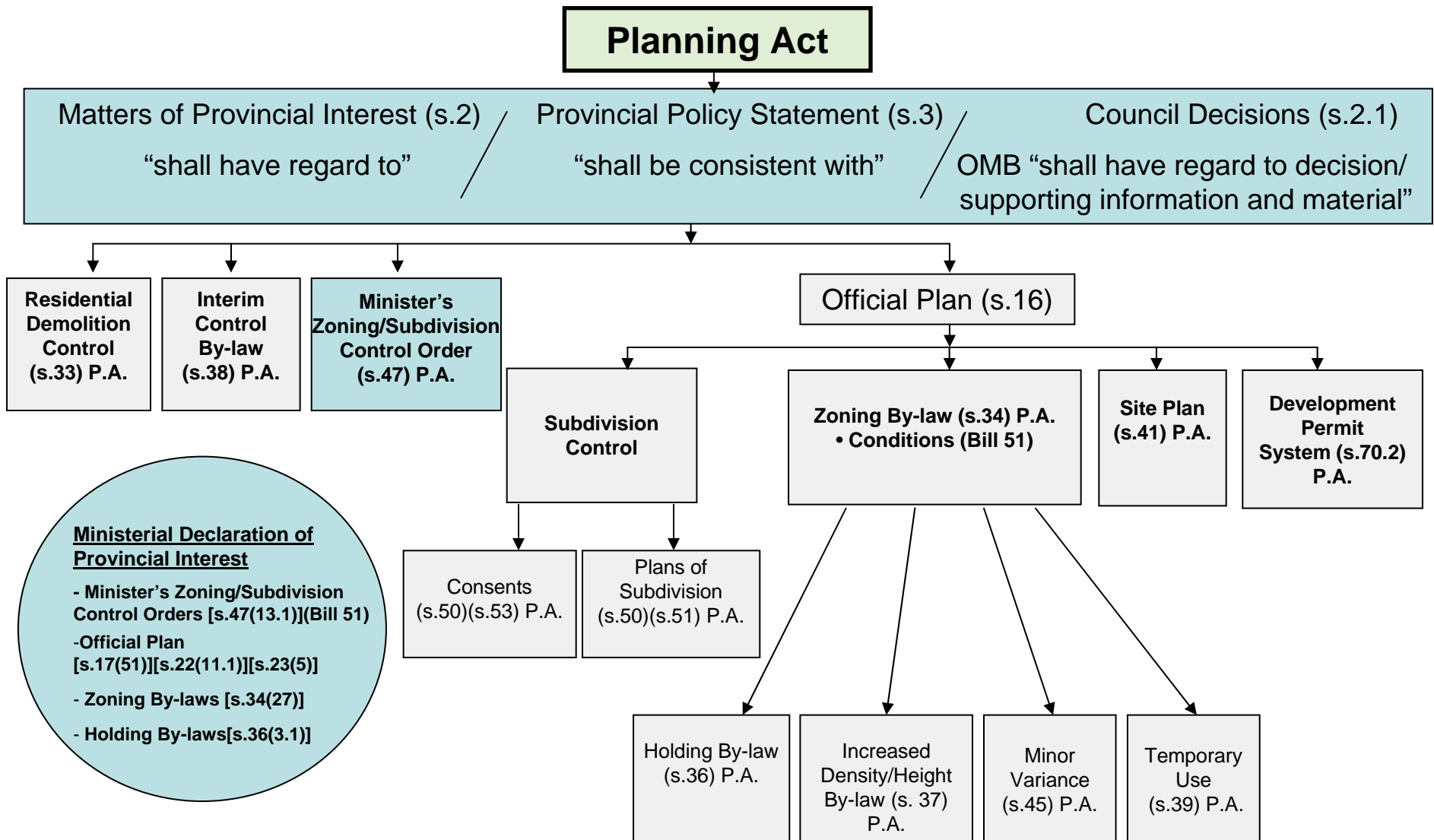
Appeal Process



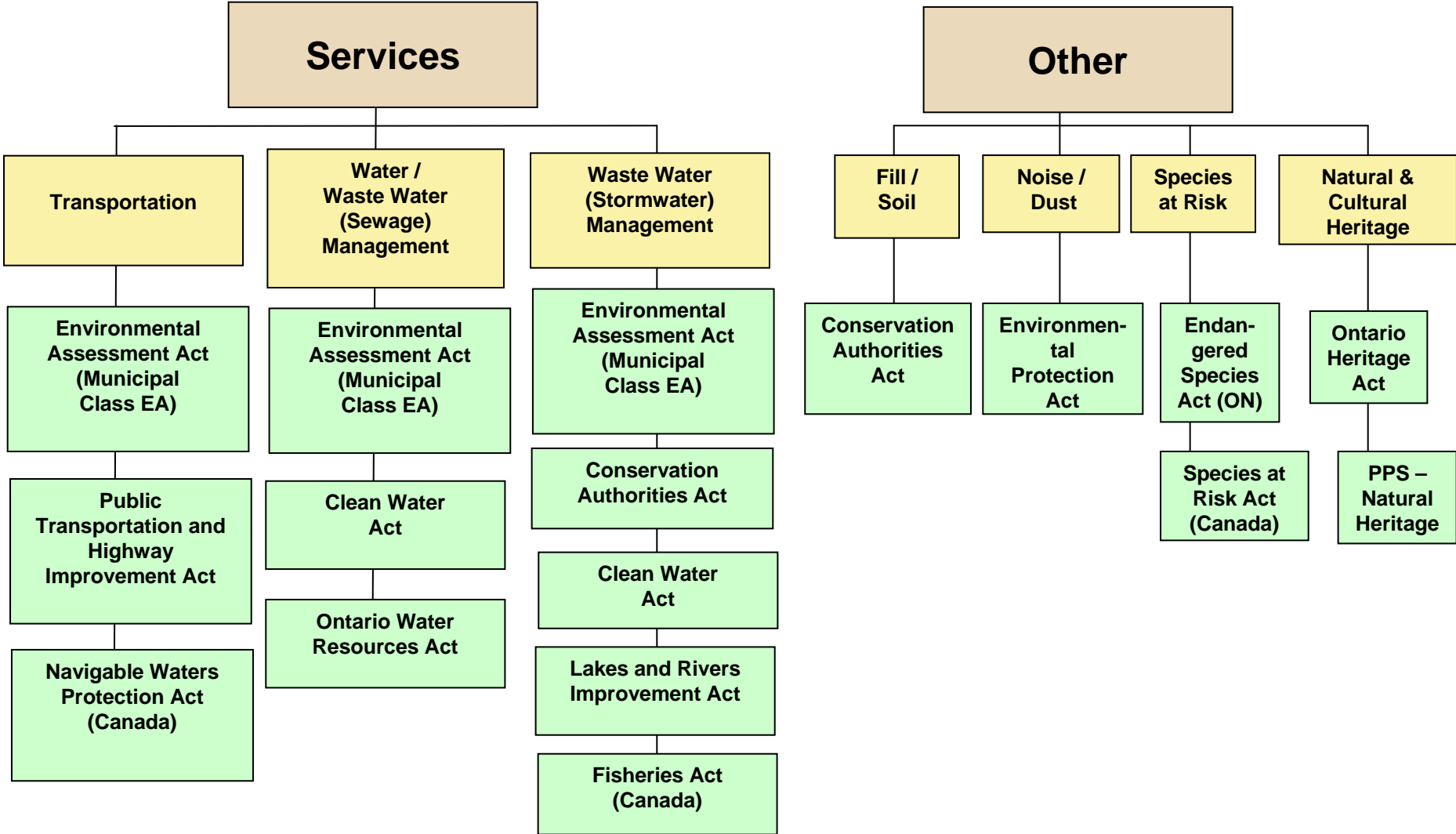
Provincial / Municipal Planning Structure (Post 2005)



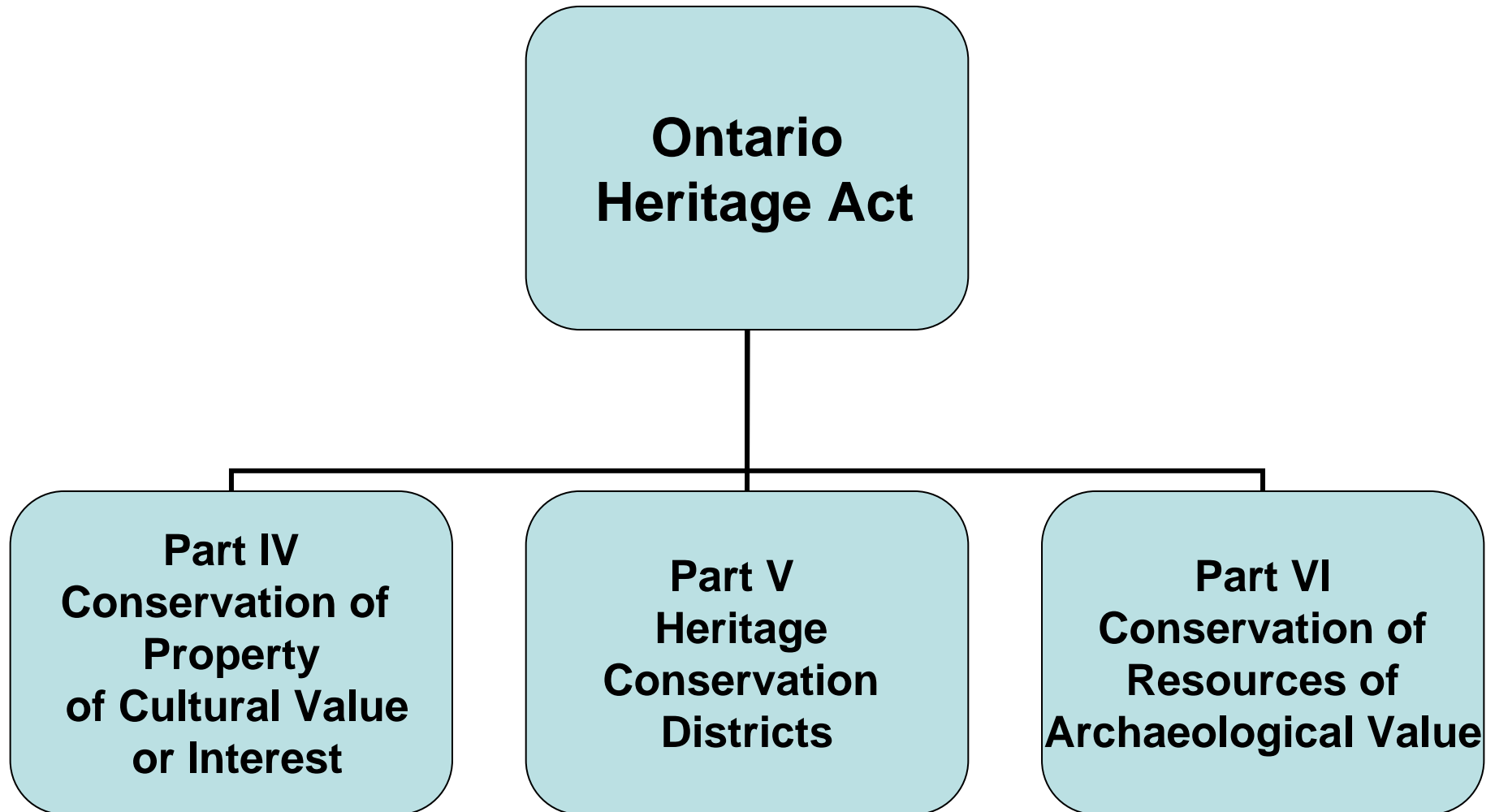
Planning Act: Legislative Framework (As of January 2007)

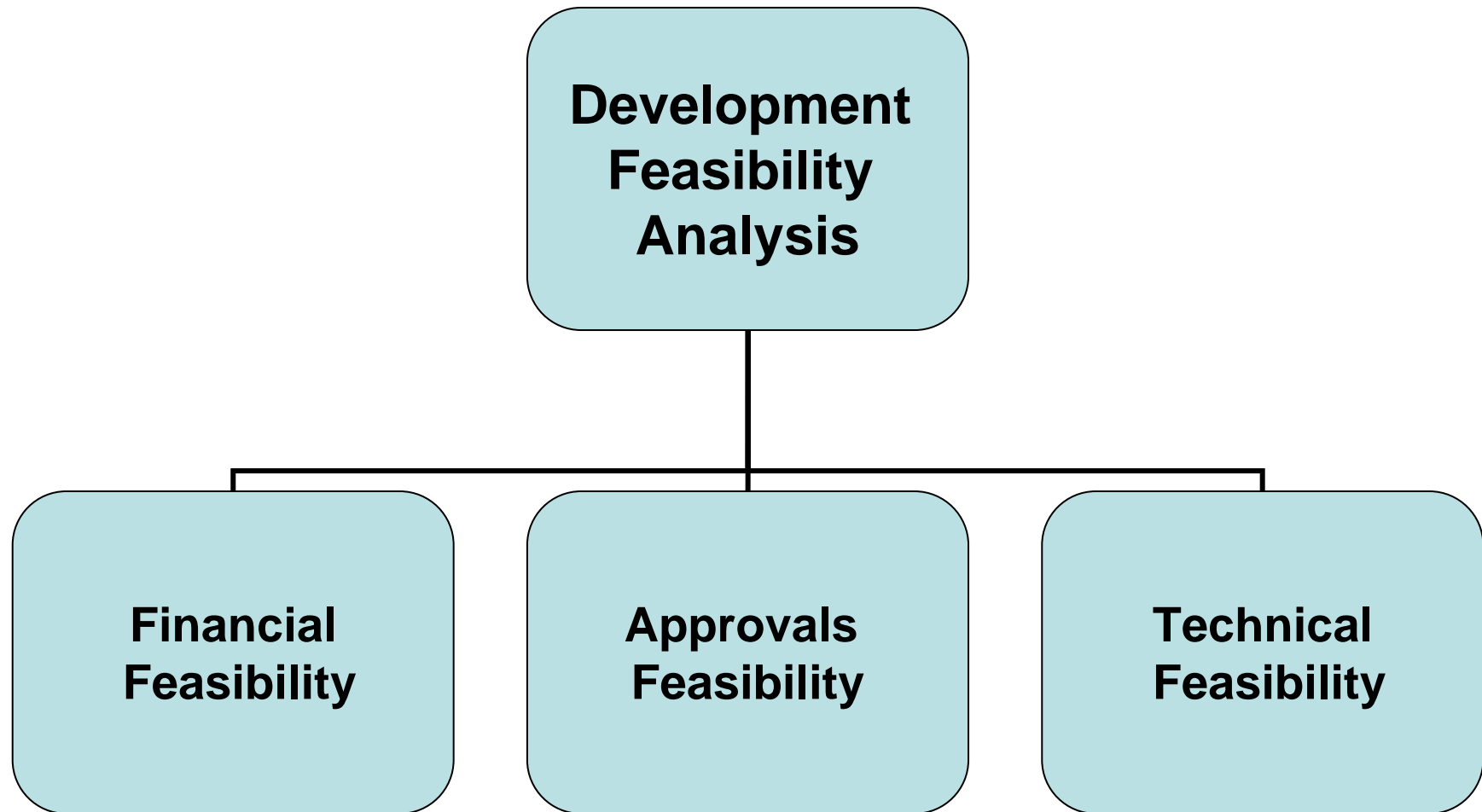


Permits, Licences and Other Approvals



Ontario Heritage Act



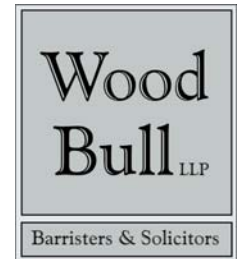


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Pre-Application Consultation

Planning Act – process changes after Bill 51 (January 1st 2007)



Bill 51 introduced a number of changes to the *Planning Act* regarding the preparation, submission, and processing of applications, including changes with respect to:

- pre-application consultation; and
- “complete” applications.

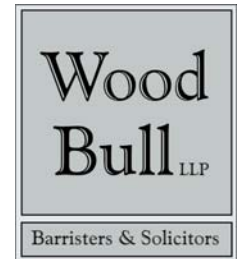
Pre-application consultation

With respect to applications (requests) to amend an official plan, Bill 51 introduced subsection 22(3.1) (Official Plan amendments) of the *Planning Act*.

22(3.1) The council or planning board,

- (a) shall permit applicants to consult with the municipality or planning board, as the case may be, before submitting requests under (1) or (2); and*
- (b) may, by by-law, require applicants to consult with the municipality or planning board as described in clause (a).*

[See also subsection 34(10.0.1) - zoning by-laws; subsection 41(3.1) - site plans; subsection 51(16.1) - plans of subdivision]



City of Burlington By-law 40-2007

City of Burlington By-law 40-2007 is an example of a by-law requiring pre-application consultation.

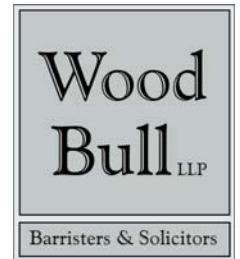
City of Burlington By-law 40-2007

A by-law to require that development applicants pre-consult with the City of Burlington.

WHEREAS Sections 22(3.1), 34(10.01), 41(3.1) and 51(16.1) of the Planning Act, R.S.O. 1990, Part 3, as amended, allow municipalities to pass by-laws to require applicants to consult with the municipality before submitting development applications; and

...

City of Burlington By-law 40-2007, cont'd



NOW THEREFORE, THE COUNCIL OF THE CORPORATION OF THE CITY OF BURLINGTON HEREBY ENACTS AS FOLLOWS:

1. That persons intending to make application to the City of Burlington for an Official Plan Amendment, Zoning By-law Amendment, draft Plan of Subdivision, consent, or site plan approval, be required to attend a formal pre-consultation meeting with City staff as well as staff from other affected agencies such as the Region of Halton.
2. That the purpose of such pre-consultation meetings will be to review a draft development proposal for the lands affected by the proposed applications and to identify the scope of additional supporting information or material required by the City of Burlington and other affected agencies to allow full consideration of the development application. A pre-consultation agreement will be completed and signed by all parties present at the meeting.

That in the absence of a preconsultation meeting and the submission of all required supporting information or material, the City of Burlington may deem an application incomplete and refuse to accept the application.

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Complete Application Submission

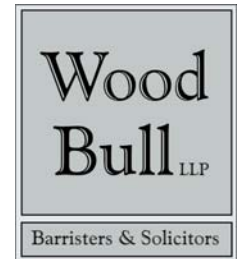
“Complete” Applications

A “complete” application under the *Planning Act* includes:

- (a) the prescribed information (O. Reg 543/06) and
- (b) The additional information required by the municipality, as identified in its official plan (Subsection 22(5)).

[See also subsection 34(10.2) - zoning by-laws;
subsection 51(18) - plans of subdivision; subsection
53(3) – consents]

Complete Application Requirements: City of Burlington



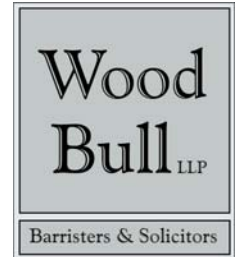
The amendments introduced through City of Burlington Official Plan Amendment 55 provide an example of official plan provisions relating to the provision of additional information and material.

Part VI, Implementation, Section 1.3, General Policies:

e) City Council shall require that adequate pre-consultation with the City occurs prior to the submission of an application for development, and shall encourage pre-consultation with other affected agencies such as the Region of Halton and Conservation Halton, where appropriate. Within areas subject to the Niagara Escarpment Plan and within areas of Development Control, proponents shall be encouraged to contact the Niagara Escarpment Commission to discuss permitted uses and development criteria.

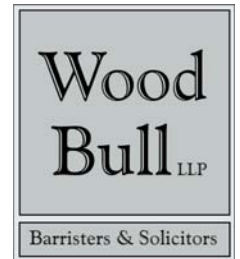
f) For an application for Official Plan Amendment, Zoning By-law Amendment, plan of subdivision, or consent, City Council may require the provision of additional supporting information or material required to allow full consideration of the application. The scope of the information or material required for each application shall be determined by the City as part of the pre-consultation process. This information may include, but shall not be limited to, the following:

Complete Application Requirements: City of Burlington, cont'd



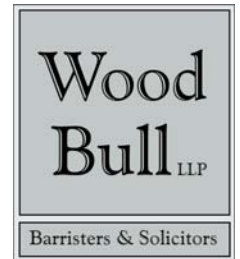
- (i) Planning justification report (for Official Plan Amendment applications only);*
- (ii) conceptual site plan layout;*
- (iii) storm water/Functional Drainage Report or storm services plan and flood plain delineation;*
- (iv) water & waste water service report;*
- (v) tree inventory and preservation study;*
- (vi) traffic/transportation impact and/or parking study;*
- (vii) hydrogeology study/ water budget & hydrology study;*
- (viii) agricultural impact assessment report;*
- (ix) market impact study;*
- (x) financial impact study;*
- (xi) top-of-bank demarcation/geotechnical report to identify the stable top of bank;*
- (xii) environmental evaluation report;*
- (xiii) noise and vibration study;*

Complete Application Requirements: City of Burlington, cont'd



- (xiv) shadow analysis plan;*
- (xv) park concept plan;*
- (xvi) Phase I Environmental Assessment;*
- (xvii) Phase II Environmental Assessment/Record of Site Condition;*
- (xviii) land assembly documents;*
- (xix) height survey of adjacent buildings;*
- (xx) hydro corridor land use application;*
- (xxi) sensitive land use report;*
- (xxii) landfill impact study;*
- (xxiii) employment/residential needs analysis;*
- (xxiv) archaeological report;*
- (xxv) risk study;*
- (xxvi) utility and telecommunications service report;*
- (xxvii) heritage impact study.*

City of Burlington Official Plan Amendment 55, cont'd

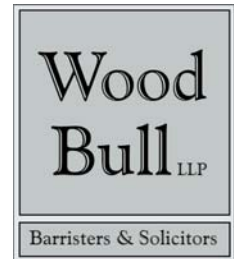


g) All required reports and technical studies shall be carried out by qualified persons retained by and at the expense of the applicant. The City may require a peer review of any report or study by an appropriate public agency or a professional consultant retained by the City at the applicant's expense. In addition to City requirements, the applicant shall ensure that all additional requirements as set out in the Region of Halton Official Plan are addressed.

h) An application for an Official Plan Amendment, Zoning By-law amendment, plan of subdivision or consent will be considered complete under the Planning Act only when all of the items listed in clause f) have been provided, and when the required notice sign referenced in Part VI, Section 7.2 of this Plan has been erected on the property.

i) In the absence of pre-submission consultation between an applicant and the City, and the submission of adequate supporting information or material with an application, City Council may deem an application incomplete and may refuse the application.

Complete Application Requirements: City of Toronto



New Complete Application provisions in Official Plan:

“Schedule 3 outlines the City requirements for complete applications...” (Ch.5, s.5.5 (sidebar))

APPLICATION REQUIREMENTS

	Official Plan	Zoning By-law	Plan of Subdivision	Plan of Condominium	Consent to Sever	Site Plan Control Approval
REQUIREMENTS of the CITY OF TORONTO ACT, PLANNING ACT and/or Regulations	•	•	•	•	•	
ADDITIONAL REQUIREMENTS of the OFFICIAL PLAN	<p><i>In addition to the prescribed requirements of the Planning Act, the following non-prescribed information will also be required to evaluate a planning application, unless it is determined that certain studies, plans, drawings and reports are not applicable.</i></p> <p><i>Provision of the additional information indicated under the Official Plan, Zoning By-law, Plan of Subdivision, Plan of Condominium and Consent to Sever headings is mandatory under the Planning Act and this Official Plan.</i></p> <p><i>Provision of the additional information indicated under the Site Plan Control Approval heading is not mandatory but may be requested by the City in order to enable a site plan control application to be evaluated.</i></p>					

Complete Application Requirements: City of Toronto



APPLICATION REQUIREMENTS

	Official Plan	Zoning By-law	Plan of Subdivision	Plan of Condominium	Consent to Sever	Site Plan Control Approval
REQUIREMENTS of the CITY OF TORONTO ACT, PLANNING ACT and/or Regulations	*	*	*	*	*	
Completed Application Form <i>– including Permission to Reproduce and Provision of Requisite Copies. Applicants are required to (a) grant the City permission to reproduce, in whole or in part, any document submitted as part of a complete application for internal use, inclusion in staff reports or distribution to the public for the purpose of application review, and (b) provide a reasonable number of copies of any such document, or parts thereof, in paper and/or electronic form, to the City for internal use and distribution to the public for the purpose of application review.</i>	*	*	*	*	*	*
Boundary Survey – showing and quantifying the area(s) of all land parcel(s) relevant to the development proposal.	*	*	*	*	*	*
Appropriate Plans and Drawings	*	*	*	*	*	*

Complete Application Requirements: City of Toronto



APPLICATION REQUIREMENTS

	Official Plan	Zoning By-law	Plan of Subdivision	Plan of Condominium	Consent to Sever	Site Plan Control Approval
REQUIREMENTS of the CITY OF TORONTO ACT, PLANNING ACT and/or Regulations	*	*	*	*	*	
Planning Rationale – containing a description of pre-application consultation, including any community outreach, public meeting(s) and interested persons contact list created by the applicant in accordance with City standards.	*	*	*	*	*	
Avenue Segment Review – when required by the provisions of Section 2.2.3.	*	*				
Topographical Survey – showing the area(s) of all land parcel(s) relevant to the development proposal.	*	*	*	*	*	*
Building Mass Model – physical or computer generated.	*	*				*
Pedestrian Level Wind Study – for buildings over six storeys/20 metres in height.		*				*
Sun/Shadow Study – for buildings over six storeys/20 metres in height.		*				*

Complete Application Requirements: City of Toronto



	Official Plan	Zoning By-law	Plan of Subdivision	Plan of Condominium	Consent to Sever	Site Plan Control Approval
Architectural Control Guidelines – <i>when warranted by the scale or nature of the proposed development.</i>		•	•			•
Urban Design Guidelines – <i>when warranted by the scale or nature of the proposed development.</i>		•	•			•
Community Services/Facilities Study – <i>for large development proposals.</i>	•	•	•			
Housing Issues Report – <i>for applications that seek to demolish existing rental properties, intensify existing rental sites, convert existing rental housing to condominiums or that propose residential development in excess of five hectares.</i>	•	•		•		
Contaminated Site Assessment – <i>if any portion of a property is to be conveyed to the City (eg, parks, roads or lanes).</i>	•	•	•		•	•

Complete Application Requirements: City of Toronto



APPLICATION REQUIREMENTS

	Official Plan	Zoning By-law	Plan of Subdivision	Plan of Condominium	Consent to Sever	Site Plan Control Approval
REQUIREMENTS of the CITY OF TORONTO ACT, PLANNING ACT and/or Regulations	•	•	•	•	•	
Environmental Impact Study – <i>if the proposed development is likely to have impacts on aspects of the environment not adequately assessed in the Natural Heritage Impact Study.</i>	•	•	•			•
Archaeological Assessment – <i>for properties in the City's database of lands containing archaeological potential.</i>	•	•	•		•	•
Heritage Impact Statement/Conservation Strategy – <i>for properties in the City's Inventory of Heritage Properties, whether listed or designated, or adjacent properties where new development could have an impact on a heritage property.</i>		•	•		•	•
Arborist Tree Preservation Report		•	•	•	•	•
Green Development Standards Checklist		•	•	•		•
Accessibility Design Standards Checklist			•	•		•

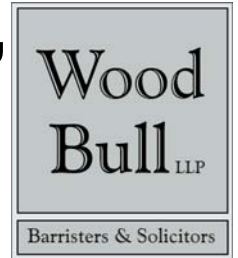
Complete Application Requirements: City of Toronto



APPLICATION REQUIREMENTS

	Official Plan	Zoning By-law	Plan of Subdivision	Plan of Condominium	Consent to Sever	Site Plan Control Approval
REQUIREMENTS of the CITY OF TORONTO ACT, PLANNING ACT and/or Regulations	•	•	•	•	•	
Noise Impact Study		•	•		•	•
Vibration Study		•	•		•	•
Geotechnical Study – <i>hydrological review to be included where warranted.</i>		•	•		•	•
Servicing and Stormwater Management Report(s)		•	•	•	•	•
Transportation Impact Study	•	•	•			•
Parking Study – <i>when proposal does not comply with City by-law standards.</i>		•		•	•	•
Loading Study – <i>when proposal does not comply with City by-law standards.</i>		•			•	•
Traffic Operations Assessment – <i>when warranted by the scale or nature of the proposed development.</i>		•	•			•
Draft Amendments	•	•				

Implications of failure to meet “complete” application requirements



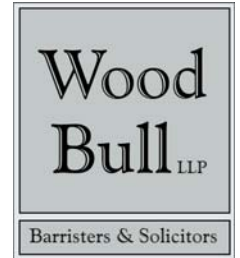
Section 22(6) of the *Planning Act* now provides that:

22(6) Until the council or planning board has received the information and material required under subsections (4) and (5), if any, and any fee under section 69,

- (a) the council or planning board may refuse to accept or further consider the request for an amendment to its official plan; and*
- (b) the time periods referred to in paragraphs 1 and 2 of subsection (7.0.2) do not begin.*

[See also subsection 34(10.3) - zoning by-laws; subsection 51(19) - plans of subdivision; subsection 53(4) – consents]

Motion for directions re “complete” application requirements



Where there is disagreement on whether an application is “complete”, the Planning Act provides for a process whereby a Board challenge can be commenced.

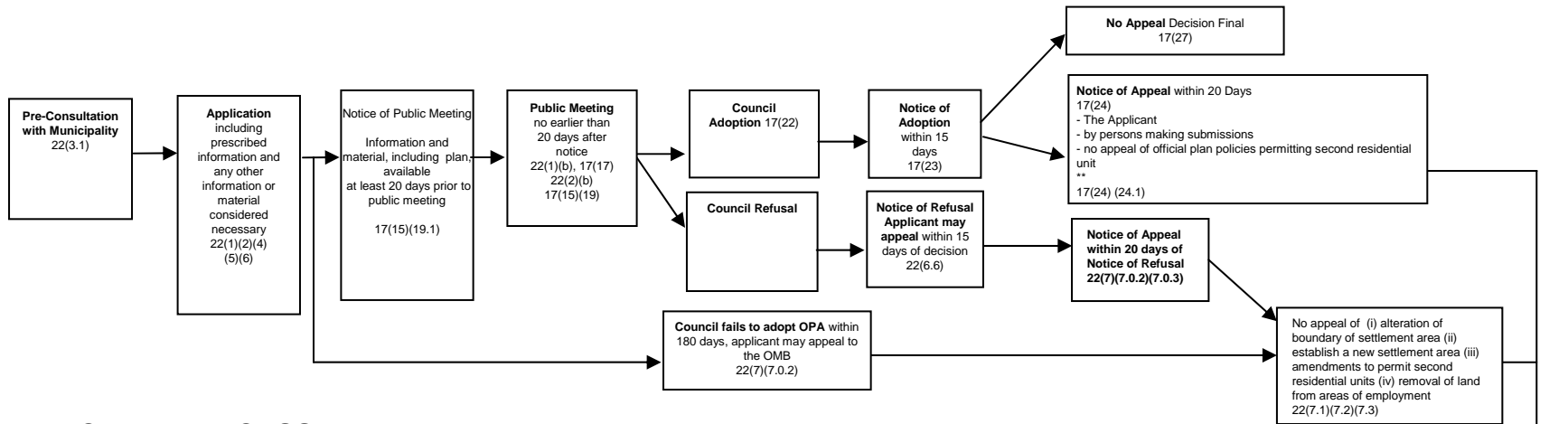
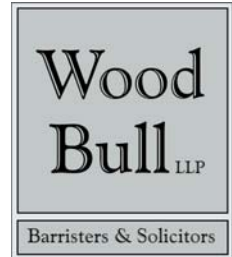
The Board’s decision is not subject to appeal or review.

**Application
Processing /
Decision**

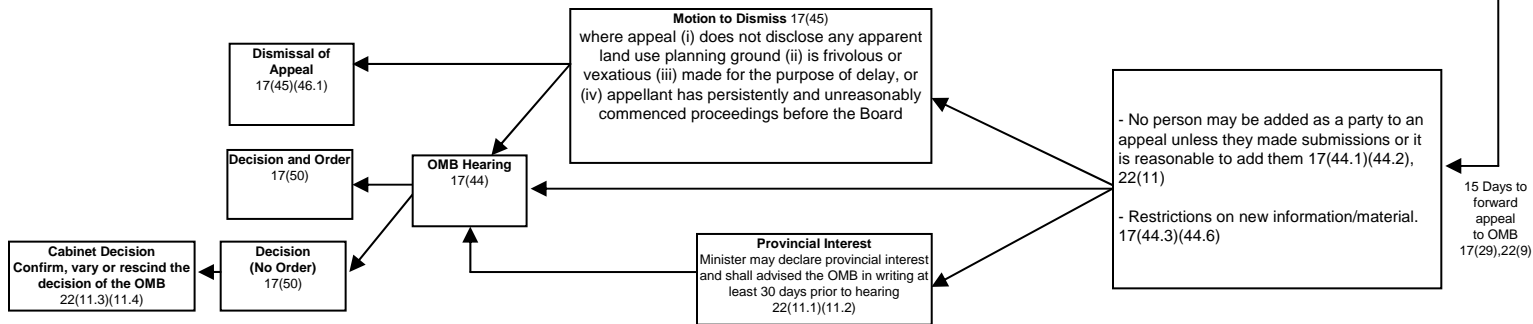
The Clergy Principle

“The Board, in determining the policy framework under which an application should be examined, has consistently stated that **an application must be tested against the policy documents in place at the date of the application.** It has done so in order to lend some certainty to the land use planning process, and to ensure that fairness to all parties prevail.” (*Clergy Properties Ltd. v. Mississauga (City)*, (1996) 34 O.M.B.R. 277)

Official Plan Amendment Process: Planning Act

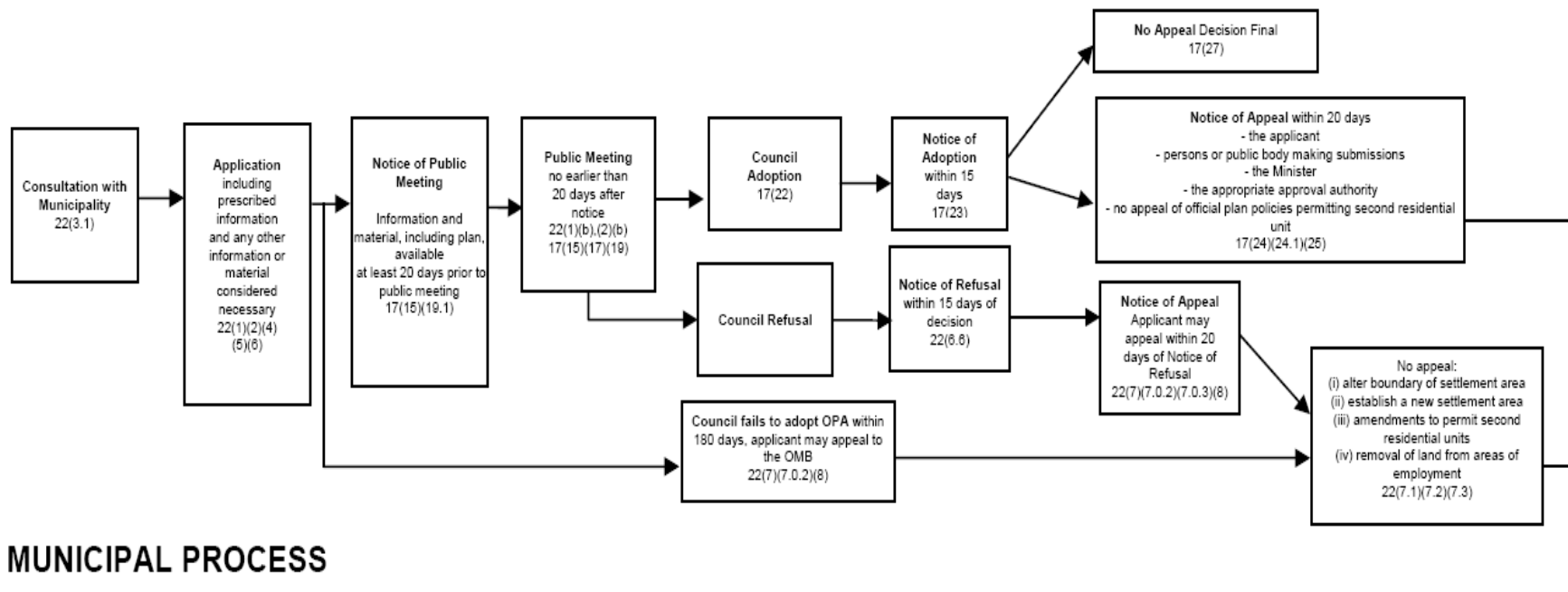


MUNICIPAL PROCESS

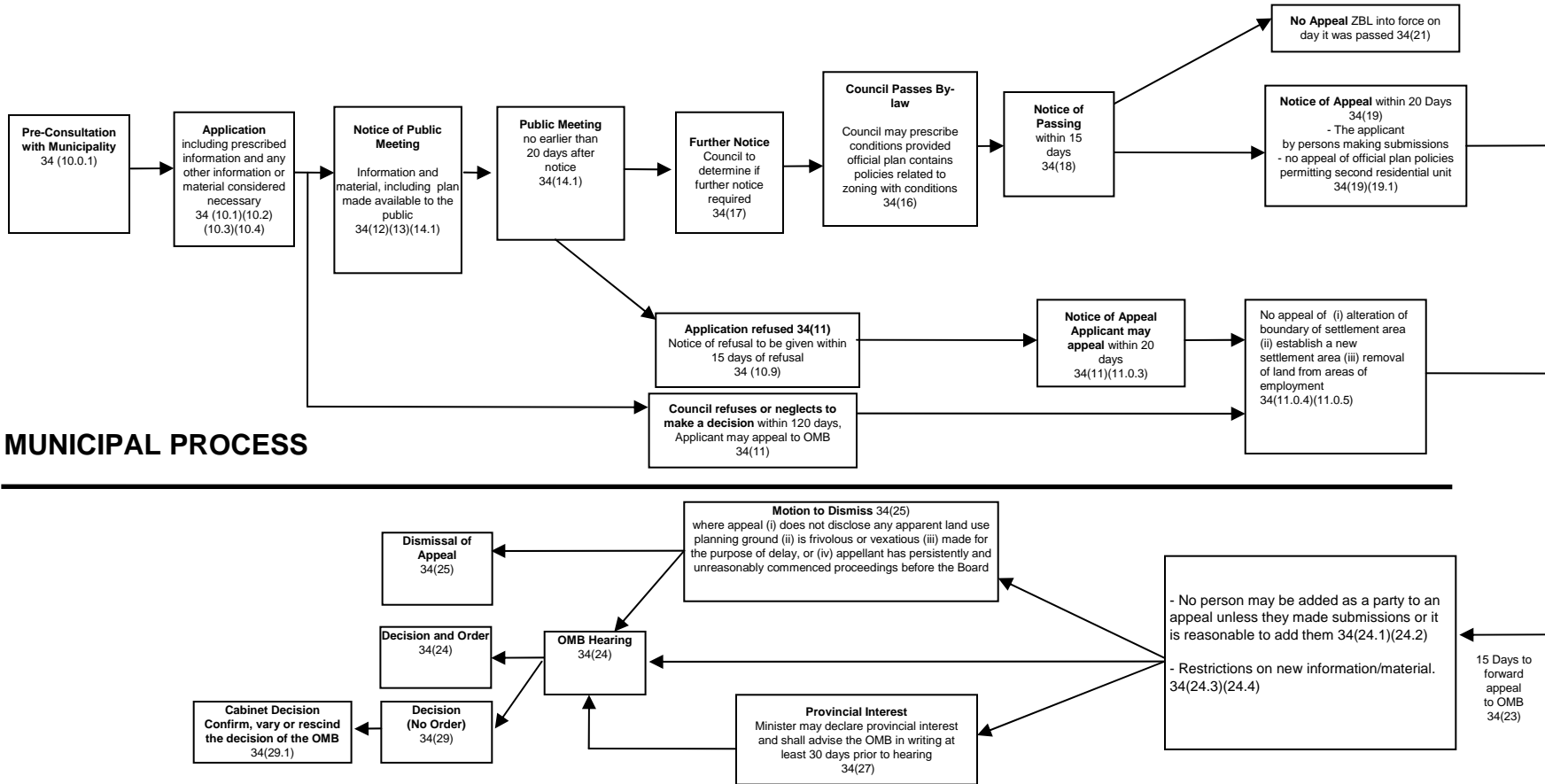
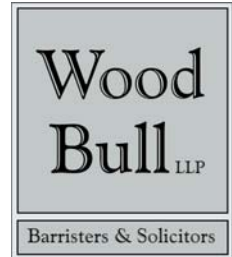


OMB PROCESS

Official Plan Amendment Process: Planning Act



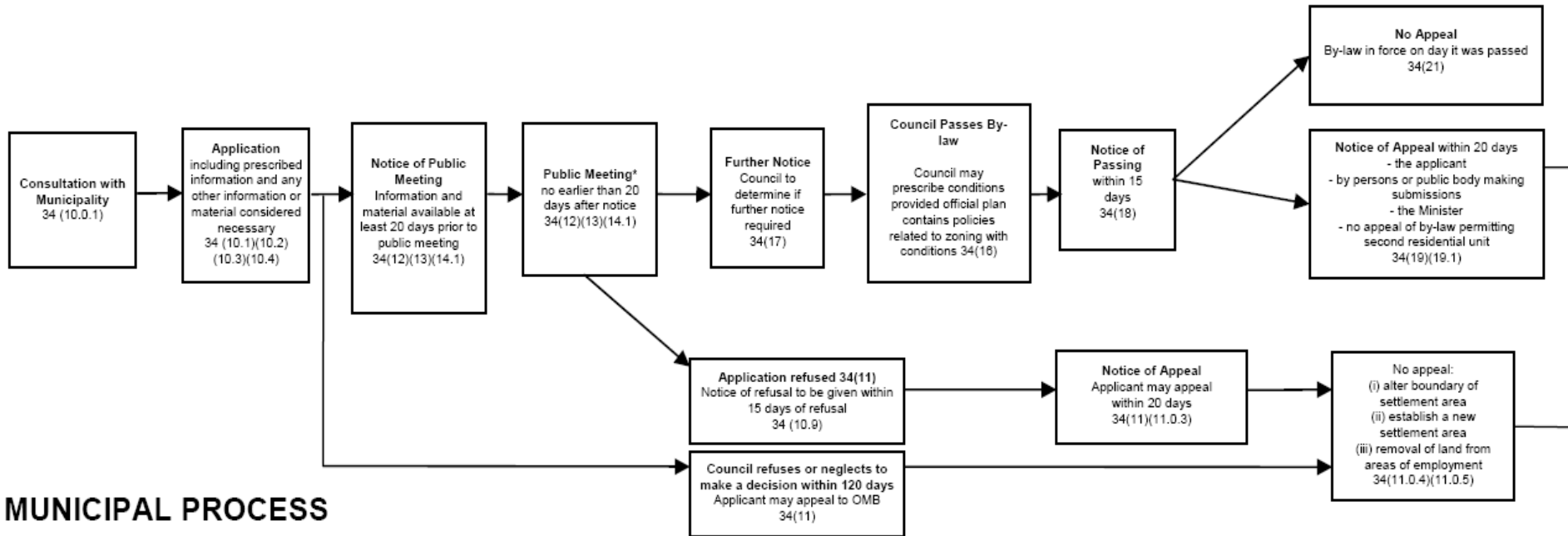
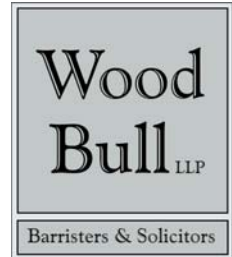
Zoning By-law Amendment Process: Planning Act



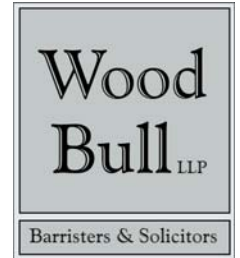
MUNICIPAL PROCESS

OMB PROCESS

Zoning By-law Amendment Process: Planning Act



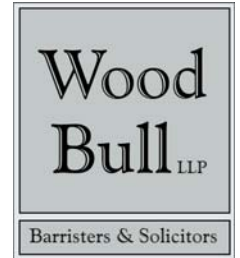
Who is “the Public” in an Approvals Process?



Includes:

- **Neighbouring landowners
(industrial/residential/commercial)**
- **Competitors (retailers/developers)**
- **Special interest groups (BIAs, Chamber of Commerce, etc.)**
- **Ratepayers (individuals or groups)**
- **Environmental organizations**

Who is a “Public Body” in an Approvals Process?

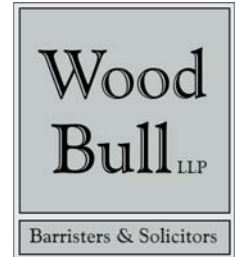


“public body” means:

- a municipality (i.e. Cities, Towns, Regions and Counties)
- a *local board*;
- a ministry, department, board, commission, agency or official of a provincial or federal government; or
- a First Nation; (*Planning Act, s.1*)

all ministries except MMAH are precluded from exercising most appeal rights under the *Planning Act* (*Planning Act, s.1(2)*)

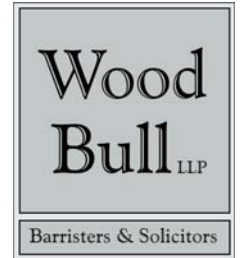
Who is a “Public Body” in an Approvals Process?



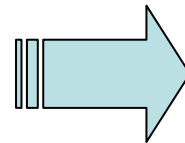
“local board” means:

- any school board;
- public utility commission;
- transportation commission;
- public library board;
- board of park management;
- board of health;
- police services board;
- planning board; or
- any other board, commission, committee, body or local authority established or exercising any power or authority under any general or special Act with respect to any of the affairs or purposes of a municipality or of two or more municipalities or portions thereof; (*Planning Act, s. 1*)

Co-ordination of Governmental Approvals

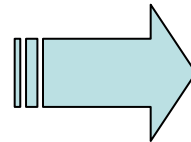


Where a municipality or planning board is the approval authority



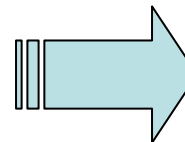
MUNICIPAL PLAN REVIEW

Where Ministry of Municipal Affairs & Housing (MMAH) is the approval authority



ONE WINDOW PROVINCIAL PLANNING SERVICE

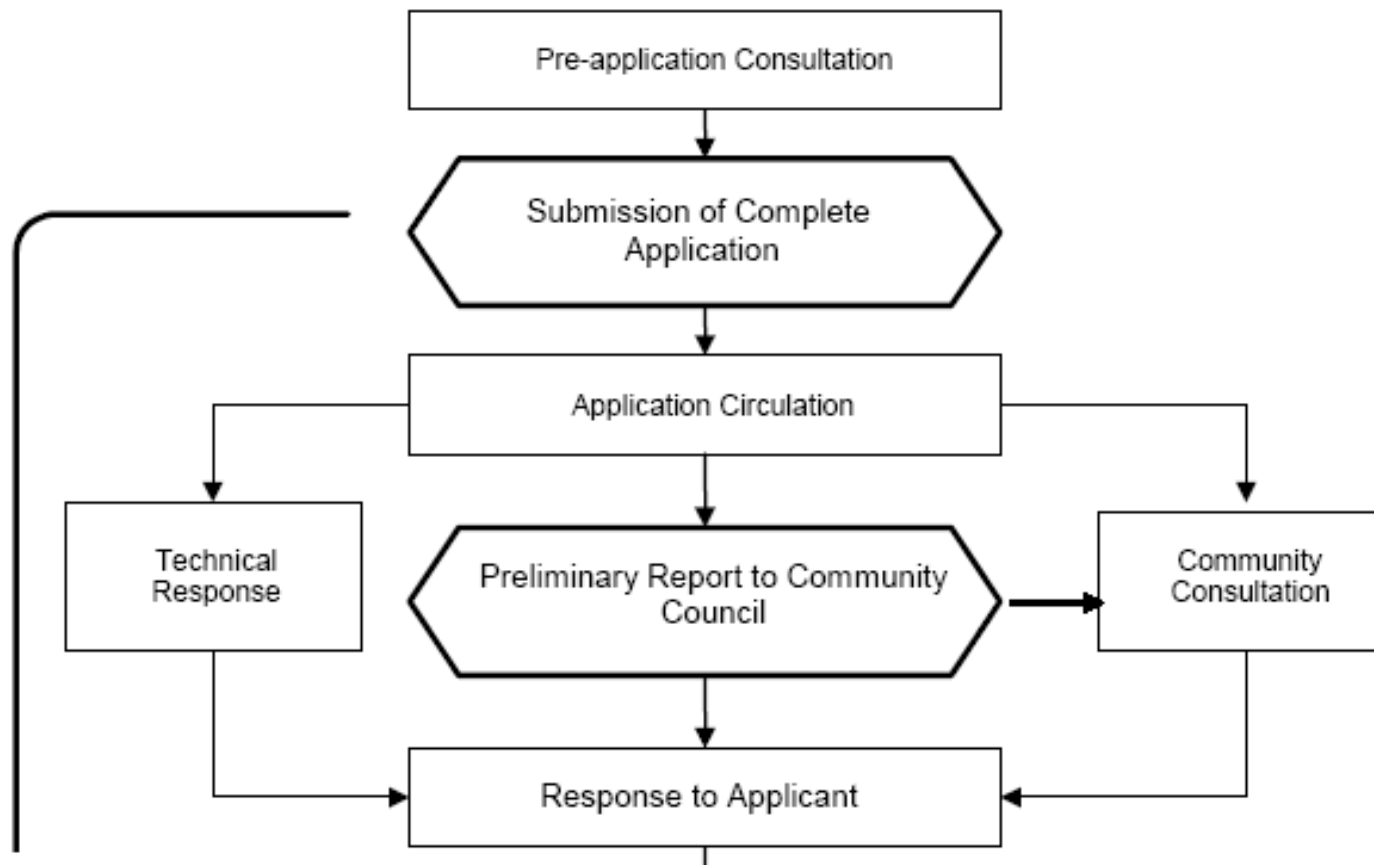
Memorandum of Understanding (MOU) (Ministry / Municipality)



ESTABLISHES RESPONSIBILITIES

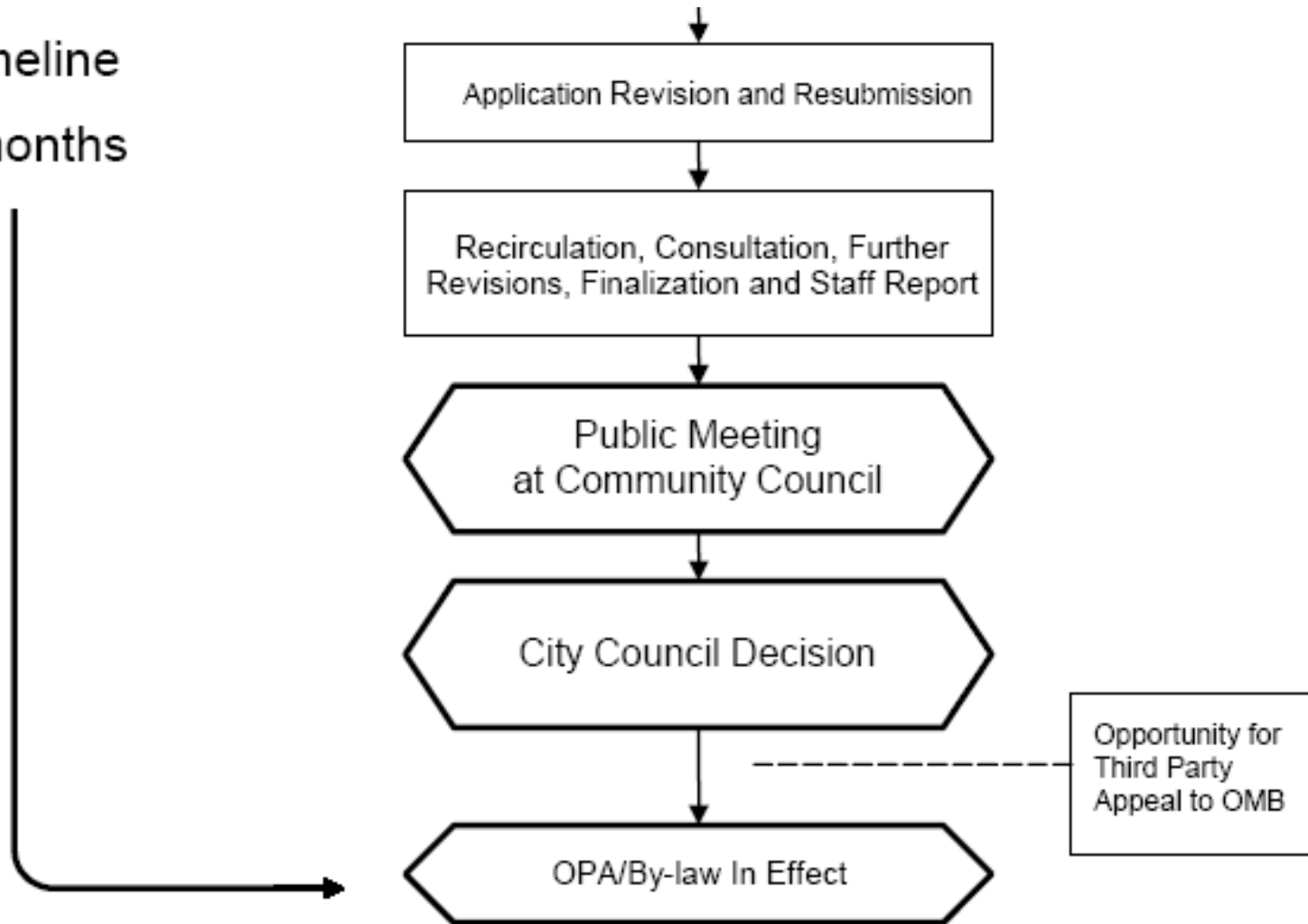
Approvals Process Flowchart: City of Toronto

Official Plan Amendments, Zoning By-law Amendments and Combined Applications



Approvals Process Flowchart: City of Toronto, cont'd

Timeline
9 months



Application Circulation

Community Consultation

Technical Response to Applicant

Application Revision

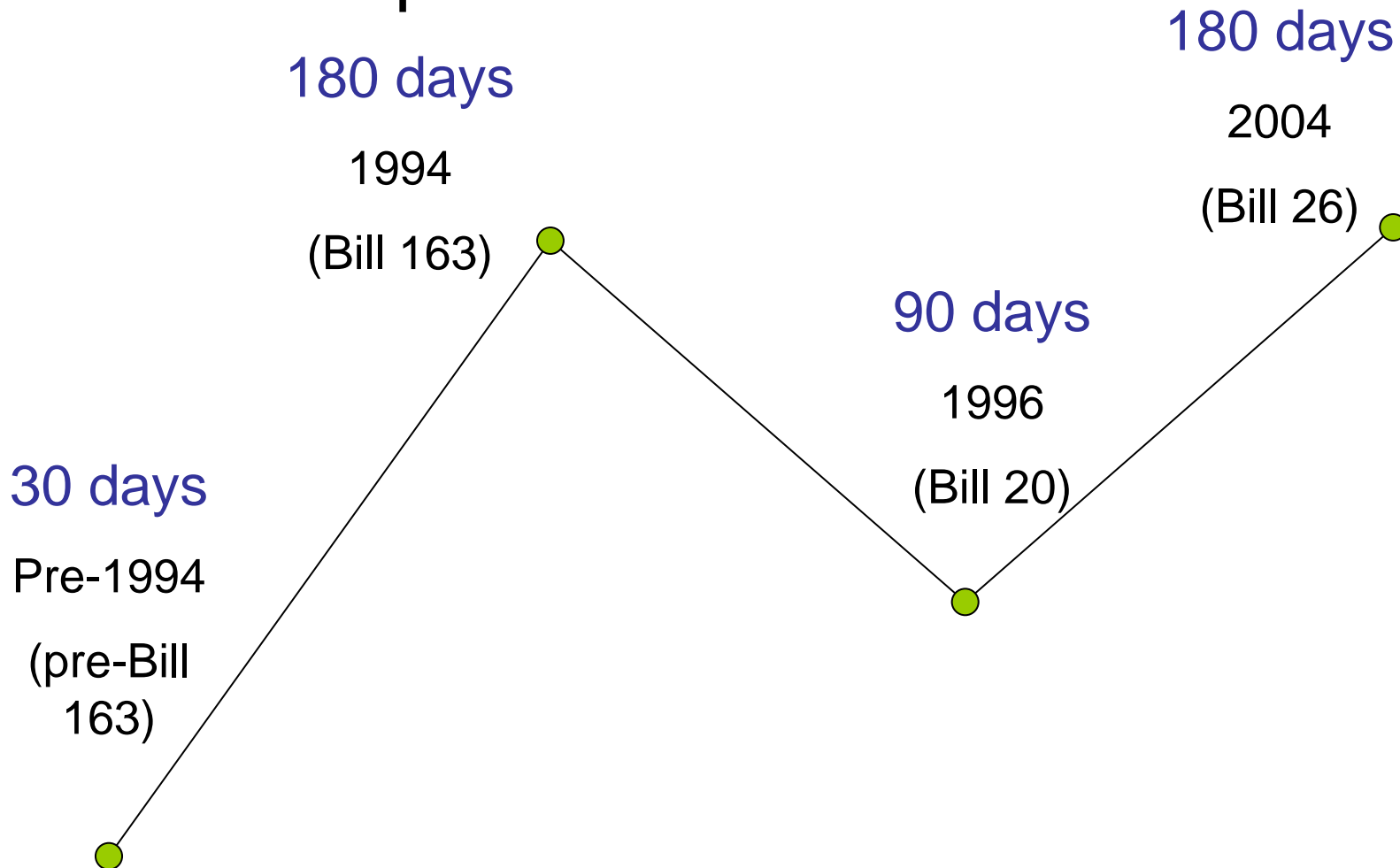
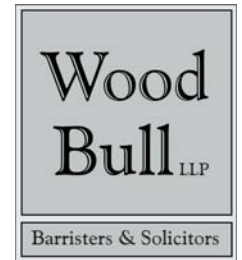
Recirculation, Consultation,
Further Revisions,
Finalization and Staff Report

Public Meeting

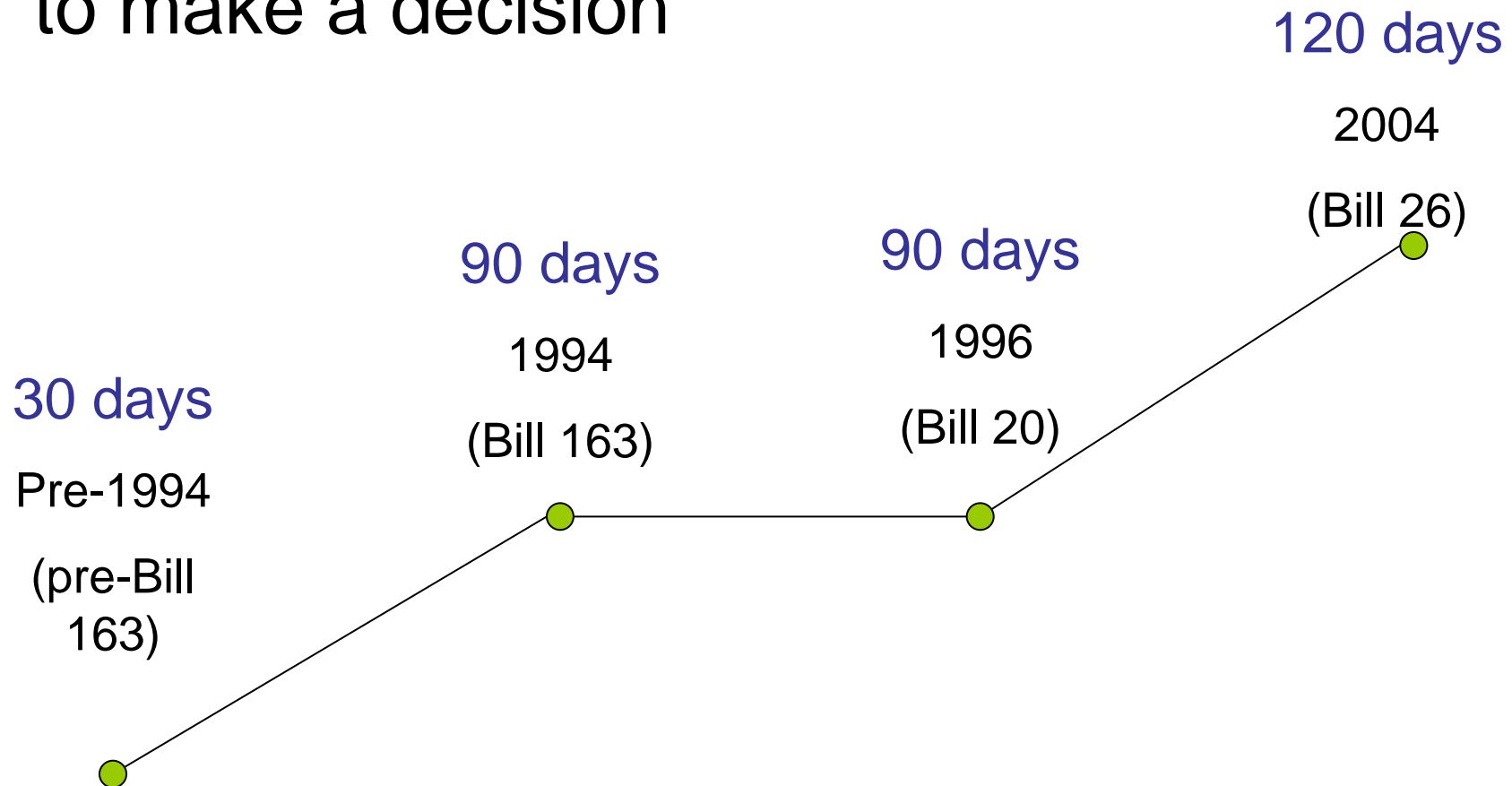
Council Decision

Appeal Process

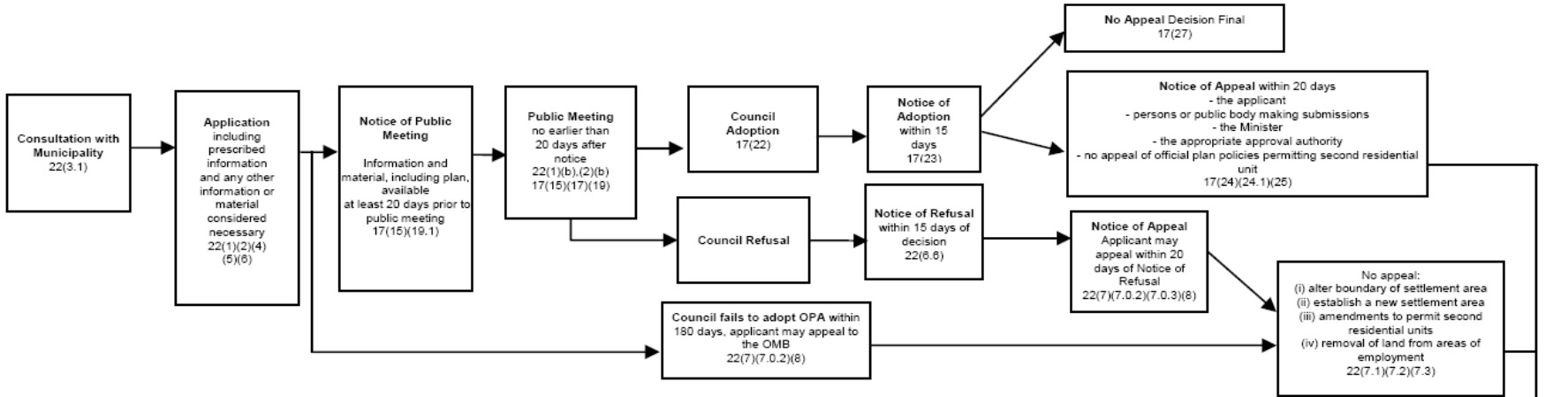
Official Plan Amendments - “Private” Appeal Time Frames where Council fails to adopt



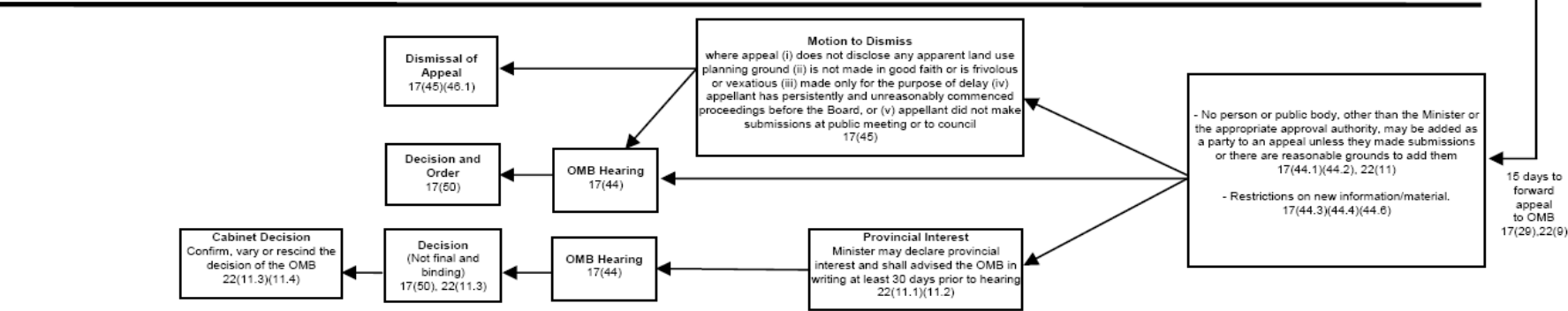
Zoning By-law Amendments - “Private” Appeal Time Frames where Council refuses or neglects to make a decision



Official Plan Amendment Process: Planning Act

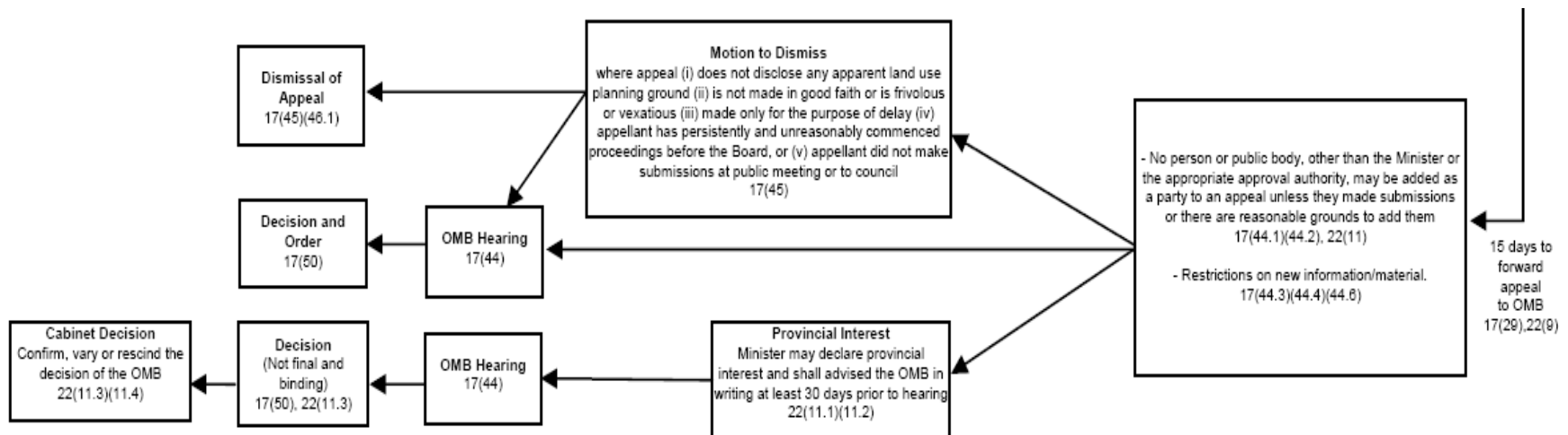


MUNICIPAL PROCESS



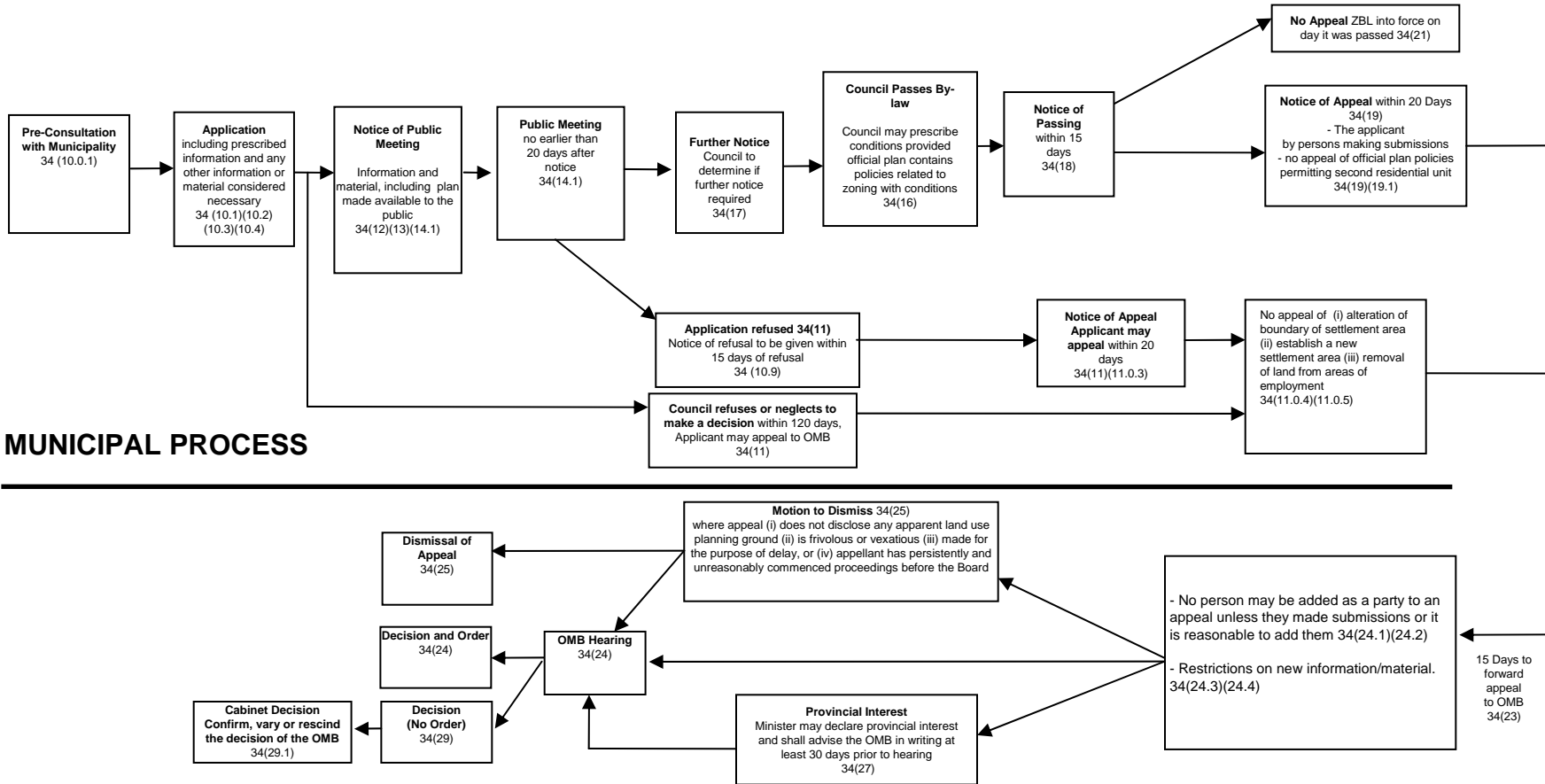
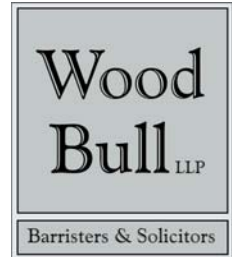
OMB PROCESS

Official Plan Amendment Process: Planning Act



OMB PROCESS

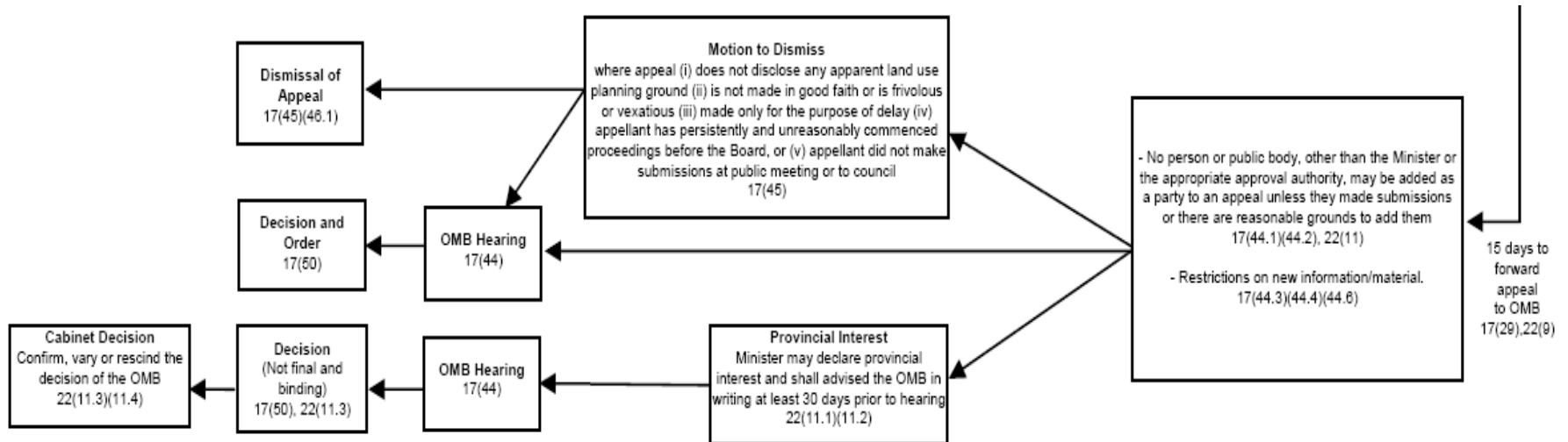
Zoning By-law Amendment Process: Planning Act



MUNICIPAL PROCESS

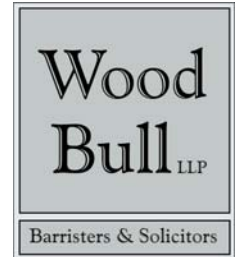
OMB PROCESS

Zoning By-law Amendment Process: Planning Act



OMB PROCESS

OMB Consideration of Municipal Decisions



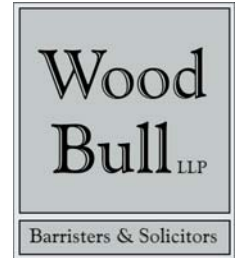
Section 2.1 of the *Planning Act* provides:

2.1 *When an approval authority or the Municipal Board makes a decision under this Act that relates to a planning matter, it shall have regard to,*

(a) *any decision that is made under this Act by a municipal council or by an approval authority and relates to the same planning matter; and*

(b) *any supporting information and material that the municipal council or approval authority considered in making the decision*

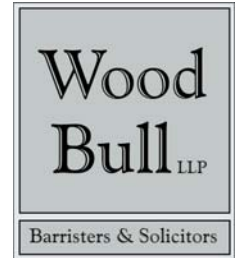
Powers of OMB on Official Plan Amendment Appeal



On an appeal...the Municipal Board may

- Approve all or part of the (official plan) amendment
- Make modifications to all or part of the amendment
- Refuse to approve all or part of the amendment (s. 17 (50))

Powers of OMB on Zoning By-law Amendment Appeal



On an appeal...the Municipal Board may

- Dismiss the appeal
- Allow the appeal in whole or in part and,
 - repeal the by-law in whole or in part
 - amend the by-law in such manner as the Board may determine, or
 - direct the council of the municipality to repeal the by-law in whole or in part or to amend the by-law in accordance with the Board's order (s. 34 (26))

Challenging OMB Decisions

Leave to Appeal
to Divisional Court

Section 43
(OMB Act)
Review

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Other Planning Act Approval Processes

- Minor Variance
- Site Plan Control
- Consent (Severance)
- Plan of Subdivision
- Section 37 Agreements

Minor Variance Requirements

A committee of adjustment may authorize a minor variance from the provisions of a zoning by-law . . . as in its opinion is:

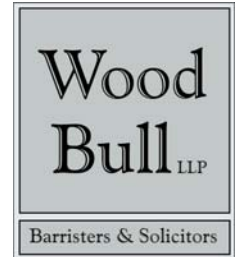
- desirable for the appropriate development or use of the land, building or structure,
- if in the opinion of the committee the general intent and purpose of the by-law and of the official plan are maintained

Minor Variance Requirements, cont'd

“A minor variance is, according to the definition of "minor" given in the Concise Oxford Dictionary, one that is "lesser or comparatively small in size or importance". This definition is similar to what is given in many other authoritative dictionaries and is also how the word, in my experience, is used in common parlance. It follows that a variance can be more than a minor variance for two reasons, namely, that it is too large to be considered minor or that it is too important to be considered minor. The likely impact of a variance is often considered to be the only factor which determines whether or not it qualifies as minor but, in my view, such an approach incorrectly overlooks the first factor, size. Impact is an important factor but it is not the only factor. A variance can, in certain circumstances, be patently too large to qualify as minor even if it likely will have no impact whatsoever on anyone or anything. This can occur, for example, with respect to the first building on a property in a new development or in a remote area far from any other occupied properties. ...

Accordingly, in my view the Board was required, at the outset, to examine each variance sought and to determine whether or not, with respect to both size and importance, which includes impact, it was minor. ...”

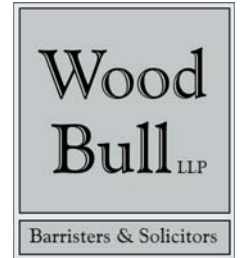
Minor Variance Requirements, cont'd



“... The second test requires the committee to consider and reach an opinion on the desirability of the variance sought for the appropriate development or use of the land, building or structure. This includes a consideration of the many factors that can affect the broad public interest as it relates to the development or use.

Accordingly, in my view the Board was required to consider each variance sought and reach an opinion as to whether or not it, either alone or together with the other variances sought, was desirable for the appropriate use of the subject property. The issue was not whether the variance was desirable from the perspective of the DeGasperis' plans for their home but, rather, whether it was desirable from a planning and public interest point of view. ...”

Minor Variance Requirements, cont'd



“... The third test requires the committee to consider and reach an opinion on whether or not the variance sought would maintain the general intent and purpose of the zoning by-law.

Accordingly, in my view the Board was required to engage in an analysis of the zoning by-law to determine its general intent and purpose and to consider whether the variance sought would maintain that general intent and purpose ...”

Minor Variance Requirements, cont'd

“... The fourth test requires the committee to consider and reach an opinion on whether or not the variance sought would maintain the general intent and purpose of the official plan.

Accordingly, in my view the Board was required to engage in an analysis of the official plan to determine its general intent and purpose and to consider whether the variance sought would maintain that general intent and purpose.

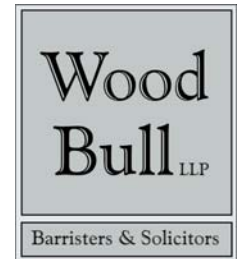
I pause here to observe that the proper performance of this prescribed four-step exercise will rarely be simple. It requires, without exception, a careful and detailed analysis of each application to the extent necessary to determine if each variance sought satisfies the requirements of each of the four tests.”

(Vincent v. DeGasperis, 2005] O.J. No. 2890; 256 D.L.R. (4th) 566; 200 O.A.C. 392; 12 M.P.L.R. (4th) 1; 140 A.C.W.S. (3d) 752; 2005 CarswellOnt 2913)

Site Plan Appeals

- If the municipality fails to approve plans or drawings within 30 days after submission or
 - If the owner is not satisfied with any requirements made by the municipality,
- The plans / drawings and/or requirements may be referred to the OMB. (s. 41 (12))

Site Plan Appeals



On appeal, the OMB shall hear and determine

- the matter and issue, and
- the details of the plans or drawings, and
- the requirements, including the provisions of any agreement required. (s. 41 (12.1))

Section 37 Agreements

Planning Act

Section 37 (1)

- “The council of a local municipality may, in a by-law passed under section 34, authorize increases in the height and density of development otherwise permitted by the by-law that will be permitted in return for the provision of such facilities, services or matters as are set out in the by-law.”

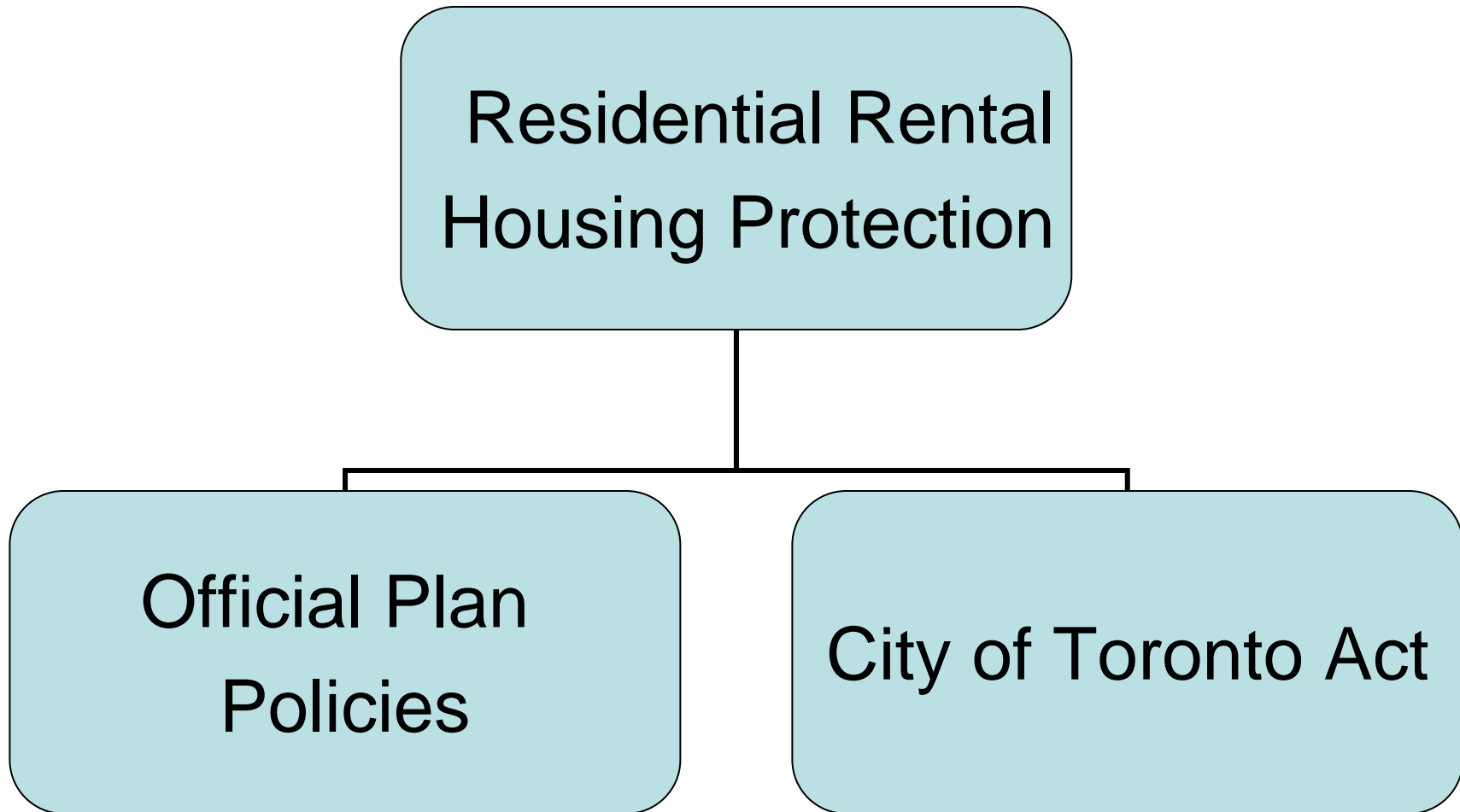
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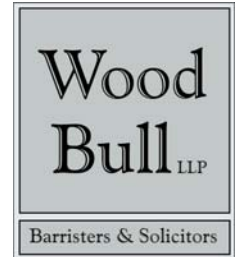
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Other Approval Processes

Rental Housing Protection



Rental Housing Protection

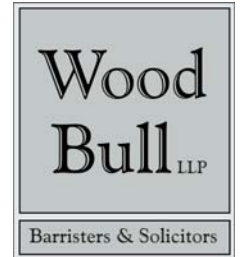


City of Toronto Official Plan Policies

3.2.1 Housing

5. Significant new development on sites containing six or more rental units, where existing rental units will be kept in the new development:
 - a) will secure as rental housing, the existing rental housing units which have affordable rents and mid-range rents; and
 - b) may secure any needed improvements and renovations to the existing rental housing, in accordance with and subject to Section 5.1.1 of this Plan, without pass-through of such costs in the rents to tenants.

Rental Housing Protection

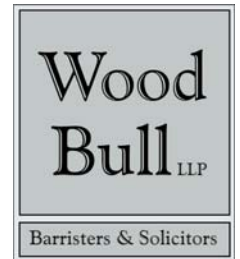


3.2.1 Housing

6. New development that would have the effect of removing all or a part of a private building or related group of buildings, and would result in the loss of six or more rental housing units will not be approved unless:

- a) all of the rental housing units have rents that exceed mid-range rents at the time of application, or
- b) in cases where planning approvals other than site plan are sought, the following are secured:
 - i) at least the same number, size and type of rental housing units are replaced and maintained with rents similar to those in effect at the time the redevelopment application is made;
 - ii) for a period of at least 10 years, rents for replacement units will be the rent at first occupancy increased annually by not more than the Provincial Rent Increase Guideline or a similar guideline as Council may approve from time to time; and
 - iii) an acceptable tenant relocation and assistance plan addressing the right to return to occupy one of the replacement units at similar rents, the provision of alternative accommodation at similar rents , and other assistance to lessen hardship, or

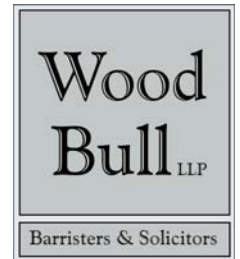
Rental Housing Protection



c) in Council's opinion, the supply and availability of rental housing in the City has returned to a healthy state and is able to meet the housing requirements of current and future residents. This decision will be based on a number of factors, including whether:

- i) rental housing in the City is showing positive, sustained improvement as demonstrated by significant net gains in the supply of rental housing including significant levels of production of rental housing, and continued projected net gains in the supply of rental housing;
- ii) the overall rental apartment vacancy rate for the City of Toronto, as reported by the Canada Mortgage and Housing Corporation, has been at or above 3.0% for the preceding four consecutive annual surveys;
- iii) the proposal may negatively affect the supply or availability of rental housing or rental housing sub-sectors including affordable units, units suitable for families, or housing for vulnerable populations such as seniors, persons with special needs, or students, either in the City, or in a geographic sub-area or a neighbourhood of the City; and
- iv) all provisions of other applicable legislation and policies have been satisfied.

Rental Housing Protection



3.2.1 Housing

8. The conversion to condominium, or the severance or subdivision, of any building or related group of buildings, containing six or more rental housing units will not be approved unless:

- a) all of the rental housing units have rents that exceed mid-range rents at the time of application, or
- b) in Council's opinion, the supply and availability of rental housing in the City has returned to a healthy state and is able to meet the housing requirements of current and future residents. This decision will be based on a number of factors, including whether:
 - i) rental housing in the City is showing positive, sustained improvement as demonstrated by significant net gains in the supply of rental housing including significant levels of production of rental housing, and continued projected net gains in the supply of rental housing;
 - ii) the overall rental apartment vacancy rate for the City of Toronto, as reported by the Canada Mortgage and Housing Corporation, has been at or above 3.0% for the preceding four consecutive annual surveys;
 - iii) the proposal may negatively affect the supply or availability of rental housing or rental housing sub-sectors including affordable units, units suitable for families, or housing for vulnerable populations such as seniors, persons with special needs, or students, either in the City, or in a geographic sub-area or a neighbourhood of the City; and
 - iv) all provisions of other applicable legislation and polices have been satisfied.

Rental Housing Protection

City of Toronto Act, 2006

Section 111 (1)

- “The City may prohibit and regulate the demolition of residential rental properties and may prohibit and regulate the conversion of residential rental properties to a purpose other than the purpose of a residential rental property.”

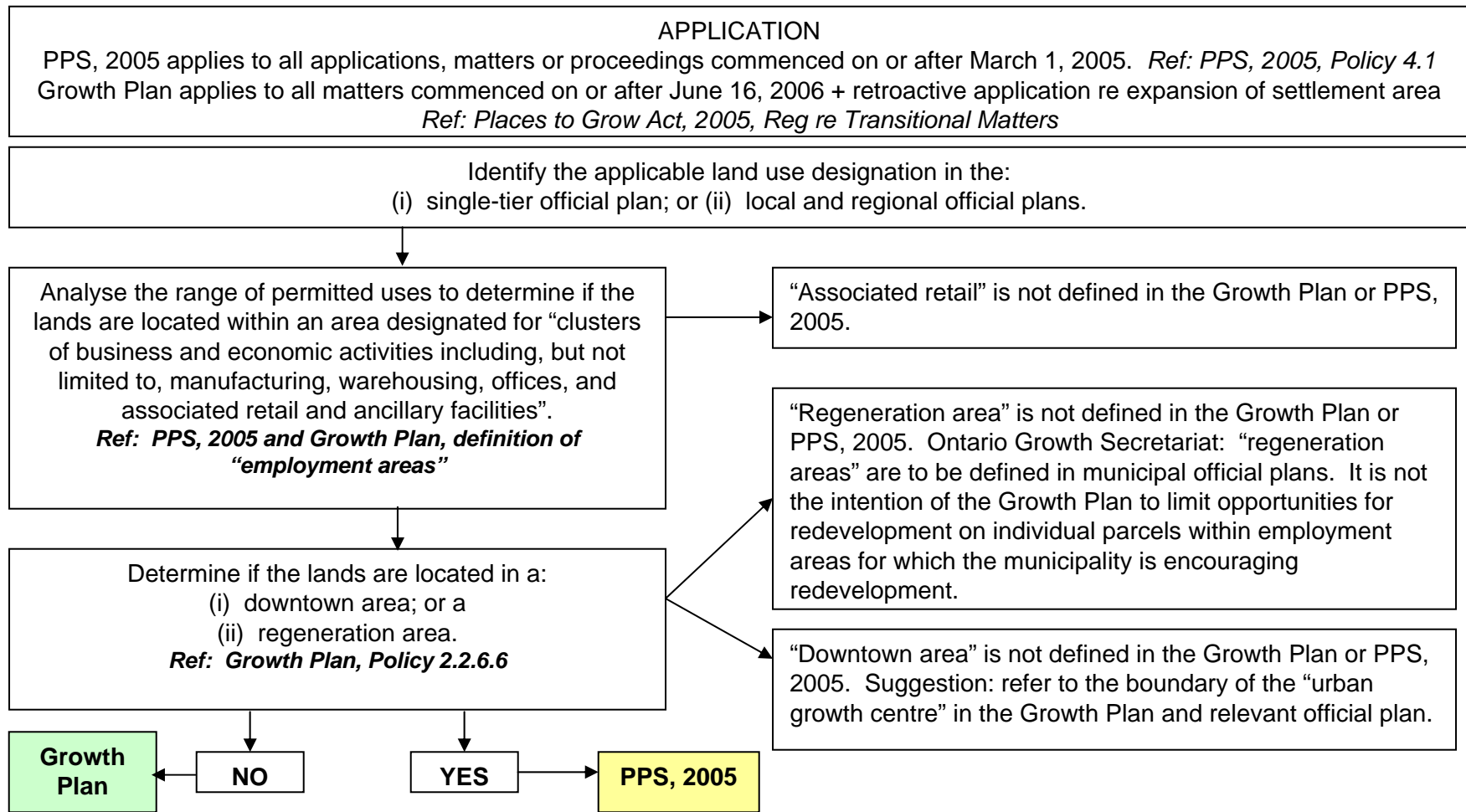
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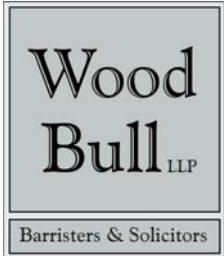
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Hot Topic: Employment Areas: Conversion of Lands to Non- Employment Uses

Employment Areas: Conversion of Lands to Non-Employment Uses



Employment Areas: Conversion of Lands to Non-Employment Uses



GROWTH PLAN (Section 2.2.6.5)

Municipalities may permit conversion to non-employment uses (i.e. includes major retail uses)

The conversion must occur through a *municipal comprehensive review* (“an official plan review or amendment initiated by a municipality that comprehensively applies the policies and schedules of the Growth Plan” – Section 6 - Definitions)

where it has been demonstrated that: ...

a) there is a need for the conversion

b) the municipality will meet the employment forecasts allocated to the municipality pursuant to this Plan

PROVINCIAL POLICY STATEMENT, 2005 (Section 1.3.2)

Planning authorities may permit conversion to non-employment uses (i.e. does not include major retail uses)

The conversion must occur through a *comprehensive review*.

Comprehensive review [Section 6.0 - Definitions] means “an official plan review which is initiated by a planning authority, or an official plan amendment which is initiated or adopted by a planning authority, which:

only where it has been demonstrated that:

there is a need for the conversion.

“Employment uses” is not defined but other references to “employment uses” in the PPS, 2005 suggest that “employment uses” include retail uses:

- Planning authorities shall promote economic development and competitiveness by: ... providing for an appropriate mix and range of employment (including industrial, commercial and institutional uses) to meet long-term needs

Ref: PPS, 2005, Policy 1.3.1 a)

- Planning authorities shall support energy efficiency and improved air quality Promote the use of public transit and other alternative transportation modes in and between residential, employment (including commercial, industrial and institutional uses) and other areas ...

Ref: PPS, 2005, Policy 1.8.1 b)

Employment Areas: Conversion of Lands to Non-Employment Uses

GROWTH PLAN

c) the conversion will not adversely affect the overall viability of the *employment area*, and achievement of the *intensification target*, *density targets*, and other policies of this Plan

d) there is existing or planned infrastructure to accommodate the proposed conversion

e) the lands are not required over the long term for the employment purposes for which they are designated

f) cross-jurisdictional issues have been considered.

For the purposes of this policy, major retail uses are considered non-employment uses.

Ref: Growth Plan, Policy 2.2.6.5

PROVINCIAL POLICY STATEMENT, 2005

the land is not required for employment purposes over the long term;

(v) considers cross-jurisdictional issues.

Employment Areas: Conversion of Lands to Non-Employment Uses

GROWTH PLAN

PROVINCIAL POLICY STATEMENT, 2005

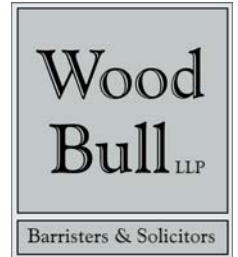
(i) is based on a review of population and growth projections and which reflect projections and allocations of upper tier municipalities and *provincial plans* where applicable; considers alternative directions for growth; and determines how best to accommodate this growth while protecting provincial interests;

(ii) utilises opportunities to accommodate projected growth through *intensification* and *redevelopment*;

(iii) confirms that the lands to be developed do not comprise *specialty crop areas*;

(iv) is integrated with planning for *infrastructure* and *public service facilities*; and

Employment Areas: Conversion of Lands to Non-Employment Uses



GROWTH PLAN

Policy 2.2.6.5 only applies to *employment areas* that are not downtown areas or regeneration areas. For those *employment areas* that are downtown areas or regeneration areas, Policy 1.3.2 of the PPS, 2005 continues to apply (Section 2.2.6.6)

PROVINCIAL POLICY STATEMENT, 2005

PPS 2005 applies to downtown areas or regeneration areas.

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Barristers & Solicitors

Dennis Wood

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email:info@woodbull.ca

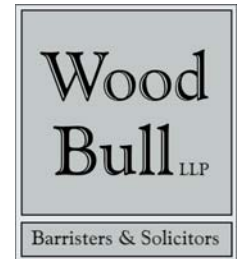
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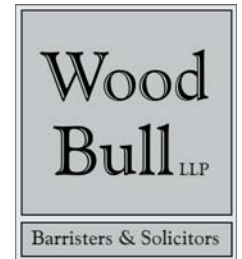
About Wood Bull LLP and Dennis Wood

About Wood Bull LLP



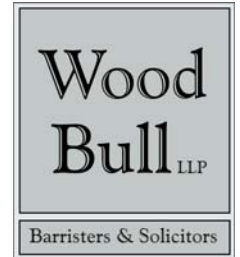
- specialty practice law firm
- focuses on municipal, planning and development law, including environmental approvals
- private sector and public sector
- distinct approach to client service:
 - Five lawyers
 - Two land use planners

About Dennis Wood



- expert in all aspects of the land use approvals process, including land use planning and development law
- advises public bodies and private sector clients, specializing in site selection and approval processes for major facilities
- particular expertise in retail, shopping centre, office building, conversion of employment lands and residential intensification projects
- able to advance an integrated strategy to effectively deal with political, business, public relations, environmental and regulatory obstacles
- extensive hearing experience
- author of *The Planning Act: A Sourcebook* and *Provincial Plans: A Sourcebook* and other texts in this area of expertise

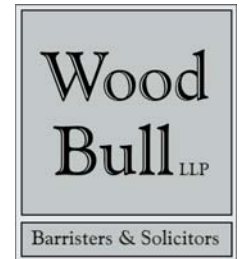
Wood Bull Approach



In our experience the most effective approvals processes are achieved through:

- an understanding of all the approvals that are required to enable the proposed development to be constructed;
- a comprehensive identification of the issues that must be addressed to achieve each approval;
- the identification of appropriately skilled and experienced experts to address the identified issues and to work as part of a cooperative, inter-disciplinary team;
- a willingness on the part of the proponent/developer to address issues early in the approvals process and in a flexible manner;
- a single-minded focus of all members of the approvals team on the achievement of the necessary approvals, on a time and cost effective basis; and
- an understanding that the approvals process might end up at the Ontario Municipal Board in an adversarial process with the result that all documentation that is prepared by the consulting team must be “hearings ready and defensible” (because it is inordinately expensive and sometimes fatal to try to fix problems late in the approvals process).

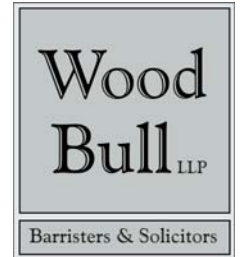
Wood Bull Services



Within the context of this philosophy, we assist our clients with the following:

- identifying the necessary approvals required
- preparing and submitting applications;
- coordinating the work of experts in various disciplines to ensure that it is internally consistent and defensible;
- liaising with the staff and elected officials at the various municipal levels and other approval authorities;
- representation at community meetings, public meetings, Committees of Council, Council, Committees of Adjustment and other approval authorities;
- developing a strategy for addressing the issues of potential objectors;
- negotiating, drafting and reviewing Official Plan amendment(s), Zoning By-law amendment(s), site plan agreement(s), servicing agreement(s), development agreement(s) and other agreements;
- addressing municipal cost sharing and related issues, such as development charge by-laws; and
- representation before the Ontario Municipal Board, the Environmental Assessment Board, and courts, if necessary.

Wood Bull Services



We assist our clients with regard to the following development related matters:

- Official plan amendments;
- Zoning amendments;
- Consents and site plan approvals and agreements;
- Subdivision and condominium plans and agreements;
- Minor variances;
- Consents to severance, easements or long-term leases;
- Development charges;
- Front ending agreements;
- Development agreements;
- Private developer cost sharing agreements.