



INFORMATION REPORT

TO:	Chair and Members Planning Committee
COMMITTEE DATE:	May 15, 2018
SUBJECT/REPORT NO:	Active Official Plan Amendment, Zoning By-law Amendment and Plan of Subdivision Applications (City Wide) (PED18098)
WARD(S) AFFECTED:	City Wide
PREPARED BY:	Joe Gravina (905) 546-2424 Ext. 1284
SUBMITTED BY:	Steve Robichaud Director of Planning and Chief Planner Planning and Economic Development Department
SIGNATURE:	

Council Direction:

At the June 16, 2015, Planning Committee, staff were “directed to report back to the Planning Committee with a reporting tool that seeks to monitor applications where the 120 or the 180 day statutory timeframe applies”.

This report provides a status of all active Zoning By-law Amendment, Official Plan Amendment and Plan of Subdivision applications relative to the statutory timeframe provisions of the *Planning Act* for non-decision appeals.

Background:

On April 19, 2016, Information Report (PED16096) was forwarded to the Planning Committee, which provided a status of all active Zoning By-law Amendment, Official Plan Amendment and Plan of Subdivision applications relative to the 120 or the 180 statutory timeframe provisions of the *Planning Act* for non-decision appeals and outlined a process for future reporting to the Planning Committee. The report included a table outlining the active applications, sorted by Ward, from oldest application to newest. In addition, the report summarized OMB appeals over the previous five years.

Commencing February 28, 2017, similar Information Reports were forwarded to the Planning Committee on a monthly basis in accordance with the process outlined in Information Report (PED16096). An analysis of the information was also included in the year-end report of December 5, 2017 (PED17208), which included tables that

OUR Vision: To be the best place to raise a child and age successfully.

OUR Mission: To provide high quality cost conscious public services that contribute to a healthy, safe and prosperous community, in a sustainable manner.

OUR Culture: Collective Ownership, Steadfast Integrity, Courageous Change, Sensational Service, Engaged Empowered Employees.

summarized the number of active projects by application type and the number of public meetings by application type.

Policy Implications and Legislative Requirements

Land use planning is guided by the *Planning Act* which sets out how land use decisions are made and when they can be appealed. The *Planning Act* provides for the situations in which an applicant may file an appeal for an Official Plan Amendment, Zoning By-law Amendment or Plan of Subdivision for lack of a decision by Council (otherwise known as a “non-decision appeal”).

With the enactment of Bill 73, *Smart Growth for Our Communities Act, 2015*, changes were made to the *Planning Act*, which allowed municipalities to increase the statutory timeframe for non-decision appeals for Official Plan Amendments by 90 days from 180 to 270 days.

Further, with the enactment of Bill 139, *Building Better Communities and Conserving Watersheds Act, 2017*, changes were again made to the *Planning Act* to amend the timeframes set out for a non-decision appeals for Official Plan Amendment or Zoning By-law Amendment applications.

For Official Plan Amendments, subsection 17(40) of the *Planning Act* states that:

“If the approval authority fails to give notice of a decision in respect of all or part of a plan within 210 days after the day the plan is received by the approval authority, or within the longer period determined under subsection (40.1), any person or public body may appeal to the Local Planning Appeals Tribunal with respect to all or any part of the plan in respect of which no notice of a decision was given by filing a notice of appeal with the approval authority, subject to subsection (41.1).”

In accordance with subsection 17(40.1) of the *Planning Act*, the City of Hamilton extends the approval period of Official Plan Amendment applications from 180 days to 270 days for applications received after July 1, 2016 as prescribed in Bill 73 and from 210 to 300 days for applications received after December 12, 2017 as prescribed in Bill 139. It should be noted that applicants can terminate the 90-day extension period if written notice to the municipality is received prior to the expiration of the 180 day or 210 day statutory timeframes.

For Zoning By-law Amendments, subsection 34(11) of the *Planning Act* states that:

“Where an application to the council for an amendment to a by-law passed under this section or a predecessor of this section is refused or the council fails to make

SUBJECT: Active Official Plan Amendment, Zoning By-law Amendment and Plan of Subdivision Applications (City Wide) (PED18098) - Page 3 of 4

a decision on it within 150 days after the receipt by the clerk of the application, any of the following may appeal to the Tribunal by filing with the clerk of the municipality a notice of appeal, accompanied by the fee charged under the Local Planning Appeal Tribunal Act, 2017:

1. The applicant.”

In addition, Zoning By-law Amendment applications that are submitted together with a required Official Plan Amendment application are also subject to the statutory timeframe of 210 days.

For Plans of Subdivision, subsection 51(34) of the *Planning Act* states that:

“If an application is made for approval of a plan of subdivision and the approval authority fails to make a decision under subsection (31) on it within 180 days after the day the application is received by the approval authority, the applicant may appeal to the Tribunal with respect to the proposed subdivision by filing a notice with the approval authority, accompanied by the fee charged under the *Local Planning Appeal Tribunal Act*.”

Information:

Staff were directed to report back to Planning Committee with a reporting tool that seeks to monitor applications where the applicable statutory timeframes apply. This reporting tool would be used to track the status of all active Official Plan Amendment, Zoning By-law Amendment and Plan of Subdivision Applications.

For the purposes of this report, the status of all active Zoning By-law Amendment, Official Plan Amendment and Plan of Subdivision applications have been divided, relative to the statutory timeframe provisions of the *Planning Act*, prior to December 12, 2017 and after December 12, 2017.

Applications Deemed Complete Prior to Royal Assent (December 12, 2017)

Attached as Appendix “A” to Report PED18098 is a table outlining the active applications received prior to December 12, 2107 sorted by Ward, from oldest application to newest. As of April 4, 2018 there were:

- 30 active Official Plan Amendment Applications (including 24 applications submitted after July 1, 2016);
- 59 active Zoning By-law Amendment Applications; and,

SUBJECT: Active Official Plan Amendment, Zoning By-law Amendment and Plan of Subdivision Applications (City Wide) (PED18098) - Page 4 of 4

- 13 active Plan of Subdivision Applications.

Within 60 to 90 days of May 15, 2018, all 59 development proposals have passed the 120 or 180 day statutory timeframe. However, for those twenty-four (24) Official Plan Amendment Applications received after July 1, 2016, a non-decision appeal cannot be made until 270 days have lapsed (these applications are marked with an asterisk on Appendix "A" to Report PED18098).

Applications Deemed Complete After Royal Assent (December 12, 2017)

Attached as Appendix "B" to Report PED18098 is a table outlining the active applications received after December 12, 2017 sorted by Ward, from oldest application to newest. As of April 4, 2018 there were:

- Eight active Official Plan Amendment Applications, all of which were submitted after December 12, 2017, and therefore subject to the 90 extension to the statutory timeframe from 210 days to 300 days;
- 18 active Zoning By-law Amendment Applications; and,
- Two active Plan of Subdivision Applications.

Within 60 to 90 days of May 15, 2018, 16 applications will be approaching the 150 or the 300 day statutory timeframe and will be eligible for appeal. Two applications have passed the 150 or 300 day statutory timeframe.

Combined to reflect property addresses, this results in 77 active development proposals. Sixteen proposals are 2018 files, while 42 proposals are 2017 files and 19 proposals are pre-2017 files.

Staff are currently working with the AMANDA Implementation Team to add enhancements that will allow for the creation of more detailed reporting. As a result, future tables will include a qualitative analysis of the status of active applications. It is anticipated that these enhancements will be available in Q2 of 2018.

Appendices and Schedules Attached:

- Appendix "A": List of Active Development Applications (Prior to December 12, 2017)
- Appendix "B": List of Active Development Applications (After December 12, 2017)

JG:mo