

INFORMATION REPORT

TO:	Chair and Members Planning Committee
COMMITTEE DATE:	April 17, 2018
SUBJECT/REPORT NO:	Active Official Plan Amendment, Zoning By-law Amendment and Plan of Subdivision Applications (City Wide) (PED18087)
WARD(S) AFFECTED:	City Wide
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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 120 or the 180 day statutory timeframe provisions of the *Planning Act* for non-decision appeals.

Policy Implications and Legislative Requirements

Land use planning is guided by the *Planning Act*, which sets out how land use decisions are made and how and when they can be appealed to the Ontario Municipal Board (OMB). The *Planning Act* prescribes the situations in which an applicant may file an appeal for Official Plan Amendments, Zoning By-law Amendments and Plans of Subdivision for lack of a decision by Council.

For Zoning By-law Amendments, Section 34 (11) of the *Planning Act* in force at the time of preparation of this Report 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 refuses or neglects to make a decision on it within 120 days after the receipt by the clerk of the application, any of the following may appeal to the Municipal Board by filing

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with the clerk of the municipality a notice of appeal, accompanied by the fee prescribed under the *Ontario Municipal Board Act*:

1. The applicant.”

For Official Plan Amendments, Section 17(40) of the *Planning Act* in force at the time of preparation of this Report states that:

“If the approval authority fails to give notice of a decision in respect of all or part of a plan within 180 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 Municipal Board 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 Section 17 (40.1) of the *Planning Act*, the City of Hamilton has extended the approval period of Official Plan Amendment applications from 180 days to 270 days.

For Plans of Subdivision, Section 51(34) of the *Planning Act* in force at the time of preparation of this Report 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 Municipal Board with respect to the proposed subdivision by filing a notice with the approval authority, accompanied by the fee prescribed under the *Ontario Municipal Board Act*.”

It is noted that Bill 139 (“OMB Reform”) proposes to reverse the non-decision appeal provisions of the *Planning Act* to provide municipalities with additional review time before an appeal can be made. At the time of preparation of this Report, Bill 139 has received Royal Assent but had not come into force and effect as proclamation by the Lieutenant Governor had not yet occurred. It is anticipated that this will occur on April 3, 2018.

Information:

Staff were directed to report back to Planning Committee with a reporting tool that seeks to monitor applications where the applicable 120 day and 180 day statutory timeframe applies. 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. Staff are currently working with the AMANDA Implementation Team to add enhancements

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that will allow for the creation of more detailed reporting. As a result, future tables will include the extended statutory 270 day timeframe for Official Plan Amendments and a qualitative analysis of the status of active applications. It is anticipated that these enhancements will be available in Q2 of 2018.

Attached as Appendix “A” to Report PED18087 is a table outlining the active applications, sorted by Ward, from oldest application to newest. As of February 16, 2018, there were:

- 42 active Official Plan Amendment Applications (including 36 applications submitted after July 1, 2016);
- 83 active Zoning By-law Amendment Applications; and,
- 14 active Plan of Subdivision Applications.

Combined to reflect property addresses, this results in 83 active development proposals. Thirteen proposals are 2018 files, while 49 proposals are 2017 files and 21 proposals are pre-2017 files.

The average number of days that the applications had been under review was 430 days, with 50 percent of applications being less than 272 days (i.e. the median).

Within 60 to 90 days of April 17, 2018, 20 applications will be approaching the 120 or the 180 day statutory timeframe and will be eligible for appeal. Sixty-three applications have passed the 120 or 180 day statutory timeframe. However, for those 36 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 PED18087).

APPECIES AND SCHEDULES ATTACHED

- Appendix “A”: List of Active Development Applications

JG:mo