



CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Planning Division

TO:	Chair and Members Planning Committee
COMMITTEE DATE:	June 14, 2022
SUBJECT/REPORT NO:	City of Hamilton's Response to Provincial Bill 109 – Implementation of Legislative Changes to Site Plan Approval (PED22112(a)) (City Wide)
WARD(S) AFFECTED:	City Wide
PREPARED BY:	Tiffany Singh (905) 546-2424 Ext. 1221
SUBMITTED BY:	Steve Robichaud Director, Planning and Chief Planner Planning and Economic Development Department
SIGNATURE:	

RECOMMENDATION

- (a) That By-laws No. 03-295 and No. 07-325 be repealed in their entirety;
- (b) That the draft by-law regarding the legislative changes relating to site plan approval attached as Appendix “A” to Report PED22112(a), which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council.

EXECUTIVE SUMMARY

On April 14, 2022 Bill 109, the *More Homes for Everyone Act, 2022* received Royal Assent.

Among other changes, Bill 109 amended Section 41 of the *Planning Act* to require a Council to appoint an officer, employee or agent of the municipality as an authorized person to approve site plans; whereas, previously Council was the approval authority unless delegated to staff. This requirement will apply to all site plan control Applications received on or after July 1, 2022.

Since 2001, site plan approval has been delegated to staff. The City of Hamilton has been a leader in employing delegated site plan authority as a streamlining measure

based on a best practice review of the site plan process as part of the amalgamation of the former municipalities in 2001.

However, the current delegated authority by-laws currently in force refer to the “authority of the Council of the City of Hamilton”, whereas Bill 109 stipulates that a council “shall appoint” an officer, employee or agent of the municipality as an authorized person for the purposes of site plan approvals.

In addition, the organizational structure of the Planning Division was changed in October 2021. This reorganization had the effect of creating new positions, changing existing position titles, and realigning functional duties within the Planning Division. As such, it is now the Manager of Heritage and Urban Design that oversees the day to day administration of site plan control Applications.

Based on the foregoing, By-Laws No.03-295 and No. 07-325 related to delegated authority for site plan approval must be repealed and replaced with a new by-law responding to Bill 109 changes and using appropriate staff titles for housekeeping purposes. The new by-law is attached as Appendix “A” to Report PED22112(a).

Alternatives for Consideration – Not Applicable

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: Not Applicable

Staffing: Not Applicable

Legal: Bill 109, *More Homes for Everyone Act, 2022* received Royal Assent on April 124, 2022. Subsection 41(4.0.1) of the *Planning Act*, as amended, requires that municipal councils appoint an officer, employee or agent of the municipality to make decisions on site plan control Applications for all site plan control Applications received on or after July 1, 2022.

HISTORICAL BACKGROUND

On December 6, 2021, the Province of Ontario created a Housing Affordability Task Force (HATF) consisting of nine members with a mandate to determine ways to address housing affordability across the Province.

On January 19, 2022, the Minister of Municipal Affairs and Housing hosted a Provincial Municipal Housing Summit for Ontario's Big City Mayors and Regional Chairs. The purpose of the Summit was to identify further opportunities for collaboration between all

levels of government to address the housing affordability crisis and to develop performance indicators that governments can use to accelerate and incent new housing supply.

On February 8, 2022, the Province received and released a report from the HATF, which included 58 recommendations intended to increase the supply of market housing.

On March 30, 2022 Council endorsed Report PED22071 containing staff-level responses to the HATF recommendations, identifying where clarity was needed, potential implications, and gaps of information.

On March 30, 2022, the Province of Ontario released the More Homes for Everyone Plan and introducing Bill 109, the *More Homes for Everyone Act, 2022*.

On April 8th, 2022 Council approved Report PED22112 containing staff-level responses to Bill 109 and directed staff to prepare necessary amendments to the Urban Hamilton Official Plan and Rural Hamilton Official Plan, as well as any other required policies and procedures, to give effect to the proposed changes. Staff were also directed to undertake an analysis of staffing impacts across the organization as well as financial implications and to report back to Planning Committee.

Bill 109 received Royal Assent on April 14, 2022. The Bill makes significant changes to the *Planning Act*; the *City of Toronto Act, 2006*; the *Development Charges Act, 1997*; the *New Home Construction Licensing Act, 2017*; and the *Ontario New Home Warranties Plan Act* in an effort to, among other goals, incentivize the timely processing of certain Applications to bring housing to market and increase transparency.

One change to Section 41 of the *Planning Act* was the introduction of a requirement that municipal councils appoint an officer, employee or agent of the municipality to make decisions on site plan control Applications for all site plan control Applications received on or after July 1, 2022. This Report PED22112(a) proposes to amend the City's existing delegated authority by-laws to ensure it complies with the legislative requirements of Bill 109 before the change takes effect. Many of the other legislative changes relating to Application fees, etc. made by Bill 109 will not come into force and effect until January 1, 2023.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

No policies are affected by the proposed housekeeping By-law responding to Bill 109 amendments to Section 41 of the *Planning Act*.

RELEVANT CONSULTATION

Legal Services staff have been consulted on the drafted by-law attached as Appendix “A” to Report PED22112(a) has been prepared in a satisfactory form complying with the new regulations as per Bill 109, *More Homes for Everyone Act* and that it adequately replaces By-laws No. 03-295 and No. 07-325 (to be repealed).

ANALYSIS AND RATIONALE FOR RECOMMENDATION

Due to the legislative changes from Bill 109 requiring that municipal councils “shall appoint” an officer, employee or agent of the municipality site plan approval authority, and due to recent organizational changes that have occurred in the Planning Division, a housekeeping by-law is required. The new by-law will replace various by-laws related to delegated authority for site plan approval to reflect new legislative wording and the new position titles of appointed staff. As per Bill 109 changes, the Director of Planning and Chief Planner will be appointed and delegates site plan approval authority to the Manager, Heritage and Urban Design or anyone else identified by the Director of Planning and Chief Planner. These administrative changes will ensure there are no issues related to identification of the appropriate Delegated Authority.

It should also be noted that this Report PED22112(a) is the first of a series of forthcoming reports intended to address the other legislative *Planning Act* changes made by Bill 109. Forthcoming reports will address processes, fees, staffing levels and other matters which have broader implications for the Planning and Economic Development Department, other City departments, and partner agencies such as the conservation authorities that review and comment on development Applications as follows:

- An analysis of development planning Application fees, staffing impacts across the organization, and the financial implications of these components; and,
- An analysis of process changes needed to address legislated Application fee refunds for Zoning By-law Amendment and Official Plan Amendment (when jointly submitted with a Zoning By-law Amendment) decisions, and site plan approvals.

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Necessary amendments to the Urban Hamilton Official Plan and Rural Hamilton Official Plan, to update requirements for complete Applications. Develop terms of references for material and other information required to deem *Planning Act* Applications for Official Plan Amendment, Zoning By-law Amendment, draft plan of subdivision, and site plan Applications complete.

The intent is to provide staff recommendations to Council on these additional matters prior to the additional legislated requirements slated to come into force and effect on January 1, 2023.

ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN

Community Engagement and Participation

Hamilton has an open, transparent and accessible approach to City government that engages with and empowers all citizens to be involved in their community

Built Environment and Infrastructure

Hamilton is supported by state-of-the-art infrastructure, transportation options, buildings and public spaces that create a dynamic City.

Our People and Performance

Hamiltonians have a high level of trust and confidence in their City government.

APPENDICES AND SCHEDULES ATTACHED

Appendix “A” to Report PED22112(a) – Draft By-law Re: Delegated Site Plan Approval

TS:sd