



CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Planning Division

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| TO: | Chair and Members Planning Committee |
| DATE: | December 7, 2021 |
| SUBJECT/REPORT NO: | Active Official Plan Amendment, Zoning By-law Amendment and Plan of Subdivision Applications (PED21234) (City Wide) |
| WARD(S) AFFECTED: | City Wide |
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| SUBMITTED BY: | Steve Robichaud Director of Planning and Chief Planner Planning and Economic Development Department |
| SIGNATURE: | |

Council Direction:

In accordance with the June 16, 2015 Planning Committee direction, 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. In addition, this report also includes a list and status of all appendices appealed to the Ontario Land Tribunal for non-decision.

Background:

Planning Division staff have been preparing and submitting on a monthly basis an Information Report to the Planning Committee on the status of all active Zoning By-law Amendment, Official Plan Amendment and Plan of Subdivision Applications relative to the 120 day or the 180 day statutory timeframe provisions of the *Planning Act* for non-decision appeals to the Planning Committee. The monthly report includes a table outlining the active Applications, sorted by Ward, from oldest Application to newest.

Policy Implications and Legislative Requirements – Pre Bill 108

In accordance with the *Planning Act*, prior to September 3, 2019, an Applicant had the right to appeal to the Ontario Land Tribunal an Official Plan Amendment Application after 210 days (Subsection 17 (40)), Zoning By-law Amendment Application after 150

days (Subsection 34 (11)) and a Plan of Subdivision after 180 days (Subsection 51 (34)).

In accordance with Subsection 17(40.1) of the *Planning Act*, the City of Hamilton had extended the time 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 either the City or the Applicant were able to terminate the 90-day extension period if written notice to the other party was received prior to the expiration of the 180 day or 210 day statutory timeframes.

In addition, Zoning By-law Amendment Applications that were submitted with an Official Plan Amendment Application were subject to the 210 day statutory timeframe.

Policy Implications and Legislative Requirements – Post Bill 108

On June 6, 2019, Bill 108 received Royal Assent, which reduced the statutory timeframes for non-decision appeals to the Ontario Land Tribunal outlined in the *Planning Act* for Official Plan Amendments, Zoning By-law Amendments and Plans of Subdivision. The changes are applicable to complete Applications received on or after September 3, 2019.

In accordance with the *Planning Act*, an Applicant may appeal an Official Plan Amendment Application to the Ontario Land Tribunal for non-decision after 120 days (Subsection (40)), a Zoning By-law Amendment Application after 90 days (Subsection 34 (11)) and a Plan of Subdivision after 120 days (Subsection 51 (34)). However, Zoning By-law Amendment Applications that are submitted together with a required Official Plan Amendment Application are also subject to the statutory timeframe of 120 days. The 90-day extension previously prescribed in Bills 73 and 139 is no longer applicable.

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 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*, that were in effect pursuant to statutory timeframes prescribed in Bill 73 and Bill 139 and new statutory timeframes prescribed in Bill 108.

Applications Deemed Complete Prior to Royal Assent of Bill 139 (December 12, 2017)

Attached as Appendix “A” to Report PED21234 is a table outlining the active applications received prior to December 12, 2017 sorted by Ward, from oldest application to newest. As of November 15, 2021, there were:

- 5 active Official Plan Amendment Applications, all of which were submitted after July 1, 2016, and therefore subject to the 90 day extension to the statutory timeframe from 180 days to 270 days;
- 9 active Zoning By-law Amendment Applications; and,
- 6 active Plan of Subdivision Applications.

Within 60 to 90 days of November 15, 2021, all nine development proposals have passed the applicable 120, 180 and 270 day statutory timeframes.

Applications Deemed Complete After Royal Assent of Bill 139 (December 12, 2017)

Attached as Appendix “B” to Report PED21234 is a table outlining the active applications received after December 12, 2017, but before Royal Assent of Bill 108, sorted by Ward, from oldest Application to newest. As of November 15, 2021, there were:

- 5 active Official Plan Amendment Applications, all of which are subject to the 90 day extension to the statutory timeframe from 210 days to 300 days;
- 10 active Zoning By-law Amendment Applications; and,
- 5 active Plan of Subdivision Applications.

Within 60 to 90 days of November 15, 2021, all 11 development proposals have passed the applicable 150, 180 or 300 day statutory timeframes.

Applications Deemed Complete After Royal Assent of Bill 108 (September 3, 2019)

Attached as Appendix “C” to Report PED21234 is a table outlining the active applications received after September 3, 2019, and subject to the new statutory timeframes, sorted by Ward, from oldest application to newest. As of November 15, 2021, there were:

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- 28 active Official Plan Amendment Applications;
- 50 active Zoning By-law Amendment Applications; and,
- 12 active Plan of Subdivision Applications.

As of November 15, 2021, eight development proposals are approaching the 90 or 120 day statutory timeframe and will be eligible for appeal. Forty-seven (47) development proposals have passed the 90 or 120 day statutory timeframe.

Planning Division Active Files

Combined to reflect property addresses, there are 75 active development proposals. One proposal is a 2022 file (1%), 33 proposals are 2021 files (44%), 18 proposals are 2020 files (24%) and 23 proposals are pre-2020 files (31%).

A table comparing the number of projects by application type by month for 2020 (Figure 1) and 2021 (Figure 2) is attached as Appendix “D” to Report PED21234. This demonstrates that the number of active projects has remained consistent with an average of 73 in 2020, and 70 in 2021. However, 24 of the active projects are pre-2020 files which have had limited activity in the past 18 months. Accordingly, a more accurate number of active projects by Application type by month is approximately 48. It is noted that Planning staff monitor the activities associated with a file and if a file is considered to be inactive for more than six months, staff contact the Applicant and request if the Applicant wishes to withdraw the Application and if not, request clarification of the Applicants intention with respect to proceeding. If no response is received, staff will proceed to close the file.

Staff continue to work with the AMANDA Implementation Team to add enhancements to the database 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 Q1 2022, and this information will be incorporated into the monthly report to Council. Furthermore, the long-term goal of the Planning Division is to make this information available on an interactive map accessed through the City of Hamilton website.

Current Non-Decision Appeals to the Ontario Land Tribunal

At the February 2, 2021 Planning Committee meeting, Planning Committee requested that information be reported relating to development Applications that have been appealed for non-decision to the Ontario Land Tribunal. Attached as Appendix “E” to Report PED21234 is a table outlining Development Applications, along with the applicant/agent, that have been appealed for non-decision to the Ontario Land Tribunal.

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There are currently 14 active appeals for non-decision. Third party appeals are not included in this information as Council has made a decision on the Application.

Appendices and Schedules Attached:

Appendix "A" to Report PED21234 - List of Active Development Applications (prior to December 12, 2017)

Appendix "B" to Report PED21234 - List of Active Development Applications (after December 12, 2017)

Appendix "C" to Report PED21234 - List of Active Development Applications (after September 3, 2019)

Appendix "D" to Report PED21234 - Number of Active Projects by Application Type by Month (2020 and 2021)

Appendix "E" to Report PED21234 - *Planning Act* Applications Currently Appealed for Non-Decision to the Ontario Land Tribunal

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.