



Town of Erin

Corporate Report

Department: Community Services	Report Number: PD2022-18
Business Unit: Planning & Development	Meeting Date: 6/30/2022
Presented/ Prepared By: Jack Krubnik, Director of Planning & Development	

Subject

Town-Initiated By-law to Delegate Site Plan Control Authority to the Director of Planning & Development, of the Corporation of the Town of Erin, or the Director's appointed delegate, are hereby authorized to approve all plans and drawings required by the municipality under Section 41 of the *Planning Act*

Recommendation

Be it resolved that Council hereby receive report number PD2022-18 "*Town-Initiated By-law to Delegate Site Plan Control Authority to the Director of Planning & Development, of the Corporation of the Town of Erin, or the Director's appointed delegate, are hereby authorized to approve all plans and drawings required by the municipality under Section 41 of the Planning Act*" for information;

And that Council hereby approve By-law 22-30 as presented in Appendix A to this report.

Highlights

Staff are proposing to amend By-law No. 01-32 to introduce the delegation of Site Plan Control Authority to the Director of Planning & Development, or their appointed delegate. This Amendment was designed in response to the More Homes for Everyone Act, 2022, which has amended various statutes with respect to housing, development and various other matters. The More Homes for Everyone Act, 2022 received Royal Assent on April 14, 2022. The proposed amendment to By-law No. 01-32 addresses provincial direction to have Council appoint an officer, employee, or agent of the municipality as an authorized person for a Site Plan Control Application. This delegated authority is intended to assist Staff in their ability to process planning applications in a timely fashion.

Background

On March 30, 2022, the Province introduced the More Homes for Everyone Act, 2022 ("Bill 109") which received Royal Assent on April 14, 2022. These are legislative changes which respond in part to consultations and recommendations from the February 8, 2022 Report of the Housing Affordability Task Force which included 55 recommendations to increase the supply of market housing in Ontario.

This report provides commentary and recommendations with respect to the legislative changes introduced in Bill 109 to the Planning Act, dealing specifically with Site Plan Control authority.

The accompanying Town-initiated by-law responds to these concerns. These concerns are primarily driven by the following change:

- Decision timelines from a complete application, or approval in the case of a Site Plan Control application, are now tied to application fee refunds. Where no decision is made on *Planning Act* applications, or approval of a Site Plan Control application, received after *The More Homes for Everyone Act, 2022* came into force, within the statutory timelines mandated by the province, it will now be necessary to refund application fees to the applicant. The refunds are issued on a sliding scale with time. The longer the processing of an application takes, the greater the fee refund is.

As application fees have a material impact on the Town’s revenue’s and service levels, the loss of this revenue will have a significant impact to the Town’s service levels. Through Staff’s review of *The More Homes for Everyone Act, 2022*, it was determined that it was necessary to now delegate Site Plan Control authority to an officer, employee, or agent of the municipality.

Through the More Homes for Everyone Act, 2022, Section 41 of the Act was amended by adding the following subsection:

Authorized person

(4.0.1) A council that passes a by-law under subsection (2) shall appoint an officer, employee or agent of the municipality as an authorized person for the purposes of subsection (4).

Delegating Site Plan Control authority to staff is intended to better enable the Town and Staff to ensure that any Site Plan Control application which is deemed complete, can be processed in a more expeditious manner.

Planning Analysis

Streamlining the Approvals Process: Application Fees Refund

The *More Homes for Everyone Act, 2022* introduces legislation which contains new provisions requiring municipalities to refund, in part or in their entirety, fees if a decision by the municipality is not made within the timelines prescribed in the *Planning Act*. The refund schedule is outlined below:

Amount of refund	Type of Planning Application
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	Zoning & OPA combined	Zoning	Site Plan
No refund	Decision is made within 120 days	Decision is made within 90 days	Plans are approved within 60 days of being submitted
50%	Decision made within 121 days and 180 days	Decision made within 91 days to 150 days	Plans are approved between 61 days and 90 days
75%	Decision made within 181 and 240 days	Decision made 151 days and 210 days	Plans are approved 91 days and 120 days
100%	Decision made 241 days and later	Decision made 211 days and later	Plans are approved 121 days and beyond

Although the guiding goal of the legislation is to encourage the fast review and approval of applications, the refund schedule does not account for internal review, consultation, collaboration with applicants, and the increasing complexity of intensification and the planning process.

As is currently the case, applicants will continue to be able to appeal Council's decision to the Ontario Land Tribunal, which incurs costs to the Town not covered by application fees. These appeals, will add to the existing backlog of Ontario Land Tribunal cases to be heard, and would result in delays to the creation of new housing.

The refund structure and associated timelines undermines collaboration between applicants, staff, elected officials, and community stakeholders on planning applications. The legislation also fails to account for the time an applicant takes to respond to comments made on an application.

Application fees are intended to support the Town's review of the application. They act as a cost recovery mechanism. Staff time and Town resources required to review applications are not currently funded via any other source, such as property taxes. If the cost of reviewing applications is no longer guaranteed through application fees, the Town will need to find another source of funding. This highlights the impractical consequences of the legislation, even under circumstances where applications are well composed, communities are supportive and staff responses are timely.

While the intent of the application refund timeline appears to be to expedite the approval process, in reality the refund schedule could result in no final approval of Site Plan Control applications within the legislative timeframes. This will result in further delays, and add cost to the Town, taxpayers and applicants.

Amendments to Site Plan Control

Through The *More Homes for Everyone Act, 2022* a number of amendments have been made to Section 41 of the *Planning Act*, regarding Site Plan Control. The changes include rules respecting pre-application consultations, complete applications, delegated approval authority and the refunding of fees. As outlined on the application fees refund schedule, Site Plan Control applications must now be approved within 60 days of being submitted. If there is no approval within 60 days, then the refund schedule becomes applicable.

Application Review and Fee Refunds

The timeline to appeal a site plan application has been increased from 30 days to 60 days. This change will apply to applications submitted on or after July 1, 2022. Although welcome, the extension does not permit sufficient time to execute the Site Plan Control application process. As Site Plan Control enables a municipality to exercise site-specific controls over development to ensure that the proposed development is well designed, fits in with the surrounding uses, and minimizes any negative impacts, more time is necessary for staff and agency review to fulfill these objectives. The Town may also apply conditions to Site Plan approval. Once the applicant satisfies the prescribed conditions, final site plan approval is granted. The onus to advance the application shifts, in part, to the applicant during this period to fulfill the conditions.

The timeframe of 60 days allows for Town staff to review the application but does not provide sufficient time for an applicant to prepare a response, resubmission or satisfy conditions, in advance of application fees having to be refunded. For this reason, the refund requirements are problematic.

Regardless of the complex processes involved with a Site Plan Control application, the *More Homes for Everyone Act, 2022* fee refund schedule illustrates that a fee refund is to be issued to the applicant if plans are not approved within 60 days of being submitted.

The *More Homes for Everyone Act, 2022* implements a process whereby the Town must approve a site plan application or be required to refund the application fee. This differs from the new refund provisions for zoning by-law applications whereby a decision is needed before fees must be refunded, but that decision does not necessarily have to be an approval.

Delegated Approval Authority

The legislation introduced by The *More Homes for Everyone Act, 2022* requires municipalities to pass a by-law to appoint an authorized person for Site Plan Control approval. Presently the Council of the Town of Erin has the authority for Site Plan Control approval. The Town will now be required to amend By-law 01-32 to delegate Site Plan Control authority to the Director of Planning & Development, or their appointed delegate, as the legislation no longer provides for a municipal council to be the approval authority. The delegation by-law to delegate Site Plan Control authority is being introduced to reflect this legislative change.

Strategic Pillar

Growth Management

Financial Impact

The *More Homes for Everyone Act, 2022* will have significant impacts on the Town's ability to review applications in a comprehensive manner, to meet statutory timelines and to minimize application fee refunds. Staff will need to assess the implications to resources resulting from these legislative changes including any impacts on the existing development application fees and any necessary changes to business processes.

Conclusion

Bill 109, the More Homes for Everyone Act, 2022, was introduced on March 30, 2022 and received Royal Assent on April 14, 2022. This omnibus Bill amended 6 different statutes, including the *Planning Act*. The Bill will, among other matters, impact how municipalities review development applications and fundamentally affect the Town's ability to plan in an inclusive and conscientious manner.

Although the changes introduced by The *More Homes for Everyone Act, 2022* are intended to build homes faster by expediting approvals, the changes may result in an increased number of development application appeals, which would add a delay in delivering housing supply. Furthermore, it is not clear how these changes address housing affordability.

Staff recommend that this report be received for information, and that Appendix A: By-law to Delegate Site Plan Control Authority, be approved, to amend By-law 01-32.

Attachments

Appendix A – By-law to Delegate Site Plan Control Authority

Appendix B – Legislation Amendments to the *Planning Act* and *Development Charges Act*

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