



Date: June 27, 2022

To: Mayor and Council

Author: Richard Wyma, Director of Community and Development Services

RE: Review of Bill 109, the More Homes for Everyone Act, 2022

Report No.: CaDS 09-22

RECOMMENDED ACTION

1. That authority to approve Site Plan applications **BE DELEGATED** to the Director of Community and Development Services, upon receiving a recommendation from the Manager of Planning and any other applicable Town departments; and,
2. That Administration **BE DIRECTED** prepare an Official Plan Amendment which requires pre-application public consultation meetings, led by the applicant or their agent, on certain Official Plan Amendments and Zoning Bylaw Amendments, and that additional public meetings not be required for a planning application if not required under the Planning Act.

BACKGROUND

On March 30, 2022, the Province of Ontario introduced the More Homes for Everyone Plan and tabled *Bill 109: More Homes for Everyone Act, 2022*, with the stated goal to create more housing options for homeowners and renters by accelerating development timelines to get more homes built faster. The Plan builds on recommendations from the Ontario Affordable Housing Task Force Report that was released on February 8, 2022. The report outlined 55 recommendations with the goal of increasing the supply of housing. The recommendations ranged from requiring greater density, reducing or limiting urban design rules, depoliticizing the planning process, reducing public consultation, and improving the Ontario Land Tribunal.

The Province released several bulletins for review on the Environmental Registry of Ontario for a 30-day comment period that ended on April 29, 2022. This included bills related to consultations on the Plan, proposed Amendments to the Planning Act, Proposed Guidelines for community infrastructure and housing, and opportunities to increase 'missing middle' housing and gentle density.

Despite the review window, on April 14, 2022, Bill 109, the *More Homes for Everyone Act, 2022* received royal assent. The legislation is aimed at reducing 'red tape',

accelerating the development application review timelines, and streamlining approvals processes, primarily at the municipal level.

DISCUSSION

While staff support the general intent to resolve housing affordability and availability, the implications of the amendments do impact local decision making and place additional pressures on staff to respond to development review processes.

Schedule 5 of Bill 109 implements a number of amendments including:

- The *Planning Act* will be amended to delegate approval of Site Plan applications to municipal staff, extend the timeline for approval from 30-60 days, and mandate refunds ranging from 25-50% of application fee if not approved within 60 days. This change is to take effect on January 1, 2023.

Similarly, new punitive provisions requiring municipalities to refund, in part or in their entirety, fees for Official Plan and Zoning Amendment applications if a decision by the municipality is not made within the timelines prescribed in the *Planning Act*.

Amount of Refund	Type of Planning Application		
	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
50% refund	Decision is made within 121 days and 179 day	Decision is made within 91 days and 149 days	Plans are approved within 61 days and 89 days
75% refund	Decision is made within 180 days and 239 days	Decision is made within 150 days and 209 days	Plans are approved within 90 days and 119 days
100% refund	Decision is made 240 days and longer	Decision is made 210 days and longer	Plans are approved 120 days and longer

- Changes to Site Plan Control including:
 - Implementing a ‘Complete Application’ requirement for Site Plan Applications, similar to Zoning By-Law or Official Plan Amendment applications (came into force on April 14, 2022)
 - Extending Site Plan Application appeal timelines for non-decision from 30 days to 60 days (came into force on April 14, 2022)

- Requiring municipalities to delegate approval of Site Plan applications to municipal staff (to come into force July 1, 2022)
- The Province will propose new rules to limit the conditions that a municipality can impose on a draft plan of subdivision and give municipalities a one-time discretionary authority to reinstate draft approved plans of subdivision that have lapsed within the past five years without a new application to streamline decision-making. Restrictions on conditions have not yet been identified and will be implemented through regulation at a later date (came into force April 14, 2022). Absent details on what the restrictions could be, staff are concerned that restricting the municipality's ability to impose certain conditions could have long lasting impacts on municipal finances if local infrastructure or development standards or conditions are not implemented or adhered to.
- A new section requiring municipalities to accept surety bonds as a form of performance guarantee for development applications (proclamation date not identified). Staff would note that it should be up to municipalities to determine acceptable forms of performance guarantees to ensure development is constructed to municipal standards, especially when the municipality is assuming ownership and maintenance responsibility of the assets.
- A new subsection to allow the Minister to suspend the time for appeals related to the Minister's decision of an Official Plan, or refer the matter to the Ontario Land Tribunal (came into force April 14, 2022)
- The Province will speed up approvals for housing and community infrastructure, like hospitals and community centres, while increasing transparency and accountability through a new Community Infrastructure and Housing Accelerator (CIHA) which will include public notice and consultation requirements.
- The Province will provide \$19 million in funding over three years to the Ontario Land Tribunal (OLT) to support faster case resolution, hiring more staff and adjudicators, and doubling the capacity for the use of expert land use planning mediators.
- The Province will introduce modest changes that increase public reporting, public consultations, and by-law renewals that will apply to the use of Development Charges or Community Benefit Charges.
- Additional *Planning Act* changes will be implemented to depoliticize planning decisions.

Comments on Amendments

Development Application Refunds

The amendments to the Planning Act assume that requiring municipalities to partially or fully refund application fees if a decision is not made on an application within the legislated timeline will expedite approvals. However, it is important to understand the impact these timelines will have on municipal resources. In December 2017, Bill 139 was introduced which increased review and decision timelines for Official Plans and Official Plan Amendments from 180 days to 210 days; and for Zoning By-Laws and Zoning By-Law Amendments from 120 days to 150 days. Currently, and under Bill 109, the proposed timelines are drastically reduced to 120 days for OP and OPAs, and 90 days for ZBL and ZBAs.

In many cases, meeting these timelines are challenging for reasons outside of a municipality's control and requires that accurate information is provided at the beginning and that applicants respond to municipal comments and reviews in a timely manner. The application process is an iterative process requiring municipalities and applicants to work together to address errors, and ensure applications respond to identified or emerging issues. While the overall goal of the legislation is to encourage faster review and approval of applications, due to the timelines necessary for internal review, consultation, and collaboration with applicants; statutory public notice periods, required consultations with external agencies, County and Provincial reviews and approvals, and the need for additional information, clarification or explanation to determine the appropriateness of an application, to avoid penalties, there may be situations where applications are denied. Applicants would then be able to appeal decisions to the Ontario Land Tribunal, which would delay action and increase costs and timelines associated with approvals.

As a note, application fees are intended to support application review and are a cost recovery mechanism not a revenue generating tool. Refunding application fees for non-decisions within legislated timelines in many cases for reasons outside of municipal control, will result in municipalities not being able to fund staff positions, increase fees to fund additional capacity to meet timelines, or place additional financial burdens on the tax payer rather than the developer. If timelines are retained, legislation should 'stop the clock' when applications are returned to proponents to respond to comments, seek external agency review, etc. Administration will review staffing needs associated with timelines, and propose any additional capacity or fee changes as part of 2023 budgeting.

Finally, the Town of Kingsville currently has a process where some planning applications are presented to Committee of the Whole for general discussion prior to public notice periods required under the Act. This process was established when the Committee of the Whole was introduced to replace the former Planning Advisory Committee. Delays associated with a second public meeting will create unnecessary pressure on already tight timelines. Administration proposes to prepare an Official Plan

Amendment which requires pre-application public consultation meetings, led by the applicant or their agent, on certain Official Plan Amendments and Zoning Bylaw Amendments, and that additional public meetings not be required for a planning application if not required under the Planning Act.

Amendments to Site Plan Control

The legislation requires Municipalities to delegate authority to approve site plan applications to a designated authorized person (officer, employee, or agent of the municipality).

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).

Subsection (2) establishes the area for which site plan control is in place; which for Kingsville is the entirety of the municipality. Subsection (4) refers to site plan approvals. At present, municipal council may, but is not obligated to, delegate its authority to approve site plan applications.

In keeping with the legislated requirements, Administration is proposing that the Town of Kingsville delegate authority to approve site plan applications to the Director of Community and Development Services. Further, to facilitate review, Administration is developing a procedure for Site Plan Application that will require sign-off on site plan applications by each relevant Department (Legal and Building Services, Engineering and Infrastructure Services, Community and Development Services, Fire Services). Once all internal approvals are confirmed, the Site Plan would be presented to the Director of Community and Development Services for review and approval.

In addition, the legislation requires that municipalities implement a new complete application process for site plan applications similar to the complete application process that applies to official plan amendment applications and zoning bylaw amendment applications and extends the timeline to appeal a site plan application for non-decision is increased from 30 days to 60 days.

Administration supports the extension of the appeal timeline from 30 days to 60 days; and the complete application process which will streamline reviews by ensuring submissions are complete and accurate at the start of the process. However, as noted, there remain many factors outside the Town's control that impact our ability to approve site plan applications.

FINANCIAL CONSIDERATIONS

As noted, in response to legislated timelines, Administration will review staffing needs and propose any additional capacity or fee changes as part of 2023 budgeting. It is anticipated that additional staff and resources will be required to meet prescribed

timelines. Failure to meet timelines will result in penalties which will also impact municipal budgeting. Administration will endeavor to ensure reviews are completed within prescribed timelines, however as noted, for reasons outside of municipal control, the timelines may not be met, resulting in refunds, or applications may instead be rejected which will result in increased costs at Ontario Land Tribunal. In addition, if there are refunds, there will be additional costs to the Town's finance department to prepare and process refunds.

ENVIRONMENTAL CONSIDERATIONS

As noted, staff are concerned that the imposed timelines may result in support studies not being completed, reviews not being completed, or substandard works being submitted. This may have an impact on environmental factors in Kingsville.

CONSULTATIONS

- Senior Management Team
- Manager of Planning Services
- WSP Canada
- County and Municipal Planners

PREPARED BY:



Richard Wyma
Director, Community and Development Services

REVIEWED BY:



John Norton
Chief Administrative Office

LINK TO STRATEGIC PLAN

Strive to make the Town of Kingsville a more accessible community.

To become a leader in sustainable infrastructure renewal and development.

Support growth of the business community.

Manage residential growth through sustainable planning.

Manage growth through sustainable planning.

Effectively manage corporate resources and maximize performance in day-to-day operations.

Link to Council 2021-2022 Priorities

- ☐ COVID-19 and the health and safety of the community
- ☒ Customer Service: Training, Technology, Staff, Review Standards/Level of service
- ☒ Housing: Affordability (lot sizes, developer incentives, second dwellings, density, etc.)
- ☐ Greenhouse: lights & dark sky, odours (site plan compliance, bylaws, other tools)
- ☐ Programming Increase: Youth and Seniors
- ☐ A development plan for Downtown Kingsville / Main Street
- ☐ Financial savings: Schools closings, Migration Hall
- ☐ Economic Development: strengthen tourism/hospitality
- ☐ COVID - economic recovery
- ☐ Communications: Strategy – Policy (social media), Website refresh and other tools, Public engagement
- ☐ Housing: Migrant Worker Housing – Inspections (Building/Fire), regulate, reduce, or increase
- ☐ Committees / Boards: Review and Report
- ☐ Policy Update: Procedural Bylaw
- ☐ Economic Development: diversify the economy, create local jobs, industrial, Cottam
- ☐ Infrastructure (non-Municipal): Union Water expansion & governance
- ☐ Infrastructure (Municipal): Asset Management Plan update, the infrastructure funding deficit
- ☐ No direct link to Council priorities