



Date: February 13, 2023

To: Mayor and Council

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Manager of Planning and Development Services

RE: Update to Site Plan Control By-law

RECOMMENDED ACTION

1. That **By-law 5-2023** being a By-law to regulate Site Plan Control in the Town of Kingsville be taken as having been read three times and finally passed and the Mayor and Clerk **BE AUTHORIZED** to sign same.

BACKGROUND

The current Site Plan Control By-law (128-2015) is 7 years old and while there is no specific timeline or legislative requirement to review and or update such by-laws it is good practice to analyze most by-laws on a regular basis. This allows for alterations that may be required as a result of legislative changes to the *Planning Act*, changes to the Town's planning policies, or functionality changes that are required based on the by-laws ongoing use.

There have been at least two updates to the *Planning Act* (the "Act") and the implementation of an updated Provincial Policy Statement (PPS) in 2020 since the last time the Site Plan Control By-law was updated in 2015. These have resulted in changes to Section 41 of the *Act* which regulates Site Plan Control.

A key goal in the review and revision of the site plan control by-law is improving its ongoing functionality. The current by-law is outdated and lacks details that can prove helpful in both processing site plan approvals efficiently and enforcing non-compliance. The need for a new Site Plan Control By-law was further reinforced with recent changes to the *Planning Act* mandating delegation of Site Plan approvals to administration.

DISCUSSION

The new site plan control by-law is intended to provide direction to both Building and Planning staff when assessing new development and addressing proposed changes to existing development, which may be currently subject to an existing site plan approval and agreement. This is done as follows:

- 1) Provide a clear statement of what is required as part of a site plan approval process.

Comment: The new by-law inserts the actual requirements under the *Act*. This gives both the Town and owner clarity as to the requirements of the process.

- 2) Outline specifically what classifications of development are not subject to site plan approval.

Comment: The new by-law outlines in greater detail what types of development do not require site plan approval (excluded classes of development in Section 8 of the new by-law). The now includes residential buildings of 10 units or less in line with recent changes to the *Planning Act* made through Bill 23.

- 3) Provide direction on the classes of site plan approval and delegate approvals to administration.

Comment: In accordance with recent changes to the *Planning Act*, all Site Plan approvals were delegated to administration in July 2022. Changes captured under this By-law now reflect changes Council has already made through the Delegation of Authority By-law.

- 4) Provide some discretion to the Manager to determine if site plan approval is required.

Comment: Although it is rare to exempt a proposed development from site plan approval, if generally required, there can be times that the scale of the proposal is such that there is nothing to be gained from implementing the use of site plan control. This is equally true on the other end of the process. There can be circumstances where a development would typically be exempt from site plan control but for one or more reasons should actually be subject to site plan control. The most common example is a development that is proposed in an area it would not typically be found and requires a zoning change. Since zoning changes cannot be approved subject to conditions, site plan control is often the most efficient method to implement the proposed development.

- 5) Outline a penalty section to provide an enforcement mechanism to the Town for non-compliance with signed site plan agreements.

Comment: The primary weakness in many site plan control by-laws is the lack of an enforcement mechanism. Site plan agreements typically require the submission of some form of security deposit to ensure the terms of the agreement are met within a specific timeline outlined in the agreement. If the works are completed once the securities are released there continues to be a need to enforce terms of the agreement that may not be complied with in the future. This reinforces to a property

owner that the terms of the agreement, which they have signed and agreed to, are serious and do not expire once the development is completed.

FINANCIAL CONSIDERATIONS

There are no financial implications anticipated as a result of the new proposed site plan approval by-law. However, with the implementation of a more detailed by-law the expectation is that there will be fewer issues with site plan agreement implementation and enforcement and clearer directions and expectations for developers.

ENVIRONMENTAL CONSIDERATIONS

Site Plan Control is the most common method that municipalities use to ensure new development complies with policies and by-laws designed to ensure compatibility and servicing requirements are met. The passage of an updated Site Plan Control By-law may contribute to improving environmental protections while facilitating orderly development.

CONSULTATIONS

Notice of the proposed new site plan approval by-law was published Thursday January 19th on the Town website. At the time of writing no public comment has been received.

The proposed Site Plan Control By-law was drafted in coordination with Legal, Building, and other reviewers that are normally involved in reviewing Site Plan applications.

PREPARED BY:



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