



Report to Council

Department: Development Services

Division: Planning

Date: June 20, 2022

Prepared by: Rita Jabbour, RPP, Manager, Planning Services

Report Number: Planning-2022-19

Subject: Bill 109 (More Homes for Everyone Act, 2022)-Changes to the Planning Act Affecting Site Plan Control Approval

Number of Pages: 7 Including attachments

Recommendation(s)

That Planning Report Planning-2022-19 entitled Bill 109 (More Homes for Everyone Act, 2022)- Changes to the Planning Act Affecting Site Plan Control Approval prepared by Rita Jabbour, RPP, Manager, Planning Services dated June 20, 2022 be received, and,

That Council hereby gives first, second and third readings and hereby adopts By-law 2177 being a by-law to amend Bylaw 1924, being a Bylaw to Delegate the Duties and Powers of the Council of the Town of Essex to delegate approval of plans and drawings respecting applications for Site Plan Control and Site Plan Control Amendments, including conditions to the approval of site plans and site plan amendments, to the Director of Development Services in consultation with the Manager of Planning Services for the Town of Essex.

Purpose

To delegate the approval of plans and drawings respecting applications for Site Plan Control and Site Plan Control Amendments to the Director of Development Services in consultation

with the Manager of Planning Services for the Town of Essex. As a result of Bill 109- the *More Homes for Everyone Act, 2022* - a Council that has designated a site plan control area, must appoint an employee of the Municipality as an authorized agent to carry out all site plan approvals for applications submitted on and after July 1, 2022.

Background and Discussion

Bill 109- More Homes for Everyone Act (2022)

Bill 109, the *More Homes for Everyone Act, 2022*, was passed by the Ontario Legislature and received Royal Assent on April 14, 2022. It builds on the success of the *Housing Supply Action Plan, 2019* by introducing a range of cross-government initiatives that will help increase housing supply, address market speculation, and protect homebuyers, owners, and renters.

Bill 109 makes several changes to the *Planning Act* respecting processes for zoning, plans of subdivisions, and site plan control to expedite approvals and incentivize timely decisions on Planning Act applications. **A technical overview of those changes is attached to this report as a presentation from the Ministry of Municipal Affairs and Housing.** Changes to the Planning Act, specifically, are summarized below:

- New Minister's order-making authority to respond to municipal council resolutions requesting expedited zoning,
- Gradual refund of zoning bylaw amendment and site plan control application fees if Municipality fails to decide on an application within the legislated timelines (applicable to all applications received on or after January 1, 2023),
- Establish complete application requirements for site plan control,
- Extend site plan control application timelines from 30 to 60 days,
- **Require site plan control decisions be made by staff instead of municipal councils or committees of council (applicable to all applications received on or after July 1, 2022),**

- Establish a one-time discretionary authority to allow municipalities to reinstate draft plans of subdivision that have lapsed within the past five (5) years without the need for a new application.

As a result of Bill 109, the authority for site plan control approval **must** now be delegated to an employee of the Municipality if the Council wishes to continue to use site plan control. For site plan control applications submitted on and after July 1, 2022, Council will no longer have the authority to give site plan approvals. **This change is non-discretionary and is required to be implemented by July 1, 2022.** Council will continue to be the approval authority for site plan control applications received before July 1, 2022.

Site Plan Control

Section 41 of the Planning Act allows a municipality to establish a site plan control area (or areas) within the Town. In accordance with subsection 9.13 of the Town of Essex Official Plan, all areas within the Town of Essex are designated as areas of site plan control. Site plan control applies to all new development (agricultural, residential, commercial, institutional, industrial) except for those uses identified under subsection 9.13.2 of the Official Plan such as agricultural uses and accessory structures which occupy less than 10 percent of the total lot area.

The objectives of site plan control include, but are not limited to, the following:

- To ensure a high aesthetic standard of exterior building and site design for new development,
- To ensure public safety, neighbourhood compatibility, barrier free accessibility, energy efficiency, reduce light pollution and lessen light intrusion,
- To ensure adequacy of servicing, landscaping, and lighting and a safe and secure public environment, and,
- To ensure the policies of the Official Plan related to urban design, sustainability, heritage conservation, natural heritage protection, buffering and other municipal guidelines, objectives and initiatives are satisfied.

The Site Plan Review process considers input from various departments and agencies and typically results in the preparation of a Site Plan Control Agreement. The Site Plan Control Agreement is a binding contract between the Town of Essex and the applicant/owner. The Agreement consists of conditions of development, is registered on title of the property, and is a prerequisite to the building permit application process.

Currently, Town of Essex Council is the approval authority on all plans and drawings and conditions respecting applications for site plan control and site plan control amendments, including Site Plan Control Agreements. The Mayor and Town Solicitor/Legal and Legislative Services/Clerk have signing authority for Site Plan Control Agreements.

Delegated Approval Authority for Site Plan Control

Bylaw 1924, being the delegation of authority bylaw for the Town of Essex, is proposed to be amended to authorize the Director of Development Services, in consultation with the Manager of Planning Services, as the primary authority respecting the approval of plans and drawings for Site Plan Control and Site Plan Control Amendment applications, including conditions to the approval of site plans and site plan amendments. Second authority is delegated to the Manager of Planning Services in consultation with the Town Solicitor/Legal and Legislative Services/Clerk. The Clerk will continue to have signing authority on Site Plan Control Agreements. **A proposed amending by-law (2177) to incorporate the delegated approval authority for Site plan Control is attached hereto as Schedule "A" to this report.**

As the primary Planning representative to Council and the Chief Administrative Officer (CAO) regarding development applications and approvals, and a member of the Corporate Leadership Team (CLT), the Director of Development Services is the appropriate approval authority for site plan control. In consultation with the Manager of Planning Services, the Director is also responsible for resolving conflicts between competing interests (e.g., neighbourhood groups/developers; engineering/environmental issues, conflicting objectives of

policies/guidelines), through mediation, negotiation, and facilitation; an important asset to site plan control approval should the need arise.

Standard Process for Site Plan Control Applications and Approvals

The standard process for site plan application intake and review will not be impacted by Bill 109 and will continue to be administered by the Planning Division under the supervision of the Manager of Planning Services with support from Infrastructure Services, Building and Bylaw, Corporate Services, and Community Services staff and external support from the Essex Region Conservation Authority (ERCA), Ministry of Transportation (MTO) and County of Essex.

The Official Plan requires that proponents of development pre-consult with municipal Planning staff before an application for site plan approval is deemed complete. The Official Plan also identifies all required support studies that may be requested as part of the complete application submission.

The legislated timelines for approval of site plan control impacted by Bill 109 **do not commence** until the Municipality has received, to its satisfaction, the plans, drawings, and application fee. Until such time, the Municipality may refuse to accept or further consider the application. Therefore, the Planning and Zoning operating budget is not expected to be impacted by new legislation requiring gradual refunds of application fees when decisions are not rendered within the legislated timelines. Municipalities will be required to notify the proponent within 30 days after the applicant pays any fee, with confirmation that the required information has been submitted.

Council Communication on Site Plan Control Approval

To keep Council apprised of new development, Council will be advised of active site plan control applications and approvals through the following methods:

- CAO's Monthly Activity Memo to Council, and/or,
- Email correspondences.

Financial Impact

Changes resulting from Bill 109 respecting the refund of application fees for site plan control and zoning bylaw amendments may result in a financial impact to the Planning and Zoning operating budget commencing in 2023. However, due to the complete application process, refunds are not anticipated.

Delegated approval authority for site plan control applications will have no impact on the Planning and Zoning operating budget. Delegated authority will allow for quicker processing time for site plan applications since staff time to prepare a report to Council will no longer be required. No additional steps to process a site plan control application are required because of changes under Bill 109. All costs associated with the processing of an application for site plan control are recouped 100 percent (%) through the application fee for site plan control and site plan control amendment.

Consultations

Lori Chadwick, Director, Development Services

Robert Auger, Town Solicitor/Clerk

Katelynn Giurissevich, Director, Corporate Services/Treasurer

Link to Strategic Priorities

- ☐ Manage, invest and plan for sustainable municipal infrastructure which meets current and future needs of the municipality and its citizens.
- ☐ Create a safe, friendly and inclusive community which encourages healthy, active living for people of all ages and abilities.
- ☐ Provide a fiscal stewardship and value for tax dollars to ensure long-term financial health to the municipality.
- ☒ Manage responsible and viable growth while preserving and enhancing the unique rural and small town character of the community.
- ☒ Improve the experiences of individuals, as both citizens and customers, in their interactions with the Town of Essex.
- ☐ Improve the Town's capacity to meet the ongoing and future service needs of its citizens while ensuring the corporation is resilient in the face of unanticipated changes or disruptions.

Report Approval Details

Document Title:	Bill 109 Changes to the Planning Act -Delegation of Site Plan Control Approval .docx
Attachments:	- By-Law No. 2177 - Amend BL 1924_Delegation of Authority.docx - Bill 109 Presentation April 20 2022 FINAL.pdf
Final Approval Date:	Jun 14, 2022

This report and all of its attachments were approved and signed as outlined below:

Rita Jabbour, Manager, Planning Services - Jun 14, 2022 - 9:14 AM

A handwritten signature in black ink, appearing to read "Lori Chadwick", with a long horizontal flourish extending to the right.

Lori Chadwick, Director, Development Services - Jun 14, 2022 - 9:34 AM

A handwritten signature in black ink, appearing to read "Doug Sweet", with a long horizontal flourish extending to the right.

Doug Sweet, Chief Administrative Officer - Jun 14, 2022 - 9:36 AM