

## REPORT

### Planning and Development Council

Meeting Date: July 11, 2022

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**FROM:** Legal Department

**DATE:** July 5, 2022

**SUBJECT:** Implementation of Bill 109 – Amendments to Site Plan Control  
By-law 2019-114 (July 11, 2022) By-law 2022-093

**LOCATION:** Town-wide

**WARD:** Town-wide

Page 1

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#### RECOMMENDATION:

That By-law 2022-093, a by-law to establish site plan control, delegate authority with respect to the approval of site plans within the Town of Oakville, repeal By-law 2019-114 and amend By-law 2021-077, be passed.

#### KEY FACTS:

The following are key points for consideration with respect to this report:

- Bill 109 introduced changes to the site plan application process including requirements that decisions on site plan applications be made by an individual appointed by Council rather than Council.
- Changes to the Town's site plan control by-law are required to reflect the revised process.
- Council has previously requested that some site plan applications be referred to Council. It is intended that those applications will be brought to Council for comment at an early stage of the site plan process.
- Minor changes to the site plan by-law clarifying or making minor changes to the site plan process are proposed as part of the new consolidated by-law.

#### BACKGROUND:

Bill 109, *More Homes for Everyone Act, 2022* ("Bill 109") received Royal Assent on April 14, 2022. The amendments to the *Planning Act* introduced through Bill 109 include changes to the site plan process requiring that decisions on site plan

applications be made by an “authorized person” who is an employee, officer or agent of the municipality. Council’s authority to approve plans has been removed. This restriction applies to applications submitted on or after July 1, 2022.

The Town’s site plan control by-law (By-law 2019-114) had previously delegated authority to approve most site plans to the Director of Planning Services. However, the by-law also allowed for referrals of site plans to Council at the request of Council or on the Director’s own initiative. Council has previously requested that the following site plans be referred to Council for decision.

- 271 Cornwall Road and 485 Trafalgar Road (Ward 3)
- 77 East Street (Ward 1)

Site plan applications related to these developments were not submitted before July 1, 2022 and will not be subject to Council approval.

By-law 2019-114 also provides for a scoped site plan process that is primarily designed to allow the town to review grading plans for replacement housing. This process (referred to internally as the Development Engineering Site Plan or “DESP”) was delegated to the Director of Development Engineering (amended to Director of Transportation and Engineering through By-law 2021-077) and is not affected by the changes to the *Planning Act* but are affected by some of the other changes proposed to the site plan by-law.

### **COMMENT/OPTIONS:**

The changes to the *Planning Act* are designed to expedite the approval process and recognize the role of the site plan process as a technical review of implementation details of a development.

While Council no longer has authority to approve site plan applications it is recognized that past resolutions of Council requesting the referral of certain site plan applications, may have created expectations among the public for increased public input and transparency. As a result, it is proposed that these applications be forwarded to Council for comment from members of the public and Council prior to the Director making a decision. Further referrals are not recommended for reasons described below.

While Council may provide comments or ask questions related to the applications, any future process must respect the independence of the authorized person as the decision maker. As a professional planner, the Director is required to make decisions in accordance with his or her professional opinions, in reliance on the professional opinions of other experts. Any perception of political interference could result in appeals or other challenges to the Director’s decision.

Applications submitted after January 1, 2023 will also be subject to the new fee refund provisions of the *Planning Act*, which prescribe a 60 day time frame for granting an approval and requiring a fee refund of:

- 50% - if an approval is not granted within 60 days
- 75% - if an approval is not granted within 90 days
- 100% - if an approval is not granted within 120 days.

Taking applications to Council will result in difficulties in meeting these already challenging deadlines unless the applications are forwarded to Council before they have gone through the standard review process by staff and external agencies. It is likely that there will be unresolved issues at the time of submission of the staff report which may not be resolved prior to the Council meeting.

It is proposed that By-law 2019-114 be repealed and replaced with By-law 2022-093 to achieve a consolidated by-law that reflects the revised process. In addition to removing the option of referrals to Council, addresses the following housekeeping matters and other minor amendments:

- The by-law simplifies and clarifies the provisions that identify which applications are subject to the full site plan or DESP processes.
- Restrictions on conditions that could be imposed on certain types of development have been removed. These restrictions were included in the old Official Plan but were not carried forward into the Livable Oakville.
- Development within community improvement areas has been removed as a separate category. Development within these areas is already captured by other categories.
- Additional requirements for information to be included in site plan drawings that are authorized by the *Planning Act* have been added to the submission requirements where the required supporting policies have already been included in the Livable Oakville Official Plan.
- Developments within 50 m of Lake Ontario have been reassigned to the DESP process instead of the full site plan process. The town's interest in these applications is related to grading rather than other issues. These areas are often further regulated by Conservation Halton.
- Residential and agricultural development within the Parkway Belt West Zone, previously subject to an exemption, has been made subject to the DESP process. The exemption pre-dated the DESP process. While review of architectural details and other matters regulated by the full process is not required for those uses, the DESP process assists in identifying, managing and preventing impacts to the natural heritage system beyond the opportunities provided through building permit review.
- References to legislation and zone classifications have been updated.

The site plan process is under review which may result in additional changes in the future. Incidental changes to By-law 2021-077, the *Municipal Powers and Duties*

*By-law*, are included in By-law 2022-093 to maintain consistency between the two by-laws.

**CONSIDERATIONS:**

**(A) PUBLIC**

Members of the public have not been consulted since the By-law implements changes required by provincial legislation or makes changes which are considered minor. The proposed process for applications previously referred to Council respects the public expectation for input and transparency on those matters.

**(B) FINANCIAL**

There are no financial consequences of this report other than potential impacts on fee refunds for applications referred to Council.

**(C) IMPACT ON OTHER DEPARTMENTS & USERS**

This report and the revised by-law have been prepared in consultation with the Director of Planning Services and staff from the Transportation and Engineering department responsible for the DESP process.

**(D) CORPORATE STRATEGIC GOALS**

This report addresses the corporate strategic goal(s) to:  
Amending the site plan process to reflect provincial legislation, while maintaining past commitments to the public assist in achieving the goals of

**(E) CLIMATE CHANGE/ACTION**

Minimizing climate change is a consideration that is reflected in the standards applied during the evaluation of site plan applications.

**APPENDICES:**

Appendix A - By-law 2022-093, a by-law to establish site plan control, delegate authority with respect to the approval of site plans within the Town of Oakville, repeal By-law 2019-114 and amend By-law 2021-077

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