



OAKVILLE

REPORT

Planning and Development Council

Meeting Date: April 8, 2024

FROM: Community Planning Commission

DATE: March 26, 2024

SUBJECT: **Community Planning Permit System**

LOCATION: Townwide

WARD: Town-wide

Page 1

RECOMMENDATION:

That the report entitled “Community Planning Permit System” be received for information.

KEY FACTS:

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

- This report is further to the report received by Council on March 18, entitled: White Paper: *Planning Act Tools to Facilitate Development of Affordable Housing*.
- Appendix 1 of the March 18th report provides information regarding the Community Planning Permit System (CPPS), how it supports the provision of affordable housing and community building in general, how it is implemented, and where it is presently in use within Ontario.
- CPPS a streamlined system to implement the in place Official Plan policies, which provide clarity to the community
- At the March 18th Planning and Development Council meeting, Council resolved to further investigate and consult on the use of the CPPS within the Town and in Midtown Oakville in particular.
- This staff report is supplemented by a presentation to be delivered on April 8, 2024 which provides information regarding how the CPPS has been adopted and used in other communities in Ontario.

BACKGROUND:

At the March 18th Planning and Development Council meeting staff provided an overview of three *Planning Act* tools (Inclusionary Zoning, Community Planning Permit System, and Community Improvement Plan) and recommended that they be

implemented in Oakville to facilitate the development of affordable housing. Further to that meeting, staff are providing additional information regarding the Community Planning Permit System in particular.

The CPPS is a land use control tool that replaces municipal zoning by-laws where the Community Planning Permit (CPP) by-law is in effect. Implementation of the CPPS results in a one-application, one-approval planning process that streamlines development approval in conformity with the Town's Official Plan.

The use of the CPPS must be enabled through policy in the Town's Official Plan. The *Planning Act* and Ontario Regulation 173/16 provide direction for its implementation, including a description of mandatory and optional policies and provisions for the official plan and the implementing by-law.

The CPPS implements the Official Plan community building vision, objectives and policies in a manner that is more streamlined than the current traditional system that relies on zoning by-laws, and applications for minor zoning by-law amendments, minor variances to the zoning by-law, and/or site plan approval, in order to implement official plan policies on a site specific basis.

Where a CPP by-law is in effect, the by-law provides decision making direction regarding permitted and prohibited uses, development standards (including minimum and maximum density, height, set-backs, step-backs, parking spaces, lot coverage, etc.) in conformity with the official plan. The by-law may include criteria and conditions of development approval that are in accordance with the official plan, and that is otherwise not found in a zoning by-law and/or are not applicable when approving a by-law amendment. Furthermore, the by-law may include permission to vary from a set standard when issuing a development permit. Having this information in the by-law provides the necessary information to prepare and approve development permit applications. This information also provides greater certainty regarding how an area may develop over time to landowners as well as the public.

An approved development permit application is what guides the approval of building permits and provides the necessary permissions related to matters such as site alteration, removal/placement of vegetation, and the location of parking spaces for cars and mobile homes. The development permit replaces the need for site specific exception provisions in a zoning by-law or approval of minor variance applications and provides for a singular document wherein all development specifications regarding a site are provided.

Furthermore, unlike a zoning by-law, once a CPP by-law is in effect, unless resolved by Council to permit applications to amend it, the *Planning Act* does not permit amendments for the first five years. This provides an opportunity for Council and the public to test the efficacy and understand the impact of the CPPS.

Application in Other Municipalities in Ontario

Presently, the CPPS is in effect on a townwide basis in Lake of Bays, Carleton Place, Huntsville, and Gananoque. It is also used within Brampton's main street north area, Innisfil's shoreline area, and is being considered for four Protected Major Transit Station Areas in Burlington (adoption anticipated in Q2-2024).

These communities have prepared their CPP by-laws through public and stakeholder consultation. Their by-laws implement community building policies of their official plan, as such each by-law is unique. However, there are many shared themes within them, and much can be learned from their adoption and, where applicable, implementation.

Community Building Measures of the CPP By-law

When developing a CPP by-law, a municipality may implement discretionary policies in its official plan that provide criteria or conditions that need to be met or addressed prior to development being approved/constructed to ensure that community building objectives are being achieved. Matters that may be addressed in the community planning permit by-law include, but are not limited to:

Providing parkland

The by-law may include requirements for parkland dedication or cash-in-lieu of parkland in accordance with section 42 of the *Planning Act* (parkland dedication).

Providing public community facilities

The by-law may include provisions that would require public services, facilities, or matters (i.e., library, day-care facility, public art, energy conserving measures, parkland beyond what is required by section 42 of the *Planning Act*, etc.) in exchange for an increase in density and/or height from what is deemed 'as of right' permissions. Accordingly, the regulation requires that the CPP by-law establish provisions that ensures a proportional relationship between density/height that is permitted within the by-law and the community benefit that is received.

These provisions can be used to support the provision of community facilities that would otherwise be supported by a Community Benefits Charge (CBC) by-law, (which is not applicable within the CPP by-law area). Furthermore, it should be noted that whereas the Community Benefits Charge applies to development that proposes to provide 10 or more residential units in a building and that is five or more storeys tall; the provisions of the CPP by-law may apply to any form of development.

Achieving mix-of-use targets within development

The by-law may include criteria that is required to be met prior to development permit application approval, such as demonstrating that a suitable mix of land use is

provided on site to support complete community objectives identified in the official plan.

Realizing sustainability measures

The by-law may require sustainable measures such as the provision of active transportation facilities and permeable pavements, and/or incentivize the provision of sustainable measures such as green roofs and contributions towards district energy facilities.

Realizing desired urban design elements within development

Approval of development permit applications may be given subject to the application demonstrating that urban design direction provided in the official plan are being addressed. More specifically, the O. Reg. requires development permit applicants to address exterior design matters such as character, scale, appearance and design features of the proposed building, and its sustainable design, in the drawings that are subject to approval, if the official plan contains provisions relating to such matters.

Protecting natural heritage and prohibiting development within hazard land areas

Where a site includes natural heritage features and/or hazard lands, the boundary and buffer area to those areas may be refined through the approval of the development permit application, rather than an application to amend the CPP by-law. This refinement would occur on condition that the development permit application demonstrates that natural heritage features are protected and/or development is located outside of hazard land areas, as confirmed by the Conservation Authority. (This ensures that official plan policies are implemented, without extending approval timelines to accommodate what would otherwise require a formal “re-zoning” of the land.)

Using the CPPS approach, the approved development permit would identify the limits of development and that would be the authoritative and legal document that the Chief Building Official would rely upon when issuing building permits.

Coordinating development with infrastructure service delivery

Similar to the *Planning Act* holding by-law, the approval of development permits can be time sensitive. While a development permit application may be approved, the issuance of the development permit may be on condition that certain matters (i.e. provision of infrastructure) are satisfied first.

Mandating timing of development

A development permit may also be provided for a set time period (as is the case for temporary use by-laws). Additionally, a development permit may include a lapsing

date, such that the development permit may expire after a certain date, if the building permit or construction has not occurred prior to it.

Limits of Conditions

When developing provisions in the CPP by-law, especially ones related to conditions the O. Reg. 173/16 requires that the condition:

- be of a type that is permitted by the official plan;
- be reasonable for and related to the appropriate use of the land; and
- not conflict with federal and provincial statutes and regulations.

When including a condition as part of a development permit approval, the regulation requires that the condition:

- be clear, precise, and quantifiable; and
- clearly indicate when the condition must be fulfilled (before, during or after permit issuance).

In the case of negotiated conditions, the regulation also requires that:

- The agreed upon height or density of development is within minimum and maximum standards of development (mandatory provisions in by-law) or outside range of variation from standards permitted in by-law (discretionary provision),
- And that the agreed upon increase in density and/or height from as of right height and/or density permissions provided in the by-law is proportional to the quantity or monetary value of the facilities, services and matters that may be provided.

Accordingly, it is important that the Town work in partnership with the development community and the public when establishing the CPP by-law to ensure that collective community building interests are met through the implementation of the by-law. When updating official plan policies and preparing by-law provisions, it is important that the Town give consideration to input received regarding how conditions are structured to ensure that necessary community facilities, services and matters are commensurate with and support growth within a CPP by-law area, without precluding development from occurring.

PLANNING POLICY & ANALYSIS:

The Community Planning Permit System is a tool in the *Planning Act* that is used to control land use. Ontario Regulation 173/16 provides the necessary direction to implement this tool. The regulation defines “development” to include the construction, erection or placing/enlarging of one or more building or structures on land; the laying out and establishment of commercial parking spaces as well as three or more mobile/land lease community homes; site alteration; and removal of

vegetation. Within a CPP by-law area any such development, unless exempt, is required to be authorized by a development permit.

Where in effect, the CPP by-law replaces the municipality's zoning by-law as the regulatory tool to implement the policies of the official plan. The streamlined approval process that results from implementing a CPPS allows decision makers and applicants to work through a direct process that relies on one application and one approval authority to ensure that official plan policies are being implemented.

The implementation of this process involves Council, stakeholders, and the public. All are involved in the development the CPP by-law. Furthermore, Council determines who the approver of development permits is and the scope of their authority. The public is given notice of applications, as per the requirements of the by-law, and may make submissions to the approval authority accordingly (but do not have a right of appeal with respect to the development permit application). Approval of applications must be in conformity with the by-law.

Should there be a need for a change in the by-law, that amendment would be processed in the same manner as a rezoning application. A request for a change to the by-law within the first five years of it coming into effect is not permitted, unless Council resolves to permit the request. Furthermore, Council may initiate an amendment to the by-law at any time.

Accordingly, implementing a CPPS provides for:

- a more streamlined development approval process,
- involves public and stakeholder input at the outset to form provisions that implement official plan community building vision, goals, and policies,
- provides a flexible land use control tool that implements official plan policies through the use of criteria, and conditions, in addition to standard zoning provisions; and, where appropriate a pre-determined range of variances to those standards, and
- creates a system where community services, facilities, and matters are provided in lock-step with development, in a manner that is commensurate with expected growth of the community, and in partnership with the development industry.

CONSIDERATIONS:

(A) PUBLIC

This staff report provides information regarding the Community Planning Permit System that responds to questions and comments from the public regarding the use of this tool.

(B) FINANCIAL

There are no financial implications resulting from the recommendation of this report.

(C) IMPACT ON OTHER DEPARTMENTS & USERS

None, this report is for informational purposes only.

(D) COUNCIL STRATEGIC PRIORITIES

The information in this report supports Council strategic priorities in so far as indicating that a CPP by-law is required to conform with the policies of the official plan, which has been prepared and is being updated to implement Council's strategic priorities.

(E) CLIMATE CHANGE/ACTION

None, this report is for informational purposes only.

CONCLUSION:

This report provides information regarding the Community Planning Permit System. It is supplementary to the report received by the Planning and Development Council on March 18th, 2024 entitled: White Paper: Planning Act Tools to Facilitate Development of Affordable Housing. This report is supplemented by a presentation to Planning and Development Council to be delivered on April 8, 2024 wherein the adoption and use of the CPPS in other Ontario municipalities will be discussed.

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