

## Staff Report 2022-0209

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Meeting Date: June 21, 2022

Subject: Impacts of Bill 109, The More Homes for Everyone Act, 2022 and A Recommended Path Forward

Submitted By: Stephanie McVittie, Manager of Development and Design, Planning Department

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### RECOMMENDATION

That Bill 109, the More Homes for Everyone Act, 2022 be incorporated in the Town's ongoing advocacy efforts, including a delegation at the Association of Municipalities of Ontario (AMO) Conference;

That staff be directed to initiate an Official Plan Amendment to amend the pre-consultation and complete application requirements in accordance with Bill 109 and Staff Report 2022-0209;

That Mandatory Pre-Consultation Planning Meetings By-law 2008-118 be repealed and replaced with the proposed Town of Caledon Pre-Consultation By-law attached as Schedule B to Staff Report 2022-0209, being a by-law to require applicants to consult with the Town prior to submission of certain types of planning applications;

That a by-law be enacted to amend Site Plan Control By-law 2013-086, as amended, attached as Schedule C to Staff Report 2022-0209 to update the Town's Site Plan Control By-law to include reference to design review;

That a by-law be enacted to amend Delegated Authority By-law 2016-106 to provide the Manager, Development and Design with authority to Lift Holding "H" Symbols, extensions and re-instate draft plan approvals and exemptions of plans of condominium;

That the Chief Administrative Officer be provided delegated authority to award and sign single source contracts to retain a consultant(s) to develop Terms of Reference for all supporting studies/materials required as part of a complete application, to an upset limit of \$75,000 funded from the Development Approvals Stabilization Reserve Fund;

That authorization be granted for condominium exemption on lands which have been subject to an approved Draft Plan of Subdivision, privately initiated Zoning By-law Amendment and/or Site Plan;

That standard, common element, phased and leasehold condominiums be exempt from Public Meetings, as identified in the Planning Act;

That staff bring forward a policy on how to manage and respond to requests for the use of the Community Infrastructure and Housing Accelerator Tool and Ministerial Zoning Orders for consideration in 2023; and

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That staff be directed to initiate a study to determine if a Community Planning Permit System may be applicable in the Town.

### REPORT HIGHLIGHTS

- Bill 109, the *More Homes for Everyone Act, 2022*, largely came into effect on April 14, 2022 after a limited commenting period.
- While the Town supports the intention of the Act to increase the housing supply and streamline development application processes, there are concerns with respect to the implications and unintended consequences.
- Municipalities have a responsibility to be transparent. This Bill does not recognize the time and cost associated with that responsibility.
- Bill 109 does not recognize that the development approvals process is iterative, collaborative, transparent and inter-dependent.
- The Bill will alter how applications are processed and how decisions are made and has the potential to delay approvals and result in more appeals to the Ontario Land Tribunal (OLT).
- Staff are recommending that Council add the concerns listed in this report to its active advocacy file list including a request to delegate the Minister of Municipal Affairs and Housing at the upcoming Association of Municipalities of Ontario (AMO) Conference.
- As Bill 109 is already in effect, staff are also recommending immediate improvements until the comprehensive process review is completed, including the actions as outlined in the report and enactment of numerous by-laws.

### DISCUSSION

#### Background

On December 6, 2021, the Minister of Municipal Affairs and Housing (the Minister) established Ontario's Housing Affordability Task Force (the Task Force). Their mandate was to address housing affordability by increasing the supply of market housing, reducing red tape, accelerating timelines, supporting economic recovery and job creation. The Task Force asserts that a lack of housing supply is at the root of Ontario's affordability crisis with all recommendations aimed at bringing 1.5 million houses to market in the next 10 years.

On February 8, 2022 the Minister of Municipal Affairs and Housing received a report from the Task Force that included 55 recommendations aimed at supporting housing affordability. The Task Force is proposing significant changes that will impact the planning framework, development process and public participation. In summary, the Task Force suggests that responsibility for Ontario's housing crisis is in part due to slow development approvals, outdated zoning, high fees, unsubstantiated appeals and community opposition; summarized in 5 themes presented within the report:

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1. Make the creation of housing a greater planning priority, require greater density and broadly expand development rights.
2. Reduce, shorten and streamline planning application processes and implement province wide zoning and urban design standards.
3. Depoliticize the planning process by eliminating restrictive zoning and removing neighbourhood character considerations.
4. Fix the OLT and prevent abuse of the appeals system.
5. Support municipalities that commit to transforming the system.

Staff's comments on the Task Force recommendations will be brought forward to Planning and Development Committee in a separate report in July.

Responding in part to consultations and recommendations from the Task Force, on March 30, 2022, the Provincial Government introduced Bill 109, the *More Homes for Everyone Act, 2022*. Bill 109 was posted for comments up until April 29, 2022. Despite the fact that the commenting timeframe had not yet closed, the Province gave third reading and Royal Assent to the Bill on April 14, 2022, coming into effect on the same day, (unless otherwise noted).

While staff support the goal to improve the housing shortage and the streamlining of processes, there are concerns related to the implications and unintended consequences of the Bill. Municipalities have a responsibility to be transparent to the public. This Bill does not recognize the time and cost associated with that responsibility. Staff believe Bill 109 will alter how decisions are made with respect to development applications and has the potential to delay approvals and result in more appeals to the OLT.

This report explains the key changes related to Bill 109, identifies strategies to address them and outlines an action plan. The Town's response to Bill 109 will be ongoing in order to best position the Town for success. Town staff is aware that Association of Municipalities of Ontario (AMO), Ontario Professional Planners Institute and others have Bill 109 as an active advocacy file. Municipalities are awaiting the release of related Regulations which will require future consideration. Staff will report as appropriate going forward.

### **Bill 109, *The More Homes for Everyone Act*: Changes**

The subsequent paragraphs will outline the key changes found within Bill 109. A full list of changes can be found in Schedule 'A' to this report. The Town's response to all changes will follow in a subsequent section of the report because they are inter-connected.

### **Pre-Consultation and Complete Application Requirements for Site Plan**

Previously the *Planning Act* provided the ability for municipalities to require pre-consultation prior to submitting a Site Plan application, but did not provide the ability to

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deem an application ‘complete’. In other words, municipalities could identify what material had to be submitted to support an application, with no ability to stop the receipt of the application if the material was not submitted. Also, the *Act* previously provided the ability for the owner to appeal where an approval on the application was not made within 30 days.

Bill 109 provides municipalities with ability to require pre-consultation and the ability to deem an application complete with a requirement that this be done within 30 days of receipt of the application. The Bill provides an appeal mechanism to dispute the complete application requirements and increases the timeline to appeal a Site Plan from 30 days to 60 days. In order to take advantage of these provisions, the Bill requires that new pre-consultation and complete application policies be included in the Official Plan and are found in the Pre-Consultation By-law.

This change allows municipalities to ensure Site Plan applications have all required material in a state that meets standards before the application is deemed complete, which reduces effort and processing timelines once the application is received. The extension of time for a non-decision is also helpful, although, there will still be significant challenges in meeting this timeline. This is described in more detail below under the heading “Refunding of Fees for Zoning By-law Amendment and Site Plan Applications”.

**Refunding of Fees for Zoning By-law Amendment and Site Plan Applications**

Bill 109 introduces application fee refunds where decisions are not made on Zoning By-law Amendments and approvals are not made on Site Plans, for applications received on or after January 1, 2023, in accordance with Table 1: Phased Fee Refunds for Zoning By-law Amendment and Site Plan Applications, below.

Table 1: Phased Fee Refunds for Zoning By-law Amendment and Site Plan Applications

<b>Fee Refund</b>	<b>Zoning By-law Amendment Applications</b>	<b>Site Plan Applications</b>
<b>50% of the fee</b>	No decision within 90 days from the date of complete application*	No approval within 60 days from the date of complete application*
<b>75% of the fee</b>	No decision within 150 days from the date of complete application*	No approval within 90 days from the date of complete application*
<b>100% of the fee</b>	No decision within 210 days from the date of complete application*	No approval within 120 days from the date of complete application*

\*Where Zoning By-law Amendment applications are made concurrent with Official Plan Amendment applications, 50% of the fees are refunded at 120 days, 75% of the fees are refunded at 180 days and 100% of the fees are refunded at 240 days.



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It is worth emphasizing that in order to avoid fee reductions, the changes require approval of a Site Plan application within the timeline; however, the changes require a decision (approval or refusal) of a Zoning By-law Amendment application within the timelines.

It is also important to note that the timeframes noted above are inclusive of time that an application is with the Town, agencies/departments and the applicant. In other words, the “clock” is not paused when an application is with these external stakeholders.

The prescribed timelines to be met to avoid fee refunds are unachievable at this time. The new timelines in Bill 109 do not provide sufficient time for staff to review the application, the applicant to prepare a resubmission, and satisfy legal and financial obligations in advance of application fees having to be refunded. The Town’s average processing timelines over the last 5 years are as follows:

- Zoning By-law Amendments: 18 months (547 days)
- Site Plans (excluding Oak Ridges Moraine Site Plans): 10 months (304 days)

The list below identifies some high-level concerns with the timelines:

- Considering the expectation for applications to be processed once complete, there is insufficient time to review the application for ‘completeness’ (i.e. material and content required are submitted to the Town’s standards).
- There is no “stop-clock” when an application is with parties other than the Town.
  - There are a number of agencies (Ministry of Transportation, Region of Peel, Conservation Authorities, etc.) and internal departments involved in the review of the applications. These external agencies rarely provide comments within a month of circulating an application, which significantly affects timelines.
  - Due to the technical expertise required (not available in-house), staff often retain external consultants to assist with peer reviews on Urban Design, Hydrogeological, Noise and Agricultural Impact Assessment matters. On average, peer reviews take approximately 6 to 8 weeks.
  - Once comments are provided to the applicant/owner to be addressed, it takes them time to revise material and resubmit.
- Zoning By-law Amendment applications require public consultation through the form of a public meeting. Notice is required 30 days in advance of the public meeting. Public meetings are not held on an ad-hoc basis, and are typically not held in the months of July, August and December.
- While Site Plans are delegated to staff, Zoning By-law Amendments require Council approval and enactment of a By-law. The Town has a Committee and Council structure which requires a staff report proceed to a scheduled Committee date and be ratified at a scheduled Council date, together with the enactment of a By-law. The internal writing deadlines associated with this structure, means that reports are due, on average, a month and a half before the Council date. Committee and Council Meetings are not held on an ad-hoc basis, and are typically not held in the months of July and August.

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In order to achieve a decision in the timeline required for Zoning By-law Amendments, staff would need prepare a Staff Report with a recommendation before the Public Meeting is held and likely without time to receive complete Town, agency and public comment. As a result, there are concerns with respect to transparency, opportunity to undertake meaningful engagement with stakeholders and members of the public, and the ability to prepare a complete, accurate planning recommendation to Council.

This change to the *Planning Act*, causes significant concern to Town staff and will result in numerous, likely unintended, complications to the processing of development applications.

- Development projects which require more than one *Planning Act* approval, which include Official Plan Amendment, Zoning By-law Amendment and/or Site Plan application(s), are typically processed as concurrent applications at the Town. This means that all development applications can be submitted at the same time, but approvals would be staggered in order of conformity. The timelines presented will no longer allow for concurrent application processing, meaning that first the owner would submit a Zoning By-law Amendment, and only once it is in full force and effect, could they submit the Site Plan application. This will likely result in a lengthening of overall approval timelines for a project and potential for detailed design matters to possibly trigger further revisions and approvals later in the process.
- To avoid fee refunds, the Town will need to issue approval or make a decision (either approval or refusal) on the respective application within the prescribed timeframe. This may result in an increase of refusals, which will in turn lead to an increase in appeals before the OLT, causing further delay and increased costs for development. It will also result in an increase of application fees to the owner as they may need to re-apply for applications where refusal decisions have been made.
- The refund structure and associated timelines result in undermining of the engagement, consultation and collaboration between applicants, staff, agencies, the community and other stakeholders. This collaboration builds communities, and often reduces the potential for an appeal.
- To avoid refusals, the Town's development application review process will need to change to be front-ended, requiring additional review and effort by all stakeholders prior to submission of an application. In essence, when an application is received, it will not be deemed complete until the majority of the review is completed, and staff are confident that the timelines will be achievable.
- Planning application fees are a cost recovery mechanism (and not a revenue generating tool). Fee refunds will result in the decrease in funding for staffing or an increase in funds required from property taxes.
- The legislation fails to recognize that there are periods of time when Council is not able to make decisions on planning matters (i.e. breaks and during election years).

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### **Discretionary Authority to Re-Instate Lapsed Draft Plans**

The *Planning Act* currently provides the ability to include a lapsing date with draft plan approval of subdivisions and condominiums. The Town typically includes a 3 year lapsing provision, where owners are required to register their subdivision or condominium within 3 years of the date of draft approval. If the owner does not register within this timeframe, the approval lapses and the owner is required to start the process again.

Bill 109 provides for a one-time discretionary authority to allow municipalities to reinstate draft plans of subdivision that have lapsed within the past five years, without the need for a new application. This authority only applies where no agreements of purchase and sale have been entered into prior to the lapsing of the draft plan of subdivision.

While these situations are rare, they do happen. Where there is a request to re-instate a lapsed draft plan, this can save considerable time, whereas now the applicant would have to re-start the approval process. For example, Upper Credit River Estates in Cheltenham (File No. 21T-85023C) has statutorily lapsed. The applicant has requested that the Town exercise its new powers under Bill 109 to re-instate the draft plan. Delegating the authority to review lapsed draft plans of subdivision and determine whether it is appropriate to re-instate the draft plan will allow staff to perform this evaluation and quickly provide re-instatement, as appropriate.

### **Community Infrastructure and Housing Accelerator Tool**

Bill 109 establishes a new Minister's order-making authority to respond to Municipal Council resolutions requesting expedited zoning in areas outside of the Greenbelt Plan Area. Known as the Community Infrastructure and Housing Accelerator, this may be used at the request of a municipality for community infrastructure and housing projects including, but not limited to, healthcare, long-term care, affordable housing, mixed-use development and employment.

When applying this new Minister's order, the municipality is responsible for providing public notice, undertaking public consultation and ensuring the order is made available to the public. In making the order, the Minister does not need to apply the same planning framework that municipalities need to apply in their decision-making. The Minister may also impose conditions and the order is not subject to an appeal. Once in effect, only the Minister can make changes to the order, which can be done without public consultation or notice.

Although there are similarities to the Minister's Zoning Order provisions in the *Planning Act*, this tool provides for increased transparency and public consultation which is important in the planning process. Public engagement not only results in more informed residents but can generate improved developments with local context in mind and support.

For more information on this change, please see Schedule 'A' attached to this report.

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### **Minister's Authority Regarding Official Plans**

Prior to Bill 109, the *Planning Act* required that where the Minister of Municipal Affairs and Housing is the approval authority on Official Plans or Official Plan Amendments, a decision was to be made within 120 days.

Bill 109 provides the Minister with discretion to suspend the time period for the Minister to make a decision on Official Plans and Official Plan Amendments, and provides authority to the Minister to refer all or part(s) of an Official Plan matter to the OLT for a recommendation or a decision. This change is retroactive to amendments submitted prior to the enactment of the Bill.

Going forward, this authority has the potential to delay key policy initiatives which may affect development. Municipalities are required to update Official Plans in a timely manner, yet the suspension may contribute to delays in updating Official Plans, creating a ripple effect in delaying the advancement of pre-zoned lands, development and growth. In the case of the newly adopted Region of Peel Official Plan Update, the Minister does not have to make a decision within 120 days, and may refer matters to the OLT. The Town does not have any amendments before the Minister for approval, as the Region of Peel is the approval authority for the Town on these matters.

### **Surety Bonds**

Currently, the Town requests applicants provide a letter of credit to secure obligations imposed through the development approvals process, typically securities are to secure engineering and landscaping matters.

Bill 109 allows for the Minister to create a new regulation which would allow owners of land and applicants to stipulate the type of surety bonds and other prescribed instruments which may be used to secure agreement obligations in connection with land use approvals.

These changes can impact the Town's ability to control the type of financial security required. A letter of credit is issued by a Schedule I Bank (Schedule I banks are those that are not a subsidiary of a foreign bank, i.e., domestic banks, even if they have foreign shareholders. There are approximately 30 such banks in Canada) and is for all intents and purposes like cash, being able to be drawn upon by a municipality if a commitment is not being/will not be met and can be drawn upon in a timely manner. With a letter of credit, the Town sends a request to the financial institution requesting an amount up to the limit of the letter of credit. Using these funds, the Town can correct or complete any infrastructure deficiencies related to the development if the developer fails to resolve matters.



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A surety bond is different in that it does not typically guarantee any funds but rather requires the surety to confirm that a commitment is fulfilled. A surety may perform an investigation to determine if it is even required to respond to a claim on a bond and may dispute this with a municipality, which may lead to litigation on the matter. The surety may also be able to choose what new entity will fulfill obligations, depending on the wording of the bond, leaving a municipality with no control over timing or fulfillments of the obligation. The Town may not have as much control over rectifying infrastructure deficiencies in such communities or in as timely a manner.

The regulation has not yet been released so details are unknown. Until the regulations are released, the Town will continue to collect securities status quo and staff will report back on the impact of the regulations.

### **Strategy and Action Plan to Address Bill 109**

The Town is initiating a comprehensive process review for Draft Plan of Subdivision and Site Plan applications, as well as a fee review for all planning applications. However, it is necessary to undertake some immediate interim process improvements to respond to the Bill. The following section of the report covers recommended by-laws and actions to address these impacts.

With current practices in place, applications being discussed now at Pre-Consultation (DART) Meetings can be submitted on or after January 1, 2023, when fees are eligible to be refunded for Zoning By-law Amendment and Site Plan applications. As a result, to improve processes in preparation for January 1, 2023, staff has paused Pre-Consultation (DART) Meetings for the months of June to September to complete interim process improvements as outlined in this report.

With a reduced timeframe to approve applications, Town staff will need to ensure that applications being received are not only complete, with all necessary material to review the application, and that the material content itself is accurate and is completed by accredited professionals. Staff will need to amend how the public is engaged while still meeting the requirements of the *Planning Act*. Staff will continue to streamline the decision-making process. Staff have identified the following actions:

- Action 1:* To request that Council direct staff to initiate an Official Plan Amendment to amend the pre-consultation and complete application requirements in accordance with Bill 109 and this Staff Report.
  
- Action 2:* To request that Council repeal and replace the Town's Pre-Consultation By-law, clarifying the requirements for pre-consultation and complete application requirements. Please see the draft By-law attached as Schedule 'B' to this report.

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- Action 3:* To request that Council enact an amendment to the Town's Site Plan Control By-law, providing for urban design review in accordance with the *Planning Act*. Please see the draft By-law attached as Schedule 'C' to this report.
- Action 4:* To enhance the Preliminary Meeting process, providing a more structured process and a new Preliminary Meeting form which will guide applicants through the planning process.
- Action 5:* To enhance the Pre-Consultation (DART) Meeting process, creating an updated Pre-Consultation (DART) Meeting form providing guidance and detailed complete application requirements for applicants with an expiry date of 4 months instead of 6 months.
- Action 6:* To request that Council delegate authority to the Chief Administrative Officer to award and sign single source contracts to retain a consultant(s) to develop Terms of Reference for all supporting studies/materials required as part of a complete application, to an upset limit of \$75,000 funded from the Development Approvals Stabilization Reserve Fund.
- Action 7:* To strengthen the 'complete' application requirements, setting a clear expectation of the type and quality of application material, requesting the following items be submitted (in addition to what would normally be required now):
- a. Public Engagement: For any development application with a public consultation process prescribed in the *Planning Act*, the applicant/owner will be required to host at least one public engagement session prior to application submission.
  - b. Indigenous Consultation: The applicant/owner will be required to host at least one engagement session with indigenous communities prior to application submission.
  - c. Clearance from External Agencies: The applicant/owner will need to provide:
    - Approval of the application from the Ministry of Transportation/Ministry of Municipal Affairs and Housing where it is located within the GTA West Corridor;
    - Approval from the Niagara Escarpment Commission (if required) within the Niagara Escarpment Planning Area;
    - Road Access Approval from either the Region of Peel or Ministry of Transportation, confirming location, type and capacity;
    - Servicing Approval from the Region of Peel, confirming servicing requirements and capacity are present or have been committed to;

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- Approval of the Limits of Development from the applicable Conservation Authority; and,
- Acceptance of all required archaeological assessments from the Ministry of Heritage, Sport, Tourism and Culture Industries.
- d. Confirmation of Parkland Requirements: Where parkland dedication is applicable, confirmation of the park size, location and configuration or where cash-in-lieu of parkland is required, the rate of how it is to be paid and a satisfactory appraisal.
- e. Confirmation of School Sites: Where land for schools is applicable, confirmation of the parcel size, location and configuration is required.
- f. Confirmation of Other Community Infrastructure: Where lands for community centres, fire halls and/or works yards are applicable, confirmation of the parcel size, location and configuration is required.
- g. Acceptance from Peer Reviews: Where the Town requires peer reviews to be undertaken, typically for noise, hydrogeological, agricultural impact assessments, etc., the Town will, through the Pre-Consultation process, complete all peer reviews prior to the application being deemed "complete".
- h. Zoning Certificate: The Town will require a zoning certificate be completed to ensure the application conforms to the Zoning By-law.
- i. Record of Site Condition: Where a record of site condition is required, one is to be submitted.
- j. Green Development Standards: Once developed, the Green Development Standards will be required.

*Action 8:* To require that a Regional Official Plan Amendment be approved (where required), prior to accepting development applications.

*Action 9:* To require that a Secondary Plan be approved, prior to accepting an application for urban uses outside of a settlement area. The Town will move forward with Town-initiated Secondary Plans, rather than privately-initiated Secondary Plans.

*Action 10:* To require that applications be received and processed one after another ensuring conformity documents are in place, no longer permitting the submission of concurrent development applications. For instance, prior to submitting a Site Plan application, a Zoning By-law Amendment application must be approved and in full force and effect.

*Action 11:* To require that where public infrastructure is proposed, a Draft Plan of Subdivision be required, no longer permitting the creation of public infrastructure through Site Plan applications.

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*Action 12:* To request that Council delegate the re-instatement of draft plan approval (where draft plan approval has been lapsed for less than 5 years) in accordance with the *Planning Act*.

*Action 13:* To review the dates, timelines, and procedural matters related to public meetings, Committee and Council Meetings, to ensure that there are available dates to bring matters forward to make decisions in a timely manner.

*Action 14:* To commit to investigate other means to meet processing timelines, with refusal being the last resort to avoid refunding of application fees.

*Action 15:* To request that Council delegate authority for the Lifting of Holding (“H”) Symbols in accordance with the information outlined in Schedule ‘D’ to this report.

*Action 16:* To request that Council delegate authority for exemptions for standard, phased and leasehold condominium plans from the “full process” under the *Planning Act* as allowed for under the *Condominium Act* when the condominium is located on lands which have been subject to an approved Draft Plan of Subdivision, privately initiated zoning amendments and/or site plan, in accordance with the information outlined in Schedule ‘D’ to this report.

*Action 17:* To request that Council direct staff to determine if a Community Planning Permit System may be applicable in the Town, streamlining and reducing processing timelines, replacing Zoning and Site Plan application processes, in accordance with the information outlined in Schedule ‘D’ to this report

*Action 18:* To direct staff to bring forward a procedure to manage potential Ministerial Zoning Order requests in 2023.

*Action 19:* To add the concerns listed in this report to its active advocacy file list including a request to delegate the Minister of Municipal Affairs and Housing at the upcoming Association of Municipalities of Ontario (AMO) Conference.

### **Next Steps**

#### Planning and Development Fees

Following the comprehensive process review, the Town will initiate a comprehensive review of all fees related to the development approvals process to ensure that the Town is recovering fees. However, with the introduction of Bill 109, there are some immediate fee updates required in order to address the potential decline in revenues, increase in costs, and to increase capacity (i.e. headcount and consultants) to manage these applications and provide decisions before the required timeline to refund fees. Increasing

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review and processing capacity will not only result in less fees being refunded but will also likely result in fewer appeals to the OLT and therefore a reduction in costs borne by the municipality for those appeals. Without an increase in fees, the additional costs will be borne by the taxpayer. Staff will bring forward a report to Planning and Development Committee in July requesting changes to the Planning fees to address these concerns.

### Capacity

The Town's capacity to process development applications will need to increase to manage the condensed timelines. Through the comprehensive process review and budget process, staff will identify opportunities to increase capacity. Staff will also review whether there is a need to attract specialized technical staff, such as environmental planners and specialized engineering staff, to reduce dependency on peer reviewers and conservation authorities, and in turn reducing processing timelines.

Certain disciplines have been difficult to recruit recently (i.e. planners) and the increased workload and expectations resulting from Bill 109 may create a situation where the public sector is a less desirable employer.

## **FINANCIAL IMPLICATIONS**

Many of the financial implications of Bill 109 and its impacts on the Town's financial policies are included in the above discussion.

Changes to the Town's financial policies and procedures related to the acceptance of surety bonds as financial securities and increased reporting requirements of the Treasurer's development charges statements will be reviewed and incorporated into the Town's practices as required by the legislation.

As part of Bill 109 for development charges reporting, the Treasurer will be required in their annual statements to indicate if the Town will still incur the capital costs projected in the Development Charge background study for any given service. This could show whether municipalities are raising or spending DC funds faster or slower than anticipated. If not, any anticipated variance from that projection will need to be provided along with an explanation. It is unknown at this time how onerous these requirements will be. Municipalities such as Caledon experiencing significant growth have many projects and reporting on each may become resource intensive. Further details are needed from the Province to determine how feasible these requirements are.

Staff are recommending that a consultant(s) be retained to develop Terms of Reference for all supporting studies/materials required as part of a complete application, and that Staff be authorized to draw from the Development Approvals Stabilization Reserve Fund, to an upset limit of \$75,000. The current uncommitted balance in the Development Approvals Stabilization Reserve Fund is \$2,731,284.62.

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All non-standard procurements (single and sole source contracts) over \$50,000 require Council approval prior to executing an agreement in accordance with the Town's Purchasing Bylaw 2019-24.

### **COUNCIL WORK PLAN**

**Improved Service Delivery:** Improve and innovate business processes for better customer service and service delivery; Update and standardize by-laws, including implementation, to meet the best practices of other municipalities

**Good Governance:** Balance financial planning for the operating budget – balance current service levels with growth-related pressures; Manage reasonable community expectations

### **ATTACHMENTS**

- Schedule A: Additional Changes within Bill 109
- Schedule B: Proposed Town of Caledon Pre-Consultation By-law
- Schedule C: Proposed Amendment to the Town's Site Plan Control By-law
- Schedule D: Additional Information on Lifting of Holding ("H") Symbols, Exemptions for Draft Plans of Condominium and Community Permit Planning Systems

## Additional Changes Within Bill 109

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The following outlines additional changes were introduced with Bill 109.

### **Community Infrastructure and Housing Accelerator Tool**

Further to the commentary in the body of Staff Report 2022-0209, this tool may be used at the request of a municipality for community infrastructure and housing projects including:

- community infrastructure that is subject to *Planning Act* approval including: lands, buildings, and structures that support the quality of life for people and communities by providing public services for matters such as health, long-term care;
- housing, affordable housing and market-based housing;
- buildings that would facilitate employment and economic development; and,
- mixed-use developments.

When issuing an order:

- Provincial Plans, the Provincial Policy Statement and Municipal Official Plans do not apply;
- The Minister is able to provide an exemption for other necessary planning related approvals from Provincial Plans, the Provincial Policy Statement and municipal Official Plans (if requested by the municipality);
- The Minister is able to impose conditions on a municipality and/or proponent;
- Where conditions are imposed, the Minister of the municipality is able to require agreements be entered into and registered on title; and,
- The order is not subject to appeal.

Once in effect, only the Minister can make changes to the order at the request of the municipality or could amend or revoke the order at any time at their own discretion, without having to undertake consultation or provide notice.

### **Community Benefits Charge By-law Reviews**

Bill 109 requires that where a Community Benefits Charge By-law is in place, the municipality is to publicly consult and complete a review of the by-law no later than 5 years after the by-law is passed and every 5 years thereafter. After reviewing the By-law, a municipality is required to pass a resolution indicating whether a revision is needed, and if such a resolution is not passed within the timeframe, the By-law expires and a new By-law would need to be passed.

The Town does not currently have a Community Benefits Charge By-law, but plans to initiate a review to determine if such By-law is beneficial and applicable to the Town in 2023. If passed, the Town will need to review the By-law in accordance with the requirements under the Act.

### **Additional Changes**

- Requires that Site Plan decisions be delegated to staff (instead of municipal councils or committees of council) for all applications received on or after July 1, 2022. This change does not affect the Town as Site Plan decisions are currently delegated to Planning staff.

### Additional Changes Within Bill 109

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- Allows the province to prescribe, through a regulation, what can and/or cannot be required as a condition of draft approval of a draft plan of subdivision. At this time the specifics of what the regulation will say is unknown.
- Introduces authority for the Minister of Municipal Affairs and Housing to require public reporting by planning authorities on development applications and approvals, including the formatting of the reporting. No further details have been provided at this time.
- Requires the municipality to make the annual financial statement related to development charges and reserve funds available to the public on the Town's website. The Bill also provides the ability for the Lieutenant Governor in Council to make regulations to prescribe further requirements on the statements. No further details have been provided at this time.
- Identifies a tiered alternative parkland dedication rate for transit-oriented community development sites, based on the amount of value of development land. Transit-oriented community development sites are identified by the Province, and currently all are located in Toronto.
- Changes to the New Home and Construction Licensing Act, 2017 to help address the issue of inappropriate or unethical behavior by new home builders and vendors and to enhance the Home Construction Regulatory Authority's (HCRA) enforcement powers. Many of these changes include fines, means of discipline, penalties, convictions, etc.
- Changes to the Ontario New Home Warranties Plan Act provide Tarion regulatory authority to extend the duration of statutory warranties for items in a new home that are not completed when the warranties for the home begin (i.e. when the home is completed for the homeowner's possession).
- Requires additional annual reporting for Development Charges for the Treasurer to set out whether the municipality still anticipates incurring the capital costs projected in the municipality's Development Charge (DC) background study for a given service. If not, an estimate of the anticipated variance from that projection would be provided along with an explanation for it.



## THE CORPORATION OF THE TOWN OF CALEDON

### BY-LAW NO. 2022-XX

A by-law to require applicants consult with the Town of Caledon prior to the submission of certain types of planning applications.

WHEREAS the *Planning Act*, R.S.O. 1990, c.P.13, as amended, permits the Council of a municipality to require applicants to consult with the Town prior to submission of certain types of planning applications;

AND WHEREAS the Council of The Corporation of the Town of Caledon deems it expedient to pass a By-law to require applicants to consult with the Town prior to the submission of specified planning applications;

NOW THEREFORE the Council of The Corporation of the Town of Caledon ENACTS AS FOLLOWS:

#### **Short Title**

This by-law shall be known as the Town of Caledon Pre-Consultation By-law.

#### **General**

1. For the purposes of this By-law:

“Applicant” includes a property owner, applicant or authorized agent, but shall exclude the Town;

“Application” means a proposal to amend either or both the Official Plan or Zoning By-law, divide land, either by way of a plan of subdivision, or plan of condominium, or to develop lands which are subject to site plan control, in the Town;

“Director” means the Chief Planner/Director of Planning and his or her designate;

“Owner” means any owner of land as identified in the records of the applicable Land Registry Office or Land Titles Office and includes a purchaser under an Agreement of Purchase and Sale;

“Mandatory Pre-Consultation” means a meeting(s) or documented process held prior to the submission of an Application to the Planning Department of the Town; and,

“Town” means The Corporation of the Town of Caledon.

2. An Applicant is required to complete Mandatory Pre-Consultation with the Town, prior to submission of the following Applications to the Town:
  - a. Official Plan Amendment
  - b. Zoning By-law Amendment
  - c. Draft Plan of Subdivision
  - d. Draft Plan of Condominium, and,
  - e. Site Plan.
3. The Director is hereby delegated the authority to:
  - a. Determine and direct the appropriate action to be taken in the administration of this By-law, including but not limited to the creation of a documented process, application forms, checklists and procedures;
  - b. Require material to be submitted by the Applicant prior to the Mandatory Pre-Consultation;
  - c. Determine the specifics of Mandatory Pre-Consultation including any meeting dates, times, locations and attendees;
  - d. Conduct the Mandatory Pre-Consultation;
  - e. Identify and advise the Applicant during the Mandatory Pre-Consultation, in writing or otherwise, of the information and material required and necessary to deem the Application complete;

- f. Determine the time-frame following the Mandatory Pre-Consultation within which a complete Application can be submitted;
  - g. Determine the time-frame in which Mandatory Pre-Consultation may be incomplete or inactive before the Mandatory Pre-Consultation is closed and the Applicant be required to attend a new Mandatory Pre-Consultation before submitting an Application; and,
  - h. Determine whether further consultation is required prior to the Applicant submitting a complete Application.
4. Following the Mandatory Pre-Consultation, if the Application which was the subject of the Mandatory Pre-Consultation has not been submitted and deemed complete within the time-frame determined by the Director, the Applicant is required to attend a new Mandatory Pre-Consultation before submitting an Application.
  5. If an Applicant refuses to attend a Mandatory Pre-Consultation and submits an Application listed in Section 2, the Town may either determine the Application to be incomplete or may refuse the Application, pursuant to the *Planning Act*.
  6. The Director may determine an Application to be incomplete pursuant to the *Planning Act* where:
    - a. A Regional Official Plan Amendment is required;
    - b. A Secondary Plan is required;
    - c. A Block Plan is required;
    - d. Approval from the Niagara Escarpment Commission is required;
    - e. The Applicant is proposing public infrastructure through a Zoning By-law Amendment application or Site Plan application;
    - f. In the case of a Zoning By-law Amendment application, an Official Plan Amendment application, a Draft Plan of Subdivision application and/or a Draft Plan of Condominium application is required and is not yet approved and in full force and effect;
    - g. In the case of a Site Plan application, an Official Plan Amendment application, a Zoning By-law Amendment application, a Draft Plan of Subdivision application and/or a Draft Plan of Condominium application is required and is not yet approved and in full force and effect;
    - h. In the case of an Official Plan Amendment application, a Zoning By-law Amendment application, a Draft Plan of Subdivision application and/or a Draft Plan of Condominium application, at least one public engagement session has not been held in accordance with Town requirements;
    - i. Indigenous communities have not been consulted;
    - j. Required Peer Reviews have not been completed and found to be satisfactory at the discretion of the Town; and,
    - k. All confirmations, clearances, permits, material and information required at the Mandatory Pre-Consultation are not submitted in accordance with Town requirements and in accordance with Terms of References, Standards, and Guidelines.

### **Transition**

By-law 2008-118 shall be repealed upon this By-law coming into effect.

### **Enactment**

This By-law shall come into full force and effect on the day of its passing.

**Enacted by the Town of Caledon Council this 28th day of June, 2022.**

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Allan Thompson, Mayor

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Laura Hall, Town Clerk

**THE CORPORATION OF THE TOWN OF CALEDON****BY-LAW NO. 2022-XX**

A by-law to amend the Site Plan Control By-law to provide the ability to complete urban design review.

WHEREAS Section 41 of the Planning Act, R.S.O. 1990, c.P.13, as amended, provides in part that, where in an official plan an area is shown or described as a proposed site plan control area, the Council of the local municipal in which the proposed area is situated may, by by-law, designate the whole or any part of such area as a site plan control area and may delegate to either a Committee of the Council or to an appointed officer of the municipality any of the Council's power or authority under that section;

AND WHEREAS the Council for The Corporation of the Town of Caledon passed By-law 2013-086, delegating the entirety of the Town as a site plan control area;

AND WHEREAS the Council for The Corporation of the Town of Caledon adopted the Delegation of Powers and Duties Policy on August 30, 2016;

AND WHEREAS the Council of The Corporation of the Town of Caledon deems it expedient to amend the Town's Site Plan Control By-law to provide for the ability to complete urban design review as per Section 41 of the *Planning Act*;

NOW THEREFORE the Council of The Corporation of the Town of Caledon ENACTS AS FOLLOWS:

1. That the Town's Site Plan Control By-law 2013-086, be amended as follows:
  - a. Section 4.a) of the By-law is amended by inserting "including matters relating to exterior design as identified in 41(4)(d), matters relating to exterior access as identified in 41(4)(d.1) and the sustainable design elements on any adjoining highway as identified in 41(4)(e)" after "...as amended,..." and before "...is hereby delegated to...".

**Enactment**

This By-law shall come into full force and effect on the day of its passing.

**Enacted by the Town of Caledon Council this 28th day of June, 2022.**

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Allan Thompson, Mayor

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Laura Hall, Town Clerk

## Additional Information on Lifting of Holding ('H') Symbols, Exemptions for Draft Plans of Condominium and Community Permit Planning Systems

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### **Delegation of Lifting of Holding ("H") Symbols**

Section 36 of the *Planning Act* authorizes municipalities to apply a Holding ("H") Symbol to a Zoning By-law in order to delay the development of the site until specific conditions are met. Holding ("H") Symbols are often applied to achieve orderly staging of development, confirm adequate infrastructure and community services, ensure the execution of legal agreements, and/or ensure approval of any necessary supporting studies. The "H" is intended to be applied when the principle of the use has already been determined, but there are outstanding technical conditions that must be met prior to the development of the site.

When the conditions of the "H" Symbol have been met, it can be lifted through the submission of a Zoning By-law Amendment application to specifically remove the "H" Symbol. The application is submitted together with a fee and supporting material identifying that the conditions of the "H" have been met. Following a review of all applicable information and comments from agencies, Planning staff prepare a Report and By-law to Committee and Council for consideration.

When implementing a Holding "H" Symbol through a Zoning By-law Amendment, there is a public process and staff bring forward a Report and By-law with a recommendation to Committee and Council for consideration. These documents outline why the "H" is required and would identify the specific and detailed conditions of the "H" which must be met prior to it being lifted.

Delegating the approval authority and permitting staff to bring forward a By-law to remove the "H" symbol without an accompanying staff report, is one measure that Council can take to reduce delays associated with development approvals, while still protecting the interests of the municipality. The process to lift a Holding provision is administrative in nature as the land use decision has already been made. The application, i.e. site-specific zoning bylaw amendment for which the holding applies, has already gone through a public process and been approved by Council. Staff would continue to provide notice of the intent to lift the Holding "H" Symbol as required by the *Planning Act*.

### **Exemption of Draft Plan of Condominiums**

Currently the Town's standard process is that all condominium types (standard, common element, vacant land, phased and leasehold) are processed following the same process as draft plans of subdivision, where appropriate circulation is done, a public meeting is held and once satisfactory the proposal receives "draft approval" where the applicant then satisfies those conditions prior to final approval and registration of the Plan. However, only vacant land and common element condominiums are required to follow the full requirements of the *Planning Act*, including a statutory public meeting.

## Additional Information on Lifting of Holding ('H') Symbols, Exemptions for Draft Plans of Condominium and Community Permit Planning Systems

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The *Condominium Act* recognizes that in most cases condominium applications are simply approving the tenure of ownership and are not making a land-use planning decision. The Act provides that a municipality may exempt these types of condominiums from the “full draft plan requirements” under the Subdivision of Land Section of the *Planning Act*. Under the exemption, an application will be circulated to agencies and departments for comment and review to ensure that all matters and obligations related to the previously approved *Planning Act* applications are satisfied as they relate to the condominium. If the circulation determines that items remain outstanding, a letter would be issued outlining what steps/criteria need to be met for the condominium to register or the applicant will be told that a full draft plan of condominium is required. Once the Town is satisfied that all outstanding items are cleared, the plan can be registered. The actual registration/final sign-off of the condominium plan follows the exact same steps as a plan of subdivision. The exemption process streamlines the draft plan of condominium process and benefits the purchaser of these units allowing the developer to register the condominium sooner, without affecting any public interest matters.

The Town may exempt a draft plan of condominium application from receiving draft plan approval on an application-by-application basis, or by passing a By-law that identifies the classes of condominiums that will be exempted from approval. The *Condominium Act* and *Planning Act* do not expressly identify criteria under which an application for a plan of condominium may be exempt from the requirement to follow the full *Planning Act* approval process. In this instance, staff recommend following the practices of other municipalities that use this process. The Town would only exempt condominiums which have previous *Planning Act* approvals in place, and where no further conditions of approval are required by the municipality for the development to proceed. Staff is seeking Council authorization to exempt condominiums where the condominium is located on lands which have been subject to an approved Draft Plan of Subdivision, privately initiated Zoning By-law Amendment and/or Site Plan.

### **Community Permit Planning System (CPPS)**

The *Planning Act* provides for the ability to use a Community Planning Permit System (CPPS). A CPPS is a planning tool which looks to create streamlined and efficient development approval processes, reducing processing timelines. Essentially, a CPPS will replace Zoning and Site Plan application processes into one combined development process. The CPPS process is similar to the Niagara Escarpment Development Permit process.

The Town's New Official Plan introduces language suggesting that the Town explore implementing a CPPS. In order to proceed, the Town would need to examine the purpose, applicability and areas best suited for a CPPS, before adopting an Official Plan Amendment and passing a Community Planning Permit By-law. Similar to a Zoning By-law, the Community Planning Permit By-law would contain a list of permitted uses and development standards, such

### Additional Information on Lifting of Holding ('H') Symbols, Exemptions for Draft Plans of Condominium and Community Permit Planning Systems

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as land uses, height and density and would also specify classes of development or uses of land which are exempt from receiving a permit (i.e. sheds, pools). A Community Planning Permit By-law can be subject to appeal by anyone who participates in its formation.

The Town would also need to implement a process to issue permits once the system is in place. The Town would issue permits to allow development to occur if an application meets the standards set out in the Community Planning Permit By-law. Once the By-law is in place, only the person making an application for a permit can appeal a decision or lack thereof by the municipality.

Town staff are requesting that Council direct staff to determine how a Community Planning Permit System may be applicable in the Town.