

**Date:** 2022-11-28

**Subject:** Recommendation Report - City-Initiated Amendment to the Official Plan – Response to Bill 109, City-wide

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**Report Number:** Planning, Bld & Growth Mgt-2022-950

**Recommendations:**

1. **That** the report titled: **Recommendation Report, City-Initiated Amendment to the Official Plan – Response to Bill 109**, City-wide, dated November 28, 2022, to the Planning and Development Committee meeting of December 12, 2022 be received;
2. **That** the Official Plan Amendment generally in accordance with the attached Appendix 1 be approved; and
3. **That** staff be directed to hold a statutory public meeting to provide notice of and to seek feedback on the following proposed City-initiated amendments to the Official Plan:
  - a) To delete the requirement that the public meeting notice shall contain language that the Council of the City of Brampton will not adopt a proposed amendment or plan of subdivision until at least 30 days after the date of the statutory public meeting.
  - b) To add policies that establish an “Approval in Principle” step in the Site Plan Application process.

**Overview:**

- **On April 14, 2022, Bill 109 received Royal Assent. Among other matters, the Bill amended the *Planning Act* to require municipalities to refund development application fees if a decision is not made within legislative timelines and also requires complete applications for Site Plan applications. These changes come into effect on January 1, 2023.**

- This report makes recommendations to mitigate the risk of revenue loss, and to improve the efficiency of the City's development review process.
- Through the adoption of an Official Plan Amendment, the City is proposing to enhance the Pre-Consultation Application process and update 'Complete' application submission requirements.
- This report recommends seven fundamental changes to our development review process, some of which require adoption of an Official Plan Amendment to implement. The seven are:
  1. Revisions to the Pre-Consultation Application Process
  2. Revisions to the Complete Application Requirements
  3. Increased Use of "Holding" Provisions
  4. Improvements to the Site Plan Application Process
  5. Encouraged non-statutory Public Engagement
  6. Option for Withdrawal and Resubmission of Development Applications
  7. Removal of minimum required time between statutory public meetings and Recommendation Reports
- The measures recommended in this report will help to meet the Bill 109 timelines. However, there may be times where they will not be met and refunds are required. There are numerous variables affecting the ability to meet the timelines and it is difficult to predict how often refunds will occur. Staff will monitor the situation and report back to Council in 2023 after adequate time has passed to properly evaluate the effectiveness of the proposed changes.
- In anticipation of financial implications resulting from Bill 109, a separate report recommending changes to the City's application fee structure will be forwarded to Council in January 2023.
- On Monday, November 28, 2022, Bill 23 received Royal Assent. Staff will need to review the impact of Bill 23 with respect to our overall processing timelines and will report back to Council in 2023 with any further recommended process changes.
- A statutory Public Meeting for this City-initiated Official Plan Amendment was held on September 26, 2022. No one spoke at the meeting and no written submissions were received.

## Background:

On March 30, 2022, the Province introduced *Bill 109: An Act to amend the various statutes with respect to housing, development and various other matters*. The Bill is considered to be the first step in implementing the recommendations of the Province's Housing Affordability Task Force Report.

Bill 109 received Royal Assent on April 14, 2022. Among other matters, the Bill amended the *Planning Act* to require municipalities to refund application fees for Official Plan Amendment, Zoning By-law Amendment and Site Plan Applications if a decision is not made within legislative timelines, and it also allows municipalities to refuse a Site Plan Application if it is not complete.

The following chart lists the timelines and amount of refund set by Bill 109:

	No Refund	50% Refund	75% Refund	100% Refund
<b>Zoning By-law Amendment</b>	Decision within 90 days	Decision within 91 and 149 days	Decision within 150 and 209 days	Decision after 210 days
<b>Official Plan / Zoning By-law Amendment</b>	Decision within 120 days	Decision within 121 and 179 days	Decision within 180 and 239 days	Decision after 240 days
<b>Site Plan</b>	Approval within 60 days	Approval within 61 and 89 days	Approval within 90 and 119 days	Approval after 120 days

The prescribed timelines are short – and treat all applications equally without accounting for application complexity, quality of the application submission and consideration of commenting timelines from key stakeholders.

For comparison, the following table lists the City's average approval timelines for the same types of applications between 2020 and 2022:

Application Type	Average Approval Timeline (days)
Zoning By-Law Amendment	413
Official Plan / Zoning By-law Amendment	723
Site Plan (where a Zoning By-law Amendment is not required)	400

Without changes to the City's processes for reviewing development applications, Bill 109 will have a significant impact on revenue from those applications. For example, if one applied the proposed Bill 109 requirements to applications received in 2021, the City would have had to return **98.2%** of the associated revenue of **5.4 million dollars**.

The intended outcomes of staff's response to Bill 109 are three-fold:

1. Minimize revenue loss associated with refunds of development application fees.
2. Ensure quality comments are provided by staff resulting in development that meets mutual goals of the development industry and City.
3. Provide opportunities for further continuous improvement efforts to realize efficiencies in application processing.

An Official Plan Amendment is needed to implement these changes and this report provides recommendations on that amendment as well as other matters related to implementing the process changes.

### **Current Situation:**

The City shares the goal of the Province to reduce approval times for development applications and is actively taking steps to do so. In reviewing development applications, staff focus on having an efficient review process where we work collaboratively with applicants, residents and other stakeholders to achieve good planning outcomes.

To date, Brampton has made significant improvements to its development review process. This success is reflected in the 2022 Municipal Benchmarking Study commissioned by the Building and Land Development Industry (BILD) that ranked the performance of 16 Greater Toronto Area municipalities with respect to development planning. **It ranked Brampton fourth in the category for speed of development application processing at 13.4 months.** Only three smaller cities (Milton, Whitby and Barrie) ranked ahead. The current study found that average approval timelines for GTA municipalities ranged from 10 – 34 months.

Staff continuously look to improve the efficiency of the review process and are actively taking steps to do so. Ongoing work to further improve the process include a Development Application End-to-End Process Review being led by KPMG and a review of Committee of Adjustment processes by Dillon Consulting. These studies are nearing completion and their results will be brought forward to Council informing of their recommendations.

### *Overall Approach for Bill 109 Response*

The current approach to reviewing development applications is to have an iterative process with City staff, external agencies and the applicant where applications are refined so that staff can support them, whether in the form of a positive recommendation report (Official Plan and Zoning By-law Amendments) or approval (Site Plans). This typically involves an applicant making several submissions before a decision is made. It is noted the City's review is also reliant on comments from external agencies, such as the Region of Peel, school boards and conservation authorities. Their reviews as well as the quality of and timing for resubmissions by the applicant have a large impact on overall development review timelines.

Bill 109's refund requirements presents challenges to this approach because the timelines imposed limit how much refinement can occur after an application is made. The timelines for making decisions on applications under Bill 109 are simply too short for the applicant to be able to make resubmissions in response to City and external agency comments, then for staff to review those resubmissions and prepare a recommendation report, or issue final approval for site plan applications.

For this reason, staff need to focus on resolving issues through the Pre-Consultation Application, and on ensuring that when applications are submitted the submission materials are of a quality allowing staff to be able to make or recommend a decision within Bill 109 timelines. To achieve good planning outcomes that are aligned with Council's priorities and investments, issues must be addressed early in the Pre-Consultation stage.

The proposed Official Plan Amendment provides the necessary policies so staff can make the detailed changes to the application review process to implement the approach described above. It proposes changes to the policies for Pre-Consultation Applications and on the requirements for an application to be deemed "Complete". There are also several other changes to the City's review processes, which are intended to mitigate the risk of revenue loss and improve the efficiency of the review process. These include the following:

1. Improved Public Engagement
2. Increased use of "Holding" Provisions
3. Changes to the Processing of Site Plan Applications
4. Option for Applicants to Withdrawal and Resubmit Development Applications
5. Removal of minimum timeline between a Statutory Public Meeting and a Recommendation Report

A detailed summary of the above noted proposed changes to the City's development review processes can be found in Appendix 2.

### *Fees*

Staff will bring forward a report in the future on recommended changes to Development Application Fees. This will include a new resubmission fee to implement the "Withdrawal/Resubmission" option described in this report.

### **Community and Stakeholder Engagement:**

Consultation was held with the development industry and other interested stakeholders with respect to the City's response to Bill 109 and the proposed Official Plan Amendment. The following methods of engagement were utilized:

### *Statutory Public Meeting:*

The statutory Public Meeting for the City-initiated Official Plan Amendment was held on Monday, September 26, 2022. Notice of the proposed City-initiated Official Plan Amendment was published in the Brampton Guardian and on the City's webpage in September 2022. There were no members of the public that made representation before the Planning and Development Committee.

No written submissions were submitted with respect to the proposed Official Plan Amendment.

### *Stakeholder Meetings:*

- The Chair and Vice-Chair of the Peel Chapter of the Building Industry and Land Development Association (BILD) were consulted on the City's response to Bill 109, including the proposed Official Plan Amendment.
- The Credit Valley Conservation, Toronto Region Conservation Authority, the Region of Peel and the School Boards were consulted on the City's response to Bill 109, including the proposed Official Plan Amendment.

### *Bill 109 - Municipal Round Table Meetings*

Planning staff attended three municipal round table meetings with staff from a variety of municipalities across Ontario to discuss how municipalities are proposing to amend their processes to manage Bill 109. The approach described in this report is generally in line with the proposed process changes other municipalities have described at the meeting.

### **Corporate Implications:**

#### Financial Implications:

Staff is continuing to implement efficiencies in the development review process, but a reduction in revenue in 2023 due to refunding a portion of the development application fees is anticipated, due to Bill 109. As a result of Bill 109, staff also anticipate that an additional five full-time staff resources will be required in 2023 in order to maintain existing service levels and minimize the revenue impact to the City. The total staffing costs would be approximately \$743,048 (inclusive of salary, benefits, WSIB and staff costs).

The total impacts identified in this report are as follows:

Item	2023 Impact
Full-Time Staff Required due to Bill 109	5
Staffing Cost	\$743,048
Reduction in Revenue due to Bill 109	\$2,416,762
<b>TOTAL IMPACT</b>	<b>\$3,159,810</b>

Staff will continue to review the overall net impacts of Bill 109 and any additional impacts will be incorporated in the 2023 and future operating budget submission, pending Council approval. The 2023 budget will require an increase of \$3,159,810 or 0.63% on the City's portion of the tax bill, based on the current 1% tax levy equivalent of \$5,039,000.

#### Other Implications:

There are a number of implications (e.g. training, updates to application forms and Accela, and communication with industry and other key stakeholders) associated with the proposed amendments to the Pre-Consultation Application process and complete application submission requirements which are a result of Bill 109. Staff is working on implementing these changes.

#### **Term of Council Priorities:**

This report and associated recommendations comply with the 2019-2022 Term of Council Priorities "A Well-run City" priority by helping foster an efficient development review process and providing good stewardship of City resources by mitigating impacts on City revenues.

#### Living the Mosaic – 2040 Vision

This report has been prepared in full consideration of the overall vision that the people of Brampton will "Live the Mosaic".

#### **Conclusion:**

The City is proposing to enhance the City's pre-consultation processes and to update Complete application requirements to improve process efficiencies and manage the legislated review timelines prescribed by Bill 109. The proposed policy amendments aim to ensure the delivery of planning services and decision making continues to be a collaborative approach with the goal of supporting the needs of Brampton residents and stakeholders.

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**Attachments:**

Appendix 1: Draft Official Plan Amendment  
Appendix 2: Details of Process Changes