

Date: 2023-04-06

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

Contact: Michelle Gervais, Policy Planner, Integrated City Planning,
michelle.gervais@brampton.ca

David VanderBerg, Manager, Development and Design
Services, david.vanderberg@brampton.ca

Report Number: Planning, Bld & Growth Mgt-2023-309

Recommendations:

1. That the report titled: **Recommendation Report, City-Initiated Amendment to the Official Plan – Response to Bill 109, City-wide**, dated April 6, 2023 to the Planning and Development Committee of May 15th, 2023, be received;
2. That the Official Plan Amendments generally in accordance with the attached Appendices 1 and 2 be approved; and,
3. That staff report back to Planning and Development Committee in the third quarter of 2024 with an evaluation of the development review process updates that were implemented in response to Bill 109.

Overview:

- On December 14, 2022, City Council adopted an Official Plan Amendment (OP2006-232) that amended the Official Plan policies related to the City's Pre-Consultation Application process and determining completeness for planning applications. This was the first step in implementing the response to the Province's Bill 109 legislation.
- OP2006-232 has been appealed to the Ontario Land Tribunal (OLT). No correspondence has been received to date from the OLT with respect to the case number and hearing event dates.
- On April 6, 2023, the Province introduced *Bill 97, Helping Homeowners, Protecting Tenants Act, 2023* that proposes to amend various statutes with respect to housing and development. One amendment to the *Planning Act* includes changing the effective date for planning application fee refunds, as originally required by Bill 109, from January 1, 2023 to applications received on or after July 1, 2023.
- This report recommends approval of two additional improvements to the City's development review process to improve processing timelines that require amendments to the Site Plan Control and Public Meeting sections of the Official Plan. To implement these changes an Official Plan Amendment is required to:
 1. Add an "approval with conditions" step to the Site Plan Application Process; and
 2. Remove the 30 day minimum required timeline between statutory public meetings and Recommendation Reports.
- The two proposed amendments recommended for approval, in addition to the changes to the Pre-Consultation Application process and complete application requirements (via OP2006-232) will help to meet the Bill 109 timelines and improve the efficiency of the City's development review process, while maintaining the principles of good planning.
- It is recommended that staff report back to Council in the third quarter of 2024 to provide an evaluation on the effectiveness of the development review process updates.
- A statutory Public Meeting for this City-initiated Official Plan Amendment was held on January 23, 2023. No one spoke at the meeting and no written submissions were received.
- 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.

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.

December 14, 2022 - Council Direction

Council approved the recommendations in a report titled "Recommendation Report - City-Initiated Amendment to the Official Plan – Response to Bill 109" and dated November 28, 2022 on December 14, 2022. The purpose of that report was to recommend approval of a City-initiated Official Plan Amendment to update the Official Plan policies related to the Pre-consultation Application process and determining completeness for planning applications. Council adopted this Official Plan Amendment (OP2006-232) on December 14, 2022. This is the first step in implementing the response to the Bill 109 legislation. OP2006-232 has been appealed to the Ontario Land Tribunal (OLT). No correspondence has been received to date from the OLT with respect to the case number and hearing event dates.

At the December 14, 2022 Council meeting staff also received direction to provide notice of and to seek feedback on the following proposed City-initiated Official Plan Amendments to enhance the City's development review process and to meet the decision timelines prescribed by Bill 109:

1. To add policies establishing an "approval in principle" step in the Site Plan Application process; and
2. 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.

Bill 97, Helping Homeowners, Protecting Tenants Act, 2023

On April 6, 2023, the Province introduced *Bill 97, Helping Homeowners, Protecting Tenants Act, 2023* that proposes to amend various statutes with respect to housing and development. One amendment to the *Planning Act* includes changing the effective date for planning application fee refunds, as originally required by Bill 109, from January 1, 2023 to applications received on or after July 1, 2023.

Bill 97 also provides for the cancellation of any refunds for applications received by a municipality before July 1, 2023. The cancellation of refunds does not impact Brampton, as no refunds have been issued to date.

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.

In addition to the development application process changes approved by way of OP2006-232, two additional Official Plan amendments are being recommended for approval to improve processing timelines. These proposed policy amendments are described below:

1. An Amendment to the Official Plan Section 5.7 - Site Plan Control

The Bill 109 timelines for site plan applications only allow 60 days before refunds start to be required. OP2006-232 amended the City's Pre-Consultation Application process and added a completeness requirement for Site Plan Applications.

To improve processing timelines for Site Plan Applications, a new process step is being proposed. The new process step is entitled "Approval with Conditions" and will allow the Director of Development Services, or their designate, to issue an "Approval with Conditions" letter and stamped site plan drawings. As part of this process step, the following will be provided:

- Conditions to be satisfied by the owner or applicant to obtain the final stamped Site Plan drawings; and
- Conditions to be registered on title in a Site Plan Agreement.

Site Plan drawings may be approved with redline revisions as part of the issuance of "Approval with Conditions". The "Approval with Conditions" step will constitute approval of a Site Plan Application in accordance with Bill 109.

It is proposed that the owner will have 180 days, unless extended by the Director of Development Services, to satisfy the "Approval with Conditions" site plan conditions. If the conditions have not been satisfied within 180 days, the applicant may be required to submit both a new Pre-Consultation Application (if applicable) and a Site Plan Application.

The proposed amendments to the Site Plan Control policies provide more clarity to the applicant while improving the Site Plan application process.

It is recommended that the proposed Official Plan Amendment, attached as **Appendix 1**, be approved to add new policies to the Site Plan Control section of the Official Plan to implement a new "Approval with Conditions" Site Plan processing step.

2. An Amendment to the Official Plan Section 5.30 - Public Meetings

Currently, the Official Plan requires that the notice of a statutory public meeting contain a statement advising that a Recommendation Report will be prepared by staff and presented to Planning and Development Committee and that the Council of the City of Brampton will not adopt the proposed amendment or plan of subdivision until at least 30 days after the date of the Public Meeting.

The *Planning Act* does not regulate the minimum number of days a Council must wait to make a decision on an application after the statutory public meeting has been held. The *Planning Act* does regulate that the public be notified at least 20 days prior to the date of a statutory public meeting.

With the *Planning Act* requirement to notify the public at least 20 days prior to the date of the statutory public meeting plus the Official Plan requirement to have a minimum of 30 days before Council adopts an amendment after the date of the public meeting (total of 50 days), this lengthens the overall application processing timelines and hinders staff's ability to forward the implementing documents to Council in an efficient manner.

To improve processing timelines and to meet the decision timelines outlined in Bill 109, a City-initiated Official Plan Amendment is proposed to amend the Public Meetings section of the Official Plan to delete Section 5.30.4 (iv) that requires the notice to contain the following information:

- (iv) A statement advising that a recommendation report will be prepared by staff and presented to Planning, Design and Development Committee with respect to the proposal will be forwarded to the Council of Brampton for a decision. The Council of the City of Brampton will not adopt the proposed amendment or plan of subdivision until at least 30 days after the date of the Public Meeting.

The proposed Official Plan Amendment will allow staff the opportunity to forward a Recommendation Report within any timeframe after the Public Meeting has been held. This flexibility will help the City in improving its development application review timelines, regardless of the decision timelines prescribed by the *Planning Act*. This could include forwarding the report and implementing documents to Committee and Council concurrently with the statutory public meeting. Staff will consult with Planning Committee before making such a change to the standard reporting procedure.

It is recommended that the proposed Official Plan Amendment, attached as **Appendix 2**, be approved to remove the minimum 30 day timeline between statutory public meetings and Recommendation Reports, which is currently a requirement under the Public Meeting section of the Official Plan.

Statutory Public Meeting:

The statutory Public Meeting for the City-initiated Official Plan Amendment was held on Monday, January 23, 2023. Notice of the proposed City-initiated Official Plan Amendment was published in the Brampton Guardian and on the City's webpage in January 2023. There were no members of the public that made representation before the Planning and Development Committee. Details of the Public Meeting are found in **Appendix 3**.

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

Corporate Implications:

Financial Implications:

The prescribed decision timelines of Bill 109 can create financial and service delivery pressures that need to be appropriately managed to minimize financial risk to the City. The City has increased fees associated with Development and Site Plan Applications by amending the Tariff of Fees By-law to better reflect the City's costs in processing development applications. The details of the cost recovery for development application types to support the fee increases were outlined in the Recommendation Report entitled "Recommendation Report - 2023 Fee Changes for Development and Site Plan Applications" that was approved by Planning and Development Committee on February 6, 2023 and endorsed by Council on February 8, 2023. The recommended fee increases approved as part of that report are to assist in mitigating revenue loss resulting from Bill 109 and Bill 23.

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 development application review process updates that were implemented as part of OP2006-232 and the proposed amendments being recommended for approval as part of this report. 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:

To help meet the Bill 109 legislated decision timelines and to improve the efficiency of the City's development review process, this report recommends approval of amendments to the site plan control and public meeting policies in the Official Plan.

Authored by:

Reviewed by:

Michelle Gervais, MCIP, RPP
Planner, Integrated City Planning

Allan Parsons, MCIP, RPP
Director, Development and Design
Services

Approved by:

Steve Ganesh, MCIP, RPP
Commissioner, Planning, Building
and Growth Management

Attachments:

Appendix 1 – Official Plan Amendment – Site Plan Control
Appendix 2 – Official Plan Amendment – Public Meetings
Appendix 3 – Results of the Public Meeting