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Official Plan Amendment Number 37: Planning Act Changes and Streamlining Development Approvals Staff Report to Council

Report Number: 2023-83

Department(s): Planning and Building Services

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Meeting Date: December 4, 2023

Recommendations

1. That the report entitled Official Plan Amendment Number 37: Planning Act Changes and Streamlining Development Approvals dated December 4, 2023 be received; and,
2. That Official Plan Amendment Number 37 attached as Attachment 1 be adopted; and,
3. That the proposed changes relating to the “area of employment” definition as discussed at the statutory public meeting be deferred to a future, separate Official Plan Amendment; and,
4. That the Town’s Delegation Authority By-law 2016-17, as amended, be further amended to delegate the approval authorities of passing temporary use by-laws, removal of holding provisions, and signing heritage permits to the Director of Planning and Building Services or his or her designate; and,
5. That Staff be authorized and directed to do all things necessary to give effect to this resolution.

Purpose

The purpose of this report is to seek Council’s adoption of Official Plan Amendment Number 37 (OPA 37), which is intended to streamline the development review process,

as well as to seek Council approval to make certain revisions to the Town's Delegation By-law to streamline approvals and increase efficiency.

Background

The *Supporting People and Businesses Act, 2021* (Bill 13) received Royal Assent on December 2, 2021. Bill 13 amended several pieces of legislation including the *Planning Act*. Specifically, it added a new section to the *Planning Act*, which provides municipal councils the ability to delegate their authorities to pass minor zoning by-laws such as temporary use by-laws and removal of holding provisions, to a committee of Council or municipal staff, provided that the official plan contains such policies.

A few months later, on April 14, 2022, The *More Homes for Everyone Act, 2022* (Bill 109) received Royal Assent and it also amended several pieces of legislation including the *Planning Act*. One of the changes to the *Planning Act* includes adding rules respecting consultations with municipalities before site plan approval applications are submitted, and requiring official plan policy(ies) to identify completeness of site plan approval applications.

In response to the above legislative changes, Planning staff is proposing to amend the Town's Official Plan by updating policies regarding complete applications and delegated authorities for temporary use by-laws and the removal of holding provisions. The overall effect of these changes will streamline the development review process and bring our policies and procedures inline with new legislation.

On October 10, 2023, Council held a statutory public meeting to seek public input on the proposed OPA 37 and received a staff presentation that outlined the proposed amendment. No members of the public spoke to the matter at the public meeting.

Discussion

Update Complete Application Submission Requirements

Before Bill 109, the *Planning Act* only authorized municipalities to require additional information above and beyond materials as required under the *Planning Act* for complete Official Plan Amendment, Zoning By-law Amendment, draft Plan of Subdivision, and draft Plan of Condominium applications. Municipalities that choose to require additional information must have had official plan policies that outlined such requirements. The Town's Official Plan currently contains policies for additional information required for the above-mentioned types of applications. This authority to request additional information did not apply to site plan applications and there were no rules regarding deeming a site plan application complete.

Bill 109 added similar rules and authorities in deeming site plan applications complete, but the municipal official plan must contain policies passed under subsection 41(3.4) of

the *Planning Act* and specify required additional information or materials for complete applications. Planning staff is proposing through OPA 37 to reference this authority under the *Planning Act* and outline submission requirements for complete Site Plan applications. It is important to have this policy in the Town's official plan to give Town staff the ability to request technical plans and reports that are essential to the review of a proposed development before the application is deemed complete for processing. Once a site plan application is deemed complete, the statutory approval time and refund period countdown begin.

In Fall of 2022, the Town began the Development Approval Process (DAP) and Fees Review to identify opportunities to improve efficiency and effectiveness in development review, respond to Bill 109 changes, and ensure the Town is charging appropriate application fees. One of the recommendations of the DAP review, which was endorsed by Council at its [June 26, 2023](#) meeting, was to streamline submission requirements by application type. To implement this recommendation, Planning staff is proposing to update the current list of submission requirements through OPA 37 by deferring detailed technical plans/reports to applications that occur in the latter planning stage. For example, detailed grading plan and building elevation plans will no longer be mandatory for OPAs, Zoning By-law Amendments, or Draft Plan of Subdivision, but they are required for complete Site Plan and Draft Plan of Condominium applications.

Delegated Authority to Approve Temporary Use By-laws and Removal of Holding Provisions

Bill 13 provides municipal Councils an opportunity to delegate minor zoning amendments such as passing temporary use by-laws and removing holding provisions to a committee of Council or to municipal staff. The DAP review recommended that the Town exercise this authority and delegate such authorities to staff. This recommendation was also endorsed by Council on [June 26, 2023](#). To implement this recommendation, the Town's official plan must be amended by adding policies regarding delegating this authority, and the Town's Delegation Authority By-law 2016-17, as amended, will also have to be amended.

Temporary use by-laws are by-laws that permit uses of land or buildings that would not be permitted in the zoning by-law for a maximum of three years. Currently, the process to pass a temporary use by-law is the same as a regular zoning by-law amendment. The proposed temporary use would still have to conform with the Official Plan and Council is the approval authority.

Regarding removal of holding provisions, while there is no staff report under the current process, the by-law must be passed by Council. If the application to remove the Hold (H) comes in a day or two after a Council meeting, the applicant must wait until the next Council meeting to remove the Hold, which could be three weeks to a month. By delegating the authority to staff, the removal of the H could happen any time thereby

allowing the applicant to start construction sooner, which is in keeping with the intent of Bill 109 to get housing constructed sooner.

Defer Adding Policies To Recognize Legally Existing Uses That Will No Longer Conform To The Planning Act Definition Of “Area Of Employment”

In addition to the above-described Bill 13 and Bill 109 changes, Planning staff also briefly discussed one of the changes in the *Helping Homebuyers, Protecting Tenants Act, 2023* (Bill 97) at the statutory public meeting. Specifically, one of the changes to the *Planning Act* through Bill 97 that is not yet in effect is the revised definition of “area of employment”. The new definition, once the Province brings it into effect, would no longer allow institutional and commercial uses, including retail and office uses (unless they are accessory to the primary permitted uses) in areas designated for employment by the official plan. This would be a concern for Newmarket because over 100 properties (over 500 businesses) would be affected by this change. Planning staff, in consultation with external legal counsel, do not recommend leaving these non-conforming uses as legal non-conforming uses. When the “area of employment” definition comes into effect, properties that contain uses that do not conform to the definition will no longer be considered as employment lands and therefore would not be subject to employment land conversion policies under the Provincial Policy Statement. A new subsection 1(1.1) of the *Planning Act* would permit such existing uses to continue to operate in employment areas, provided the official plan contains policies to recognize the continuation of such uses and those uses were legally established prior to the new definition coming into effect.

As presented at the public meeting, Planning staff considered adding policies to the General Employment and Mixed Employment sections of the Town’s Official Plan to recognize legally existing uses that will no longer meet the revised *Planning Act* definition of “area of employment”. However, since the revised definition has not yet come into effect, and upon further discussion with the Town’s external legal counsel, Planning staff recommend deferring adding such policies until the *Planning Act* definition comes into effect. A separate OPA will be brought forward for Council’s adoption at that time.

Update Delegation Authority By-law to Issue Heritage Permits

As mentioned earlier in this report, the Town’s Delegation Authority By-law is required to be updated to allow the Director of Planning and Building Services or his or her designate to pass temporary use by-laws and removal of holding provisions. Staff are recommending that this opportunity be taken to make another change to the Delegation By-law that will also streamline development.

Currently, the authority to issue heritage permits is specifically delegated to the Director of Planning and Building Services. Staff are recommending that the Delegation Authority By-law be amended to also allow a designate of the Director of Planning and Building Services to have the authority to issue heritage permits. This change will ensure the timely issuance of these permits and avoid delays.

Delegated authority on altering a heritage property through the issuance of a heritage permit comes from Section 33(15) of the *Ontario Heritage Act* for designated properties and Section 42(16) for properties within the Heritage Conservation District. Delegation of Council's authority in issuing heritage permits is only possible when a municipality has a municipal heritage committee, and the committee is consulted prior to the issuance of any permit. Consulting Heritage Newmarket Advisory Committee on heritage matters is also required per legislation and has been a standard Town practice with heritage permits.

Unlike other changes outlined in this report, this change does not require an amendment to the Official Plan. Therefore the Town's Delegation Authority By-law 2016-17, as amended, can be amended to reflect this change at any time. However, for efficiency, Staff recommend that it be amended at the same time as the amendment to introduce the aforementioned changes regarding the passing of temporary use by-laws and the removal of holding provisions.

Conclusion

OPA 37, if adopted, will result in changes that streamline the development review process. Specifically, the amendment will update the Town's official plan policies regarding submission requirements for complete applications and contain policies to allow Council to delegate approval authority of minor zoning amendments to staff. Similarly, the recommendation to allow a designate to sign heritage permits on behalf of the Director of Planning and Building Services will streamline the issuance of these permits and increase efficiency.

Business Plan and Strategic Plan Linkages

- Customer-first way of life
- Extraordinary places and spaces

Consultation

A copy of the draft OPA 37 was circulated to commenting internal departments and external agencies for review. Comments or no objections were received from York Region, Metrolinx, York Catholic District School Board, Enbridge, BILD, and the Town's external legal counsel.

York Region staff requested a few technical plans/studies such as detailed grading plan, noise study, erosion and sediment control plan, geotechnical report to be added as “other reports/plans that may be required as part of a complete Draft Plan of Subdivision application”. This is intended to capture situations where no Site Plan approval or Plan of Condominium applications are required after Draft Plan of Subdivision, therefore the opportunity to study these matters must occur earlier in the process. Planning staff have no objection to the request and has amended the draft to reflect the change. In addition, York Region staff have advised that the proposed OPA appears to be a routine matter of local significance and is therefore exempt from Regional approval. OPA 37 will come into effect following its adoption by the Town of Newmarket and the expiration of the required appeal period.

Comments received from BILD are primarily related to the Town’s Pre-application process, which is set out in the Town’s Pre-Application By-law. Although submission requirements are confirmed through the Pre-application process, Planning staff have clarified for BILD that the purpose of OPA 37 is to not to “establish” the Pre-application process, rather, it is to provide a clear indication to applicants of what plans/studies or reports the Town may require for complete application submissions at the Pre-application stage. BILD is generally satisfied with Attachment 1 with a suggestion to remove the language regarding how the Town may request additional reports or drawings during the review of applications. Typically, the Town and commenting agencies would confirm all submission requirements after the pre-application meeting and it is unusual that additional major reports/plans would be required during the review of an application, however this does occasionally occur as more information discovered about an application as the process advances. Therefore staff recommend keeping this language as it currently appears in the Town’s Official Plan because it would provide the Town and commenting agencies/departments the flexibility that if additional investigations are required through the review of an application, appropriate studies or reports should be provided by the applicant.

Other comments received are either minor and have been addressed, or the agencies have expressed no objections to the OPA.

Human Resource Considerations

None

Budget Impact

None

Attachments

Attachment 1 – Official Plan Amendment Number 37

Submitted by

Phoebe Chow, Senior Planner – Policy

Approved for Submission

Adrian Cammaert, Manager, Planning Services

Jason Unger, Director, Planning and Building Services

Peter Noehammer, Commissioner, Development & Infrastructure Services

Contact

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