

STAFF REPORT

THE CORPORATION OF THE TOWN OF COBOURG



Report to:	Mayor and Council Members	Priority:	<input checked="" type="checkbox"/> High <input type="checkbox"/> Low
Submitted by:	Anne Taylor Scott, MCIP, RPP, Director, Planning and Development Division, ataylorsscott@cobourg.ca Laurie Wills, P. Eng., Director, Public Works Division, lwills@cobourg.ca	Meeting Type:	Open Session <input checked="" type="checkbox"/> Closed Session <input type="checkbox"/>
Meeting Date:	September 6, 2022		
Report No.:	Planning and Development-073-22		
Submit comments to Council			

Subject/Title: *Delegation of Site Plan Control as result of Changes to the Planning Act (Bill 109)*

RECOMMENDATION:

THAT Council receive this Staff Report for information;

THAT Council pass a by-law (Appendix 1) requiring pre-consultation for privately initiated applications under the *Planning Act*;

THAT Council pass a by-law (Appendix 2) delegating all matters relating to Site Plan approval to staff that would have the effect of:

1. Delegating the receipt and deeming of Site Plan Applications complete or incomplete to the Director of Planning and Development;
2. Appointing the Director of Planning and Development and the Director of Public Works for the purposes of approving site plans and drawings; and,
3. Authorizing the Mayor and Clerk to execute all site plan agreements upon the stamped approval of the Site Plan Drawings by the Director of Planning and Development and the Director of Public Works;

FURTHER THAT a new Site Plan Control By-law (Appendix 3) be passed that would have the effect of establishing new and current regulations regarding site plan control and recognizing the delegation of authority to the Director of Planning and Development and the Director of Public Works; and,

RECOMMENDATION (continued):

FURTHER THAT the Planning and Development Division bring forward an annual *Planning Act* application summary in the first quarter of 2023 and every year thereafter reporting on previous years *Planning Act* applications and approvals including any delegated approvals

1. STRATEGIC PLAN

The recommendations of this report support the pillars of ***People*** and ***Programs***.

People: SPA delegation will enable development approvals to move through the process more quickly resulting in residential units reaching the construction phase more quickly. Facilitating development approvals more efficiently will reduce some of the administrative functions requiring staff to report to Council for receipt of new applications and approvals. Staff delegation will improve timelines and will free up resources for other projects. Housing projects can advance more quickly and without delay.

Programs: SPA Delegation requires the Planning & Development Division to explore other ways to inform and communicate applications and approvals. While memos and reports relating to Site Plan applications will not be on regular agendas – development activity will be made available on a web-based GIS portal and through annual reporting which will provide enhanced communication.

2. PUBLIC ENGAGEMENT

Delegation of Site Plan Approval was endorsed in KPMG’s Service Delivery Review report and was received by Council in open session in November 2020 and subsequent implementation and status reports dating from January 2021 to present. Site Plan Approval and delegation was discussed before the Committee of the Whole and Council in April 2022 when Planning Staff reported on the impact to changes to the *Planning Act* as a result of Bill 109, the More Homes for Everyone Act.

This report was made available a minimum of 10 days prior to the September 6, 2022 Committee of the Whole meeting.

3. PURPOSE

The purpose of this report is to recommend the passing of a by-law requiring pre-consultation for certain *Planning Act* applications, and the delegation of matters relating to Site Plan approvals to staff.

4. ORIGIN AND LEGISLATION

The *Planning Act* contains provisions enabling municipalities to pass by-laws requiring pre-consultation with municipal staff and agencies prior to submitting certain applications under the *Planning Act*. The Cobourg Official Plan contains policies providing this guidance and it is recommended that this policy be enacted by By-law.

Delegation of Site Plan approval was identified as part of KPMG's Service Delivery Review as an opportunity to enhance operating efficiencies and customer service. KPMG's report was received by Council in November 2020 with an implementation plan endorsed January 25, 2021. Delegating approval authority from Council to staff for site plan applications, is permitted under the *Planning Act* and many other municipalities have passed delegation by-laws delegating Site Plan approval to staff. This opportunity was identified to reduce the amount of administrative time associated with Council reporting and approval of site plan applications.

Earlier this year with the passing of Bill 109, More Homes for Everyone Act, 2022, the new Section 41 (4.0.1) **requires** that municipal Site Plan Control By-laws appoint an officer, employee, or agent as an authorized person for the purposes of approval of plans and drawings.

5. BACKGROUND

What is Site Plan Control?

Site Plan Control is authorized under Section 41 of the *Planning Act*. Site Plan approval is the approval of plans and drawings. The details that are included in the site plan drawing set are laid out in the Act:

1. All buildings, structures and works related to the development
2. Massing, design, character, and scale of building
3. Relationship of development to other building, streets, and publicly accessible areas
4. Sustainable design elements within adjoining right-of-way
5. Facilities designed to have regard for accessible design

The Act provides authority to municipalities to enter into a development agreement reflective of the approved plans and drawings, among other conditions such as providing and maintaining:

1. Road widenings and other facilities related to access
2. Suitable parking and loading facilities including emergency access
3. Pedestrian connections, including accessible walkways
4. Lighting
5. Landscaping features i.e., walls, fences, hedges, trees
6. Garbage and waste facilities
7. Easements for servicing

8. Grading of lands to dispose of storm, surface, and wastewater

While in its purest sense Site Plan Approval is the approval of plans and drawings, a development agreement always accompanies the approved drawings as it is the legal implementation tool setting out appropriate terms and conditions of development. There may be minor exceptions where an agreement is not warranted i.e., a minor expansion to a parking lot in which case a 'plans-only' approval could be granted.

Therefore, it is important to understand there are two components of site plan approval and it is both the approval of drawings **and** the agreement that go hand-in-hand. The development cannot proceed to construction without both being complete to the satisfaction of the Town of Cobourg.

Town of Cobourg Current Site Plan Approval Practice

The most recent Town of Cobourg Site Plan Control By-law was in 1986 and identifies Council as the approval authority. Site Plan applications currently come before Council at 2 steps – at the beginning of the process, and again closer to the end of the site plan review and approval process (see items in bold type below).

Steps in Site Plan Approval Process

1. Application/fee and drawings received
2. Reviewed for completeness
3. Once complete the submission is circulated to Staff and Agencies for Review and Comment
- 4. Staff Report # 1 to inform COW/Council receipt of an application**
5. Discussion with Development Review Team
6. Coordinated comments issued by Planning Staff
7. Applicant and consulting team address comments and resubmit drawings
8. Items 5, 6 and 7 are repeated until all matters are addressed to the satisfaction of staff and agencies
9. Development agreement is drafted with outside legal assistance as required
- 10. Staff Report # 2 to seek authorization to enter into Site Plan Agreement by by-law upon resolution of issues as drawings are nearing approval**
11. Agreement is executed by owners, mortgagees, Mayor, and Clerk and registered on title
12. Conditions of agreement fulfilled by applicant including submission of necessary fees and securities
13. Planning and Public Works staff are now able to sign off on Building Permit
14. Development may proceed once permits are issued

In reviewing Cobourg's process, it is current practice to approve drawings at the staff level however a report is taken to Council which is twofold:

1. Firstly, it informs Council that approval is imminent, and construction will soon commence; and,
2. Secondly, a by-law is passed authorizing the Mayor and Clerk to sign agreement

Service Delivery review

One of the key opportunities to enhance operating efficiencies and customer service is to delegate approval authority for site plan applications to staff. The consultant identified at the time that municipalities can do this under the *Planning Act*, although since that time the changes to the *Planning Act* now require this.

KPMG's report identifies efficiencies relating to reduce time and effort required for Council approval recognizing that site plan approval is a technical process.

Bill 109

Earlier this year the Province passed legislation referred to as the *More Homes for Everyone Act, Bill 109*. The legislation amended the *Planning Act* which now requires local municipalities to pass a by-law delegating site plan approval to staff.

Site plan approval in its simplest sense and in accordance with the *Planning Act* is the approval of the set of drawings and plans. However, development cannot proceed based on the approval of drawings alone therefore the complete site plan package includes both the development agreement **and** the approved plans and drawings. Therefore, to satisfy the intent of Bill 109, Planning Staff are bringing forward the recommendation to not only delegate the approval of the plans and drawings to the Director of Planning and Development and the Director of Public Works, but also to authorize the Mayor and Clerk to execute all future site plan agreements versus reporting on each one individually.

This new legislation further bolsters the recommendations of the Service Delivery Review.

6. ANALYSIS

There are a number of factors that are driving the delegation of SPA to staff.

1. KPMG's Service delivery report and recommendations
2. Increasing customer service by speeding up approvals and getting residential developments through the process expediently to address housing supply concerns
3. Limited staff resources and finding efficiencies
4. Bill 109 legislative requirements that resulted in changes to the *Planning Act*

However, prior to recommending delegation Staff have reviewed internal processes and procedures and have derived new procedures and templates related to site plan approval at the staff level.

The request of this SPA delegation report proposes the delegation of three actions to Staff as follows:

1. Deeming Site Plan applications complete

Current Practice	Proposed Practice
1. Application and fee received	1. Application and fee received
2. Reviewed for Completeness	2. Reviewed for Completeness
3. Once complete the application is circulated to staff and agencies (See note below)	3. Letter of Complete or Incomplete Application issued to Owner/Applicant
4. Memo to COW/Council – this has been the date used for determining the date of a complete application	4. Once deemed complete the application is circulated to staff and agencies

While Staff are preparing a memo that has the effect of notifying COW/Council on the receipt of the new site plan application and for the purposes of deeming complete, Staff are often in the position to circulate the application prior to the memo being received by COW/Council in an effort to meet deadlines and not hold the application up because of COW/Council meeting dates.

Staff propose that as an alternative to circulating the application to COW/Council with memo/map and drawings, which is simply an information report, Staff propose that a formal letter reply be sent (See Appendix 4a and 4b). This letter will inform the owner of the application status and establish an accurate date for tracking purposes.

It is critical that the letter of complete application is a specific staff-issued date on a letter as the dates establishes timeframes for calculating Development Charges and the refund of Planning Fees if not approved within prescribed timeframes in accordance with the *Planning Act*. The current practice of waiting for the COW/Council meeting cycle is no longer meeting critical timeframes.

2. Approval of Site Plan Drawings

<i>Current Practice</i>	<i>Proposed Practice</i>
1. Drawings are generally endorsed by DRT and staff and/or close to final approval	1. Drawings are generally endorsed by DRT and staff and/or close to final approval
2. Staff prepare report and by-law seeking authorization for Mayor and Clerk to execute site plan agreement	2. Once a final drawing set is forwarded to Staff by the applicant, Planning staff will prepare a memo to the Director

	of Planning and Director of Public Works seeking stamped approval of drawings
3. Agreement is executed	3. Directors review and approve drawings with stamp including signatures and date
4. "Issued for Construction" drawings are provided to the Town	4. The stamped drawings together with the development agreement is the final approval

Upon completion of the site plan review cycle and once drawings are ready for approval, Planning and Public Works staff will present drawings to the Directors for signing accompanied by a memo requesting approval (Appendix 5).

Professional and technical staff will ensure that the drawings have been reviewed and revised appropriately and shall be satisfied that the following matters have been addressed as laid out in Section 41(7) of *Planning Act* and including but not limited to:

- Meeting urban design objectives
- Complying with the Zoning By-law
- Servicing, grading, stormwater management
- Landscaping
- Pedestrian connectivity
- Matters of accessibility

The current practice of approving site plan drawings requires refinement to internal process. Currently staff receive "Issued for Construction" drawings in some cases just prior to construction. This proposed new process will once again clarify key dates needed to calculate Development Charges and potential refunding of fees if the approval is not granted within prescribed timeframes under the *Planning Act*.

It is important to note that "approval" does not infer that Planning or Engineering Staff take responsibility for the design and construction of the development, but rather the design satisfies all municipal design guidelines, policies and by-laws. Staff ensure that the drawings are signed and sealed by the appropriate professional responsible for the design i.e., civil engineer, landscape architect and architect. Further development agreements will include the following provision:

Approval of any Site Plan Drawings as per Schedule "X" shall not absolve or release the Owner or the Owner's Engineer, Architect or any other professional consultant from liability for any errors or omissions in relation to the Approved Site Plan Drawings or from any other obligation under this Agreement.

Concurrently with final approval of the drawings and plans, staff can continue with preparing a site plan agreement.

Upon delegation, the Director of Planning and Development and the Director of Public Works Staff will stamp plans and drawings accordingly (See sample approval stamp included as Appendix 6).

3. Authorization enabling the Mayor and Clerk to sign all site plan agreements upon approval of plans and drawings

<i>Current Practice</i>	<i>Proposed Practice</i>
1. Staff collaborate with applicant to finalize drawings and draft agreement	1. Staff collaborate with applicant to finalize drawings and draft agreement
2. Memo/Report to COW recommending By-law be passed	2. Drawings Stamped by Directors
3. By-law passed	3. Agreement executed by owner, mortgagees
4. Staff present agreement to Mayor and Clerk to sign once by-law has passed and once all other parties have executed the agreements	4. Director of Planning & Development requests the Mayor and Clerk sign agreement once the following conditions are satisfied: <ul style="list-style-type: none"> a. Drawings are stamped b. Agreement executed by all other parties

One of the last steps in the final approval process is entering into the development agreement. The agreement is drafted by planning staff in consultation with other staff and agencies and signed off by the Manager of Planning. Outside legal assistance is also sought, as required, and all legal costs are recovered by the applicant.

While the current practice is to prepare a memo and present a by-law to authorize the Mayor and Clerk to sign the agreement, neither the agreement nor the final drawing set is included within reports or agendas.

With the proposed procedure and by-law, the Mayor and Clerk would be authorized to execute all development agreements once the drawings are stamped and once all other parties execute the development agreement. The internal process to have the Mayor and Clerk sign the agreement would be formally requested by a memo prepared by the Director of Planning and Development (Appendix 7).

Refined Internal Procedures to be implemented upon Delegation to Staff

In preparing this report and recommendations, Staff have worked diligently on considering impacts to ensure the modified process is seamless and to ensure delegated staff decisions remain accountable to Council and the public. The following processes are in the process of being explored and/or are already the current practice:

- Revising and clarifying internal staff procedures
- Creating new templates for use by staff
- Improved utilization of Cityworks to track key dates
- Reporting and informing Council and the public while balancing the requirements of the *Planning Act* that do not require formal public engagement – new and approved applications can be reported during verbal Coordinators report
- Newsletters/communications – a copy of the Letter of Complete Application and approval memo will be forwarded to the Manager of Communications and can form part of Town’s communication strategy as deemed appropriate.
- Implementation of a new web-based Planning File activity map, a portal with a subscribe function
- Introduction of an annual report on Planning Application file activity, submissions and approvals including delegated approvals
- Continuing the enhanced notification of site plans by posting a sign on the subject lands

The passing of a by-law to delegate Site Plan Approval to staff does not prevent Planning and Public Works staff from seeking direction from Council should a consensus not be reached on the terms of the approval, nor would it prevent Council from requesting a report from Staff on a specific development.

7. FINANCIAL IMPLICATIONS/BUDGET IMPACTS

Not directly applicable however delegation of SPA will provide for efficiencies at a staff level and will also streamline the process for applicants.

8. CONCLUSION

Delegation of site plan approval is a widespread practice within municipalities, was identified as a key objective of the Service Delivery Review and with recent changes to Provincial legislation is now mandatory.

Improved tracking and management of key dates in the review process are now critical with changes to the *Development Charges Act* and the *Planning Act*.

New efficiencies in staff time and development approvals will be an immediate improvement. As an example, in 2021 a total of 14 Site plan applications were received. Should fourteen site plans be delegated to staff for receipt and approval, a total of 28 staff reports (2 per application) and 28 by-laws would no longer be necessary thereby freeing up many hours of staff time and resources for other priorities and streamlining the approval processes for applicants.

As part of the Division's commitment to continuous improvement, Staff are committed to identify, explore and implement opportunities to maintain and improve engagement and transparency as it relates to Site Plan approval and the proposed delegated approval to staff. In doing so, Staff must also balance the statutory limitation in the *Planning Act* that does not require public consultation.

9. APPENDICES

1. Draft By-law Requiring Pre-consultation for *Planning Act* applications
2. Draft By-law Delegating Matters relating to Site Plan Control to Staff
3. Draft Site Plan Control By-law
4. Sample Letters Deeming Application Complete/Incomplete
5. Sample Memo to Directors seeking approval of Drawings
6. Sample Draft Stamp of Site Plan Approval from Director of Public Works and Director of Planning and Development
7. Sample Letter to Mayor and Clerk from Directors requesting execution of Site Plan Agreement

Report Approval Details

Document Title:	Delegation of Site Plan Approval - Planning and Development-073-22.docx
Attachments:	<ul style="list-style-type: none">- Appendix 1 - Pre-consultation By-law.docx- Appendix 2 - Draft By-law to Delegate SPA.docx- Appendix 3 - New Site Plan Control By-law.docx- Appendix 4A - Application Incomplete.docx- Appendix 4B - Application Complete.docx- Appendix 5 - Directors Sign Drawings Memo.docx- Appendix 6 - Sample Site Plan Approval Stamp.pptx- Appendix 7 - Memo to Director of Legislative Services Seeking Signatures.docx
Final Approval Date:	Aug 26, 2022

This report and all of its attachments were approved and signed as outlined below:

No Signature - Task assigned to Tracey Vaughan, Chief Administrative Officer was completed by workflow administrator Brent Larmer, Municipal Clerk / Director of Legislative Services

Tracey Vaughan, Chief Administrative Officer - Aug 26, 2022 - 11:03 AM