

The Corporation of the Town of Niagara-on-the-Lake Information Report to Council

SUBJECT: COTW - Planning Meetings
DATE: 2023-10-24
REPORT #: CDS-23-228
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DEPARTMENT: Community & Development Services

BACKGROUND INFORMATION

At the Committee of the Whole – Planning meeting on October 3, 2023, the length of Public Meetings and scheduling of planning applications and reports was raised. The purpose of this report is to provide information regarding the legislative timeline requirements for processing applications, the department's work volume, and options regarding Committee of the Whole (COTW) – Planning meetings for Council's consideration.

Application Process

The process of submitting a planning application requires a landowner/applicant to first attend a pre-consultation meeting to determine which applications are required for their proposal and the studies and rationale needed to support it. The Town arranges the pre-consultation meetings and invites Town Staff from various departments, the Region of Niagara (if required), and other applicable agencies. Once the pre-consultation meeting is held, the landowner/applicant will receive a record of the comments made and studies required. The pre-consultation agreement is valid for one (1) year. Staff can't predict when a complete submission may be received.

When all information is ready, the landowner/applicant will submit their application with all required supporting studies and documentation to the Town. Under the *Planning Act*, the Town has 30 days to deem an application complete or incomplete. When applications are deemed complete, a notice of complete application must be circulated within 15 days. Since the timelines have now started for application review, the Town will also take this opportunity to schedule and provide notice of the Open House and required Public Meeting.

At the time of the Public Meeting, Staff prepare an Information Report to provide an overview of the application and a high-level summary of the applicable policy framework. The purpose of the Public Meeting is to gather comments from the public and Council. The comprehensive review of the application, including a full policy review and any additional information requested through the agency circulation, will be completed at the time of the Recommendation Report.

Planning Act Timeframes

Based on the Bill 109 changes, as of July 1, 2023, the *Planning Act* now requires municipalities to refund planning application fees when decisions are not made within the prescribed timeframe. The minimum partial refund is 50% for no decision made beyond the required timeframe. When the decision exceeds the prescribed timeframe, the refund increases on a graduated scale of 75% to 100%.

Amount of application fee to be refunded if beyond the timeframe	Number of days processing application without a decision on Official Plan Amendment (OPA) and/or Zoning By-law Amendment (ZBA), or failure to approve the Site Plan
50%	90 days for ZBA 120 days for OPA & ZBA 60 days for Site Plan
75%	150 days for ZBA 180 days for OPA & ZBA 90 days for Site Plan
100%	180 days for ZBA 240 days for OPA & ZBA 120 days for Site Plan

The timelines under the *Planning Act* have been in place, although altered through several different Bills, for quite some time. Before Bill 109 changes, the implication for not meeting timelines was a potential appeal by the applicant for non-decision. With the changes, in addition to the potential appeal, a municipality is financially impacted by fee refunds when the timelines are unmet.

Staff have worked with the Town's legal counsel to prepare a fee refund waiver. The waiver could be used when the applicant and Town work in good faith to advance an application to a Recommendation Report but need additional time to resolve outstanding issues. The waiver would be signed voluntarily by the applicant. By using this approach, Staff could continue to work toward a resolution rather than recommend refusal or use of Holding provisions in a decision. Even with this measure, applications are expected to advance expeditiously through the process. Additional information will be provided to Council concerning the fee refund waiver in an upcoming Council Report.

Work Volume and Staffing

Further to the timeline requirements, it is important to provide an overview of the volume of applications, from pre-consultation to complete applications, that Staff review and process throughout the year. The following table demonstrates the number and type of planning applications and reviews for 2022 (full year) and 2023 (as of October 1, 2023). Some 2022 applications remain open and continue to require Staff attention or resubmission from the

applicant to complete.

Planning Application Summary Table

Application Type	2022 (Jan. 1 to Dec. 31)	2023 (Jan. 1 to Oct. 1)
Official Plan Amendment	5	9
Zoning By-law Amendment	26	22
Site Plan	12	9
Plan of Subdivision/Condo	7	5
Consent	33	32
Minor Variance	48	32
Heritage Permits/Review/Grants	27	37
Urban Design Reports	3	9
NEC Permit review	7	6
Total	168	161
Pre-consultation	110	78

It is noteworthy that Official Plan Amendments are usually accompanied by a Zoning By-law Amendment. Although processed together, these applications are often more complex and require significant time for review.

Additional work not captured in the table includes Part Lot Control reports, Development Agreements, responding to general inquiries, and responding to comments/questions/concerns submitted on applications. Planning Staff have prepared over 200 planning reports so far in 2023.

Also important are other planning projects currently underway or ready to commence (*), including but not limited to:

- Character Study for Randwood and John Street East
- Patio Program Review
- Official Plan Conformity
- Glendale Secondary Plan
- Prioritization of Heritage Designations
- Review and Expansion of the Heritage Conservation District*
- Review and Consolidation of the Comprehensive Zoning By-law*

Staffing

The above work is carried out by our current Staff complement of 2 Senior Planners (one vacant since July), 3 Planner II (one ongoing vacancy), the Manager of Planning and the Director. The Senior Heritage Planner and Heritage Planner II primarily focus on heritage permits, grants, heritage reviews, and heritage-specific projects. In some cases, the Senior Heritage Planner may also process and review development applications with heritage significance in addition to the regular heritage portfolio. The Zoning and Geomatics Technician, the Secretary-Treasurer to the Committee of Adjustment, the Development Coordinator, and the Administrative Assistant all play a crucial role in supporting the department's work.

COTW-Planning Meetings

Staff have provided the above information to provide context for Town Council concerning why the COTW-Planning meetings contain numerous reports and a focus on development applications.

Public input is an essential and valuable part of the planning process. However, Staff cannot fully gauge public interest in an application until a notice has been circulated. Since January, the Town has received several applications that have garnered significant interest from the public. This interest has led to long Public Meetings. Staff acknowledge that this can be frustrating when several meetings are scheduled on the same agenda, and individuals need to wait to speak to an application.

To continue to process applications promptly per the legislative timelines, as well as provide the opportunity to receive public input from all who wish to provide input on an application, Staff have listed some options regarding planning approvals, Public Meetings, and reports for Council's consideration:

1. Procedural By-law – Revise Speaker Time Allotment:

Currently, each member of the public who wishes to speak to an application is allotted up to 10 minutes per the Procedural By-law. The allotted time could be reduced to 5 minutes per speaker. The Chair should also continue to encourage those who wish to speak only to bring up new items that other previous speakers have not raised.

2. Procedural By-law - Written Correspondence Section Enforcement:

The Town's Procedural By-law specifies that if a public member submits written correspondence on an application, they cannot speak to the same items at the Public Meeting. The Town is currently not enforcing this section of the Procedural By-law. Many people who submit written comments also present the same information they have already submitted. Further, due to reporting timelines, often correspondence is received after a report is finalized and, therefore, may not be identified in the Staff report. Staff could prepare an addendum info package with any written correspondence on an application to be added for Council's information in the Monday agenda package so that all written correspondence received is provided to Council at the Public Meeting. Further, Staff could identify the summary of comments in the staff presentation, and the Clerk could announce that comments have been received and provided at the beginning of the public portion of the meeting. All written correspondence is always provided to Council via the Staff Recommendation Report.

3. Add Additional COTW-Planning Meetings:

COTW-Planning is scheduled once a month in the evenings with a 6:00 p.m. start time. Council could consider adding additional meeting days to the Committee and Council calendar.

3a.) Reserve a Standing Meeting in the Calendar for Meeting Continuation When Needed

An additional standing meeting the day following the current COTW- Planning meeting could be held in Council's calendars to continue the meeting if required when meetings go beyond 4 hours. This action would help avoid lengthy COTW-Planning meetings that require an extension beyond four (4) hours in a single evening. This option would allow

Council to recess the meeting to the next day and ensure reports and applications continue to advance through the process.

3b.) Add another COTW-Planning Meeting to the Calendar

An additional COTW-Planning meeting could be added to the Committee and Council Calendar. The evening meeting could be used exclusively for Public Meetings to allow everyone to speak to an application in a timely manner. Other Recommendation Reports or Information Reports could be reserved for a second COTW-Planning meeting. This option would allow Council more meetings to focus on Planning applications and provide shorter meeting times while ensuring reports and applications continue to advance within the legislative timeframes.

(Note: These options may require rebooking other Committee of Council meetings planned for those evenings.)

4. **Delegated Authority:** Town Council may choose to formally delegate authority to Staff for specific applications under the *Planning Act*, such as removal of Holding (H), minor zoning by-law amendments, and lifting of part lot control. Delegating approvals to Staff could reduce the number of reports coming forward each month. Additional work may be required to update Official Plan policies and prepare delegation by-laws. Staff will prepare a separate report on options for delegated authority should Council wish to advance this option.
5. **Concurrent Recommendation Reports:** Staff could begin preparing Recommendation Reports at the time of the Public Meeting for applications where appropriate. (For example, a Zoning By-law Amendment related to a Consent where there was no interest from the public at the Committee of Adjustment meeting or that did not receive any public input at the Open House or through correspondence.) This action would eliminate the preparation of both an Information and Recommendation report, shorten the approval process and allow the Town to meet application timelines.

NEXT STEP / CONCLUSION

As a first step, it is recommended that Council endorse Items #1 and #2 to take effect for the November meeting.

Staff are seeking direction on Item #3 to understand Council's position on this option.

Staff will report with additional information on how to advance Items #4 and #5 in a future Staff Report.

Staff are open to considering other measures for addressing the length of COTW-Planning meetings while meeting legislative timeframes under the *Planning Act* and ensuring an open, transparent application process.

ATTACHMENTS

- N/A