



Town of Niagara-on-the-Lake

1593 Four Mile Creek Road
P.O. Box 100, Virgil, ON L0S 1T0
905-468-3266 www.notl.com

REPORT #: CDS-24-030 **COMMITTEE DATE:** 2024-03-05
REPORT TO: COTW-Planning **DUE IN COUNCIL:** 2024-03-26
SUBJECT: Site Plan Control By-law Update

1. RECOMMENDATION

It is respectfully recommended that:

- 1.1 Council approves the Site Plan Control By-law update, attached as **Appendix I** to this report;
- 1.2 The updated Site Plan Control By-law be forwarded to Council for adoption; and
- 1.3 Council repeals the existing Site Plan Control By-law 3622-02, and Amendments 3622A-06, 3622B-12 and 3622C-14 thereto.

2. EXECUTIVE SUMMARY

- The Town of Niagara-on-the-Lake has a Site Plan Control By-law 3622-02, and Amendments 3622A-06, 3622B-12 and 3622C-14, in force and effect which designates the entire municipality as a Site Plan Control Area, except for land used or proposed for single detached or semi-detached dwellings or farm buildings other than greenhouses and/or packaging operations.
- Site Plan Control is a planning tool that a municipality uses to evaluate site elements, for example: site circulation, landscaping, and lighting, when development is proposed.
- The Site Plan Control process, and the resulting Site Plan Agreement, ensures site-specific matters are reviewed and the development is well designed, fits in with the surrounding uses and minimizes impacts from development.
- Several amendments to the *Planning Act* related to Site Plan Control have occurred as a result of Bill 23, Bill 97 and Bill 109, which impacts the Town's current Site Plan Control By-law and requires it to be updated.
- Staff have prepared an updated Site Plan Control By-law which will ensure conformity with the *Planning Act* and repeal and replace the existing By-law.

3. PURPOSE

The Provincial government has made several changes to the Site Plan Control process through Bill 23, Bill 97, and Bill 109. The purpose of this report is to update the Town's Site Plan Control By-law to administratively implement and ensure conformity with the current requirements of the *Planning Act*.

4. BACKGROUND

Site plan control is a form of development control provided to municipalities. It enables a process to evaluate site elements, for example: site circulation, landscaping, and lighting, when development is proposed. Under the *Planning Act*, no one can undertake any development or site alteration on lands subject to site plan control unless the municipality has reviewed and approved certain plans. The site plan control process, and the resulting Site Plan Agreement, ensures site-specific matters are reviewed and the development is well designed, fits in with the surrounding uses and minimizes any negative impacts from development.

According to Section 22.13(1) of the Town's Official Plan, the entirety of the Town of Niagara-on-the-Lake is designated as a Site Plan Control Area, except for land used or proposed for single detached or semi-detached dwellings or farm buildings other than greenhouses and/or packaging operations. Site Plan Control By-law 3622-02 implements this policy direction. Council has previously approved amendments through By-law 3622A-06, 3622B-12 and 3622C-14, to clarify who is responsible for overseeing site plans and site plan control agreements for the Corporation of the Town of Niagara-on-the-Lake and to provide additional amendments specifying new clauses.

5. DISCUSSION / ANALYSIS

Over the last two years, the Province has introduced three pieces of legislation which affect the Site Plan Control process. The amendments made to the *Planning Act* through Bill 23, Bill 97, and Bill 109 have a direct impact on the Town's Site Plan Control By-law and require it to be updated.

Bill 109 & Bill 97

On March 30, 2022, the Province announced Bill 109, the *More Homes for Everyone Act, 2022*. On April 14, 2022, Bill 109 received Royal Assent from the Ontario Legislature and is now in force and effect.

The *Planning Act* identifies timeframes for a municipality to make a decision for each type of development application, including site plans and site plan amendments. Bill 109 extended the timeframe for issuing site plan approval from 30 days to 60 days under the *Planning Act*. If a site plan is not approved within this prescribed timeframe, the Town would be subject to a financial penalty (fee refund). Prior to this change, the applicant could appeal for lack of approval, but there were no fee impacts.

Based on Bill 109 changes, the *Planning Act* now requires municipalities to refund planning application fees when approvals are not issued within the prescribed timeframe. For site plans, the following refunds apply:

- If a site plan is not approved within 60 days, a refund of 50% of the application fees is required,
- If a site plan is not approved between 60 and 90 days, a refund of 75% of the application fees is required; and,
- If a site plan is not approved between 90 and 120 days, a refund of 100% of the application fees is required.

Initially, Bill 109 set the above provisions for fee refunds to take effect on January 1, 2023; however, Bill 97 was subsequently passed to revise the effective date to July 1, 2023.

In December 2023, Staff presented the fee refund waiver form to Council for information and endorsement. The intent of the waiver is to allow the Town and the applicant to continue to work together to resolve items for a better outcome.

In addition to the fee refund provisions, Bill 109 added a new subsection to the *Planning Act*, which requires a municipality to assign an authorized person is for the purposes of issuing site plan approval. The authorized person can be an officer, employee or agent of the municipality. Through the existing Site Plan Control By-law, the Director of Community and Development Services is currently appointed to be the authorized person to issue site plan approval. This appointment is based on previous Council-approved amendments to the Site Plan Control By-law; however, updated wording is required in the By-law to reflect Provincial changes as of July 1, 2022, in the *Planning Act*.

Bill 23 & Bill 97

On October 25, 2022, the Province announced Bill 23, the *More Homes Built Faster Act, 2022*. On November 28, 2022, Bill 23 received Royal Assent and many of the changes are now in force and effect.

In accordance with Section 41 of the *Planning Act*, the Town is permitted to establish the extent of the site plan control area. Bill 23 amended the *Planning Act* by adding two new subsections to qualify the definition of “development” in Section 41 of the *Planning Act*, and amended certain subsections to identify site elements that are no longer subject to site plan control. Based on the Bill 23 changes, residential buildings containing 10 or fewer residential units are not subject to site plan control; however, Bill 97 later changed this to provide that residential buildings containing 10 or fewer residential units which are located within a prescribed area are subject to site plan control. The prescribed areas would allow site plan control to apply to residential developments where the development is proposed within 120 metres of a shoreline or 300 metres of a railway line.

Bill 23 further amended the *Planning Act* to provide that exterior design is no longer a matter that is subject to site plan control, except in specific circumstances. The *Planning Act* continues to allow consideration for the following review through the site plan process:

- matters related to green roofs;
- building construction requirements related to environmental conservation, where permitted, under the *Building Code Act*, and,
- the appearance of building elements if it impacts health, safety accessibility or sustainable design.

Updated Site Plan Control By-law

The proposed by-law consolidates the existing Site Plan Control By-law and associated Council-approved amendments, to bring the By-law into conformity with Provincial

requirements. The proposed by-law provides clarity for Town Staff, development proponents and the public.

The updated Site Plan Control By-law will include:

- Addition of definitions for “*Agricultural Use*” and “*Agricultural Related Use*” as per the Official Plan and the addition of definitions for “*Director*,” “*Planning Act*” and “*Municipality*”;
- Integrating exceptions for the definition of “*Development*” to align with the *Planning Act*;
- Re-appointing the Director of Community and Development Services, or designate, as the authorized person to approve site plan applications as currently required;
- Clarity for all of Niagara-on-the-Lake be designated as a Site Plan Control Area;
- Additional exceptions of Site Plan Control for buildings and structures used for Agricultural Use;
- Addition of a provision that clarifies that any agreements executed under previous Site Plan Control by-laws remain in full force;
- Addition of provisions for fee refunds based on the prescribed application review timelines set out in the *Planning Act*.

The proposed Site Plan Control By-law update does not alter any additional Town Official Plan policies or Zoning By-law provisions.

The Town’s Site Plan Control By-law currently delegates decisions to Staff for site plans that do not require a zoning change. Applications with an associated Zoning By-law Amendment are required to be presented for Council approval; however, Bill 109 amended the *Planning Act* to direct that all decisions on site plan applications be delegated to an official, agent or Staff for applications made on or after July 1, 2022, and that site plan approvals are issued within the prescribed timeframe. Based on this legislative requirement, the Director of Community and Development Services has approved all Site Plan Agreements submitted after July 1, 2022. The by-law is now being updated to reflect this required direction.

6. STRATEGIC PLAN

The content of this report supports the following Strategic Plan initiatives:

Pillar

1. Vibrant & Complete Community

Objective

1.1 Planning for Progress

Action

1.1 b) Planning for Progress Initiatives

7. OPTIONS

- 7.1 **Option 1:** That Council approve the updated Site Plan Control By-law attached as **Appendix I**, repeal existing Site Plan Control and all associated Amendments thereto, and replace it with the approved Site Plan Control By-law.
(Recommended)

7.2 **Option 2:** That Council does not approve the updated Site Plan Control By-law attached as **Appendix I.** (*Not Recommended*)

8. FINANCIAL IMPLICATIONS

There are no direct financial implications arising from the approval of the updated Site Plan Control By-law.

9. ENVIRONMENTAL IMPLICATIONS

Not applicable; there are no direct environmental impacts.

10. COMMUNICATIONS

Information on the updated Site Plan Control By-law will be communicated to applicants as required and information will be posted on the Town's website.

11. CONCLUSION

The Town is committed to ensuring that policies and processes conform to Provincial legislation and direction. Town staff aim to increase transparency and understanding of the site plan process. Updating the Town's Site Plan Control By-law to consolidate previous amendments and reflect Provincial changes will establish processes that are clear for Town staff, Council, development proponents, and residents. Accordingly, Staff recommend that Council approve the updated Site Plan Control By-law, and repeal the existing Site Plan Control By-law 3622-02, and Amendments 3622A-06, 3622B-12 and 3622C-14 thereto.

12. PREVIOUS REPORTS

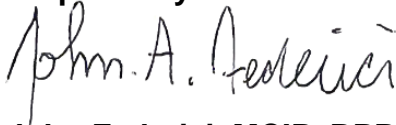
Not applicable.

13. APPENDICES

- **Appendix I** – Site Plan Control By-law 3622-02 Update

Respectfully submitted:

Prepared by:



**John Federici, MCIP, RPP
Senior Planner**

Recommended by:



**Kirsten McCauley, MCIP, RPP
Director,
Community and Development Services**

Submitted by:



**Bruce Zvaniga, P. Eng.
Chief Administrative Officer (Interim)**

