



City of
Peterborough

To: Members of the General Committee

From: Blair Nelson, Commissioner, Infrastructure, Planning and Growth Management (Acting)

Meeting Date: June 3, 2024

Report: Zoning By-law Amendment – Section 6.1 – Public Use Exemption, Report IPGPL24-011

Subject

A report to evaluate the planning merits of a housekeeping amendment to Section 6.1 of the Zoning By-law.

Recommendation

That Council approve the recommendation outlined in Report IPGPL24-011, dated June 3, 2024, of the Commissioner of Infrastructure, Planning and Growth Management (Acting) as follows:

That Section 6.1 of the Zoning By-law be amended in accordance with the draft Zoning By-law Amendment attached as Exhibit A to Report IPGPL24-011.

Executive Summary

- Section 6.1 of the Zoning By-law presently exempts 'the City' and Peterborough Utilities Commission ('PUC') from complying with the provisions of the By-law. The very general language of this exemption presents interpretation challenges for the City.
- It is prudent for the City to ensure that the term 'City' accurately captures Municipal Services Corporations and the Police Services Board.

- The language contained in Section 6.1 is very broad and was established as part of the 1972 Comprehensive Zoning By-law and remains in the Zoning By-law verbatim.
- The City of Peterborough has a new Official Plan that addresses modern planning challenges and is reflective of Provincial Planning Direction. At times, the City's ability to implement the Official Plan's direction through City-led capital projects can be hindered by the lack of specificity in Section 6.1 of the older Comprehensive Zoning By-law.
- While Section 6.1 waives compliance with the Zoning By-law, the Official Plan remains applicable thus ensuring that City planning decisions maintain the overall vision of the Plan.
- Having a clear public use exemption regulation in the Zoning By-law can be leveraged as municipal-led public housing continues to be a priority of all levels of government by reducing the timelines associated with land use approvals.

Background

The present language in Section 6.1 of the Comprehensive Zoning By-law was established in 1972 as follows:

“CITY AND P.U.C. 6.1 None of the provisions of this by-law shall apply to prevent the use of any land or the erection, alteration or use of any building or part thereof for the lawful purposes of The Corporation of The City of Peterborough or The Peterborough Utilities Commission.”

Prior to 1972, the 1954 Comprehensive Zoning By-law contained a detailed regulation that dealt with several exemption scenarios. Section 6.1 of the current Zoning By-law does not include any defined terms for 'City' and therefore does not provide clarity to help interpret when the public use exemption can be utilized.

It is a common practice for Municipal Zoning By-laws to contain a section that exempts certain public uses from needing to fully comply with the regulations contained within the Zoning By-law. Some of these exemptions are written very generally, such as the City's current Section 6.1, while others are very specific. The present wording of Section 6.1 refers to the Peterborough Utilities Commission (PUC) specifically – and 'the City' generally. It is proposed that the language be revised to specify certain entities that are intended to benefit from the Zoning By-law exemption, along with ensuring that the language is future proofed in such a way to address the creation of future Municipal Services Corporations (e.g., housing).

A proposed amendment to Section 6.1 is presented below. The proposed regulation is not an exhaustive list of City entities as it not intended to curtail any rights that

supersede municipal By-laws such as federally or provincially regulated entities (example: Airports, telecommunications etc.).

There have been several instances in the last year where the interpretation and applicability of Section 6.1 has been raised in relation to City and City-related projects. Clear use of the Public Use exemption could result in shortened development approval and construction timelines for City projects which can leverage grant and financing opportunities.

Recently, Section 6.1 was used to help the City secure construction of the Affordable Housing Project at 681 Monaghan Road. Being a City-owned property, Section 6.1 helped the City leverage multiple levels of government funding as a 'ready to build site'.

Moving forward, it is expected that an amended Section 6.1 will provide key support to projects being advanced by the Peterborough Housing Municipal Services Corporation (PHMSC) on behalf of Peterborough Housing Corporation. An amended Section 6.1 will provide the clarity needed for staff to apply the Zoning By-law exemption – ensuring that the exemption is used properly and transparently, in alignment with the goals of Council as presented in the City's Housing Pledge and Official Plan.

Proposed Zoning By-law Amendment

~~CITY and PUC 6.1 None of the provisions of this by-law shall apply to prevents the use of any land or the erection, alteration or use of any building or part thereof by: for the lawful purposes of The Corporation of The City of Peterborough or The Peterborough Utilities Commission~~

- a) The Corporation of the City of Peterborough (the "City");
- b) A municipal services corporation, established under Section 203 of the Municipal Act, 2001:
 - (i) which is wholly owned by the City; or
 - (ii) for which the City is the majority shareholder;
- c) A Local Housing Corporation for which the City is the majority shareholder; or by
- d) The Peterborough Police Services Board.

Analysis

A. City of Peterborough Housing Pledge

On November 27, 2023, Council pledged to support the construction of 4,700 new dwellings by 2031 as requested by the Minister on June 16, 2023. Provincially, municipal housing pledges are a key tool for ensuring the construction of 1.5 million new homes by 2031 to address an ongoing housing supply and affordability crisis. Although this proposed amendment will extend to uses other than housing, it is anticipated that this amendment will provide clarity regarding the applicability of a public use exemption

of the Zoning By-law for municipal-led housing construction which will add to the City's ability to meet its housing target.

B. Provincial Policy Statement, 2020 (PPS)

Any decision on the proposed Zoning By-law Amendment must be consistent with the PPS which came into effect on May 1, 2020. The PPS provides general direction to municipalities with respect to addressing matters of provincial interest in land use planning.

The PPS provides overarching policy direction as it relates to managing and directing land uses efficiently, employment, housing, public spaces, recreation, parks, infrastructure and public service facilities, long term economic prosperity and energy conservation. It directs municipalities to have wise use and management of resources (natural heritage, water agricultural, mineral and petroleum, aggregate and cultural heritage and archeology) as well as maintaining public health and safety. In consideration of these key provincial priorities, the City's Official Plan provides additional policy direction that is consistent with the PPS. In accordance with Section 24 of the Planning Act, the Official Plan applies to all City planning decisions and therefore, despite the proposed zoning exemptions, consistency with the PPS is maintained.

In staff's opinion, the proposed Zoning By-law amendment is consistent with the policy direction in the PPS.

C. Growth Plan for the Greater Golden Horseshoe, 2019, as amended

Any decision on the proposed Zoning By-law amendment must conform with the policies of the Growth Plan. The Growth Plan builds upon the policy foundation of the PPS by providing land use planning policies to address specific issues in the Greater Golden Horseshoe.

The Growth Plan is a provincial policy document that identifies Ontario government's initiative to plan for growth and development in a way that supports economic prosperity, protects the environment, and helps communities achieve a high quality of life. Several guiding principles outline how land is developed, resources are managed and protected, and public dollars are invested. The focus of the growth plan is efficient, complete communities while protecting resources. The City's Official Plan once again establishes local policy that conforms to the Growth Plan and it is the intention that any exemption outlined in Section 6.1 will still need to adhere to the Official Plan guidance.

In staff's opinion, the proposed Zoning-law Amendment conforms to the policy direction of the Growth Plan.

D. Official Plan

The City of Peterborough's Official Plan was approved in April 2023 and establishes a vision and guiding principles for Peterborough to grow and evolve to 2051. This document was prepared with extensive public and agency consultation to establish a framework for Land Use Planning that aligns with current provincial direction presented in both the PPS and the Growth Plan. This document is a guiding document for all land development decisions in the city. This document is applicable for both Private and Public development and decision making.

The Official Plan provides direction relating to where and how development is anticipated and offers a modern take on how Peterborough is to grow. Peterborough's comprehensive zoning by-law was first passed in 1972 and has been amended many times since. There are numerous instances where the Zoning By-law is out of pace with the direction of the new Official Plan which means that site redevelopments within the City often require some form of zoning approval prior to obtaining a building permit.

For City projects, the timelines associated with obtaining zoning approvals can be problematic and can jeopardize project funding. Utilizing the public use exemption provision can help the City expedite key municipal projects to meet funding timelines set by other levels of government. Further to this, Section 5.2.4 of the Official Plan provides direction to enable expedited development application review – for the creation of affordable and or accessible housing. The proposed Zoning By-law Amendment helps the City to achieve this direction.

Conformity with the Official Plan is still a requirement, regardless of the Public Use Exemption. Accordingly, the policies contained within the Official Plan will remain applicable and any City development proposal will be evaluated under the Official Plan policies to ensure conformity.

It is in staff's opinion that the proposed Zoning By-law Amendment conforms to the Official Plan.

Strategic Plan

Strategic Pillar: Governance & Fiscal Sustainability

Strategic Priority: Support review / update of City's By-laws to make them effective and efficient, meeting the needs of our growing City.

The proposed amendment will align Peterborough's Zoning By-law Public Use Exemption with Peer Municipalities – ensuring that the City of Peterborough can utilize this tool in instances where it will benefit the Municipality at large, such as the construction of Public Housing or the securement of a tenant use in a Public Use building.

Engagement and Consultation

Internal staff groups such as Legal Services Division and Facilities and Property Management were consulted in reviewing the existing wording of Section 6.1 and provided input on the proposed amended language. The proposed language was presented to the Planning Advisory Committee on May 21, 2024. Agency circulation was issued on May 2, 2024, and Notice of Public meeting was published in the Peterborough Examiner on May 6, 2024.

Budget and Financial Implications

There are no direct budget or financial implications arising from the approval of this Zoning By-law amendment. In connection to potential future City-led housing initiatives, amending the language as proposed will place the City in an improved position with respect to leveraging investment from the Provincial and Federal Government by having sites that do not have Zoning challenges.

Conclusion

The City of Peterborough is initiating a housekeeping amendment to Section 6.1 of the Zoning By-law relating to City and City-related uses. The proposed amendment will clarify those elements of City and City-related entities that are exempt from Zoning By-law regulation and will remove reference to the PUC. The proposed amendment will support ongoing municipally driven affordable housing projects and support the City in achieving its Housing Pledge to provide at least 4,700 units by 2031. Staff respectfully recommends that this amendment be approved.

Attachments

Appendix A: Draft Zoning By-law Amendment

Submitted by,

Blair Nelson, P. Eng.
Commissioner, Infrastructure, Planning and Growth Management (Acting)

Contact Name:

Brad Appleby, MCIP, RPP
Director, Planning, Development and Urban Design
Phone: 705-742-7777 Ext. 1186
Toll Free: 1-855-738-3755
Email: bappleby@peterborough.ca

Christie Gilbertson, MCIP, RPP
Land Use Planner
Planning, Development and Urban Design
Phone: 705-742-7777 Ext. 1776
Toll Free: 1-855-738-3755
Email: cgilbertson@peterborough.ca



The Corporation of the City of Peterborough

By-Law Number 24-

Being a By-law to amend Section 6.1 of the Zoning By-law

The Corporation of the City of Peterborough by the Council thereof hereby enacts as follows:

1. That Section 6.1 of the Zoning By-law be amended by deleting it in its entirety and replacing it with the following:

“6.1 None of the provisions of this by-law prevents the use of any land or the erection, alteration or use of any building or part thereof by:

- a) The Corporation of the City of Peterborough (the “City”);
- b) A municipal services corporation, established under Section 203 of the Municipal Act, 2001:
 - i. which is wholly owned by the City; or
 - ii. for which the City is the majority shareholder;
- c) A Local Housing Corporation for which the City is the majority shareholder; or by
- d) The Peterborough Police Services Board.”

By-law passed this day of May, 2024.

Jeff Leal, Mayor

John Kennedy, City Clerk