



City of
Peterborough

To: Members of the General Committee

From: Blair Nelson, Commissioner, Infrastructure, Planning and Growth Management

Meeting Date: December 2, 2024

Report: Revisions to the Pre-Application Consultation Process, Report IPGPL24-034

Subject

A report to recommend the repeal of the existing Pre-Application Consultation and Technical Review By-law and to introduce a new process, by-law and associated fees as a result of **Bill 185, Cutting Red Tape to Build More Homes Act, 2024**.

Recommendations

That Council approve the recommendations outlined in Report IPGPL24-034, dated December 2, 2024, of the Commissioner of Infrastructure and Planning Services as follows:

- a. That Report IPGPL24-034 be received for information; and
- b. That the Pre-Application Consultation and Technical Review By-law 23-032 be repealed and replaced with a new Pre-Application Consultation By-law attached as Appendix A to Report IPGPL24-034 be approved; and
- c. That the Development Planning Fee structure within the proposed 2025 budget be amended to reflect the fee structure proposed in Appendix B of Report IPGPL24-034.

Executive Summary

- The purpose of this staff report is to recommend necessary revisions to the current pre-application consultation process and fees associated with Planning

Applications in response to recent changes to the **Planning Act** imposed through **Bill 185**.

- Recent changes to **Planning Act** via **Bill 185** require municipalities to make the pre-consultation process available and voluntary. Pre-consultation requirements are now voluntary, resulting in necessary process changes to facilitate instances where an applicant proceeds directly to filing a Planning Act application.
- In response to the changes related to fee refunds and mandatory pre-consultation imposed through **Bill 185**, Staff recommends that the Technical Adequacy Review (TAR) process form part of the formal **Planning Act** application review process.
- The proposed process, together with improved service standards, continue to demonstrate a commitment on behalf of the City to process planning applications in an efficient and timely manner. The proposed changes are intended to reflect the legislation by shifting processes and allowing **Planning Act** applications to advance with or without pre-application consultation.

Background

Since the release of the 2021 Provincial Housing Affordability Task Force report and the recommendations around tackling the housing crisis, changes to provincial legislation, including amendments to the **Planning Act**, have been prevalent and significant. The following list provides a high-level overview of some of these major changes:

- Recommendations of the Province's Housing Accessibility Task Force, 2021
Increase housing supply (1.5 million homes over the next ten years) by reducing red tape, accelerating timelines, increasing opportunities for density and intensification and addressing the backlog of Ontario Land Tribunal cases.
- Bill 109, **More Homes for Everyone Act, 2022**
Streamline approvals through the imposition of fee refunds if decisions are not made within prescribed timelines, mandatory delegation of site plan approval, adjusting timelines and establishing completeness check for site plan applications and enabling municipalities to reinstate draft plans of subdivision that have lapsed within the last five years.
- Bill 23, **More Homes Built Faster Act, 2022**
Reduced third party appeal rights for consents, minor variances and subdivisions; introduced 3rd unit as of right permissions; Site Plan control no longer required for 10 units or less, no Public Meetings required for subdivisions; a number of amendments to Development Charges legislation and parkland

requirements; amendments to the Ontario Heritage Act and Conservation Authorities Act

- **Bill 185, Cutting Red Tape to Build More Homes Act, 2024**

Further reduction of third-party appeal rights to include Official Plan Amendments and Zoning By-law Amendments; elimination of mandatory fee refunds; prohibition of mandatory pre-consultation; elimination of development charge phase-in provisions; reinstatement of certain eligible development charge costs; expanded lapse of development approval provisions; exemption of post-secondary institution undertakings from the Planning Act; and new Ministerial authority to exempt community service facilities from the Planning Act.

While the impact of these amendments to City operations and processes have been far reaching, this report specifically addresses the pre-application consultation process and associated fee structure, and fees related to the review of site plans and undertakings that are exempt from the Planning Act.

In the first quarter of 2023, City procedures (Report IPSPL23-003) and fees (Report IPSPL23-005) were revised to include a two-stage pre-consultation process being Stage 1 (Pre-Consultation) and Stage 2 (TAR). This process was developed in order to satisfy Planning Act decision timelines and avoid mandatory fee refund requirements which would have had a negative financial impact on the Division.

Analysis

With the passing of Bill 185 and the inability to require a mandatory pre-consultation process, the current pre-consultation by-law and internal application review process needs to be revised. The new by-law and internal process as recommended would:

- Pivot back to the traditional development review process that is familiar to staff and the development industry and was the norm prior to Bill 109 and the mandatory refund of fees;
- Protect the technical review process and fees associated with that review should an applicant make a **Planning Act** application without engaging in pre-consultation with City Staff;
- Keep the timing and process of the technical review of the application(s) consistent regardless of whether the applicant participates in pre-consultation. Choosing to advance directly to the Planning Application stage would result in a loss of the current Stage 1 – Pre-Consultation step, not the technical review; and,
- Revise the City's application fee schedule to incorporate the current Stage 2 - Pre-Application Technical Adequacy Review (TAR) fee into the fees collected at

the time the **Planning Act** application is made; and to apply an application premium (\$5,000) to those applications that proceed directly to the application stage to reflect the Staff time needed to review an application for completeness that did not benefit from pre-screening or pre-consultation with City Staff and the standard review agencies.

Comparison of Processes

The following tables are included to illustrate the existing (Table 1) and proposed (Table 2) processes using a complex Zoning By-law Amendment as an example. Table 3 outlines the proposed process and fee structure should an applicant proceed directly to submit their Planning Act application(s) without pre-consultation.

The tables provide a comparison of fees based on proposed 2025 rates for application and amendment fees within the Planning, Development and Urban Design Division.

Table 1: Existing Process & Fees (2025) for a Complex Zoning By-law Amendment

	Pre-Screen Meeting	Stage 1 Pre-Consultation	Stage 2 Pre-Application – Technical Adequacy Review	Submission of Planning Act application	Decision	
Planning Act timelines	n/a	n/a	n/a	30 days to deem complete, and another 15 days to give notice.	Decision to be made within 90 days	
Fee	No Charge	\$2,500	\$20,690	\$11,030	No Charge	TOTAL: \$34,220

Discussion: This is the process followed today (based on proposed 2025 fees). The Technical Adequacy Review fee is collected separately during the second stage of pre-consultation and prior to the submission of the Planning Act application. In the current process, the fees are collected in 3 installments.

Table 2: Proposed Process & Fees (2025) for a Complex Zoning By-law Amendment

	Pre-Screen Meeting	Stage 1 Pre-Consultation	Submission of Planning Act application	Technical Adequacy Review	Decision	
Planning Act timelines	n/a	n/a	30 days to deem complete, and another 15 days to give notice.	n/a	Decision to be made within 90 days	
Fee	No Charge	\$2,500	\$31,720	Collected at the time the Zoning By-law application is submitted	No Charge	TOTAL: \$34,220

Discussion: In the proposed revised process the amount collected at the time of submitting the Planning Act application would be a one-time fee combining the application fee of \$20,690 plus the Technical Adequacy Review fee of \$11,030. The financial impact of revising the process to include TAR in the Planning Act process would be net zero. Decision timelines in the Planning Act remain intact, and applicants will have the right to appeal based on a lack of a decision within prescribed timelines. For complex applications it is unlikely that decision timelines can be met, however, appeals for non-decision are typically lodged as a last resort and the preference for the applicant and staff is to work together to come to a resolution as quickly as possible, understanding that complex reviews take time.

Table 3: Proposed Process & Fees (2025) for a Complex Zoning By-law Amendment (Without Pre-consultation)

	Pre-Screen Meeting	Stage 1 Pre-consultation	Planning Act application	Technical Adequacy Review	Decision	
Planning Act timelines	Not Applicable	Not Applicable	30 days to deem complete, and another 15 days to give notice.	n/a	Decision to be made within 90 days	
Fee	Not Applicable	Not Applicable	\$31,720 + \$5,000	Collected at the time the application is submitted	No charge	TOTAL: \$36,720

Discussion: While the Planning Act fee, inclusive of fees for the Technical Adequacy Review, will remain the same, in this scenario staff recommend an additional \$5000 be charged in the absence of pre-consultation. This would be necessary to recover the costs of staff time to review the file and determine the complete application requirements since the work normally completed at the pre-consultation stage is still necessary and is likely to be duplicated and condensed, at a minimum, in the absence of meaningful discussion prior to the application being submitted.

Amendments to Fee Schedule to Reflect Amended Processes

Staff are providing an update to the fee schedule contemplated during the 2025 budget preparation and deliberations. As Council's consideration of budget approval is also scheduled for December 9, 2024, Staff recommend that the final fee schedule be amended to reflect the proposed fee schedule as attached to this report (Appendix B).

Amendment to Fee Schedule to Introduce a new Fee for developments exempt from the Planning Act under Bill 185

Bill 185 has amended the **Planning Act** to exempt undertakings of certain classes of post-secondary institutions from the Act. In addition, Bill 185 has enabled regulations to be passed to exempt community service facilities such as long-term care homes, hospitals and undertakings of a board under the Education Act from the requirements of the Act. To date, no such regulations have been passed.

The City has a number of post-secondary institution projects under consideration. With the Royal Assent of Bill 185, these projects are no longer required to conform with the Official Plan, comply with the Zoning By-law, or obtain Site Plan Approval and instead

can proceed to the building permit application stage. As the City navigates this significant change, Planning and Building Services staff have implemented a scoped circulation and review process involving City staff across multiple divisions to ensure these projects meet City standards and applicable by-laws under the Municipal Act prior to Building Permit issuance. To date, the scoped review process has been addressing items such as proposed work within the City's right-of-ways, grading, servicing (water, sanitary and storm sewer capacity and connections), site access and transportation considerations, easements and fire and emergency service routes. While this list is not comprehensive, it does generally reflect items covered under other applicable legislation which is required to be satisfied prior to the issuance of a Building Permit.

To reflect the staff time associated with the technical review of developments that are exempt from the **Planning Act** under Bill 185, staff recommend that a new review fee be established for this scoped technical review process. The review process would be administered by Planning Staff with support from the Building Division and other staff as needed. A standard and complex fee is proposed to ensure fees reflect the level of staff time required to for the review. The standard Bill 185 Exemption Review Fee is proposed to be \$10,940 while the complex fee is proposed to be \$23,820. These fees are included in the proposed revisions to the fee schedule (Appendix B) and are in keeping with the fees typically charged for the technical review component of a site plan review.

Amendment to Fee Schedule to Introduce a new Fee for Amendments to Site Plan Applications

Appendix B also introduces a new fee for a standard site plan amendment application. This fee would allow a more appropriate fee for the types of applications that are being applied for and creates a mid-point fee between a minor amendment and a major amendment.

The existing fee structure (2025 proposed) for amendments is as follows:

- Minor amendment – \$2,500
- Major amendment to approved Site plan – Major Residential - \$16,190 + \$72/ residential unit+\$2/ sq.m. non-residential building floor area
- Amendment to approved Site Plan – Major (All other) - \$32,080 + \$136/ residential unit+\$3/ sq.m. non-residential building floor area

Planning Staff have determined a need for a fourth type of application fee. Staff are seeing applications that have complexities that require review that exceeds the nature of a minor amendment (no changes to the agreement), but one where a fulsome site plan review isn't required, nor would the fees be justifiable. Staff recommend a new fee:

- Amendments to approved site plans – Standard - \$7,500

These files would require an amendment to the site plan agreement registered on title but maintain the original intent of the registered agreement. Amended plans require circulation and coordination to more than two commenting agencies (internal and external). No new technical studies or reports are required. The amendments are relatively straight forward and do not result in significant site alteration.

Strategic Plan

Strategic Pillar: Governance & Fiscal Sustainability

Strategic Initiative: Pursue service excellence in governance to support long-term fiscal sustainability of the City while respecting the impact of decisions on taxpayers.

The recommendations of this report respond to recent changes to the **Planning Act** and provided an opportunity to refine the development review process and fees, which continue to provide service excellence and recover costs relating to development review.

Strategic Pillar: Governance & Fiscal Sustainability

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

Repealing and replacing the Pre-Application Consultation By-law ensures that City policies are in alignment with provincial legislation and tailored to best serve the local development community.

Engagement and Consultation

Since early 2023 the development community has been working through the two-stage pre-consultation process and the Technical Adequacy Review (TAR).

Staff have consulted with the development community to determine whether there was a prevailing opinion to keep the pre-consultation process status quo or to return to the process which integrates the technical review process within the formal Planning Act Application. This consultation has informed the staff recommendation to repeal the two-stage process and pivot to the former process which was the status quo prior to 2023.

A total of 100 individuals were emailed a survey and at the time of writing this report a total of 20 responses were received.

- 13 prefer the process to pivot back to pre-Bill 109 process
- 5 prefer the status quo
- 2 have no preference

Should the recommendation to pivot and place the TAR process back into the Planning Act process, Planning Staff will communicate these changes and anticipate that new applications coming forward as of January 1, 2025, would follow the revised process. The By-law contains provisions for transitional applications that are already in progress.

Planning Staff are committed to the same service standards to offer predictable and reasonable application processing timelines to the development community. The communication of these service standards is intended to demonstrate a commitment on behalf of the municipality to process planning applications in an efficient and timely manner under the refined process.

Budget and Financial Implications

Bill 109 and its amendments to the Planning Act regarding refunds had the potential to substantially impact the financial position of the City. Bill 109 resulted in the two-stage pre-consultation process we have today.

Now that planning application refunds are no longer required, as of the passing of Bill 185, it is recommended to pivot once again. A revised fee schedule is included in Appendix B. It is important to note that overall review fees are effectively not changing with the proposed revision to incorporate Technical Adequacy Review back into the traditional Planning Act application review process. As illustrated in the Tables above, there is no financial impact with this change, except where an application is submitted without pre-consultation. If an applicant proceeds without pre-consultation, the application fees would increase by \$5,000 which is a premium that is double the standard pre-consultation fee (2025 proposed).

Additional fees proposed for Standard Site Plan Amendments and for the technical review of projects that are exempt from the Planning Act pursuant to Bill 185 and any regulations established thereto are intended to cover the staff costs associated with such developments. For developments that are exempt from the Planning Act, the proposed fee will off-set any potential cost recovery loss associated with projects that are no longer required to submit applications under the Planning Act.

Pending approval of the recommendations, the City's Application Fees (as established annually through the City's Budget approval) will need to be amended to reflect the revised process.

Planning fees were updated in early 2023 through the Province's Streamline Development Approval Fund to secure full cost recovery of development application reviews and the necessary City staffing levels to deliver predictable timelines to process planning applications. The proposed fee schedule for 2025 continues to implement the cost recovery model, despite the processing change.

Conclusion

The Province continues to refine the land use planning system in an effort to increase the supply of housing, reduce red tape and accelerate planning approvals.

Prior amendments to the Planning Act through Bill 109 requiring municipalities to refund a portion or all fees for planning applications if tight timelines could not be met resulted in a shift to how the City processes development applications. This process ensured the quality of the technical review was upheld, respected timelines and ensured that the City was not faced with refunding fees that are critical in offsetting operational costs for the Division.

Now with the passing of Bill 185, this pressure has been removed, therefore it is time to revisit internal processes once again. Pivoting back to the traditional way of development review is appropriate, supported by staff and the development community.

Attachments

Appendix A: Proposed Pre-Application Consultation By-law

Appendix B: Revised Fee Schedule 2025 – Development Planning Fees

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