

Subject: Bill 109 Implementation Phase 2

File Number: ACS2023-PRE-GEN-0004

**Report to a joint Planning and Housing Committee and Agriculture and Rural
Affairs Committee on 30 May 2023**

and Council 14 June 2023

**Submitted on May 19, 2023 by Don Herweyer, Interim General Manager, Planning,
Real Estate and Economic Development**

**Contact Person: Emily Davies, Manager Special Projects (Bill 109), Planning, Real
Estate and Economic Development**

613-580-2424, 23463, emily.davies@ottawa.ca

Ward: Citywide

Objet : Étape 2 de la mise en œuvre du projet de loi 109

Dossier : ACS2023-PRE-GEN-0004

**Rapport présenté à la réunion conjointe du Comité de la planification et du
logement et du Comité de l'agriculture et des affaires rurales**

le 30 mai 2023

et au Conseil le 14 juin 2023

**Soumis le 19 mai 2023 par Don Herweyer, Directeur par intérim, Direction
générale de la planification, des biens immobiliers et du développement
économique**

**Personne-ressource : Emily Davies, Gestionnaire de Projets Spéciaux (Projet de
loi 109), Département Services de la planification, de l'immobilier et du
développement économique**

613-580-2424, 23463, emily.davies@ottawa.ca

Quartier : À l'échelle de la ville

REPORT RECOMMENDATIONS

That Planning and Housing Committee and Agriculture and Rural Affairs Committee recommend Council:

- 1. Receive for information the update on the internal process changes undertaken since July 6, 2022 and proposed to be undertaken as part of Bill 109 Implementation Phase 2 contained in this report;**
- 2. Approve the amendments to the Pre-Consultation By-law 2009-320, as per Document 1 attached to this report, to introduce a Multi-tiered Pre-Consultation Process;**
- 3. Approve the amendments to the Development Application Study Policy By-law 2022-254, attached as Document 2 to this report;**
- 4. Approve the amendments to the Public Notification and Consultation Policy, attached as Document 3 to this report;**
- 5. Approve the amendments to the Planning Fees By-law 2023-139, attached as Document 4 to this report;**
- 6. Receive for information, an update on future amendments to the Site Plan Control By-law;**
- 7. Direct Staff to report back to Council via report with an Official Plan Amendment to explicitly define the types of applications that can be classified as minor zoning by-law amendments to set the stage for a future delegation of authority;**
- 8. Approve the following amendments with respect to the Council and Committee governance processes, Terms of Reference, and the Procedure By-law, attached as Document 5, and as described in this report:**
 - a. Schedule Council and Planning and Housing Committee meetings bi-weekly on alternating Wednesdays, and that additional meetings scheduled during traditional legislative breaks in January, March break, July, August, and December, be convened as special meetings, if required, to consider any Zoning By-law amendments or any other time-sensitive items approved by the Chair;**

- b. Enact Zoning By-law Amendments (ZBLA) and Official Plan Amendment (OPA) by-laws at the same day as the policy report is before Council;
 - c. Publish Zoning By-law Amendment reports six (6) calendar days before Committee; and
 - d. Enable all zoning matters in any area of the city to have the ability to be considered at Planning and Housing Committee, allowing a rural zoning file to go to Planning and Housing Committee instead of Agriculture and Rural Affairs Committee should there be a time pressure to meet the provincially imposed deadline.
9. Approve that Bill 109 timeline data be reported to Council annually through the Planning, Real Estate and Economic Development's Year-End Report.

RECOMMANDATIONS DU RAPPORT

Que le Comité de la planification et du logement et le Comité de l'agriculture et des affaires rurales recommandent au Conseil de :

1. Prendre connaissance de la mise à jour sur les changements aux processus internes entrepris depuis le 6 juillet 2022 et qu'on propose d'entreprendre dans le cadre de l'étape 2 de la mise en œuvre du projet de loi 109 contenue dans le présent rapport;
2. Approuver la modification du *Règlement sur la préconsultation* (n° 2009-320), conformément au document 1 joint au présent rapport, afin de mettre en place un processus de préconsultation à différents paliers;
3. Approuver la modification du *Règlement de la politique d'étude des demandes d'aménagement* (n° 2022-254), jointe en tant que document 2 au présent rapport;
4. Approuver la modification du *Règlement sur la Politique d'avis et de consultation publique*, jointe en tant que document 3 au présent rapport;
5. Approuver la modification du *Règlement sur les droits d'aménagement* (n° 2023-139), jointe en tant que document 4 au présent rapport;
6. Prendre connaissance d'une mise à jour sur des changements futurs au *Règlement régissant la réglementation du plan d'implantation*;

7. Demander au personnel de présenter au Conseil un rapport contenant une modification du Plan officiel qui définit explicitement les types de demandes pouvant être classées comme changements mineurs au *Règlement de zonage*, afin de faciliter une future délégation de pouvoirs;
8. Approuver les changements suivants relativement aux processus de gouvernance du Conseil et du Comité, au cadre de référence et au *Règlement de procédure*, présentés en pièce jointe en tant que document 5, tels que décrits dans le présent rapport :
 - a. Tenir les réunions du Conseil et du Comité de la planification et du logement tous les deux mercredis, et faire en sorte que des réunions supplémentaires pendant les congés traditionnels de janvier, mars (relâche), juillet, août et décembre puissent être convoquées en tant que réunions extraordinaires, au besoin, pour examiner toute modification du *Règlement de zonage* ou toute autre question soumise à une échéance approuvée par le président;
 - b. Adopter les règlements régissant la modification du *Règlement de zonage* et la modification du Plan officiel le jour où le rapport sur la politique est présenté au Conseil;
 - c. Publier les rapports sur la modification du *Règlement de zonage* six (6) jours civils avant la réunion du Comité;
 - d. Faire en sorte que toutes les questions de zonage, peu importe le secteur de la ville, puissent être examinées par le Comité de la planification et du logement, ce qui permettra à un dossier de zonage rural d'être transmis au Comité de la planification et du logement plutôt qu'au Comité de l'agriculture et des affaires rurales, advenant une contrainte de temps pour respecter l'échéance imposée par le gouvernement provincial.
9. Approuver la présentation annuelle au Conseil des données relatives au calendrier du projet de loi 109, au moyen du Rapport de fin d'exercice de la Direction générale de la planification, de l'immobilier et du développement économique.

EXECUTIVE SUMMARY

Through Bill 109, the province mandated the refunding of fees for Site Plan Control and Zoning By-law Amendment applications that don't meet the new mandated timelines. New legislative timelines for the processing of Site Plan Control and Zoning By-law Amendment applications were approved as part of Bill 109 approval, effective April 14, 2022. Site Plan Control now has a required approval within 60 days whereas the City takes an average of 196 days. Zoning By-law Amendment applications have their timelines set at 90 days to receive a decision, whereas the City takes an average of 178 days. Should the new timelines not be met, refunds of the planning application fees are required by the province.

Building on the Bill 109 Implementation – Phase 1 report ([ACS2022-PIE-GEN-0011](#)) approved by Council on July 6, 2022, this report seeks Council approval of nine recommendations that form Ottawa's best foot forward to meeting the provincial legislation.

A thorough background is provided to frame the conversation around the nine formal recommendations including a high-level overview of the current processes and the opportunities that lay within. Definitions of specific terms, that have a specific meaning, are also provided to offer maximum clarity to readers.

The first recommendation provides an overview of the internal process changes that the corporation will be shifting toward, to realign staff effort for processing Zoning By-law Amendment and Site Plan Control applications.

The second recommendation introduces the proposed multi-tiered pre-consultation process in an effort to facilitate early, collaborative and structured opportunities for applicants to receive feedback on their development proposal. This change is intended to set up the applicant for success during the provincially mandated timed review of the application. The multi-tiered pre-consultation process introduces three phases to allow the applicant to discuss their idea to obtain preliminary feedback, present their refined idea and any draft studies for comment, and finally, submit their final proposal for the study review to ensure the studies are complete, consistent with one another, and contain enough information to allow a proper application processing during the provincially timed review.

The third recommendation will introduce changes to the recently amended *Development Application Study Policy By-law*. This by-law lists all of the plans, studies and materials

that could be requested by the City to form part of a “complete” Planning Act application submission. During the multi-tiered pre-consultation Phases 1 and 2, Staff will provide the applicant a preliminary (Phase 1), and then final list (Phase 2) of studies and materials that are to be submitted with their formal application. During the last several months, adjustments have been identified to the existing *Development Application Study Policy By-law* that are required to streamline the studies that may be requested and set the City up for success in detailing out an accurate list of submission materials.

The fourth recommendation will introduce changes to the recently amended Public Notification and Consultation Policy. This policy contains the commitments for informing the public of Planning Act applications and it requires adjustments to recognize the legislative changes applicable to Zoning By-law Amendment and Site Plan Control applications.

The fifth recommendation will introduce changes to the *Planning Fees By-law*. This by-law amendment is needed to institute fees for each multi-tiered pre-consultation phase, make the fees non-refundable/creditable, institute the language of a “notice” which is required to have Zoning By-law Amendments and Site Plan Control applications enter into the “official review”, and to remove fees impacted by Bill 23.

The sixth recommendation will introduce future changes to the *Site Plan Control By-law*. This future by-law amendment is needed to align the City’s by-law with the recent changes through Bill 23 that exempt residential development up to 10 dwelling units from having to go through Site Plan Control – province wide. A future report will speak to the Bill 23 and Bill 97 impacts on Site Plan Control.

The seventh recommendation seeks direction to report back to Council with an Official Plan Amendment (OPA) to explicitly define the types of applications that can be classified as a minor zoning by-law amendment to set the stage for the possibility of future delegation of authority for minor zoning by-law amendment types. Zoning applications under delegated authority can be approved by staff and therefore do not have to go through Committee and Council. This enables a faster timeline to the decision, and helps the City meet its 90-day obligation under Bill 109.

The eighth recommendation builds on the 2022-2026 Council Governance Review, which recommended that Council and Planning and Housing Committee meetings be held bi-weekly on alternating Wednesdays to enable more frequent opportunities for Council to reach a decision on development applications. With the condensed timelines imposed by Bill 109, more Council meetings enable staff to make the best use of the

90-day timeline, instead of waiting for the next meeting for a decision. To create further efficiencies, staff recommend publishing staff reports for Zoning By-law Amendments six (6) calendar days before Committee. To assist rural files in meeting the 90-day timelines, the report also recommends all zoning matters in any area of the city have the ability to be considered at Planning and Housing Committee. Agriculture and Rural Affairs Committee only meets once a month, and the rural files would be at a serious disadvantage should they continue to be only eligible for consideration at Agriculture and Rural Affairs Committee.

The ninth recommendation proposes data points be reported annually in the future with respect to the multi-tiered pre-consultation and the official review, for Site Plan Control and Zoning By-law Amendment applications. The objective is to report on whether the process changes proposed in this report are met and whether further process amendments or additional staff complement are required to meet the provincial timelines.

RÉSUMÉ

En adoptant le projet de loi 109, le gouvernement provincial oblige les municipalités à rembourser les frais facturés pour les demandes de réglementation du plan d'implantation et de modification du *Règlement de zonage* qui ne sont pas traitées selon les nouveaux échéanciers prescrits. De nouveaux échéanciers législatifs de traitement de ces demandes ont été approuvés lors de l'adoption du projet de loi 109, avec prise d'effet le 14 avril 2022. Les demandes de réglementation du plan d'implantation doivent désormais être approuvées dans les 60 jours, alors que la Ville met en moyenne 196 jours pour les traiter. Quant aux demandes de modification du *Règlement de zonage*, une décision doit être rendue dans les 90 jours, alors que la Ville met en moyenne 178 jours pour les traiter. Si les nouveaux échéanciers ne sont pas respectés, le remboursement des frais facturés pour les demandes d'aménagement est exigé par la Province.

S'appuyant sur le rapport de l'étape 1 de la mise en œuvre du projet de loi 109 ([ACS2022-PIE-GEN-0011](#)) approuvé par le Conseil le 6 juillet 2022, le présent rapport vise à obtenir du Conseil l'approbation de neuf recommandations qui constituent le meilleur plan d'action de la Ville d'Ottawa pour se conformer à la législation provinciale.

Un contexte détaillé est fourni pour donner le ton aux discussions entourant les neuf recommandations officielles, y compris une vue d'ensemble des processus actuels et

les possibilités qu'ils recèlent. Les définitions de termes particuliers ayant une signification spéciale sont aussi fournies pour offrir aux lecteurs un maximum de clarté.

La première recommandation donne un aperçu des changements au processus interne que l'organisation effectuera afin de réorienter les efforts du personnel pour traiter les demandes de réglementation du plan d'implantation et de modification du *Règlement de zonage*.

La deuxième recommandation met en place le processus de préconsultation à différents paliers proposé, dans un effort pour multiplier les possibilités d'offrir aux demandeurs de la rétroaction hâtive, collaborative et structurée sur leur proposition d'aménagement. Ce changement vise à favoriser le succès du demandeur durant l'examen de la demande, dont la durée est fixée par le gouvernement provincial. Le processus de préconsultation à différents paliers met en place trois étapes qui permettent au demandeur d'exposer ses idées pour obtenir une première rétroaction, de présenter ses idées reformulées et toute étude provisoire aux fins de commentaires et, enfin, de soumettre sa proposition finale aux fins d'examen, afin de s'assurer que les études sont complètes, cohérentes et contiennent assez de renseignements pour garantir un traitement adéquat de la demande durant la période d'examen fixée par la Province.

La troisième recommandation apportera des changements au *Règlement de la politique d'étude des demandes d'aménagement* récemment modifié. Ce règlement liste tous les plans, études et documents qui pourraient être exigés par la Ville afin de constituer une demande « complète » soumise en vertu de la *Loi sur l'aménagement du territoire*. Pendant les étapes 1 et 2 de la préconsultation à différents paliers, le personnel fournira au demandeur une liste provisoire (étape 1), puis une liste finale (étape 2), des études et des documents qui doivent accompagner sa demande officielle. Au cours des derniers mois, on a relevé des éléments qui devraient être mis au point dans le *Règlement de la politique d'étude des demandes d'aménagement* afin de simplifier les études. Ces changements pourraient être demandés, ce qui permettrait à la Ville d'accroître sa réussite en fournissant une liste détaillée de tous les documents à soumettre.

La quatrième recommandation apportera des changements à la *Politique d'avis et de consultation publique* récemment modifiée. Cette politique précise comment remplir les engagements consistant à informer le public des demandes soumises en vertu de la *Loi sur l'aménagement du territoire*, et elle doit être modifiée pour tenir compte des

changements législatifs applicables aux demandes de réglementation du plan d'implantation et de modification du *Règlement de zonage*.

La cinquième recommandation apportera des changements au *Règlement sur les droits d'aménagement*. La modification de ce règlement est nécessaire pour : imposer des frais pour chaque étape de la préconsultation à différents paliers; rendre les frais non remboursables créditaibles; préciser la langue dans laquelle doit être rédigé l'« avis » requis pour que les demandes de réglementation du plan d'implantation et de modification du *Règlement de zonage* soient prises en compte dans « l'examen officiel »; et supprimer les frais visés par le projet de loi 23.

La sixième recommandation apportera des changements futurs au *Règlement régissant la réglementation du plan d'implantation*. Cette modification future est nécessaire pour aligner le règlement de la Ville sur les récents changements imposés par le projet de loi 23 qui évitent aux aménagements résidentiels d'au plus dix logements de se soumettre à la réglementation du plan d'implantation – à l'échelle de la province. Un rapport futur traitera de l'incidence des projets de loi 23 et 97 sur cette réglementation.

La septième recommandation invite le Conseil à donner des directives pour que le personnel lui présente un rapport contenant une modification du Plan officiel qui définit explicitement les types de demandes pouvant être classées comme changements mineurs au *Règlement de zonage*, afin de faciliter une future délégation de pouvoirs pour le traitement de tels changements mineurs. Les demandes de zonage traitées en vertu de pouvoirs délégués peuvent être approuvées par le personnel et n'ont donc pas à être présentées au Comité et au Conseil. Cela accélère la prise de décision et aide la Ville à remplir son obligation de donner une réponse dans les 90 jours en vertu du projet de loi 109.

La huitième recommandation s'appuie sur l'Examen de la structure de gestion publique du Conseil municipal pour 2022-2026, qui recommandait que les réunions du Conseil et du Comité de la planification et du logement se tiennent un mercredi sur deux afin de donner au Conseil des occasions plus fréquentes d'en arriver à une décision sur les demandes d'aménagement. Étant donné les délais écourtés imposés par le projet de loi 109, un plus grand nombre de réunions du Conseil permet au personnel de mieux utiliser les 90 jours accordés, au lieu d'attendre la prochaine réunion pour connaître la décision. Afin de rendre le processus encore plus efficace, le personnel recommande la publication des rapports qu'il prépare sur les changements au *Règlement de zonage* six (6) jours civils avant la réunion du Comité. Pour assurer le traitement des dossiers ruraux dans un délai de 90 jours, le rapport recommande aussi que toutes les questions

de zonage, peu importe le secteur de la Ville, soient examinées par le Comité de la planification et du logement. En effet, ces dossiers seraient sérieusement désavantagés s'ils étaient seulement examinés par le Comité de l'agriculture et des affaires rurales, étant donné que celui-ci se réunit seulement une fois par mois.

La neuvième recommandation propose qu'un rapport annuel soit désormais produit sur des points de données relativement à la préconsultation à différents paliers et à l'examen officiel des demandes de réglementation du plan d'implantation et de modification du *Règlement de zonage*. On vise ainsi à évaluer si les changements de processus proposés dans le présent rapport sont faits et si d'autres modifications du processus ou l'ajout de personnel sont requis pour respecter les échéanciers provinciaux.

BACKGROUND

On April 14, 2022, the province's Bill 109 received royal assent providing legislative direction to implement the *More Homes for Everyone Act, 2022*. At a high level, there are three deadlines to implement the province's Bill 109:

- Due July 1, 2022, the province mandated the "Delegation" of Site Plan Control Approvals to staff, removed Council's authority to approve Site Plan Control and removed the ability of municipalities to refuse Site Plan Control.
- Due January 1, 2023 (subsequently changed to July 1, 2023 by the province), the province mandated the refunding of fees for Site Plan Control and Zoning By-law Amendment applications that do not meet the new mandated approval timelines. New legislative timelines for the processing of Site Plan Control and Zoning By-law Amendment applications were approved as part of Bill 109, effective April 14, 2022. Site Plan Control now has a requirement of issuing an approval within 60 days (the City takes an average of 196 days). In addition, the City must make a decision within 90 days for Zoning By-law Amendment applications (the City takes an average of 178 days). Other aspects that went into effect after third reading on April 14, 2022 (appeal rights for clients; pre-consultation requirements, etc.) and other aspects that do not have a deadline to implement (ministerial zoning orders and surety bonds).

The new provincially mandated application review timelines have the following refund implications. Refunds would be issued as follows for Site Plan Control (SPC) if approval has not been given within the required timelines (note that municipalities effectively lost the ability to refuse Site Plan Control applications without offering a refund):

- No refund if approved within 60 days;
- 50 per cent refund if approved within 60 to 90 days;
- 75 per cent refund if approved within 91 to 120 days;
- 100 per cent refund if approved after more than 120 days.

Refunds would be issued for Zoning By-law Amendment (ZBLA) applications if a decision is not made within the following statutory timelines:

- No refund if decision made within 90 days, or 120 days if the ZBLA is concurrent with an Official Plan Amendment (OPA);
- 50 per cent refund if decision made within 91 to 150 days, or 121 to 180 days if concurrent with an OPA;
- 75 per cent refund if decision made within 151 to 210 days, or 181 to 240 days if concurrent with an OPA;
- 100 per cent refund if decision is made after 210+ days (or 240+ days if concurrent with an OPA).

Bill 109 Implementation – Phase 1 Report

On July 6, 2022, City Council approved the Bill 109 Implementation – Phase 1 ([ACS2022-PIE-GEN-0011](#)) recommendations which were intended to implement required changes mandated by the province’s Bill 109.

The report was framed by the financial risk posed by the new timelines:

- Should the City decisively update its current approach to development application review to meet the new provincially mandated timelines and refunds, it would have colossal impacts on revenue and subsequently, service delivery. Development application review is a self-financed service offered by the City, where planning application fees pay for the majority of staff that do that work. This is part of a City commitment that “growth pays for growth”, meaning that the development industry pays for the services it needs to operate. Potential future refunds from unmet timelines would directly lead to the City having to either draw from tax base revenue to afford current service delivery or lead to service and staff reductions further risking planning application fees.

The Phase 1 report, as approved, amended three City by-laws and one City policy:

- Delegated Authority By-law 2022-29 – to appoint authority to staff to approve all Site Plan Control applications and remove Councillors from the SPC approval process, including concurrence; conditions of approval; and approval ability.
- Development Application Study Policy By-law 2001-451 – to update the list of studies that make an application “complete”. A “complete” application is the trigger for when the clock on the new timelines start ticking in the development application process.
- Public Notification and Consultation Policy – to reflect the changes to the delegation of authority to staff to approve Site Plan Control applications.
- Site Plan Control By-law – to align the inner urban Site Plan Control exemption threshold with the outside the greenbelt threshold. The by-law would permit buildings of six units or less to be exempt from Site Plan Control. This is reprioritizing the departmental effort to create capacity internally; reducing workload to enable adaptation to shorter and more intense timelines as well as reflecting on the Affordable Housing and Homelessness Crisis and Emergency, declared by Council on January 29, 2020, with [Motion NO 26/14](#), by allowing for streamlined approval process for low-rise infill units.

The Phase 1 report also proposed a phased approach to implement the Bill 109 changes, the second of which is this current report.

Bill 23: *More Homes Built Faster Act*

Provincial Legislation was tabled on October 25, 2022, that proposed further action from the province to streamline development approvals. The below gives some clear guidance on the province’s intent and direction for Bill 109 to meet the demand of the Housing Crisis. Extracts of the *More Homes Built Faster Act* announcements relevant to Bill 109’s implementation are listed below:

- In Spring 2022, the province committed to provide comments on any applications for housing developments within 45 days. For more complex applications, the province relies on providing upfront guidance, encouraging pre-consultation, and triaging to help ensure they meet their commitment.
- The province proposed to remove site plan control requirements for residential development up to 10 dwelling units (other than land lease community developments). It will reduce the number of approvals in the pipeline, speeding

things up for all housing proposals, while building permits and building/fire code requirements would continue to protect public safety.

- For larger projects, the province proposed to speed up approvals by focusing site plan control reviews on health and safety issues, like flood-plain management, rather than architectural or decorative landscape details.

Bill 23 provides some insight into the province’s thinking and intent of Bill 109:

- The province moved towards a pre-consultation program to meet tighter approval timelines for their own applications.
- The Site Plan Control exemption for four to six units approved by Council as part of the Phase 1 report is in line with the provincial intent, given that they have moved to exempt development proposals for 10 units or less.
- The scope of review for Site Plan Control is being reduced to focus on matters of health, safety, sustainability, accessibility or the protection of adjoining lands, which affects the type of studies staff can request at SPC through the City’s *Development Application Study Policy By-law*.

Ministerial Letter to AMO

The province had committed on November 30, 2022 to introducing legislation that, if passed, would delay the implementation of development application refund requirements set out in Bill 109 by 6 months, from January 1, 2023, to July 1, 2023. The delay of these measures will give municipalities more time to implement the Bill 109 measures.

This commitment was included in [a letter to the President of AMO](#) from Minister Clark who also committed to “ensure that municipalities are kept whole for any impact to their ability to fund housing enabling infrastructure because of Bill 23”. The letter was sent in the response to concerns and calls for infrastructure funding after [Bill 23 – More Homes Built Faster Act, 2022](#) received royal assent on November 28, 2022.

Bill 97

On April 6, 2023, the province introduced Bill 97, the *Helping Homebuyers, Protecting Tenants Act, 2023*, which proposes legislative amendments with the goal of achieving the construction of 1.5 million new homes by 2031. The province also released for comment a new Provincial Planning Statement (PPS), which will replace the PPS and the Growth Plan.

Bill 97 confirmed the minister's commitment to change the effective date for planning application fee refunds where no decision is made within the Bill 109 timelines. If any fee refunds were owing as a result of applications filed and not decided on between January 1 and July 1, 2023, the refund is deemed not to have been required.

Additional changes introduced in Bill 97 include:

- New ministerial powers with respect to: Provincial Land Development Facilitators, exempt lands that are the subject of Ministerial Zoning Orders (MZOs) from complying with provincial policies and official plans when other planning approvals are applied for, and regulations regarding the powers of municipalities to regulate demolition and conversion of residential rental properties.
- Clarify that official plans and zoning by-laws can still require more than one parking space for the primary residential unit

The definition of an employment area is proposed to be limited to areas where manufacturing, research and development related to manufacturing, warehousing and ancillary uses occur.

Complementary Reports

There are two other reports with significant components of the City's response to the impacts of the province's Bill 109. The complete package is as follows:

1. [ACS2022-OCC-GEN-0030](#): 2022-2026 Council Governance Review
 - a. This report speaks to the Council and Committee structure and mandates, including meeting frequency and procedure for publication of agendas. Included in the report are impacts of Bill 109's condensed timeline to reach a decision on Zoning By-law Amendment reports that go through Planning and Housing Committee or Agriculture and Rural Affairs Committee, ahead of rising to Council for consideration. As a preliminary step to address timelines, the Planning and Housing Committee moved to the first and third Wednesday of the month, with the ability for the Chair to schedule additional regular meetings on another Wednesday (i.e., the fifth Wednesday of the month, when there is one) provided it does not conflict with Council.
2. ACS2023-PRE-GEN-0005: Provincial Legislation Resource Impact Report

- a. This report highlights the key workload impacts of the provincial Bills on City business, and asks Council for the corresponding staffing resources that, in staff's estimate, will set up the City to adapt to the changes.

Definitions

There are new terms that need to be defined ahead of the discussion below:

- “Pre-consultation”: period of time before an application is submitted for the “Official Review” by staff. It is an opportunity for an applicant to meet with the City and obtain clear feedback about the application they are intending to submit. The City’s professional staff from several groups (Urban Design, Heritage, Planning Services, Infrastructure, Transportation, Forestry...) are available to provide comments, with the expectation that applicants apply the feedback and update their proposal ahead of submitting for the “Official Review”.
- “Official Review”: period of time the City has to review a development application, measured by the province’s Bill 109 requirements (60 days for SPC, 90 days for ZBLA, 120 days for OPA/ZBLA). The clock starts when the City “deems an application complete” and stops when a delegated authority report for SPC has been finalized or for ZBLAs, either a refusal decision issued by Council or a by-law passage by Council. Should the provincial timeline for the Official Review not be met, the City must issue refunds of the application review fees.
- “Complete Application”: all materials and information for the “Official Review” has been received by the City. For the City of Ottawa, the moment an application is deemed complete is when all the studies are adequate, and payment for the planning application has been received.
- Application “Decision”: for Site Plan Control, is marked by the issuance of the Delegated Authority Report (DAR). For Zoning, the decision is marked by either Council’s refusal of the application or the third reading of the passed Zoning By-law by Council (assuming there is no notice of Mayoral Veto, which can take place within 2 days following Council).
- Refunds: should the Official Review take longer than the province allows, the applicant qualifies for a refund proportional to the amount of time over and above the provincial time allotment. The refund is applicable to any fees charged under Section 69 of the *Planning Act*.
- Post-approval: period of time after an application Decision is rendered.

Current Development Application Review Process

Bill 109 created mandatory timelines for Zoning By-law Amendments (ZBLA) and Site Plan Control (SPC) development applications. The “start” of this timeline is: the City “deeming an application complete” and the end of this timeline is the application decision.

To demonstrate what this means in the current process and the proposed process (enabled by the recommended By-law changes), the list below offers a high-level overview of the current development application process.

1. The process starts with “Pre-application consultation” where the applicant requests a meeting with City staff. In the meeting the applicant presents their development proposal. This may include a concept plan or proposed zoning changes. The request includes an application and a fee which may be refunded where the related development application is received within 12 months of the meeting.
2. The applicant refines their development project proposal and documentation then submits their application to the City for its official review.
3. The application is deemed complete by the City (meaning all materials are present but not yet reviewed and payment is received) and the application is publicly posted on [DevApps](#):
 - a) Technical Circulation begins with internal and external stakeholders (including the Community Associations, utilities, conservation authorities and Councillors) reviewing the application material, including studies;
 - b) City compiles and considers the comments received, providing a reconciled comment list to the applicant to action;
 - c) The applicant or the Councillor may initiate a community information and comment session; and,
 - d) The applicant amends their proposal, including study updates and submits the next iteration of their application.
 - e) The above a-c steps can be repeated until staff are satisfied with the development proposal and the submitted information and material which supports it.

4. The City prepares the Decision report.
 - a. In the case of SPC, the decision is an internal report (Delegated Authority Report – DAR) approved by the Director of Planning Services, or their Delegate.
 - b. In the case of ZBLA (or a joint ZBLA and OPA), a report to Planning and Housing Committee (or Agriculture and Rural Affairs Committee), with a recommendation, is prepared.
5. A zoning by-law amendment report is published 10 days in advance of the meeting, then considered by Planning and Housing Committee (or Agriculture and Rural Affairs Committee) and then Council.
6. Should Council approve the zoning by-law amendment report, the implementing by-law is enacted at the same Council the report is approved, or the following Council.
7. For Site Plan Control, Post-Approval takes place after the Decision is rendered. This involves satisfying conditions of approval, which may include signing and registering a Site Plan Control agreement. A registered site plan control agreement may be required prior to obtaining a building permit or commencing work on the site.

DISCUSSION

Bill 109 has imposed a reduced development application timeline for Site Plan Control and Zoning By-law Amendment applications with the subject application fee being mandated to be refunded should those timelines not be met. The recommendations of this Bill 109 report are centred around making adjustments to three areas:

1. Internal process changes to streamline the review of ZBL and SPC Planning Act application review (recommendation 1)
2. By-law amendments to further streamline planning application review to meet the provincially mandated timelines (recommendations 2, 3, 6, 7 and 8); and,
3. Directions for further action (recommendations 4, 5 and 9)

Bill 109 was imposed by the Province to get more homes built faster, and the content that follows are staff's recommendations on how to best position the City by adjusting internal process to meet the new provincial timeline requirements and, as much as

possible, prevent the refunds imposed by the Province. The recommendations below are not to be interpreted as “championed by staff”, but rather to serve as a mitigation plan for the provincially imposed financial risk to the way planning applications have historically been processed.

Recommendation 1: Receive for information the update on the internal process changes undertaken since July 6, 2022 and to be proposed to be undertaken as part of Bill 109 Implementation.

The changes to internal business processes center around a variety of areas that will improve the timelines to process Zoning By-law Amendment and Site Plan Control applications. The following is a high-level overview of the internal business process changes:

1. Study Terms of References: Completing and revising the Terms of References, which outline City requirements, for studies that are submitted as part of a complete *Planning Act* application. This effort supports Recommendation 3 where the *Development Application Study Policy By-law* lists all of the studies and plans that may form part of a complete application.
2. Ottawa.ca – Guide to Preparing Plans and Studies Webpage: Overhauling the front facing City webpage that hosts all of the information for the public and applicants to conform too, with regards to the studies and plans that form part of a complete *Planning Act* application. This supports Recommendation 3 where the *Development Application Study Policy By-law* lists all of the studies and plans that may form part of a complete application.
3. Pre-Consultation Forms and Checklists: Updating the existing pre-consultation forms and checklists so that a phased approach to pre-consultation can be implemented which also aligns with the information that could be requested as part of a complete *Planning Act* application. This supports Recommendation 2 and 3 where the *Development Application Study Policy By-law* lists all of the studies and plans that may form part of a complete application and the *Pre-consultation By-law* will implement a phased pre-consultation approach.
4. Tracking Systems: Updating the existing internal systems used to track pre-applications as well as formal applications so that the Provincial timelines can be entrenched. The updates ensure that staff time on applications can be tracked to ensure that cost recovery, through future updates to the *Fee By-law*, is possible.

5. **Technical Circulation:** There are three areas where the technical circulation process is being updated. Firstly, readjusting the administrative tasks of preparing for the technical circulation to start during the pre-consultation process and not during Official Review. Secondly, limiting the list of technical agencies, for ZBLA and/or SPC applications to be circulated in instances where a ZBLA and/or SPC application has been withdrawn and resubmitted within a one-year timeframe. Thirdly, limiting the circulation period for Site Plan Control applications from a 28-day comment period to a 14-day comment period, in alignment with past Committee consideration via [ACS2022-PIE-GEN-0002](#) report.
6. **Site Plan Control Public Information Sessions:** Removal of the opportunity for the Councillor to request a public information session as part of the official review of a Site Plan Control application. The 14-day timeline for public and agency comment does not allow enough time for a meeting, but the opportunity to provide written comment remains. Bill 23 originally intended to remove third party appeals, sending a signal that community participation in planning matters was being effectively removed. Paired with the reduced timelines and refunds under Bill 109, the City had to consider all options to reach the mandated 60-day timeline for a Site Plan Control review. Ultimately, Bill 23 did not remove third party appeals and there is no indication from the province that constructive consultation is not permitted. Rather than outright elimination of public input for SPC, staff opted to retain the commenting ability of the public during the 14-day circulation.
7. **Report Review:** Reducing the legislative agenda timelines for internal review of complementary departments, for example legal, finance and business and technical support services. This will allow for condensed provincially mandated timelines to be supported.
8. **Report Release:** Reducing the length of time that a staff report (for ZBLA files only) gets released for public review from 10 calendar days to six calendar days. This will allow for condensed provincially mandated timelines to be supported.
9. **Post Approval:** Shifting tasks to the post-approval phase where certain studies and requirements can be imposed as post-approval conditions. This strategy suggests that approval be given on an application conditional on work being completed to the satisfaction of the City after approval.
10. **New Team Approach for Planning Services:** The current approach to development application review is that one Planner and one Project Manager

(Engineer) manage all tasks for a file from pre-consult to end of post-approval, including report drafting, comment review and response, posting the sign, interaction with applicants, Councillors and the public, etc.. Progress of the file is affected when leads are on leave or change positions, and stretched Senior staff's do not have enough capacity to undertake mentoring and skill transfer time is spent on routine tasks.

The team approach reviews tasks and assigns them to the “right level, right job, right fit”, builds mentorship opportunities for all staff, and provides exposure to a variety of application types. Starting with Pre-Consultation and moving through post-approval of the associated application(s), the team members would each complete different tasks, while supporting one another. Each file would have a team composed of two to three planners (ranging from P1, P2 and P3) and two to three engineers (ranging from EIT, Project Manager to Senior Project Manager), depending on the complexity of the file.

The concept builds in cover-off for vacation, or when staff move to another position, to keep the file moving forward.

Recommendation 2: Approve the amendments to the *Pre-Consultation By-law 2009-320*, as per Document 1 attached to this report, to introduce a “Multi-tiered Pre-Consultation Process”.

The proposed multi-tiered pre-consultation process is the best mechanism to ensure the information staff need to make a decision is present in the requested studies and at a level that enables for a fast Official Review (timed by the province). The proposed process would only apply to Site Plan Control and Zoning By-law Amendment applications submitted after the approval of this report by Council.

The graphic below provides a high-level overview of the proposed process:

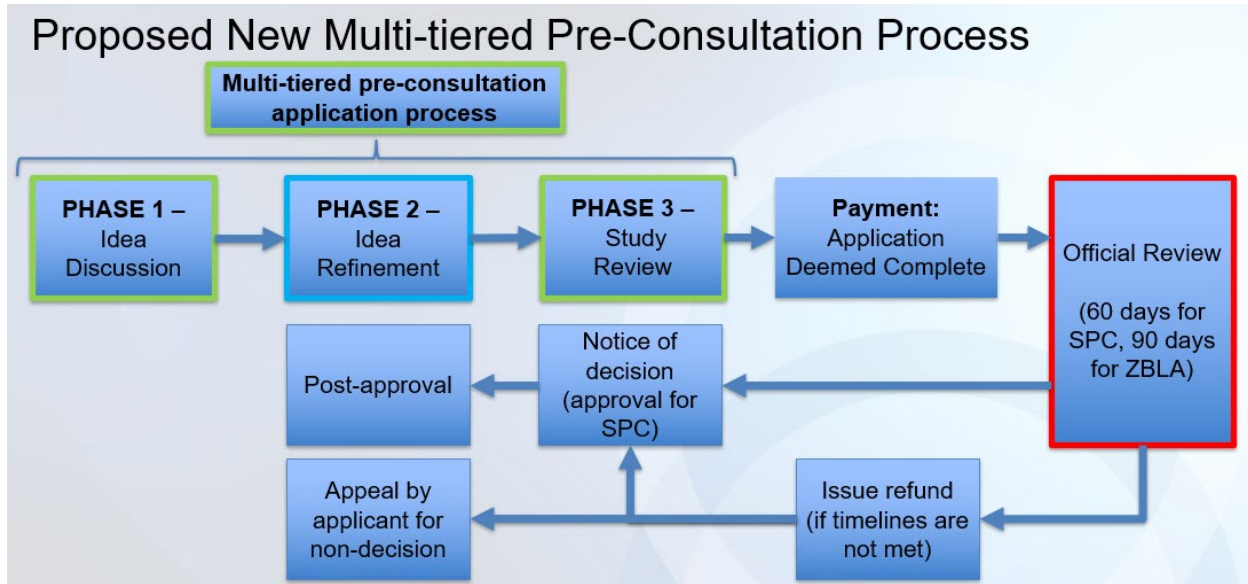


Image representing the phases of the Multi-Tiered Pre-Consultation Process. Phases 1 through 3 ends with the receipt of payment which initiates the Official Review (of 60 days for SPC or 90 days for ZBLA). Refunds are issued if timelines are missed, ahead of a notice of decision being issued. The applicant can then appeal the decision or let the application go into the post-approval phase.

The Proposed Multi-Tiered Pre-Consultation Process would consist of three Phases, detailed below. For each pre-consultation phase, a fee will be charged to applicants.

Phase 1: The intent of Phase 1 is for the applicant to present their idea and for the City to provide clear high-level feedback on Official Plan and Provincial Policy Statement consistency. Applicants would submit information about their proposal and the site, have an opportunity to participate in a virtual pre-consultation meeting with staff and receive formal staff comments along with a preliminary list of studies the applicant should complete to advance their project to the next stages. Phase 1 would take place for either of these purposes separately, or both together:

- Optional opportunity for applicants looking only to obtain very preliminary high-level feedback. An example are applicants that have not secured land and are looking at sites and require initial feedback from the City.
- Required opportunity for applicants who require a SPC or ZBLA approval and want to proceed through the required steps for application submission. An example is applicants that have secured land and can present their formalized development idea to the City for feedback.

Phase 2: The intent of Phase 2 is for applications that have refined their proposal since the presentation provided in Phase 1, with changes to design, density or uses. In these cases the applicant would be required to complete a Phase 2 pre-consultation step to identify the changes to their proposal and obtain further City feedback. The applicant would also submit any draft studies that were identified as part of Phase 1 and participate in a virtual pre-consultation meeting. The City is then committed to provide a finalized list of required studies, based on the proposal at hand, and identify any high-level issues and mitigation options for the application.

Phase 3: The intent of Phase 3 is for the applicant to provide the revised and completed studies to City staff. During this Phase, the City is to review these studies, against the City's Terms of References or Guidelines (as detailed in Recommendation 1 above), to ensure they are complete, consistent with one another, and contain enough information to allow a proper application processing during the provincially timed "Official Review". Any insufficient studies will be issued a deficiency letter. To advance to the Official Review, the applicant must resolve the deficiencies and resubmit the studies. It is proposed that re-submission of studies to address deficiencies will require additional pre-consultation fees, and associated time delays, as the updated application enters Phase 3 anew.

Payment of the Official Review Fee: After Phase 3 is complete the applicant may proceed to pay the associated *Planning Act* application fee. A "Notice" will be issued after the completion of Phase 3, from the City to the applicant, outlining how the *Planning Act* application fee can be paid at a client service centre. The applicant can then proceed to apply with the required planning fee to a client service centre. The formal "deeming complete" of the application only starts once the fee has been paid. Client services will be required to send a fee confirmation of the paid "invoice" directly to the Planner.

Extensive internal consultation has occurred to identify which internal City subject matter experts should participate in which pre-consultation stages. For some subject matter experts that participated in the past, little changes in their process. For others, participating in the new multi-tiered pre-consultation process is a new task required as their early feedback is instrumental to ensuring a streamlined and efficient "Official Review" period. The resource impacts related to these new functions are detailed in the Provincial Legislation Resource Impact Report.

Staff have considered the transition impacts of moving from the current single pre-consultation meeting to a multi-tiered process. Staff propose the following:

- pre-consultation meeting for any ZBLA or SPC in-stream application that has not already entered the “Official Review” will be considered to have fulfilled Phase 1 of the Multi-Tiered Pre-Consultation Process.

The rationale for this is to enable the files to benefit from the study review period ahead of entering into the Official Review, while retaining the work that has already occurred. It would not have been fair or productive to discard the meeting that has already occurred, or to fast track these applications directly to Official Review – these applications would have the same issues around iterative comments as before during the timed review.

Options considered, but not recommended:

- Phase 2 pre-consultation for all applications, no exceptions
 - In consultation with internal and external partners, it was apparent that the situation that the City was trying to solve for was applications that need a lot of effort to meet the City standards, policies and guidelines – those that require iterative reviews in our current process.
 - It was raised that applicants who submit quality applications should not be required to undergo Phase 2, should their materials and proposal qualify for Phase 3. Applicants submitting quality work should not have to complete a redundant step. Staff agreed and therefore are not recommending discretion be applied as to what Phase of pre-consultation is applicable.
- Four Phases of Pre-consultation
 - The City preferred to recommend, in instances where there are outstanding issues on an application, a deficiency list option for Phase 3 rather than requiring a fourth phase for all applications. The objective was not to penalize applicants that submit quality applications with redundant steps.
- Elimination of the Pre-Application Consultation Program
 - Bill 23 originally intended to remove third party appeals, sending a signal that community participation in planning matters was being effectively removed. Paired with the reduced timelines of Bill 109, the City had to consider all options to reach the mandated 90 days. Ultimately, Bill 23 did not remove third party appeals and there is no indication from the province that constructive consultation is not permitted.

- Through the development of the multi-tiered pre-consultation process, it was noted that it sits outside of the provincially timed official review. Therefore, participation from Community Associations at the pre-consultation meeting of Phase 1B and 2 is recommended to continue and an assessment on the impact of timelines, if any, will be shared through the monitoring report (recommendation 8).

Recommendation 3: Approve the amendments to the *Development Application Study Policy By-law 2022-254*, as per Document 2 attached to this report;

The *Development Application Study Policy By-law 2001-451* (DASP), which has recently been updated as part of the Phase 1 Bill 109 Implementation report on July 6, 2022, contains the studies that can be requested to make a *Planning Act* application “complete”. A “complete” application is the trigger for when the clock on the new timelines starts ticking in the “Official Review” for SPC and ZBLA applications. This By-law is especially important as the New Official Plan has been approved which relies on this by-law’s existence as the legal mechanism for the City to request information and material.

The list of plans, studies and materials in the DASP are not required for every application, but rather represent the complete list of possible information that could be requested by the City to form part of a “complete” application submission.

During the multi-tiered pre-consultation Phases 1 and 2, staff will provide the applicant a preliminary (Pre-consultation Phase 1), and then final list (Pre-consultation Phase 2) of the studies and materials for their formal application.

Through staff’s review of the information that the City may require as part of the prescribed information and material, the following changes have been identified as required in the DASP By-law:

- Application Form:
 - This is an existing requirement, and it is suggested to add it to the DASP so that the application form can be part of the legal requirements of a *Planning Act* application. The application form will outline the applicant information and high-level details of the proposal.
- Composite Utility Plan:

- Propose to remove this study as a requirement as it was determined that this could form part of post approval requirements.
- Concept Plan:
 - Changing the name of this study requirement from “Concept Plan” to “Site Plan” to better reflect the content of the study requirements.
- Groundwater Impact Study:
 - Proposing to remove this study as it is intended to be combined as an element of the Hydrogeological and Terrain Analysis, which is already a component of the DASP.
- Heritage Act Acknowledgment Report:
 - This is a new requirement to be added to the DASP. The report aims to align any heritage application with the corresponding zoning applications so that the City can ensure the provincially mandated timelines align.
- High-performance Development Standard Checklist:
 - This proposes a slight name change to align with the intent of the complementary Terms of Reference, which is not a checklist. Thus the term “checklist” is proposed to be dropped.
- Light Rail Transit Proximity Study:
 - Proposing to rename this study to “Rail Proximity Study” in order to better reflect that the study applies to all forms of rail lines and not just the Light Rail Transit.
- Noise and Vibration Study:
 - Proposing to remove this study as it is intended to be combined as an element of the Noise Control Study, which is already a component of the DASP.
- Stormwater Management Brief / Report:
 - Proposing to remove this study as the study was originally applicable for Site Plan Control applications of 10 units or less. With changes in Bill 23, SPC will no longer be applicable to development applications with 10

units or less. Further, for applications greater than 10 units, the content of this report is contained in the Site Servicing Report, which is already part of the DASP.

- Tree Information Report:
 - Proposing to delete this as a study requirement for a *Planning Act* application as it was determined that this is more appropriately applied as a requirement of a building permit application.
- Urban Design Review Panel Report:
 - This proposes a slight name change to align with the current title of the UDRP Panel.
- Zoning Confirmation Report:
 - This is a new requirement proposed to be added to the DASP. This report has two purposes. The first is applicable to ZBLA applications in an effort to ensure the application has a clear vision for what zoning changes and relief is required to allow the development to proceed. This will assist staff in placing the onus of needed zoning changes back onto the applicant and to assist staff in the creation of the formal by-law to be before council for approval. The second is to ensure the appropriate zoning is in place before the SPC application is deemed complete and enters into “official review”. This will assist staff in ensuring that a SPC application obtains their zoning beforehand and disallow concurrent SPC and ZBLA application as the provincial timelines do not align.

As detailed in Recommendation 1, sub-paragraph 1, the City has undertaken a separate project to the Bill 109 Implementation, focused on producing, reviewing, and updating the documentation detailing the requirements of the materials listed in the *Development Application Study Policy By-law*. The project’s objective is to ensure that each potential study has supplementary information to guide the submission by applicants, referred to as “Terms of References” (sometime also referred to as Guidelines, a By-law, a Provincial Legislation, or Study Requirements) detailing:

- the expected content to be included in the information or material;
- the authority under which the information or material is required; and
- the professionals permitted to produce the information or material.

This Development Application Study Policy project will continue into 2023 as individual internal service areas responsible for the subject matter content conduct their review.

It is understood that the province's Bill 109 significantly changed the outlook for how development review undertakes their work and impacted the application of recently approved policies and guidelines. With the addition of Bill 23, which introduced further changes to Site Plan Control, Urban Design, Heritage, Development Charges and more, the study list and content will continue to change rapidly over the coming months.

Recommendation 4: Approve the amendments to the *Public Notification and Consultation Policy* as per Document 3 to this report

The recommended amendments to the Public Notification and Consultation Policy address three factors: adjustments in order to incorporate the proposed new phased pre-consultation process, the removal of Site Plan Control from City-led community information and comment sessions requirements and technical adjustments.

Through Bill 109 the province has mandated that municipalities process Site Plan Control applications within a 60-day timeline. The City of Ottawa takes on average of 196 days to process a Site Plan Control. All parts of the Site Plan Control review process were reduced to meet the provincial timeline – including the circulation period to the public and technical agencies which was 28-days and has been reduced to 14-days.

Staff propose to remove the opportunity for City-led community information and comment sessions from the Site Plan Control requirements as there is no longer sufficient time to do so during the 60-day Official Review period, while retaining existing on-site signage and circulation to community associations where applicable.

That said, the amendments do propose to have a caveat to this business rule, where under exceptional circumstances for exceptional Site Plan Control applications, the City has the discretion to undertake a virtual public information session for a Site Plan Control application. It is worthy to note that the removal of the opportunity for City-led community information and comment sessions for Site Plan Control from the Public Notification and Consultation Policy requirements does not impact:

- the public's ability to provide input in Site Plan Control by sending comments on DevApps and by email during the 14-day circulation period; and
- the ability of the public, the applicant or the Councillor to initiate their own information and comment sessions.

Staff also propose to make adjustments to the Public Notification and Consultation Policy to align with the Pre-Consultation By-law proposed changes, putting in place a Phased pre-consultation approach. This new phased pre-consultation approach needs to be mirrored into the Public Notification and Consultation Policy to formally require applicants to go through the new process as part of a *Planning Act* application.

Technical amendments are proposed throughout the Public Notification and Consultation Policy to fix terminology and bring the policy into alignment with current *Planning Act* requirements including recent amendment introduced under Bill 23.

Recommendation 5: Approve the amendments to the *Planning Fee By-law 2023-139*, as per Document 4 attached to this report

The recommended amendments to the *Fee By-law* implement:

- Changes to the title of pre-consultation from “pre-application consultation” in an effort to align with the language in the *Planning Act*;
- The multi-tiered pre-consultation fee structure, where each phase would have its own non-refundable fee;
- Removal of the ability for an applicant to undertake a re-circulation process where re-submissions are requested as part of a Site Plan Control and/or a Zoning By-law Amendment application;
- Put in place a new fee for the re-application of a Site Plan Control and/or Zoning By-law Amendment file that have been withdrawn in the last 60 days, in an effort to work through previous circulation comments or issues;
- Put in place the requirement of obtaining a “Notice” during pre-consultation, before the formal Site Plan Control and/or Zoning By-law Amendment application will be accepted;

As per report [ACS2019-PIE-PS-0095](#), Section 391 of the *Municipal Act*, 2001, grants municipalities broad authority to impose fees or charges for any activity or service they provide. While municipalities can determine which services to charge for, the amount of the fee and who pays it, the *Municipal Act* limits them to cost recovery; a municipality cannot charge more than it costs it to provide a service.

In addition, the *Planning Act*, Subsection 69(1) provides the following authority:

69 (1) The council of a municipality, by by-law, and a planning board, by resolution, may establish a tariff of fees for the processing of applications made in respect of planning matters, which tariff shall be designed to meet only the anticipated cost to the municipality or to a committee of adjustment or land division committee constituted by the council of the municipality or to the planning board in respect of the processing of each type of application provided for in the tariff.

Thus, fees imposed under the *Planning Act* are limited to the cost of the City for processing the type of the application.

Council enacted the fees for Planning Applications By-law No. 2023-139 to establish structures and fees according to planning application types, which sets out the current planning fees being charged for applications.

In the context of the provincially mandated refunds, only the fees collected under section 69 of the *Planning Act* will be eligible for refunds. Staff propose that the pre-consultation fees use the *Municipal Act* authority, making them ineligible for refunds.

In the context of the pre-consultation fees applicable for each phase of a future Site Plan Control, and Zoning By-law Amendment applications, the fee is proposed to say the same monetary ratio, adjusted as per the Provincial Legislation Resource Impact Report.

Over the coming 18 months, staff will be monitoring the effectiveness of the Bill 109 policy, by-law and process changes, as well as the impact of the staffing complement of the Provincial Legislation Resource Impact Report. Part of this monitoring will include how to best assess the fee value that should be associated with each pre-consultation phase, with an aim to match the level of effort and the revenue collected.

Recommendation 6: Receive for information an update on future amendments to the *Site Plan Control By-law*;

The Bill 109 Implementation – Phase 1 report ([ACS2022-PIE-GEN-0011](#)) approved by Council on July 6, 2022, envisioned raising the exemption threshold for Site Plan Control to those development projects that have six units or less.

The province, through Bill 23 which received royal assent on November 28, 2022, raised the Site Plan Control exemption threshold to 10 units or less.

Bill 23's increase of the threshold of development that would not require a Site Plan Control application for a development with 10 units or less means that there is an

increasing amount of development that will not have the opportunity to be reviewed for local infrastructure capacity. The lack of a review process poses potential risks to public health and safety (flooding and fire). Therefore, alternate processes and regulatory tools are currently being assessed and recommendations from this assessment will be provided as part of a separate report.

In 2020, Site Plan Control applications with 10 units or less represented 21 applications valued at \$137,500 in fee revenue. In 2021, Site Plan Control applications with 10 units or less represented 16 applications valued at \$206,952.00.

With the introduction of Bill 97 which also impacts Site Plan Control, staff are continuing the required analysis to assess the new legislation and will bring a report focused on Site Plan Control changes.

Recommendation 7: Direct Staff to Report back to Council with an Official Plan Amendment to explicitly define the types of applications that can be classified as a minor zoning by-law amendment to set the stage for a future delegation of authority.

Bill 13 made a series of edits in 2021 to a variety of Acts under the caption “Supporting People and Businesses Act”. The changes to the *Planning Act* are with regards to delegation of authority are below:

SCHEDULE 9 – The Planning Act

The Schedule adds a new section 39.2 to the *Planning Act*. Section 39.2 provides that the council of a local municipality may, by by-law, delegate the authority to pass by-laws under section 34 that are of a minor nature to a committee of council or an individual who is an officer, employee or agent of the municipality. The Schedule also makes consequential amendments to the *Municipal Act, 2001* and the *City of Toronto Act, 2006*

The *Planning Act*, through the provision 39.2 above, allows for the streamlining of minor Zoning By-law Amendments provided a definition for a minor zoning bylaw amendment is included within an Official Plan. After review of the newly approved Official Plan, it does not have the required language to advance this important *Planning Act* tool. Specifically, by defining minor zoning bylaw amendments in the Official Plan it will allow the City to identify a set of less complex files that may warrant being delegated to staff for approval. The delegation of minor zoning bylaw amendments to staff will allow for the Council reporting timelines to be alleviated and less strain on the requirement for Committees and Council to meet on a mandatory rotational two week basis, as

suggested through Recommendation 5 as detailed below. It is worthy to note that this recommendation is seeking direction to undertake the analysis of a proposed Official Plan Amendment to allow the use of the *Planning Act* tool and which will require a subsequent report to Committee and Council for further approval of the detailed requirements at a later time. At such time Staff is prepared to bring the Official Plan Amendment back to Council for consideration a fulsome discussion will be provided outlining the parameters for execution of the proposed delegation of minor zoning bylaw amendments. The *Planning Act* includes a suite of requirements that Staff will explore, including the lifting of delegation of authority for minor zoning bylaw amendments; the identification of the types of files; and concurrence of conditions (otherwise known as “holding” provisions); the impact on fees; the timeline savings and the public consultation methods.

The minor zoning by-law amendments report would include:

- proposed text and rationale for amending text to the Official Plan;
- proposed amendment to the fee by-law, amending the definitions of “major” and “minor” applications;
- proposed amendments to the Delegation of Authority By-law, with recommendations of application types that could be delegated to staff; and
- proposed amendments to the Public Notification and Consultation Policy (to reduce future requirements for minor ZBLA).

Staff would target Q4 of 2023 with a subsequent report back to Council on this initiative.

Recommendation 8: Approve the following amendments with respect to the Council and Committee governance processes and the *Procedure By-law*, attached as Document 5, and as described in this report:

- a. **Schedule Council and Planning and Housing Committee meetings bi-weekly on alternating Wednesdays, and that additional meetings scheduled during traditional legislative breaks in January, March break, July, August, and December, be convened as special meetings, if required, to consider any Zoning By-law amendments or any other time-sensitive items approved by the Chair;**

- b. Enact Zoning By-law Amendments (ZBLA) and Official Plan Amendment (OPA) by-laws at the same day as the policy report is before Council;**
- c. Publish Zoning By-law Amendment reports six (6) days before Committee; and**
- d. Enable all zoning matters in any area of the city have the ability to be considered at Planning and Housing Committee, allowing a rural zoning file to go to Planning and Housing Committee instead of Agriculture and Rural Affairs Committee should there be a time pressure to meet the provincially imposed deadline.**

Background

The “Official Review” is the provincially timed portion of the development application review process, starting when the materials are deemed complete and payment is received, and ending when a Decision is rendered, by passage of the Zoning By-law or Decision by Council, in the instances of a Zoning By-law amendment file.

As noted above, effective July 1, 2023, there will be penalties applied to municipalities who do not meet mandated timelines for the review and issuance of a decision for Zoning By-law Amendments. The timeline imposed by the Province, through amendments to the *Planning Act* as part of Bill 109, are: 90 days from the application being deemed ‘complete’ to the By-law being passed or a refusal decision being rendered by Council, where the City currently takes an average of 178 days. All parts of the process have been reduced except of the 28-day technical circulation for Zoning By-law Amendments.

The timelines for the “Official Review” of a Zoning By-law Amendment application can be broken down as follows:

- **Administrative Processes:** Application acceptance, coordination with Client Service Centre, assigning file internally; and preparation of technical circulation material (~ calendar 10-days)
 - Note the above has been streamlined from current business processes which often take much longer to get an application out on technical circulation.

- Mandated Technical Circulation: Required under the Planning Act and provides an opportunity for the public and technical agencies to comment on the application with an optional public information session, as requested on a site-by-site basis by Councillors (~ calendar 28-days)
 - the 28-day opportunity for the public and technical agencies to provide comment is the only part of the Official Review that was not modified. Staff weighed options and proposed that the opportunity to provide input to staff to inform the decision report was the highest priority to retain as-is. That said, the 28-day timeline will be a hard deadline and proponents will be made aware that should they not be able to submit comments within the 28-day, any input would be directed to Committees and Council for consideration.
- Report preparation: Reconcile public and technical agency comments, share comments with applicants and draft Council report (~ calendar 15-days)
 - Note the above has been streamlined to prepare a staff report in a condensed time period, taking into consideration the technical and public comments received during circulation. The applicant will also be given the opportunity to read the comments received during this time period.
- Report Approvals: Council Report internal circulation and approvals (~ calendar 15-days)
 - Note the above has been streamlined to obtain management approvals of the staff report and reviews by internal stakeholders, namely: finance, legal and business and technical support services. The timelines for these reviews have been condensed significantly from the current business process.
- Report publication, consideration by Committee and Council and enactment of the By-law: The current business processes to publish a Zoning By-law Amendment Report and have it rise to Planning and Housing Committee or Agricultural and Rural Affairs Committee for the statutory public meeting and subsequently rise to Council for a decision and enact a by-law are currently in the range of 17 to 41 days.
 - The range accounts for months with five weeks where there would be a two-week delay before the next Council, as the last week of that month will

not have a Council or a Committee meeting; and instances where the by-law is enacted at the following Council.

- Through this report, Staff propose to reduce this process to a range of 13-27 days.

The little flexibility that remains can be allocated judiciously on a case-by-case basis with an understanding that any cancellation of the legislative meetings would impact the timelines significantly, and likely lead to a refund of application fees.

The above “Official Review” timelines are enabled by the following efficiencies;

- front-ending as part of Pre-consultation Phase 3 the preparation of core documents related to the technical circulation package;
- reducing the amount of time staff have to prepare comments for the applicants;
- eliminating the ability for applicants to resubmit a revised application proposal, since there is no “stop the clock” provisions if the application is in the applicant’s hands;
- reducing the amount of time for the report’s internal circulation and approvals; and,
- as recommended below, reducing the report’s consideration by Committee and Council timeline.

The recommendations below with respect to the governance of Planning and Housing Committee and Council represent the best approach for the City to achieve the new timelines prescribed by the *Planning Act*, while:

- minimizing the financial impacts associated with the new provincially-mandated application fee refunds; and
- preserving the public’s current 28-day commenting opportunity.

The 2022-2026 Council Governance Review ([ACS2022-OCC-GEN-0030](#)) included impacts of Bill 109’s condensed timeline to reach a decision on Zoning By-law Amendment reports that go through Planning and Housing Committee or Agriculture and Rural Affairs Committee, ahead of rising to Council for consideration. As a preliminary step to address timelines, the Office of the City Clerk recommended that the Planning and Housing Committee retain its twice-monthly meeting schedule, but move to the first and third Wednesday of the month.

8.a. Schedule Council and Planning and Housing Committee meetings bi-weekly on alternating Wednesdays, and that additional meetings scheduled during traditional legislative breaks in January, March break, July, August, and December, be convened as special meetings, if required, to consider any Zoning By-law amendments or any other time-sensitive items approved by the Chair;

Building on the governance report, staff further recommends Council consider an increased frequency of the Planning and Housing Committee, and reducing the timelines between Committee and Council's consideration of planning applications.

The existing process requires a report to be published and go through Committee and Council before a decision is issued and a by-law is passed. This timeline, from the report publication and onward, takes between 17 to 41 days. The changes to the *Planning Act* through Bill 109 only allow for a 90-day review period from application acceptance to the by-law passage. During that time, planners need to circulate, reconcile comments, resolve issues, write the report, and obtain Council approval. Not reducing the timelines from when the report is published to approval results in the mandated 90-day deadline not being met. Should it not be met consistently, it will represent a multi-million-dollar yearly loss to the City, through the newly mandated refunds of planning application fees, imposed by Bill 109.

For example, a 10-item Planning and Housing Committee meeting with six Major (totaling \$130,362) and four Minor (totaling \$44,648) rezoning applications, could total up to an estimated \$87,505-\$175,010 in refunds for missing the 90-day approval timeline for any reason, including as a result of delays during legislative timelines (depending on when the committee meeting is rebooked).

There is an identified need to increase the frequency of Planning and Housing Committee and Council meetings to accommodate the Bill 109 changes. It is recommended this be accomplished by scheduling Council and Planning and Housing Committee to bi-weekly meetings on alternating Wednesdays. In addition, Council and Planning and Housing Committee would continue to meet, as needed, through the traditional legislative breaks in January, March Break, July, August, and December, where a Zoning By-law Amendment file is on the agenda. Those meetings scheduled during those periods would be convened as Special Meetings, with the agenda limited to time sensitive Zoning By-law Amendments and any other time-sensitive matters that the Chair approves to be added to the notice of special meeting.

The changes to the Committee and Council timetable would be implemented as of October, 2023.

8.b. Enact Zoning By-law Amendments (ZBLA) and Official Plan Amendment (OPA) by-laws at the same day as the policy report is before Council

For planning reports, it is recommended that the Zoning By-law Amendment (ZBLA) and Official Plan Amendment (OPA) By-laws be enacted at a single Council Meeting, meaning the same meeting the application is approved by Council. This would save at least 14 days from the current approach, which, at times, has the By-law being enacted at the following Council meeting.

8.c. Publish Zoning By-law Amendment reports six (6) calendar days before Committee

Efficiencies are also proposed on agenda publication for Planning and Housing Committee with the report being proposed to be published six calendar days before committee, while Ontario's largest municipalities publication average is 4.7 days before committee. This report recommends a six-calendar day publication timeline for Zoning By-law Amendment reports going to Committee, down from the current 10 days. Publication six calendar days before committee would make Ottawa middle of the pack amongst Ontario's largest municipalities. To add additional clarity to residents and support them through this change, staff will post the date of the Committee for a file on [DevApps](#), within the application summary, from the moment it is posted a few days into the Official Review and include the Committee date in the technical circulation email. This early notice of the committee date will enable residents to plan ahead, reserving time to read the report when it is published ahead of Committee.

The publication timeline reduction is a direct compromise to retain the 28-day opportunity to provide comment on the application and share feedback that can affect the Committee report. Should Council select not to agree to this publication timeline reduction, the Official Review commenting period would have to be reduced by the corresponding amount.

8.d. Enable all zoning matters in any area of the city to have the ability to be considered at Planning and Housing Committee, allowing a rural zoning file to go to Planning and Housing Committee instead of Agriculture and Rural Affairs Committee should there be a time pressure to meet the provincially imposed deadline.

On the ability of Committees to consider zoning approvals, this report recommends continuing to have both a Planning and Housing Committee and an Agriculture and Rural Affairs Committee (ARAC), with the Planning and Housing Committee having the

authority to hear combined OPAs and Zoning By-law Amendment and/or individual Zoning By-law Amendment applications in rural areas where the timelines are not possible to go to ARAC. This would result, in the interest of protecting application review timelines, in all zoning matters in any area of the city having the ability to be considered at Planning and Housing Committee. Given that the Agriculture and Rural Affairs Committee typically only meet once a month, this recommendation would allow a rural zoning file to go to Planning and Housing Committee should there be a timeline pressure to meet the provincially imposed timelines.

Ultimately, the City recommends the following approach as part of this report's approval:

- a) Scheduling Council and Planning and Housing Committee meetings bi-weekly on alternating Wednesdays, and removing traditional legislative breaks in January, March, July, August and December.
- b) Enacting Zoning By-law Amendments (ZBLA) and those files with a combined Official Plan Amendment (OPA), by-laws on the same day as the policy report is before Council;
- c) Publish Zoning By-law Amendment reports six (6) calendar days before Committee; and
- d) Enable all zoning matters in any area of the city to have the ability to be considered at Planning and Housing Committee, allowing a rural zoning file to go to Planning and Housing Committee instead of Agriculture and Rural Affairs Committee should there be a timeline pressure to meet the provincially imposed deadline.

Staff will monitor the success of these proposed changes, in an effort to meet the provincial timelines, and bring a future report back to Committee and Council should further changes be required.

Options considered, but not recommended, include:

- Having all zoning related reports rise directly to Council (meeting as Committee of the whole), on a bi-weekly basis.
 - This option was not recommended because the one-week delay between Committee and Council enables Councillors and the public to further consider the application and allows for a second look that is not the same day. A one-day consideration would be less transparent.

- Combine Planning and Housing Committee with the Agriculture and Rural Affairs Committee.
 - This option was not recommended because the matters dealt with by the two committees are often different and complements the geographical diversity of the city.
 - The creation of a special “Zoning Committee” to meet every-other-week and rising to Council every-other-week was also explored but adding a new committee for this purpose would diminish both PHC and ARAC, while adding to the already busy Committee schedule.
- Enabling ARAC to meet on Wednesday, directly after PHC
 - This option was not recommended because to be a standing committee, a dedicated start time must exist. The variable nature of when PHC would end made this option unadvisable.
- Reducing the 28-day technical circulation and Retaining the 10-day publication timeline
 - Staff weighed options and propose in this report that the opportunity to provide input to staff to inform the decision report was the highest priority to retain as-is. The opportunity for feedback to affect change is higher during the technical circulation, given that the staff recommendation is not yet formed. Public and technical agency comments can shape the staff recommendation, raising issues not yet identified that can be worked through or conditioned ahead of a building permit being issued. Should those same comments be received at the time of decision it will almost certainly lead to delay, and the corresponding refunds. Staff instead opted to retain the 28-day commenting period and recommended a report publication timeline reduction to 6 from 10 days.

Recommendation 9: Approve that the Bill 109 timeline data be reported to Council yearly through the Planning, Real Estate and Economic Development’s Year-end Report

The Province’s Bill 109 introduced sweeping changes to the way development applications are reviewed by municipalities. Given the municipalities proposed response to the provincial changes are new, Staff will monitor the effectiveness of the proposed pre-consultation process. Yearly reporting is proposed to include:

- How many pre-consultations of each phase the City has received;
- The timelines for processing received pre-consultations;
- How many pre-consultations turned into formal application submissions;
- The number of ZBLA applications received, including:
 - The length of time Staff took to process the application
 - Number of refunds issued and the corresponding dollar value
 - Amount of time over the 90 days by which the application was reviewed (or 120 days for combined ZBLA and OPAs)
- The number of SPC applications received, including:
 - The length of time taken to process the application
 - Number of refunds issued and the corresponding dollar value
 - Amount of time over the 60 days by which the application was reviewed

As staff develop these new processes, there are technology implications. Staff have been working to amend MAP, the existing software, to meet the immediate needs of Bill 109 timelines. MAP is currently under lifecycle, being replaced by the Land Management System (LMS). The LMS project was already underway when Bill 109 was announced, with portions of the process mapping work having been already completed. The changes proposed in this report to meet the timelines imposed by Bill 109 will have an impact on the project scope and timelines of the LMS project, as some of the previously completed work had to be modified to match the proposed Multi-tiered Pre-consultation process.

Staff are also looking at changing the way Planning Services works to process files, moving away from a single assigned file Planner and Engineer lead towards a “team approach” to review development applications. The team approach would look at tasks to foster the “right level, right job, right fit” environment, built-in mentorship and provide exposure to a variety of application types and development. The approach being explored is that each file would have a team composed of two to three planners (ranging from P1, P2 and P3) and two to three engineers (ranging from EIT, PM, Senior PM to Senior Engineer). Starting with Pre-Consultation and moving through post-approval of the associated application(s), the team members would each complete different tasks, while supporting one another. This approach is in consideration of Bill

109 timelines, cover-off for file management and ensuring tasks are completed by the appropriate skill level.

Motions and Directions previously given addressed by Bill 109

Through the recommendations above implementing Bill 109, a number of past Council motions and directions have been addressed:

1. **[m.62.9] THEREFORE BE IT RESOLVED that Council direct Staff to add as a departmental work item to explore the feasibility of developing a Low-Rise Apartment Specific Site Plan process for the area surrounding Post-Secondary institutions, to address some of the neighbouring resident's developmental concerns.**
2. **That Joint Committee direct Staff to prepare a feasibility report to develop a Low-Rise Apartment Specific Site Plan process for the Vanier area, to address some of the developmental concerns in Vanier, and that this feasibility report be brought for Planning Committee's consideration in Q2 2022.**

The motions above have been considered in the context of Bill 109 and meeting provincial timelines. The recommendations of this report focus on meeting provincial timelines and preventing refunds. There is not the flexibility at this time to add specificity or deviated processes for specific instances, as it adds risk of not meeting the provincial timelines. Staff confirm through this report that the above is not administratively feasible. Any concerns would be addressed through the new multi-tiered pre-consultation process and the Official Review.

3. **Motion approved by Council on 3/10/2022 "THEREFORE BE IT RESOLVED that committee direct staff to clarify in their report ahead of replying to the province the importance of site plan and its current review process in certain neighbourhoods and communities that have been rezoned or are zoned Residential Fourth Density and not exempt it from public consultations and input."**

The motion above was considered in the context of Bill 109 implementation. The ability for the public to provide comments for Site Plan Applications is retained. The documentation will be published on DevApps and the public will have the 14-day circulation period to share feedback on the proposal.

- 4. [m82.1] That Council direct staff, following the adoption of the Official Plan, to review and enhance community engagement practices and procedures, and that this work be added as an item for future PRED departmental workplan.**

Public engagement was a difficult component to reconcile with the development application timeline reductions imposed by the province. The above motion was a key consideration in the development of the Bill 109 approach, trying to balance the enhancement of the public's participation, while also reducing all parts of the process to meet the 90-days (ZBLA) and 60-days (SPC) timeline to decision.

It is important to acknowledge the very different legislative environment between October 2021 when this motion was given, and the realities of the time pressure brought on by Bill 109.

To put in context, there are seven opportunities for public engagement, listed and described below.

- Pre-Application

1. Pre-application consultation program with specific Community Associations

- The pre-application consultation project was developed to address concerns expressed by the public that key decisions were being made at pre-consultation meetings without community input. The project allows Community Association members to understand the Ontario Planning Act and process.
- A Pilot project was developed for Ward 17 and was expanded to the Inner Urban Area – Wards 12, 13, 14, and 15. The project was expanded to Ward 9 in 2019.
- Pre-consultations are to occur within 10 business days of receipt of the pre-consultation request. Typically, the meetings last approximately one hour. The intent of these meetings is primarily to agree on the plans and studies that must be submitted for the application to be deemed 'complete'.

2. Optional Developer-led public meetings during pre-consultation

- Applicants have the opportunity to independently, or in collaboration with the Ward Councillor, host a public meeting to discuss a proposed development, before it is formally submitted to the City.
 - The Community can share their questions and comments directly with the developer at this optional public meeting.
- Official Review
3. Comment on the publicly available documents posted on devapps and Technical Circulation
 - Once an application is submitted, the documents are posted on the City's website: <https://devapps.ottawa.ca/en>
 - Members of the public may submit comments and questions to the City on the proposal for a period of 28 days (sometimes more). On devapps, comments can be sent directly to the Planning Services staff, while comments can also be submitted directly to Councillors by email.
 4. Optional Councillor or City led community information and comment session
 - Where warranted, a Councillor or City led community information and comment session will take place after an application has been formally submitted to the City. Members of the public may attend, share comments and ask questions of the applicant and City staff working on the file.
 5. Comments on the Committee report (Zoning and Official Plan Amendments)
 - The staff report on the application will be posted on the City Website (on [eScribe](#)), to be considered by Planning and Housing Committee or Agriculture and Rural Affairs Committee.
 - Members of the public can submit comments to the Committee Coordinator, which will be shared with Councillors and staff, as well as published on the official record.
 - Members of the public can also submit comments directly to Councillors by email.
 6. Delegation at Committee

- Members of the public can sign up to speak on specific development applications during committee. They are allotted five minutes to provide comments directly to Committee.

7. Comments to Council

- Members of the public may continue to submit comments to Councillors and the Office of the City Clerk until the day the application is considered by Council.

Through Bill 109, the following public engagement changes are occurring:

- Pre-Consultation
 1. Pre-consultation program with specific Community Associations
 - No changes to the program at this time.
 2. New requirement: Public Consultation Strategy Report
 - Staff added, in the July 6, 2022 report, a new requirement (Public Consultation Strategy Report) as part of the Development Application Study Policy, for applicants to consult with the public as part of a complete application for identified projects. Applications where this requirement will be imposed will be at the discretion of the file lead in consultation with the BTSS Manager, and in conversation with the applicant.
 3. Optional Developer-led community information and comment sessions during pre-consultation
 - No changes.
- Official Review
 4. Comment on the publicly available documents posted on DevApps and Technical Circulation
 - For ZBLA, no changes are proposed, retaining the current 28-day commenting period.
 - For SPC, there is a reduction of the commenting period to 14 days from the current 28 days, to enable meeting the 60-day timeline for

approval, and implementing the previous Council decision of report [ACS2022-PIE-GEN-0002](#).

5. Optional Councillor or City led community information and comment session
 - For ZBLA, It is recommended that consultation be largely covered during the pre-consultation phases, through the Public Consultation Strategy Report. There is still the opportunity for staff to organize a virtual community information and comment session during the 28-day commenting opportunity, should a consultation not have occurred during pre-consultation or in certain exceptional circumstances.
 - For SPC, the 14-day commenting period does not permit enough time for City participation in a virtual community information and comment session. Written comments through DevApps continue to be available. Note that this does not prevent the Councillor and the applicant from hosting a meeting, but rather clarifies expectations that the City would not have capacity to participate.

6. Comments on the Committee report (Zoning By-law and Official Plan Amendments)
 - Given the very tight timelines to approve, staff recommend through this report reducing the number of days the report is made public before committee from the current 10 days to six calendar days. Staff propose that this is reasonable given:
 - The 28-day commenting period on DevApps is retained;
 - The committee date will be posted on DevApps from the first day of circulation; and
 - Members of the public will know when to expect the report and can therefore plan to read the report in the six days ahead of committee.

7. Delegation at Committee

- No changes are proposed to the ability of the public to attend committee and speak for 5 minutes.
- The governance changes proposed as part of the report have an indirect impact, such as:
 - Council and Planning and Housing Committee meetings scheduled bi-weekly on alternating Wednesdays, and removing traditional legislative breaks (summer and holidays);
 - all rural zoning matters (including combined OPA/zoning applications) in any area of the city have the ability to be considered at Planning and Housing Committee

8. Comments to Council

- No changes proposed.

The above represents the balance of enhancement, retention and streamlining that enable the public to continue to participate in the development application process, while setting the stage for the City to meet its provincial timelines.

Conclusion

The sum of the nine recommendations offers the best path forward for the City to meet the provincial timelines.

RURAL IMPLICATIONS

The recommendations of this report implementing the province's Bill 109 affects all Development Application files, including Rural files.

CONSULTATION

The public engagement approach implementing Bill 109 is described in the "Motions and Directions previously given addressed by Bill 109" section.

Staff consulted internally and hosted Councillors briefings to make them aware of the contents of this report.

The Public and Industry also benefited from a Provincial Bills and New Official Plan Public meeting, where the high-level impacts of Bill 109 and 23, and the provincial

changes to the new Official Plan were discussed. Attendees were able to ask questions and received an FAQ afterwards.

Industry was also informed of the general approach presented in this report and were given an opportunity to provide comments on the Development Application Study Policy Terms of References.

COMMENTS BY THE WARD COUNCILLOR(S)

This is a city-wide report – not applicable.

LEGAL IMPLICATIONS

The Planning Act, subsection 34(10.2) and 41(3.4) provide authority to a municipality to specify the information and material that is required to be provided to a municipality before an application to a municipality for a zoning amendment or site plan approval is deemed complete. A prospective applicant has the ability to make a motion for directions to the Ontario Land Tribunal as to:

- (a) whether the information and material required have in fact been provided; or
- (b) whether a requirement by the municipality is reasonable.

In the event the motion is decided against the municipality, the matter will be deemed complete when the information/material was provided, not the date of the decision upon the motion.

RISK MANAGEMENT IMPLICATIONS

The risks to the City are described at the beginning of the Discussion section of the report.

ASSET MANAGEMENT IMPLICATIONS

Asset Management has been consulted in the development of the Multi-tiered pre-consultation process.

FINANCIAL IMPLICATIONS

There are direct and indirect financial implications with the recommendations of this report, which implement the Province's Bill 109. The indirect implications relate to the provincially imposed requirement to refund Zoning By-Law Amendment (ZBLA) and SPC fees if timelines are not met, starting July 1, 2023. Based on current timelines, there needs to be a 50 per cent (ZBLA) and 66 per cent (SPC) decrease in review

timelines, or the City will be required to refund a significant amount to applicants. The above recommendations set the stage for the City to issue no refunds.

Additional resources are required to accommodate the internal process changes to streamline the review of Zoning By-Law Amendment (ZBLA) and Site Plan Control (SPC) development applications. Additional resources and associated fee increases are addressed in complementary report ACS2023-PRE-GEN-0005: Provincial Legislation Resource Impact Report.

A multi-tiered pre-consultation fee structure is being implemented, where each phase would have its own non-refundable fee. The increase in the pre-consultation fee being charged will have a limited impact on overall Planning Services fee revenue trend.

To align with Bill 23 exemption of residential development up to 10 dwelling units from having to go through site plan control. Revenue Loss in 2020, for Site Plan Control applications with 10 units or less represented 21 applications valued at \$137,500 in fee revenue. In 2021, Site Plan Control applications with 10 units or less represented 16 applications valued at \$206,952.00.

Should the actual 2023 revenue be inconsistent with past trends, fees will be adjusted through the 2024 and/or future budget process(es). Development application review is a self-financed service offered by the City, where planning application fees pay for the staff that do that work. This is in accordance with the City's User Fees and Charges Policy whereby Section 391 of the Municipal Act, 2001 provides municipalities with authority to establish and collect user fees and charges to recover costs associated with the delivery of services where users can be identified. In addition, this is part of a City commitment that "growth pays for growth", meaning that the development industry pays for the services it needs to operate.

If timelines are not met, starting July 1 2023, refunds of Site Plan Control and Zoning By-law Amendment applications are required if a decision is not made within the following statutory timelines. Based on current timelines, there needs to be a 50 per cent (ZBLA) and 66 per cent (SPC) decrease in review timelines, or the City will be required to refund a significant amount to applicants.

ACCESSIBILITY IMPACTS

There are no accessibility impacts to this report.

SUPPORTING DOCUMENTATION

Document 1 Pre-Consultation By-law Amendment (2009-320)

Document 2 Development Application Study Policy By-law 2001-451

Document 3 Public Notification and Consultation Policy

Document 4 Planning Fees By-law 2023-139

Document 5 Proposed amendments to the *Procedure By-law* (2022 – 410)

DISPOSITION

Legal Services and the Office of the City Clerk will prepare and finalize the By-laws for enactment by Council.

The Planning, Real Estate and Economic Development will implement the next phases of Bill 109 Implementation in 2023