



Staff Report for Committee of the Whole Meeting

Date of Meeting: July 5, 2023

Report Number: SRPI.23.059

Department: Planning and Infrastructure

Division: Development Planning

Subject: Request for Approval - Implementation of Bills 109, 23 and 97 - Revised Development Application Review and Approval Process

Purpose:

The purpose of this report is to outline the City's response to the Province of Ontario's changes to the *Planning Act* as a result of the approval of Bills 109, 23 and 97 as it relates to the City's development application review and approvals process. This report provides an overview of the proposed revisions to the City's existing development review and approval processes and makes recommendations for additional changes to streamline development approvals in accordance with the direction from the Province.

Report Highlights:

- in response to the approval of Bills 109, 23 and 97, the City is implementing a revised development application review and approval process in lockstep with its York Region partner municipalities premised on the principles of the Collaborative Application Process (CAP) process being implemented across the Region;
- the CAP process will ensure clarity, efficiency and increased transparency for all stakeholders, facilitate quality submissions and contribute to faster approvals in accordance with the direction provided by the Province of Ontario as part of *Bill 109 The More Homes for Everyone Act, 2022* intended to increase the supply of housing in Ontario;
- amendments to the City's Site Plan Approval By-law and Tariff of Fees By-law are required to support the implementation of the revised development review and approval process;
- the City is committed to further streamlining and improving its development review and approval process through other initiatives, including but not limited to, the implementation of KPMG's Comprehensive Review of the Development Services Review, the delegation of administrative planning matters to staff and the use of additional planning tools; and,
- staff are continuing to assess and evaluate the changes in legislation and their associated impacts and engage our local municipal partners to ensure the City is aligned with the best practices of the implementation of Bills 109, 23 and 97.

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Recommendations:

- a) That Staff Report SRPI.23.059 Request for Approval - Implementation of Bill 109, Bill 23 and Bill 97 - Revised Development Application Review and Approval Process be received;
- b) That Council endorse the City's revised development application review process – Collaborative Application Process (CAP) in response to the changes imposed through the Province's approval of Bills 109, 23 and 97;
- c) That Council approve the funding and staff resource request to be drawn from the Tax Rate Stabilization Reserve as outlined in this report;
- d) That Council approve the Amendment to the Tariff of Fees By-law attached hereto as Appendix "H";
- e) That Council approve Site Plan Control By-law 76-23, attached hereto as Appendix "I";
- f) That Staff be directed to bring forward an amended Delegation By-law, delegating approval authority of municipal servicing allocation, Site Plan review for proposals on Regional roads, Municipal Street Naming, Removal of Holding ('H') symbols and Minor Heritage Alterations to the Commissioner of Planning and Infrastructure as outlined in this report; and,
- g) That Staff be authorized and directed to do all things necessary to give effect to this resolution.

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Report Approval:

Submitted by: Kelvin Kwan, Commissioner of Planning and Infrastructure

Approved by: Darlene Joslin, City Manager

All reports are electronically reviewed and/or approved by the Division Director, Treasurer (as required), City Solicitor (as required), Commissioner, and City Manager. Details of the reports approval are attached.

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Background:

The Province of Ontario (the “Province”) introduced *Bill 109, the More Homes for Everyone Act, 2022 (“Bill 109”)* on March 30, 2022 which received Royal Assent on April 14, 2022. The Bill’s purpose, along with other measures recently introduced by the Province, is to increase the supply of housing in Ontario. Accordingly, Bill 109 amended six statutes in an effort to streamline the prescribed development approval and review process as outlined in the *Planning Act* (refer to Appendix “A” for details on these and other changes made to the *Planning Act* under Bill 109). More specifically, Bill 109 made changes to the *Planning Act* by introducing accelerating timelines for the approval of various development applications and by imposing graduated refunds of application fees should the new timelines for approval not be met. These refunds apply to Site Plan, Zoning By-law Amendment and Official Plan Amendment applications as follows:

	No Refund	50% Refund	75% Refund	100% Refund
ZBA	Decision made within 90 days	Decision made within 91 and 149 days	Decision made within 150 and 209 days	Decision made 210 days or later
Combined OPA/ZBA	Decision made within 120 days	Decision made within 121 and 179 days	Decision made within 180 and 239 days	Decision made 240 days or later
SP	Decision made within 60 days	Decision made within 61 and 89 days	Decision made within 90 and 119 days	Decision made 120 days or later

Following the approval of Bill 109, the Province introduced *Bill 23, the More Homes Built Faster Act, 2022 (“Bill 23”)* on October 25, 2022 as part of its plan to address housing supply and affordability. Under Bill 23, the Province’s plan is to address the housing crisis by targeting the creation of 1.5 million homes over the next 10 years. To implement this plan, Bill 23 introduces several changes to a total of 10 Acts, including the *Planning Act*, the *Development Charges Act*, the *Ontario Land Tribunal Act* and the *Conservation Authorities Act* among others. On November 28, 2022, Bill 23 received Royal Assent bringing into effect parts of the bill with the remaining parts coming into effect at future date(s) at the government’s discretion (refer to Appendix “B” for a complete list of changes and the in-effect dates of various pieces of the legislation). Many aspects of Bill 23 impact the City’s development application review and approval processes, including but not limited to the following:

- development of up to 10 residential units are exempt from site plan control;
- architectural details and landscape design aesthetics are no longer part of the scope of the City’s review of Site Plan applications;
- public meetings are no longer required for draft Plan of Subdivision applications;
- restrictions have been placed on the maximum Community Benefit Charges to be paid by developers;

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the establishment of limits on what Conservation Authorities are permitted to comment on as part of the planning review and approval process effectively downloading some of the technical environmental impact reviews to local municipalities;

- a requirement to update municipal Zoning By-laws to include minimum densities and heights within approved Major Transit Station Areas (MTSA) and Protected MTSA's within one year of those areas being approved;
- exemption of affordable housing and inclusionary zoning units from the requirement to pay Development Charges, Community Benefit Charges and parkland dedication; and,
- the establishment of limits on parkland dedication and less restrictions on types of land to be conveyed as parkland.

The latest of the series of legislative amendments intended to facilitate Ontario's Housing Supply Action Plan and increase housing supply in the province, is *Bill 97, the Helping Homebuyers, Protecting Tenants Act, 2023 ("Bill 97")* which was introduced on April 6, 2023 and received Royal Assent on June 8, 2023. Bill 97 delivers on the earlier proposal from the Province to delay the effective date of the Bill 109 application fee refund requirements until July 1, 2023. Furthermore, Bill 97 also makes a change to the residential Site Plan control exclusions introduced through Bill 23 which would allow Site Plan control to apply to developments of less than 10 residential units where the development is proposed within 120 metres of a shoreline or within 300 metres of a railway line (refer to Appendix "C" for a comprehensive list of all the proposed changes).

The City is on record having stated its support of the Province's goal to address the housing shortage and the need to streamline development application review and approval processes. Staff has reviewed the Province's changes in this regard and is recommending changes to the City's established development application review and approval process and that staff continue to work collaboratively with the development industry and commenting agencies to effect these changes. The proposed changes will also necessitate amendments to the City's Tariff of Fees and Site Plan Control By-laws to facilitate the implementation of CAP. The proposed revised approach will ensure clarity, efficiency and increased transparency for all stakeholders and to support the formulation of quality development application submissions and more timely approvals.

Discussion and Analysis:

Response to Legislative Changes

The approval of Bills 109 and 23 necessitated some immediate responses from City staff. In this regard, Staff provided Council with a series of Briefing Notes outlining the key changes and the associated impacts of these Bills as well as a Council Report (SRPI.23.018) and Presentation on Bill 23 (January 2023) demonstrating the process and impacts on a corporate-wide basis in order to keep Council informed on the legislative changes brought forth by the Province. From a development application

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review and approval perspective, staff had to quickly pivot to address the removal of Site Plan approval for all residential developments up to 10 units. This was particularly challenging given that there are large areas of the City that are under Site Plan control where the construction of single detached dwellings were subject to Site Plan approval (discussed in detail later in this report).

Further to the above, the City took advantage of the Audit and Accountability Fund offered by the Province in order to retain KPMG to undertake a comprehensive review of its development application review and approval processes. The Comprehensive Review of the Development Review Process (the Comprehensive Review”) was completed in January 2023 refer to the report here [Comprehensive Review of the Development Review Process \(richmondhill.ca\)](#) and provided a complete assessment of the City’s existing development application review process with the objective of improving the efficiency and effectiveness of the process. The review culminated in 24 recommendations which build on the City’s existing strengths in service delivery and customer service and taken together will:

- increase consistency, effectiveness, predictability, and transparency;
- reduce process steps and accelerate review timelines;
- improve oversight and accountability;
- relieve workload pressures and increase staff and system capacity; and,
- enhance both the staff and applicant experience.

Implementation of the first phase of the Comprehensive Review was initiated in June 2023 and will consist of implementing two key recommendations of the review being the establishment of Standard Operating Procedures for the City’s development application and review process and establishing a formal Interdepartmental Governance Structure for the development review process. These two fundamental recommendations will set the tone and establish a foundational structure for the development application review and approval process taking into account the CAP process outlined in this report and the other changes stemming from the approval of Bills 109, 23 and 97. As a result of the implementation of these critical recommendations, some of the other recommendations of the Comprehensive Review may be addressed at which point staff will reassess the remaining recommendations and secure funding to implement the remaining recommendations of the Comprehensive Review in the 2024 budget.

Above and beyond the aforementioned, City staff have also been engaging with other York Region partner municipalities to ascertain how they are addressing the legislative changes brought forth by the Province. In this regard York Region initiated a Data Standardization project that was transformed into a working group made up of representatives from all nine York Region municipalities, including City staff, to establish a development review and approval process that responds to the changing legislative environment. This culminated in the production of the "Collaborative Application Preparation" (CAP) process that shall form the common basis for all York Region municipalities as they redesign their development application review and approval

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processes in response to the direction from the Province. A draft of the revised process was endorsed by all of the Planning Commissioners within the Region and the concept was presented to BILD and other stakeholders in the development industry.

The Collaborative Application process (CAP) was developed with the objective of establishing a more focused approval process that is streamlined, transparent, reduces additional submissions, and encourages applicant and public participation at an early stage with the goal of submitting a complete application. This process is intended to resolve technical matters at an early stage in the review process and is focused on the submission of a proposal that is ready for Council's comment and consideration in accordance with the revised timelines imposed by the Province. The collaboration with the Region and other York Region municipalities has resulted in the establishment of common application forms, guidelines, terms of reference for supporting documents and submission requirements development review throughout the Region of York.

Current Development Application Review Process

The City's current development application review and approval process (refer to Appendix "D") is summarized as follows:

- 1. Mandatory Pre-submission Meeting pursuant to the *Planning Act*:** a preliminary concept plan is reviewed by commenting City divisions/departments and external agencies following which a Submission Requirements Letter is issued;
- 2. *Planning Act* Application Submission:** the applicant prepares and submits an application based on the Submission Requirements Letter issued by the city and is deemed complete in accordance with *Planning Act* requirements;
- 3. Statutory Public Meeting, as applicable (for OPA/ZBLA's only);**
- 4. Circulation/Technical Review:** Application is circulated to all City Departments and applicable external agencies. This stage generally is the most lengthy as it typically requires multiple resubmissions to address circulation comments (i.e. building siting, urban design, landscaping, site works, sustainability) and the resolution of issues, etc.; and,
- 5. Council Approval/Refusal**

Site Plan applications generally follow the same process as outlined above however, there is no statutory Public Meeting requirement. Site Plan approval is delegated to the Commissioner of Planning and Infrastructure unless the lands abut an arterial road, which then requires the preparation of an information report to Council. Once the technical review has been completed, and all City Departments and external agencies have signed off, the owner enters into a Site Plan Agreement with the City (and the Region of York, as applicable) prior to the issuance of a Building Permit.

A key challenge of the current development review and approval process is the quality of drawings and reports submitted in support of a development application. Poor quality submissions lead to multiple resubmissions, resulting in delays and costs for both the applicant and the City. Additionally, the legislated approval timeframes were extremely

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challenging to meet because the municipality is required to circulate Official Plan Amendment, Zoning By-law Amendments and some Site Plan applications to a variety of external agencies, including the Province, with little or no control over responses and timing thereof thereby leading to approval delays and in a number of cases appeals to the Ontario Land Tribunal (OLT).

Collaborative Application Preparation Process

In order to provide a more efficient development review process and ensure that Council decisions can be made on applications within the revised legislative timelines as prescribed by Bill 109, the City must restructure and realign the resources dedicated to development review and approval in ways that improve co-ordination, collaboration, and communication across multi-disciplinary teams and between stakeholders. In this regard, the City's key response to Bills 109, 23 and 97 requires significant changes to its existing development application review and approval process. Outlined below is the City's revised development application review process based on CAP which is aligned with the approaches to development review and approval being implemented across the Region. This revised process places emphasis on the importance of the collaboration between the applicant and the City and will:

- strengthen an already comprehensive Pre-Submission review process;
- introduce quality control review to be undertaken prior to the circulation of the submission of a development proposal and its related supporting documentation in order to ensure that technical review is not delayed due to insufficient reports/plans/studies which contributes to delays in application review and processing;
- require detailed technical review of a development proposal along with meetings with staff to provide clarity of requirements;
- require a developer led Residents Meeting to solicit community feedback on the proposal and offer early engagement and transparency with the community;
- enable an automatic escalation process after the third submission to troubleshoot outstanding matters that may be holding up progress on the application;
- enable regular meetings, as necessary, to keep the process moving efficiently; and,
- expedite the formal application to the City process and allow for staff to schedule a statutory public meeting (as necessary), and prepare a recommendation report for Council's consideration.

The City's CAP process will be made up of 3 Phases (refer to Appendices "E" and "F"):

- 1. Submission Requirements Meeting (Phase 1)**
- 2. Pre-Application Submission (Phase 2)**
- 3. Submission of a Complete *Planning Act* Application (Phase 3)**

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The first phase of CAP builds on the current mandatory Pre-Submission Meeting process required under the *Planning Act*, the purpose of which is to confirm the appropriate approvals required for the development of a site, identify the studies and technical requirements in support of the application, and to provide feedback and collaboratively discuss the development proposal. The preliminary proposal is vetted by the City's Development Application Review Committee (DARC) which is comprised of commenting City departments involved in the review of development applications as well as two external agencies, the Region of York and Toronto and Region Conservation Authority (TRCA). A formal letter is issued to the applicant outlining the required planning approvals, plans, studies and reports to prepare an application for submission. The applicant and the City benefit from the early discussion that is offered through the Pre-Submission Meeting process as the information that is provided through this process allows the applicant to make an informed decision as to whether to proceed with the proposal, revise it in accordance with the information provided, or to not proceed with the project.

The second phase of the CAP process will require the submission of plans, studies and reports to support the development proposal. The phase 2 submission is not part of the formal legislated application review under the *Planning Act* and therefore not subject to the timelines or refunds prescribed by Bill 109. This part of the process will include a quality control review and circulation of the submission package to internal departments and external agencies, as appropriate, for their review and comment. This phase will also require the applicant to organize and hold a Residents Meeting to facilitate transparency and to notify the community of the applicant's intentions. Phase 2 also includes the option of meetings with a committee made up of City staff from all divisions and departments, external agencies and the applicant to provide clarification on comments and submission requirements. These regular meetings will be available to the applicant with the intention of moving the project along and maintain clarity. The goal of this two phase process is to establish a complete *Planning Act* application that can be supported by staff and carried through the legislated processes in a timely manner.

The third phase of the CAP process is the submission of the complete *Planning Act* application. Phases 1 and 2 are meant to have all issues resolved to allow for focused processing of the *Planning Act* Applications in the third phase. The statutory activities of a *Planning Act* application will be undertaken as part of the last stage, including deeming the application complete, the holding of a statutory Council public meeting, etc. However, challenges may continue to persist within the final phase of the development application review and approval process in meeting the statutory timeframes as staff seek to prepare combined Notices of Complete Application(s) and Public Meeting, hold a statutory Public Meeting, schedule a Recommendation Report to Committee of the Whole followed by Council and prepare the implementing instruments within the prescribed timelines. Additional Council Public Meetings, Committee of the Whole and Council Meetings may be required to ensure staff can meet the new accelerated timelines.

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Benefits of the Revised Process

The premise of CAP is a streamlined development review process that allows the City, applicants and commenting agencies to work collaboratively to support legislation that focuses on clarity, efficiency and the expectation of quality service. This is a transformative process that will improve clarity in submission requirements and will establish new efficiencies in the overall development review process. With the implementation of standard Terms of Reference utilized by all York Region municipalities and the additional step of reviewing submissions for quality and completeness, the review process will be more efficient and timely. Furthermore, the revised process will facilitate communication between City staff, the applicant and external agencies to resolve issues and discrepancies identified through the processing of their development proposal submission package. Community engagement and transparency is built into the process to provide advanced notice with respect to pending development proposals.

Further, the CAP is intended to be flexible and provide opportunities to respond to input from proponents and the development community to allow for improvements to the process over time. It is viewed as an iterative process that allows for modifications to be considered and implemented as required. In this regard, City staff are part of a Continuous Improvement Team that has been established by the Region and is comprised of representatives from the local municipalities to identify opportunities for further efficiencies and maintains staff's collaboration with the Region, our partner municipalities and may include representatives from BILD. Staff will continue to work collaboratively with all stakeholders in the process to address issues as they arise and to ensure that the process continues to evolve over time.

Concurrent Development Applications

In light of the accelerated approval timelines for Official Plan Amendment, Zoning By-Law Amendment and Site Plan applications, concurrent development applications will no longer be accepted. Previously, the submission of concurrent applications was strongly recommended in order to reduce the review and approval times for development. Under Bill 109, combined Official Plan and Zoning By-law Amendment applications are required to be approved within 120 days which is not feasible. Official Plan Amendments are typically complex and require inputs/comments from beyond City Departments (i.e. external agencies, Provincial ministries, etc.) which do not follow the City's commenting timelines for commenting and may require additional submissions to satisfy their requirements. Phase 1 and 2 of CAP will allow for the concurrent review of Official Plan Amendment, Zoning By-law Amendment and Site Plan applications. The final sign off at the end of phase 2 of CAP will be issued and the applicant will be advised of whether or not applications may be able to proceed to Phase 3, *Planning Act* Application, separately or concurrently.

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Staff will continue to explore alternatives and solutions that may allow for concurrent consideration of applications in the future as they are beneficial to the timely review and approval of development proposals.

Review of City Policies and By-laws

Pursuant to the provisions of the *Planning Act*, the City's Official Plan is required to have policies that identify its complete application and Pre-Submission requirements. **Sections 5.3 and 5.4** of the Plan outline the requirements for both of these processes. In consideration of the City adopting the revised development application review and approval process, staff have undertaken a review of the City's Official Plan policies and are of the opinion that the current policies are sufficiently broad enough to implement the revised development application process as outlined in this report without the need for an amendment to the Plan at this time.

Staff will continue to review the revised process against the City's policies along with the best practices of other jurisdictions and if it is decided that the current policies of the Plan need to be revised, this will be facilitated through the City's ongoing Plan update. It should be noted that staff have also reviewed the City's Pre-Submission By-law 123-08 in consideration of implementing the CAP process and advises that the by-law also does not require an amendment at this time in order to facilitate the proposed revised development review and approval process.

Notwithstanding the foregoing, it is recommended that the City's Site Plan Control by-law 137-09, as amended, be further amended in order to reconcile the applicable legislative changes resulting from approval of Bills 109, 23 and 97 as outlined in the next section. Additionally, staff are recommending amendments to Development Planning Division's portion of the City's Tariff of Fees By-law to establish new fees to reflect Phase 2 of the CAP process. A summary of the various changes is outlined below.

Site Plan Control By-law 137-09

As noted previously, Bill 23, significantly altered the parameters of Site Plan control for municipalities. More specifically, Bill 23:

- removed Site Plan control for residential development proposals up to 10 units, except for land lease communities; and,
- removes a municipality's power to regulate exterior with the exception of the following matters:
 - exterior access to a building that contains affordable housing;
 - green roofs;
 - building construction requirements related to environmental conservation under the *Building Code Act, 1992*; and

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- the appearance of building elements that impacts matters of health, safety, accessibility, sustainable design or the protection of adjoining lands.

Further, Bill 97 reconsidered the Province’s previous position on developments less than 10 units and now permits Site Plan approval to apply to developments less than 10 units if those developments are located within 120 metres of a shoreline and 300 metres from a railway. While the City’s current Site Plan Control by-law already delegates Site Plan approval authority to the Commissioner of Planning and Infrastructure (which was required by Bill 23), a revised Site Plan Control By-law 76-23 has been prepared that reconciles all of the legislative changes as outlined above thereby bringing the City’s Site Plan Approval by-law fully up-to date from a legislative perspective (refer to Appendix “H”).

Tariff of Fees By-law 83-22

Given the considerable amount of upfront staff time and resources required to implement the amended process, an interim amendment to the City’s Tariff of Fees By-law (to be effective as of July 12, 2023) is recommended in order to support same and to ensure reasonable cost recovery (see Appendix “I”). The amendment proposes an increase to the City’s Pre-Submission fees and removes the credit previously given upon submission of *Planning Act* applications; the establishment of Stage 1 Submission Requirements fees for “major” and “minor” applications which takes into consideration the type of proposal, and the anticipated level of complexity for the Stage 2 component of CAP process. Additionally, a new ORM Conformity Review Fee (as discussed later in this report) will also be added that addresses properties that are no longer covered under Site Plan Control but are still required to demonstrate compliance with the ORMCP legislation. It is important to note that Pre-Submission fees for minor Site Plan applications will be increased however, these will be fully credited towards the *Planning Act* submission in order to ensure that the planning approvals for smaller scale projects remain accessible to property owners maintaining and/or expanding their businesses and homes.

The proposed amendment to the Tariff of Fees By-law also includes an additional fee for Natural Heritage Feature Staking. As a result of the Bill 23 and Bill 109 changes to the *Planning Act* and *Conservation Authorities Act*, conservation authorities (CAs) are now only permitted to provide comments for components of development and land use applications on matters related to natural hazards (i.e. confirming the limits of floodplain areas, erosion hazards, and wetlands associated with natural hazards). As a result, the balance of the natural heritage features and functions that the City is responsible for protecting in accordance with the direction in the *Provincial Policy Statement*, *Oak Ridges Moraine Conservation Plan* (ORMCP), *Greenbelt Plan*, and/or the City’s Official Plan, fall to the local municipality to implement (i.e. confirming the limits of significant woodlands, areas of natural and scientific interest, significant valleylands, significant wildlife habitat, wetlands not associated with natural hazard areas, etc.). To ensure the additional resources required for the City to confirm the limits of natural heritage

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features and their functions through a staking exercise, a new fee is proposed to be established in the Tariff of Fees By-law. This new fee will ensure the City operates on a fee for service model with respect to these new responsibilities that were previously undertaken by the TRCA.

Further to the above, it should be noted that the City initiated a Development Application Fee Review in January 2022 which is ongoing at this time. In this regard, the City has retained Watson & Associates Economists Ltd. to undertake a comprehensive assessment of the full cost of the development application review and approvals process, including direct, capital and indirect costs of service, and the development of a new cost model that provides fee structure recommendations to provide for reasonable full cost recovery. The study is anticipated to be completed in the fall of 2023 which will inform the development application fee amounts for 2024 onward.

Next Steps

As part of the implementation of the CAP process, other City processes/procedures need to be realigned or revised in order for the City to successfully implement the revised development application review and approval process and to appropriately respond to the Bills 109, 23 and 97 legislative changes to the *Planning Act*. The next steps in the City's response are summarized below:

EnerGov Modifications

The City is in the process of completing the integration of the EnerGov application tracking system which is scheduled to replace the City's existing PALIS development application tracking system. The EnerGov system is permitting and licensing platform which uses GIS to automate and centrally connect critical processes, streamline workflow, improve communication and increase productivity of the City's planning, permitting, licensing, asset management and citizen requests workflows. The EnerGov system was configured on the basis of the City's existing development application review and approval processes and will therefore require reconfiguration of primarily the Pre-Submission Meeting module to reflect the proposed changes as outlined in this report. Since the CAP process is to be implemented in conjunction with the July 1, 2023 effective date mandated by the Province, dedicated resources to undertake this reconfiguration of the application review process as well as other minor modifications to the other affected processes will be required.

Planning Applications, Related Documents and Website Modifications for Revised Development Review and Approval Process

As part of the implementation of the revised development application review process, City staff will need to revise all Development Planning Division applications (including online application submissions, information guides, etc.), update the City's website to reflect these changes and develop a communication strategy to advise the public and

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external stakeholders of the City's new development application review and approval process to ensure a successful implementation and minimize frustrations that may arise as a result of the new proposed process.

Municipal Planning Data Reporting Regulation

On April 6, 2023, Ontario Regulation 73/23 came into effect through the approval of Bill 23 which required 29 municipalities across Ontario (including the City of Richmond Hill) to prepare reports with respect to prescribed information on planning matters to the Ministry of Municipal Affairs and Housing. The prescribed information includes quarterly reporting of various development applications and additional growth related information quarterly and annually (refer to Appendix "G") in order to provide the Province with up to date data to measure progress towards its Housing Supply Action Plan commitments. The first report is due on June 30, 2023. This mandated reporting requires a dedicated resource within the Development Planning Division to ensure that relevant data is collected and submitted in accordance with the Provincial requirements.

Removal of Site Plan Control for Residential Developments

As noted previously in this report, the Bill 23 changes mandating the removal of Site Plan Control for all developments of 10 residential units or less came into effect date on November 28, 2022. This affected approximately 100 active Site Plan applications that were under review by the City at that time which included a number of Site Plan applications for single detached dwellings pursuant to the City's Site Plan Control By-law 137-09, as amended. City staff were forced to pivot and review the City's existing review and approval processes and establish new ones to respond to the legislative changes. In this regard, City staff leveraged the City's existing Site Alteration Permit process that is used to review and approve/regulate components of development related to grading and servicing and tree inventory and preservation in advance of a Building Permit application.

Applicants that were far along in the Site Plan approval process were given the option to complete their existing Site Plan application rather than start a new process while more recent residential proposals have been directed to proceed through the Site Alteration Permit process. This has resulted in significant changes to the City's current review and approval processes, including the reallocation of staff resources to undertake such review under the Site Alteration Permit process. Staff will review the Site Alteration Permit By-law and associated process to ensure that the current by-law and process remains appropriate to absorb the additional volume and types of applications that were previously not reviewed in the context of the Site Alteration Permit process which may necessitate an amendment to the Site Alteration Permit By-law and application fees.

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Implications on Oak Ridges Moraine Properties

The removal of Site Plan Control for residential developments of up to 10 units has also had the effect of removing Site Plan Control on lands within the Oak Ridges Moraine (ORM). Lands within the ORM comprises approximately one third of the City's land area. The *ORMCP* established in 2002, provides direction on land use and resource management for the land and water located within the moraine. Prior to the approval of Bill 23, the City's Site Plan Control By-law required that any development in the ORM be regulated through the Site Plan approval process in order to ensure compliance with the applicable provisions of the *ORMCP* and included City staff and external agencies (i.e. TRCA) to ensure compliance.

While Bill 23 removed the ability to govern these matters under Site Plan control, the *ORMCP* remains in effect and therefore, the City is obligated to continue to ensure development is in conformity with that legislation. In this regard, staff have had to establish an alternative process for the review of residential development of 10 units or less on the Moraine. Similar to Site Plan Approval, the applicant will be required to pre-consult with Development Planning and Park and Natural Heritage Planning (PNHP) staff to provide a list of studies required to demonstrate conformity with the *ORMCP* and to minimize impacts to Natural Heritage Features (NHE).

This will be a prerequisite to submitting a Site Alteration Permit and/or Building Permit. The City's PNHP division will provide review and sign-off as part of the Site Alteration Permit process to ensure compliance with the *ORMCP*. Staff have implemented this process on a trial basis and to date it has proven to be effective in regulating development on lands within the Moraine. This new process has resulted in a shift of staff resources and requires the establishment of a nominal fee for the cost recovery of PNHP staff's coordination and review of ORM related reports and studies previously covered by Site Plan approval. This additional fee, will be included in the amendment to the Tariff of Fees By-law proposed as part of this report.

The realignment of the City's established processes has resulted in a significant increase in the processing of Site Alteration Permits and has necessitated the reallocation of staff resources to review and approve same.

Additional Process Improvements:

Beyond the changes that have been mandated pursuant to the legislative changes resulting from the approval of Bills 109, 23 and 97, City staff are committed to ongoing process improvements to further streamline and optimize efficiencies as part of the City's development application review service delivery and as part of the City's commitment to support the Province's objectives. Accordingly, outlined below are the improvements and initiatives currently underway and/or to be initiated in the short to mid-term that will support the proposed CAP process and also serve to reduce or remove process hurdles, enable incremental improvements in performance against

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legislated timeline requirements and increase certainty in the development review process.

Delegation of Administrative Planning Decisions

In consideration of the goal of reducing review and approval timelines, it is recommended that various administrative planning matters be delegated to the Commissioner of Planning and Infrastructure. This includes matters such as:

- municipal servicing allocation;
- request for comments for Site Plan applications for proposals on Regional roads;
- Municipal Street Naming (where the proposed street names are already approved);
- Removal of Holding (H) symbols; and,
- Minor Alterations to Properties Designated under Part IV or Part V of the *Ontario Heritage Act* (i.e. alterations to hard landscaping features, minors repairs for damage, exterior painting etc.)

Currently staff reports are prepared for Council approval/information purposes for the above noted matters. These are routine and often simple reports intended on advising that an applicant has satisfied the Council approved IGMS policy for municipal servicing allocation, informing Council of a Site Plan proposal along an arterial road, advising that a development proposal is being assigned a street name from the Council approved Street Name List or that the applicant has satisfied a condition of a previous zoning approval (i.e. removal of a Holding ('H') provision).

These reports, including those for approving minor alterations to designated heritage properties, expend considerable staff time in preparing these relatively straight forward reports and often results in delays in the issuance of approvals due to the need to schedule reports/by-laws for consideration and/or approval at Committee of the Whole and Council meetings (including reporting through Heritage Richmond Hill in the case of minor heritage permit reports). Through the delegation of these relatively straight forward reports to the Commissioner of Planning and Infrastructure, valuable staff resources can be utilized elsewhere more efficiently and these types of approvals can be completed in a more timely manner.

The aforementioned delegated authority is similar to the authority delegated to the Commissioner of Planning and Infrastructure during the summer recess and during Council breaks. Should Council support this recommendation, the Commissioner of Planning and Infrastructure would report out on these delegated authority matters bi-annually or quarterly in order to keep Council informed accordingly.

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Use of Additional Planning Tools

As part of the City’s evaluation of its development review and approval processes and in an effort to remove barriers to efficient issuance of development approvals, staff are considering the use of the following Planning tools:

- **Condominium Exemption**

Condominium Exemption is provided by Section 9(6) of the *Condominium Act* which recognizes a proposed development has recently undergone *Planning Act* approvals and that there are sufficient safeguards in place such as a Site Plan Agreement or a Development Agreement. As such, Conditions of Draft Approval to establish the tenure applicable to the lands may not be required, and the development may be able to proceed directly to final approval. This authority would be delegated to the Commissioner of Planning and Infrastructure and would eliminate unnecessary time associated with a largely administrative process that in many cases is not necessary and has the effect of expending additional staffing resources in processing these applications. Condominium exemptions are included in the City’s Tariff of Fees By-law but are rarely used as part of the review and approval process.

- **Use of Holding (H) symbols provisions to facilitate conditional approvals**

As noted previously in this report, Holding (H) symbols are applied to properties as a means of ensuring that a condition and/or a requirement is met prior to a use being established or a development proceeding in accordance with Council’s approval. In order to meet the accelerated review and approval timelines, staff will utilize this planning tool more frequently where a development proposal is close to approval but may have outstanding matters remaining in order to meet the accelerated timelines, where appropriate. In conjunction with the previous recommendation to have this approval authority delegated to the Commissioner of Planning and Infrastructure, this will eliminate the step of staff preparing and scheduling a report to Council, and once the Commissioner of Planning and Infrastructure was satisfied that the condition(s) of the Holding (H) symbol was removed, a by-law would proceed straight to Council for passing, facilitating a faster approval.

Risks and Implications of “Do Nothing” Approach:

Loss of Revenue

Planning application fees are not a revenue tool but rather a cost-recovery mechanism which they are intended to cover the cost of staffing resources required to review and approve development applications so as not to impact the tax base for these services. In this regard, a “do nothing” approach would put the City at risk of losing all planning application fees for Official Plan Amendments, Zoning By-law Amendment and Site Plan

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Applications as municipalities are rarely able to achieve approvals within the prescribed *Planning Act* timeframes. For example, based on 2022 revenues and estimated revenues for 2023, the City could stand to lose upwards of \$1 million if it does not revise its development review and approvals process as recommended in this report.

Increased Ontario Land Tribunal Appeals

Notwithstanding the implementation of the proposed CAP process, the City may still find itself in the position of having to refuse development applications in order to not be in a position to refund development application fees or in the event that a developer/landowner does not wish to participate in the new CAP process wherein they submit an application as a means to have the OLT be the approval authority for their proposal. Based on the number of current active appeals and the significant time and resource draw required to defend applications appealed at the OLT (which are not cost recoverable) additional OLT hearings would result in a significant cost to the City. This risk may further be compounded from a cost perspective if staff needs to outsource solicitor and/or specific consultant expertise to represent the City at the OLT in order to ensure staff capacity is maintained to deliver core services and meet the deadlines under the CAP process

Financial/Staffing/Other Implications:

As noted in the Planning and Infrastructure Department Budget presentation for 2023, it was anticipated that Provincial initiatives such as Bills 109, 23 and now Bill 97, may necessitate a response and/or change to the City's development application review processes due to the introduction of accelerated approval timeframes and the mandatory requirement for planning application fee refunds. At that time, the impacts to the City were not assessed fully and many of the operating details had yet to be published by the Province. Accordingly, the proposed 2023 Operating Budget did not account for these impacts but it was identified that further reports to Council would be forthcoming when this assessment was completed to determine if any additional resource and/or funding requests are needed for the City's response to these legislative changes. While the full impacts of the legislative changes have not been fully realized, Staff have identified the following critical staff resources and funding that are needed to support the City's immediate response to Bills 109, 23 and 97:

EnerGov Re-Alignment

As noted previously in this report, City staff is in the process of finalizing the configuration of the EnerGov tracking system. However, the current configuration was designed in accordance with the City's existing development application review and approval processes which pre-date the legislation recently enacted by the Province. As such, the existing configuration will need to be revised to reflect the proposed CAP process. As the CAP process is to be implemented in conjunction with the July 1, 2023 effective date set out by the Province, a dedicated IT resource is required in order to

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undertake the immediate reconfiguration of the EnerGov system as it relates to the development application review process as well as with respect to minor modifications to any of the affected application review processes as may be required. IT has advised that a dedicated resource for approximately 1-2 months will be required to implement the changes as outlined above. The budgetary impact of said resource is projected to be \$20,000.

Staffing Resources

Heritage Planner (2 year contract)

Bill 23 imposed a 2 year timeline effective January 1, 2023 for the City to review and designate listed properties or have them automatically removed from the Heritage Register (refer to Appendix J). The City currently has 236 listed properties on the City's register. While it is not feasible to designate all 236 properties by the end of 2024, City staff have developed a Heritage designation strategy for key areas of the City (historic Village Core and early 19th century settlements) with a target of 35 designations in total. The existing staff complement of one heritage planner that currently implements the City's heritage program and delivers the core services (i.e. Heritage Permits, comments on development applications etc.) is not sufficient to respond to the Bill 23 deadline to meet the aforementioned designation target, address any associated appeals to the future heritage designations and maintain the City's commitment and reputation to supporting conservation efforts.

The budgetary Impacts for this resource on a two-year term would be \$233,200 based on a salary of \$97,200 (SEA G07 – level 3) and \$19,400 in mandatory benefits.

Development Planner II (2 year contract)

The need for the requested position stems primarily from the operational and process changes as a result of the enactment of Bills 109, 23, and 97 by the Province. The requested temporary staff resource will address planning resource needs to support the required EnerGov realignment and associated needs to the end of 2023. In this regard, in addition to the IT resource identified above, a dedicated planning resource to assist in the development and ultimate testing of the revised module which will require 25% of a Senior Planner resource during that timeframe. Additionally, a planning resource will also be needed to assist with the following:

- other EnerGov related objectives to the end of 2023;
- the addition of more Planning applications to CSS (Pre-Submission Meeting requests and Part Lot Control applications);
- migration of "Request Management" process (email/phone/counter inquiries) from EnerGov to new 311 service (tentative timeframe is October to December 2023); and,
- data migration from PALIS to EnerGov.

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Further to the above, the additional staff resource will also offset the dedicated resource allocation to other immediate business needs that are a direct result of the City's response to Bills 109,23 and 97, including the full roll-out and implementation of the revised development application review and approval process that requires revising all Development Planning Division applications (including online application submissions, information guides, etc.), website updates to reflect these changes and development of a communication strategy to advise the public and external stakeholders of the City's new development application review and approval process; compliance with Ontario Regulation 73/23 municipal data reporting that is required quarterly and annually by the Province; support the Development Planning Division with any further associated legislative changes in the short to medium terms; and, to assist with the Phase 1 implementation of KPMG's Comprehensive Review recommendations. An additional temporary staff resource will ensure no gaps in service delivery as well as the implementation of other Departmental initiatives and priorities.

The budgetary Impacts of this resource on a two-year term would be \$233,200 based on a salary of \$97,200 (SEA G07 – level 3) and \$19,400 in mandatory benefits.

The total combined funding and resource request is \$486,400. Staff are proposing the funds be drawn from the City's Tax Rate Stabilization Reserve.

Relationship to Council's Strategic Priorities 2020-2022:

The recommendations of this report are aligned with Council's **Fiscal Responsibility** strategic priority as the revised development review and approval process along with outlined improvements and initiatives to streamline and optimize efficiencies will ensure that the we mitigate revenue losses to the City, increase building activity and revenues and assist Council minimizing keep tax increases so the City is able to emerge from COVID-19 in a strong financial position. The revised development review and approval process and associated initiatives thereto is also aligned with the City's **Mission** to providing exceptional public service to our community.

Climate Change Considerations:

Despite the many changes to the City's development application review and approval process through Bills 109, 23 and 97, the City continues to be committed to ensuring the overall development of complete and sustainable communities. The revised development review process will continue the facilitation of complete communities as identified in the City's Official Plan guided by key land use planning concepts including:

- building complete communities to adapt and mitigate climate change impacts;
- walkable/transit-oriented development to reduce greenhouse gas emissions;
- protect, restore and enhance the natural heritage system and urban tree canopy to minimize flooding, erosion and improve biodiversity; and,
- sustainable building and site design to increase energy efficiency and conservation.

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Conclusion:

In response to Bills 109, 23 and 97, staff are recommending that Council endorse a revised development application review and approval process (CAP) that is focused, streamlined, transparent, reduces submissions and encourages applicant in order to yield faster approvals in accordance with the direction provided by the Province. Additionally staff are recommending re-alignment of as well as new fees, two temporary staff positions and some additional funding to support the successful implementation of the City's response to Bills 109, 23 and 97. Staff are also committed to additional initiatives to support and align the City's approach to development review and approvals to increase the supply of housing in Ontario in accordance with *Bill 109, The More Homes for Everyone Act, 2022*. Staff will continue to assess and evaluate the changes in legislation and their associated impacts to the City.

Attachments:

The following attached documents may include scanned images of appendixes, maps and photographs. All attachments have been reviewed and made accessible. If you require an alternative format please call the contact person listed in this document.

Appendix "A": Bill 109 Summary

Appendix "B": Bill 23 Summary

Appendix "C": Bill 97 Summary

Appendix "D": Current Development Application Process (OPA/ZBLA)

Appendix "E": Proposed CAP Process (OPA/ZBLA/SUB)

Appendix "F": Proposed CAP Process (Site Plan)

Appendix "G": Municipal Planning Data Reporting Regulation Requirements

Appendix "H": Draft Site Plan Control By-law, 76-23

Appendix "I": Draft Amendment to Tariff of Fees By-law 83-22

Appendix "J": Bill 23 Amendments to the *Ontario Heritage Act* and Proposed Heritage Designation Strategy

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Report Approval Details

Document Title:	SRPI.23.059 - Implementation of Bills 109, 23 and 97.docx
Attachments:	<ul style="list-style-type: none">- SRPI.23.059 Appendix A - Bill 109 Summary.docx- SRPI.23.059 Appendix B - Bill 23 Summary.docx- SRPI.23.059 Appendix C - Bill 97 Summary.docx- SRPI.23.059 Appendix D.docx- SRPI.23.059 - Appendix E.docx- SRPI.23.059 - Appendix F - Proposed CAP Process (Site Plan).docx- SRPI.23.059 Appendix G - Municipal Planning Data Reporting Regulation Requirements.docx- SRPI.23.059 - Appendix H - Draft Site Plan Control By-law, 76-23.docx- Schedule A - By-law 76-23.pdf- Schedule B - By-law 76-23.pdf- Schedule C - By-law 76-23.pdf- SRPI.23.059 - Appendix I - Draft Amendment to Tariff of Fees By-law 83-22.docx- SRPI.23.059 Appendix J - Bill 23 Amendments to the Ontario Heritage Act and Proposed Heritage Designation Strategy.pdf
Final Approval Date:	Jun 17, 2023

This report and all of its attachments were approved and signed as outlined below:

Gus Galanis - Jun 16, 2023 - 5:36 PM

Kelvin Kwan - Jun 16, 2023 - 7:16 PM

Darlene Joslin - Jun 17, 2023 - 2:45 PM