

APPENDIX 2

PROCEDURES AND

SUPPLEMENTARY INFORMATION

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1. Building Code Act

1.1 General

The Building Code Act provides the enabling authority for Councils to issue building permits through the appointment of a building official and the adoption of a building by-law. The Act also provides for the administration of property standards (transferred from the *Planning Act*). A building permit cannot be issued unless the proposed structure complies with 'applicable law' such as a zoning by-law. The associated *Ontario Building Code* sets out the standards for design and construction of buildings. Building permits are generally required for:

1. Construction of a new building or structure (garage or accessory building exceeding 10 m²) including a mobile home or manufactured dwelling;
2. The repair, reconstruction or retrofitting of a building or other construction which is a part of the structural support of a building;
3. Adding an extension;
4. Excavating or constructing a foundation;
5. Installing heating, plumbing, air conditioning or a fire place (solid fuel appliance);
6. Building or placing a temporary building;
7. The demolition of a building;
8. The change of use of a building may require a permit since different code standards may apply to the new use;

Important sections of the *Building Code Act* include:

Section 3 (2) - The Council shall appoint a chief building official and such inspectors as are necessary for the enforcement of the *Building Code Act*.

Section 7 - Enables Council to adopt a building by-law specifying the classes of permits, application fees, requirements for applications etc.

Section 8 (1) - Provides that no person shall construct or demolish a building unless a permit has been issued.

Section 15.1 - 15.8 - Sets out the enabling authority for property standards including the appointment of a property standards officer, appointment of a property standards committee, issuing of orders to remedy buildings or conditions which do not meet the requirements set out in a property standards by-law.

2. Condominium Act

2.1 General

Condominiums are a form of property ownership in which title to a unit, such as an individual apartment in an apartment building or a single detached dwelling in a private subdivision, is held by an individual together with a share of the rest of the property, which is common to all owners.

Condominiums can involve a brand new development, or an existing rental project which is converted to condominium ownership. They can apply to any type of residential building as well as commercial and industrial areas. Vacant land is not eligible.

Section 50 (2) - A condominium plan is like any plan of subdivision in that it is a way of dividing property and must be approved by the approval authority.

Section 50 (3) may be utilized to exempt approval for buildings which have already been constructed and which satisfy all of the applicable municipal policies and requirements.

2.2 Applications

Applications shall be made to Council utilizing the form prescribed and shall set out a description suitable for registration on title unless otherwise exempted by Council. Council may enter into an agreement with the applicant for the provision of services or such other matters as are governed by *Section 51* of the *Planning Act*.

3. Development Charges Act

3.1 General

Subject to undertaking a study (*Section 10*), Council may adopt a Development Charges By-law (*Section 6*) for the purposes of imposing a development charge against specified land uses to pay for increased capital costs required because of the increased need for services arising from development of the area to which the by-law applies.

Section 2 (2) - Development which may precipitate a development charge includes:

- The passing of a zoning by-law or an amendment to a by-law under Section 34 of the *Planning Act*;
- The approval of a minor variance under *Section 45* of the *Planning Act*;
- A conveyance of land to which a by-law passed under *Section 50 (7)* of the *Planning Act* applies;
- The approval of a plan of subdivision under *Section 51* of the *Planning Act*;
- A consent under *Section 53* of the *Planning Act*;
- The approval of a description under *Section 50* of the *Condominium Act*; or
- The issuing of a building permit under the *Building Code Act* in relation to a building or structure.

4. Environmental Assessment Act

Prior to the construction of public works or undertakings, such as roads, sewage works, waste disposal facilities, water filtration plants, a municipality is obliged to follow procedures under the *Environmental Assessment Act*. Some types of undertakings may fall into a class environmental assessment which is a more streamlined process in reviewing the environmental impacts of the proposed work. Generally, the intent of this Plan is to ensure that the following procedures (generalized description) are followed prior to the construction of a project (undertaking):

1. Consult with affected parties:
 - involve affected parties early in the process and continuously throughout;
 - encourage the identification and resolution of issues before an EA is formally submitted;
 - promote mutually acceptable, environmentally sound solutions through consultation.
2. Consider reasonable alternatives: planning must consider alternatives to the undertaking which fulfil the purpose of the undertaking in functionally different ways and alternative methods of implementing a particular type of alternative. The 'do-nothing' alternative must also be considered.
3. Consider all aspects of the environment: the planning process must consider the effects on the natural or biophysical environment as well as effects on the social, economic and cultural conditions that influence the lives of humans of a community.

4. Systematically evaluate net environmental effects: evaluate alternatives in light of their advantages and disadvantages and the effects remaining after mitigation or enhancement measures have been addressed.
5. Provide clear, complete documentation: the EA should strive to represent accurately the process that was followed in a clear and understandable way and to communicate the results of that process.

5. Environmental Protection Act

The *Environmental Protection Act* provides control mechanisms for the protection of the environment that has application to the general public as well as to the Council of a municipality.

Section 46 - land used for a waste disposal site may not be used for another purpose within a period of twenty-five years from the date the land ceased to be used, without the approval of the Minister.

6. Gasoline Handling Act and Code

This legislation prescribes the requirements for the handling of gasoline and associated products and amongst other matters sets out in the associated *Gasoline Handling Code*, the prescribed setbacks of gasoline storage facilities and pump islands from streets and adjacent properties. The intent of this Plan is to ensure that the amending zoning by-law reflects these standards as a measure of public safety and compatibility with adjacent land uses.

7. Reserved

8. Municipal Act

This Act provides the enabling authority for a variety of types of by-laws which serve to implement features of this Plan or to authorize other actions of Council as follows:

Section 164 (1) - Establishing a reserve for contributions resulting from the development of a subdivision and utilizing those contributions to meet expenditures for work done for which the monies were received.

Section 207 (17) - Construction or installation of a culvert.

Section 207 (52) - Acquiring land and laying out or constructing public parks, squares, boulevards.

Section 207 (55) - For constructing bicycle paths.

Section 207 (56) - Acquiring land, establishing and constructing a municipal parking lot.

Section 207.2 - For requiring an owner to enter into an agreement with the municipality for a garden suite.

Section 210 (25-30) - For regulating the construction and height of fences including the fencing of swimming pools.

Section 210 (107) - For governing and entering into agreements for encroachments on municipal property.

Section 210 (146-149) - For regulating signs.

Section 225 - For regulating adult entertainment parlors.

Section 272 - For assuming a road or bridge as a municipal road or bridge.

Section 297 - For laying out, widening, establishing or stopping up and closing a public highway.

9. Ontario Heritage Act

The Ontario Heritage Act is intended to assist municipalities with the designation and conservation of buildings, structures, districts, landscapes, ruins that may be considered to be cultural heritage or archeological resources. The municipality may use Part IV of the Act to designate individual buildings, structures or sites/landscapes or use Part V to designate a Heritage Conservation District.

Section 28 - Authorizes Council to establish a Local Architectural Conservation Advisory Committee (LACAC) of 5 or more people to advise Council on all matters related to *Part IV* of the Act.

Section 29 (2) - Authorizes a by-law to designate commencing with a Notice of Intention to Designate a building, structure or site.

Section 31(2) - Authorizes a by-law to repeal a designating by-law.

Section 32 (2) - Owner's application to repeal designating by-law

Section 33 (4) - Owner's application for permission to alter a designated property.

Section 34 (2) - Owner's application for permission to demolish or remove building or structure which forms part of a designated property.

1. The Planning Act

10.1 Amendments to the Official Plan - Sections 17 and 22

The following procedures shall be used in evaluating Official Plan applications.

A. Procedures:

1. Conduct Preliminary Review of Proposed Amendment:

A complete application shall be filed with the clerk of the municipality using an application form prescribed by the municipality and shall include a map or survey to identify the location of the property (ies) affected, existing land uses on the subject and surrounding lands, proposed land uses and servicing of the subject property;

- The application will be reviewed to determine if the proposal will involve amendments to the text, schedule or both;
- The policy sections or land use designations affected will be identified;
- The applicant's reasoning or justification for the proposal will be reviewed so that it is clearly understood.

2. Assess Compatibility of Proposed Amendment with Intent of the Official Plan:

- The application will be assessed to determine if the proposal meets the general intent of the overall purpose, goals, objectives and general policies of the Plan.

3. Assess Need for Proposed Amendment:

- Assess if the change is necessary to achieve the purpose, goals, objectives and policies of the Plan.
- Determine if conditions have changed to warrant the proposed amendment (e.g. consult local studies, statistics etc., which may point to changes in economic conditions or other circumstances);

4. Assess Long Term Implications of Proposing the Amendment:

- Assess if it is likely that the amendment will have positive or negative effects for the future e.g. could approval set the precedent for similar requests.

- Refer to local studies to understand conditions and circumstances affecting the Town.
- Consult with other municipalities on how they have dealt with similar proposals;

5. Appropriateness/Compatibility of Proposed Amendment

- Assess appropriateness of location within the context of the municipality.
- Assess compatibility of proposed use with surrounding land uses.
- determine scale of the proposal in relation to need and compatibility with surrounding land uses.
- Calculate/assess servicing in terms of capacity and adequacy of sewer, water, waste and utilities.
- Assess site suitability in terms of any physical constraints, on-site parking and loading availability etc.
- Certain studies or other information shall be submitted where required by this Plan such as:
 - traffic study or traffic engineering
 - environmental review on contaminated site
 - calculation of uncommitted residual capacity of sewer or water services
 - storm water management and drainage studies
 - archeological review
 - marketing study
 - natural heritage feature - impact assessment

6. Provincial Interests:

- Pre-consultation will involve discussions with affected agencies and the Ministry of Municipal Affairs and Housing in having regard to the Provincial Policy Statement;

7. Public Consultation:

- Notice of a public meeting shall be advertised within 45 days of the submission of a complete application pursuant to the requirements for notice.
- Following a public meeting Council may adopt the amendment as proposed or with modifications, or may refuse the application. Council shall consider any relevant public concerns with the proposed amendment and whether changes or refinements may be necessary in the public interest e.g. can the amendment be altered or improved to make it acceptable. Should Council refuse to adopt, or not adopt the amendment within 90 days of the application, the applicant may appeal to the Ontario Municipal Board.

- Where the amendment is adopted, notice of adoption shall be given within
- 15 days and the amendment together with the record of submission shall be submitted to the approval authority.
- The approval authority has 90 days to render a decision on the amendment following which there is a 20 day period for appeal to the Ontario Municipal Board. Where there is no appeal, the decision is final.
- The notice procedures as prescribed in Section 17 of the *Planning Act*, and Ontario Regulations thereto, shall be adhered to.
- However, Council may forego public notification and public meeting(s), in connection with Official Plan changes, if the changes relate to the following:

a consolidation of the Official Plan which does not affect the policies and intent of the Plan;
 altering the numbers and arrangement of provisions;
 correcting grammar or typographical errors, changing the format, punctuation or language slightly to obtain a uniform format and mode of expression in the Plan.

10.3 Zoning By-Laws - Section 34

A. General

When Council receives an application for a development project which it considers at the time is desirable, not premature, capable of being adequately serviced, and in conformity with the policies and designations of this Plan, Council may pass an implementing amending by-law to the Zoning By-Law. Council may, as a condition of development or redevelopment, require the owner of the land to enter into one or more agreements or requirements with the Municipality dealing with the provision, maintenance and use of certain facilities as set forth in the *Planning Act*. These agreements or requirements may pertain to one or more Sections of the *Planning Act*, such as:

- Community Improvement Agreement - 28 (10);
- Holding Provisions - 36 (2);
- Temporary Use Agreement - 39 (1.2);
- Cash-in-lieu of Parking Agreement - 40 (1);
- Site Plan Control Agreement- 41(7,8);
- Subdivision Control Agreement - 51(26);
- Consent Agreement - 53 (12);
- Development Permit Agreement - 70.2 (5).

B. The Zoning Amendment Process

Applications for an amendment to the Zoning By-Law shall generally comply with the following process:

Step 1 - Filing an Application

- Obtain an application for a Zoning By-Law Amendment.
- Complete the application in full. Applications which are not complete may lead to a delay in processing.
- Ensure that additional information required by the municipality is submitted. This may include:
 - an Impact Assessment if the proposed development is located close to:
 - a Natural Heritage Feature (wetland, fish or wildlife habitat area)
 - an archeological feature
 - an existing or former waste management site

Step 2 - Application Review

- The application may be circulated for review and pre-consultation with departments within and outside of the Municipality. Under the Municipal Plan Review function, however, it is the municipality who are considered to have responsibility for review of the application for compliance with the Provincial Policy Statement.
 - The Ministry of Transportation retains the jurisdiction to regulate access to provincial highways.
 - The Ministry of Citizenship, Culture and Recreation are to be circulated where an archeological assessment leads to the discovery of archeological resources.
- Circulation period is 20 days

Step 3 - Public Meeting

- A public meeting will be held to consider the application.
- Notice of the meeting must be advertised to notify the public and agencies. Advertising may be by (i) newspaper, or (ii) by mail or by personal service and by posting a notice on the site.
- The notice must be given 20 days before the public meeting.
- The public meeting is held by Council and is open to any member of the public or to an agency to make a presentation for or against the application.

Step 4 - Decision

- Council may pass (adopt) a zoning by-law amendment, may modify the amendment as proposed or may refuse to pass an amendment.
- If an amending by-law is passed, notice of the passing of the by-law amendment must be advertized within 15 days of the date of passing.

Step 5 - Appeal

- Any resident who wishes to object to the Zoning By-Law amendment may appeal.
- An appeal must be made in writing with reasons for the appeal. The letter of appeal must be submitted to the Clerk within the 20 day appeal period set out in the Notice of Passing.
- The appeal must be accompanied by a prescribed appeal fee payable to the Minister of Finance.
- If no appeal is made within the appeal period, the By-Law is automatically approved.
- In an appeal is received by the Clerk, the appeal must be sent to the Ontario Municipal Board within 15 days following the last day for appeal. The Ontario Municipal Board will decide whether the appeal is valid and subject to their decision, may hold a hearing in the municipality to hear the appeal (or to dismiss the appeal). If they hold a hearing, the decision of the Ontario Municipal Board is Final.
- Where a Council does not make a decision on the application or refuses to make a decision within 90 days of Step 1 above, the applicant may file an appeal directly with the Ontario Municipal Board who shall hold a hearing.

10.4 Holding Zone - Section 36

A. Procedures for Notice

By-laws to establish such Holding Zones shall be subject to the provisions of *Sections 34 and 36 of the Planning Act*, including the notice for and holding of a public meeting. Prior to the removal of the Holding “H” symbol, Council shall give notice of its intention to pass the amending by-law removing the holding symbol, in accordance with Section 35 of the *Planning Act*.

10.5 Interim Control By-laws - Section 38

In order to control development in an area where the municipality is reviewing its long-term planning, an Interim Control By-Law may be passed, effective for up to one year and renewable for a further year so that the maximum period it is in effect is two years from its imposition. An Interim Control By-Law shall allow the Council to place a temporary freeze on land uses in order to allow a review of land use policies. After that, at least three years must elapse before another Interim Control By-Law may be passed covering any part of the same area.

10.6 Cash-in-Lieu of Parking - Section 40

As a means to provide increased off-street parking in the downtown of Perth, Council may utilize the provisions of *Section 40* by entering into an agreement with an owner or occupant of a building where parking is required, for cash-in-lieu of parking payment. Such agreement shall set out the terms of payment, the method of calculation and shall indicate the number of parking spaces the owner or occupant is exempted from providing. The agreement may be registered on title and subject to fulfilling the terms of the agreement, the clerk shall provide a certificate to the signatory of the agreement. Monies received for cash-in-lieu of parking shall be set into a special reserve for that purpose.

10.7 Site Plan Control - Section 41

Procedures for Site Plan Control

1. Applicants are encouraged to pre-consult with Town staff on potential applications.
2. Applicants shall file a complete application together with the application fee. The application shall include a site plan drawn to scale, which includes the following information:
 - layout of all existing and proposed buildings and structures and setbacks from adjacent property lines, lot dimensions;
 - parking and loading spaces including location of handicapped parking, dimensions of parking spaces, driveways, entrances and maneuvering aisles, location of fire routes;
 - day lighting triangles on corner lots;
 - relationship of the lot to surrounding streets and other physical features e.g. water bodies, rail lines, slopes and rock outcrops;
 - site services and easements (water, sewer, storm drainage, waste disposal, utilities), sewer inverts, catch basins;
 - spot elevations or contours and site grading and landscaping;

- fencing and signs;
 - building coverage on the lot, parking space calculations, building height, percentage of landscape area;
 - key plan, scale bar, north arrow, civic address or legal description.
3. Application to be circulated to affected departments and agencies (e.g. engineer, fire chief, Conservation authority, provincial Ministry etc.)
 4. Planning Report to be submitted to Council. Council may hold a public meeting to seek public input.
 5. Final revisions to be made to the site plan.
 6. Draft site plan agreement is prepared.
 7. Site plan agreement to be adopted by by-law and registered on title. Financial guarantee is secured.
 8. Building permit is issued (subject to payment of any building permit and development charges or other fees).
 9. Inspections conducted for compliance to site plan. Financial securities released.

10.8 Parkland Dedication or Cash-in-Lieu - Section 42

The conveyance of parkland or cash-in-lieu of parkland is authorized under *Section 42* of the *Planning Act* for park or public recreational uses. The conveyance of land or cash-in-lieu may be required for residential severances or residential subdivisions at the rate of 5% or for commercial or industrial severances or subdivisions at the rate of 2% of the area or value of land, respectively, as set out in *Sections 42, 51, and 53* of the *Planning Act*. Where cash-in-lieu is accepted such monies shall be placed in a special account and spent only for the acquisition of land to be used for park or other recreational purposes, including the erection or repair of buildings and the acquisition of machinery for park or other recreational purposes.

10.9 Committee of Adjustment - Sections 44 and 45

A. General

A committee of adjustment, duly appointed under *Section 44* of the *Planning Act*, has several powers as set out in *Section 45* of the *Act*:

1. May grant a minor variance to the zoning by-law.
2. May grant a permission to expand a non-conforming use or to change that use to a similar or more compatible use.

3. May interpret the zoning by-law to permit a use that is defined in general terms.
4. May grant a variance to any by-law that Council specifies and that implements this Official Plan (e.g. Sign By-law)

A. Minor Variances

In considering an application for a minor variance, the committee of adjustment shall apply four tests, namely:

1. Is the variance minor?
2. Will it maintain the general intent and purpose of the zoning by-law?
3. Will it maintain the general intent and purpose of this Official Plan?
4. Is it desirable for the appropriate development or use of the land building or structure?

B. Procedures for Applications

1. Applicants are encouraged to consult with Town staff prior to submitting an application.
2. Applicant to file complete application with the secretary-treasurer of the committee of adjustment together with the required fee. The application, where required, shall be accompanied by a sketch or plan showing the specific dimensions of buildings or structures which affect or may be affected by the application (including buildings or structures on adjacent properties).
3. Committee shall hold a public meeting duly advertised at least 10 days prior and within 30 days after the application is date stamped as a complete application. A preview of the application (planning report) along with a site visit is recommended.
4. Committee may make a decision or reserve a decision and impose conditions on a decision. Decision to be mailed within 10 days.
5. Applicant or other person has 20 days from the date of the decision to file an appeal with the secretary-treasurer together with an appeal fee upon which the appeal is forwarded to the Ontario Municipal Board. The OMB may dismiss the appeal or hold a hearing and render a decision.

10.10 Subdivisions, Consents and Part-Lot Control - Sections 50-53

A. Procedures for Processing a Plan of Subdivision

The processing of a Plan of Subdivision shall generally consist of the following steps:

1. Satisfactory completion of an application together with the submission of the required fee to the approval authority;

2. Submission of required supplementary studies or information, where required;
3. The approval authority will be responsible for evaluating the application in compliance with the relevant policies of this Plan, and the Provincial Policy Statement. This will also include, where required, the circulation of the application to the Ministry of Transportation with respect to an entrance permit onto Highway 7; and the Ministry of Citizenship, Culture and Recreation or LACAC with respect to an archeological assessment;
4. Holding of a duly advertised public meeting (in accordance with the notice provisions set out in the *Planning Act*) to consider the proposed subdivision;
5. Draft plan approval with conditions as may be required by the approval authority, Council, Ministries or other agencies;
6. Preparation of a subdivision agreement to address the conditions of draft approval;
7. Execution of the subdivision agreement by Council and registration of the agreement against the lands to which it applies;
8. Clearance of concerns or requirements by agencies;
9. Final approval of the Plan of Subdivision and registration;
10. Development of lands per the requirements of the subdivision agreement and approvals or clearances by the Municipality and other agencies upon satisfactory completion of the requirements;
11. Conveyance of land or covenants for easements for utilities, access control or drainage;
12. Sale of lots and issuance of building permits;
13. Assumption of municipal water, sewer, roads, street lights etc., by the Municipality (subject to meeting warranty and other construction standards set out in the subdivision agreement).

B. Consents

Procedures for processing consent applications may include but not be limited to:

1. Applicant files a complete application with the Clerk;
2. Council may also seek technical input from other selected agencies and municipal staff;
3. The application will be reviewed for compliance to the policies of this Plan and the regulations of the implementing zoning by-law (Planning Report);

4. Council may have a public meeting to consider the application;
5. Council will issue a decision and may impose conditions of approval (provisional consent);
6. Decision is advertised (circulated) as required by the *Planning Act*;
7. applicant shall enter into a consent agreement where required as a means to implement the conditions;
8. Applicant has up to one year to fulfill provisions of conditional consent;
9. Consent is granted upon fulfillment of conditions and submission of deed or instrument for stamping (certificate);
10. Applicant must register consent within two years from the date the certificate is given or consent will lapse.

D. Part-Lot Control

Part-lot control may be used for existing plans of subdivision where it is necessary to re-align lot boundaries to clarify or grant title, exact specific servicing requirements as a condition of consent such as a road widening or to further control internal development on a lot.

10.11 Tariff of Fees - Section 69

Council may by by-law, adopt a tariff of fees by-law for the purpose of levying fees for the costs associated with the processing of planning applications including:

- an amendment to the Official Plan;
- an amendment to the Zoning By-law;
- a Minor Variance or permission related to a non-conforming use;
- Site Plan Control application and agreement;
- a Plan of Subdivision or Condominium application and agreement;
- a Consent application and Consent Agreement;
- a Change of use.