

Report to Planning and Environment Committee

To: Chair and Members
Planning & Environment Committee

From: Scott Mathers, MPA
Deputy City Manager, Planning and Economic Development

Subject: Bill 13, *Supporting People and Businesses Act, 2021*,
Information Report

Date: April 19, 2022

Recommendation

That, on the recommendation of the Director, Planning and Development, the following actions be taken with respect to Bill 13, *Supporting People and Businesses Act, 2021*:

- (a) This report **BE RECEIVED** for information; and
- (b) This report and draft London Plan amendments to implement changes made by Bill 13, *Supporting People and Businesses Act, 2021*, to the *Planning Act* **BE CIRCULATED** for public review in advance of the Public Participation Meeting to be held at a future date.

Executive Summary

Through changes made by Bill 13, *Supporting People and Businesses Act, 2021*, the *Planning Act* provides a new discretionary authority (new Section 39.2) that allows the council of a local municipality to delegate decision-making authority under Section 34 (Zoning By-laws) that are of a minor nature to a municipal committee, officer, employee or agent. This authority could include delegating decisions for temporary use by-laws, removal of holding symbols and other minor zoning by-law amendments. In order to delegate the new authority, the *Planning Act* requires municipalities to specify the types of by-laws subject to delegation through official plan policies.

This report includes information on the Planning Act change in Bill 13 and draft amendments to the London Plan to delegate approval authority for minor Zoning By-law Amendments and permit alternative consultation measures for minor London Plan Amendments and Zoning By-law Amendments. Staff are seeking feedback on the amendments which will be circulated for public review and be brought forward as a London Plan Amendment to a future public participation meeting.

Linkage to the Corporate Strategic Plan

The proposed amendments implement the following strategic area of focus of the 2019-2023 Strategic Plan:

- Leading in Public Service – Increase efficiency and effectiveness of service delivery.

Analysis

1.0 Background Information

1.1 Bill 13

On October 7, 2021, Bill 13, *Supporting People and Businesses Act, 2021*, was introduced to make changes to a variety of statutes, including the *Planning Act*. Schedule 19 of the Bill proposed changes to the *Planning Act* which provide a new discretionary authority (new Section 39.2) that the council of a local municipality may delegate decision-making authority under Section 34 (Zoning By-law) of the *Planning Act* for the approval of zoning by-law amendments that are of a minor nature to a municipal committee, officer, employee or agent. The Schedule also proposed

consequential amendments to the *Municipal Act, 2011* and *City of Toronto Act, 2006* to implement these changes.

These changes were posted to the Environmental Registry of Ontario for public input with a commenting deadline of November 21, 2021. The changes came into force as proposed on December 2, 2021.

Prior to Bill 13, the *Planning Act* allowed the council to delegate decisions with respect to site plans, plans of subdivision and consents to a municipal committee or staff. Through the changes made by the Bill, the council may, at its discretion, delegate authority to pass by-laws under section 34 including but are not limited to:

- Holding provision by-laws to remove a holding symbol; and
- Temporary use by-laws to authorize the temporary use of land, buildings or structures.

In order to delegate the new authority, the official plan must contain provisions that specify the types of by-laws which may be subject to delegation. This delegation may also be subject to conditions established by the council and would have the notice, public meeting and appeal requirements that apply to Section 34 applications.

Staff are supportive of the changes made by Bill 13 that would streamline the planning process for some Section 34 applications and avoid unnecessary delays. A London Plan Amendment is required to specify the types of by-laws subject to delegated approval authority in order to implement these changes.

Bill 13 does not change notice or public meeting requirements, however, the *Planning Act* currently permits alternative measures for informing and obtaining the views of the public for official plan amendments and zoning by-law amendments through official plan policies. As such, the amendment also includes alternative consultation measures for minor Zoning By-law Amendments and London Plan Amendments. A public meeting is required for an official plan amendment or zoning by-law amendment under the *Planning Act*. However, the City holds no public meetings except Planning and Environment Committee meetings with respect to the amendment. An alternative consultation procedure is necessary to delegate approval authority for minor Zoning By-law Amendments and allow for a more appropriate process for minor London Plan Amendments.

1.2 Holding provision by-law and temporary use by-law

Section 34 of the *Planning Act* provides that municipalities may pass zoning by-laws to regulate the use of land and the character, location, and use of buildings and structures, as well as other requirements for parking or loading. The *Planning Act* also permits the passing of by-laws under Section 34 to remove a holding symbol (holding provision by-laws) and authorize the temporary use of land, buildings or structures (temporary use by-laws). To pass these by-laws, municipalities must have official plan policies related to these by-laws in place. The 1989 Official Plan and the London Plan contain policies with respect to holding provisions and temporary zoning, as well as their processes and public meeting and notice procedures.

The zoning by-laws may be amended to permit changes to the zoning of the land or site-specific provisions provided that these changes conform to the objectives and policies of the official plan. An amendment to the zoning by-laws may also be made to remove a holding symbol or permit temporary use(s). Zoning by-law amendment applications must be made to the council and are subject to its approval.

Section 50 of the City's Zoning By-law regulates temporary (T) zone to permit temporary uses that are otherwise prohibited in the Zoning By-law for renewable periods of up to three years pursuant to Section 39 of the *Planning Act* (Temporary Use By-laws). Once the time period expires, the temporary zone is removed and reverts back to the original zone or may be extended to continue the temporary use through a Zoning By-law Amendment.

Under Section 36 of the *Planning Act* (Holding Provision By-laws), Council may add a holding symbol as a prefix to a zone to specify the future uses of lands, buildings or structures. The zone must not be developed or used until conditions for removing the holding symbol are met and the holding symbol is removed. Meanwhile, the Zoning By-law may permit an interim use. The interim use may include an existing use or another use which would be compatible with the ultimate use of the land.

A public meeting is not held for an application to remove a holding provision unless the holding provision refers specifically to the holding of a public meeting. Some of holding provisions require a public meeting prior to their removals. Each of these holding provisions applies for a specific reason as stated that:

h-5 Purpose: To ensure that development takes a form compatible with adjacent land uses, agreements shall be entered into following public site plan review specifying the issues allowed for under Section 41 of the Planning Act, R.S.O. 1990, c. P.13, prior to the removal of the "h-5" symbol.

Permitted Interim Uses: Existing uses.

h-106 Purpose: To mitigate potential conflicts between industrial uses and adjacent residential land uses the h-106 symbol shall not be deleted and existing and or future buildings shall not be expanded until public site plan approval is received which will address, among other items, issues of access, on-site parking, outdoor storage, buffering and screening.

h-133 Purpose: To ensure the orderly redevelopment of the site, the "h" symbol shall not be deleted and no development can occur beyond 47,120 square metres gross floor area until a comprehensive (re)development concept site plan and urban design brief are completed at the time of site plan review and a public site plan meeting is held.

Permitted Interim Uses: Permitted uses in stand-alone buildings, enclosed shopping centre format and/or non-enclosed shopping centre format totalling 47,120 square metres.

h-217 Purpose: To ensure that residential development takes a form compatible with adjacent land uses, agreements shall be entered into following public site plan review specifying the issues allowed for under Section 41 of the Planning Act, R.S.O. 1990, c. P.13, prior to the removal of the "h-217" symbol.

These holding provisions are intended to ensure that there is a public site plan review/approval process prior to development and will still be subject to a public meeting and Council's input. The proposed amendments will not change this requirement for a public meeting where required in the holding provision.

1.3 Past applications to Council

City Council considers Zoning By-law Amendment applications, including those for removing a holding symbol or temporary zoning. Zoning By-law Amendment applications considered by Council between 2017 and 2021 are summarized in the following table.

Application Type	2017	2018	2019	2020	2021
Temporary Use	4	2	3	2	3
Removal of Holding Provision	35	36	36	31	37
Zoning By-law Amendment (ZBA)	31	31	41	27	24

Council considered a couple of applications for temporary zoning or extension each year. Since 2017, 6 applications have been made to permit the continued operation of a

surface commercial parking lot, three of which resulted in concerns being raised by the public and the Architectural Conservancy of Ontario regarding heritage concerns. These concerns suggested that the extension of the temporary parking lot would jeopardize existing heritage buildings, have negative impacts on the pedestrian environment, or create unsafe conditions. Of 8 applications outside the Downtown, 5 had no comments or objection to the continuation of existing temporary use.

Over 2021, 35 applications have been considered to remove holding symbol(s), 32 (91%) of which have no comments received in response to the Notice of Application. Most of which did not hold a public meeting while 5 applications include the removal of the “h-5” holding provision which requires a public site plan review, including a public meeting held at the Planning and Environment Committee. A public site plan review process was conducted for each to address planning matters prior to Council approval.

A couple of council-adopted amendments to the Zoning By-law and the London Plan included housekeeping changes. For these amendments, a consent report including draft changes was first submitted to the Planning and Environment Committee for information and circulation, and a report recommending revised changes was presented at a Planning and Environment Committee public participation meeting.

A housekeeping amendment to the London Plan was presented at a Planning and Environment Committee public participation meeting on July 15, 2020 to correct errors and omissions and make updates to reflect council-approved amendments to the 1989 Official Plan since the London Plan’s approval in 2016. The errors and omissions identified throughout the Plan include typographical, grammatical and formatting errors, as well as inconsistencies in spacing and punctuation. Comments were primarily received from applicants or agents in association with these 1989 Official Plan amendments who were seeking to ensure that the intent of their amendments would be captured in the London Plan. All concerns identified through the public circulation of the amendment were resolved through discussions with the applicants.

Another housekeeping amendment to council-approved secondary plans was submitted as a London Plan Amendment to the January 31, 2022 Planning and Environment Committee meeting. As a decision made by the Local Planning Appeal Tribunal on April 15, 2021 brought 97% of London Plan policies into force and effect, the amendment was to update the secondary plans to reflect the transition from the 1989 Official Plan to the London Plan. The amendment includes primarily removal of references to the 1989 Official Plan and minor changes to correct errors and omissions, including typographical and formatting errors, and reflect changes to the names of provincial ministries. A similar amendment to the Zoning By-law was presented to the Committee on August 10, 2020 and September 8, 2020 to remove 1989 Official Plan references and add London Plan references. However, concerns were raised with respect to changes related to appealed portions of the London Plan. The amendment is an interim measure until the city-wide comprehensive review and update to the Zoning By-law is completed through the ReThink London initiative.

Future housekeeping changes to the London Plan and the Zoning By-law will be brought forward to the Planning and Environment Committee to refine wording or reflect changes to references to external agencies, policy documents or legislation. These changes are intended to keep the London Plan and the Zoning By-law up to date, while improving clarity and consistency in policies and mapping. Given the nature of changes, it is not expected that any concerns would be identified.

Delegation with respect to applications to remove a holding symbol, authorize temporary zoning, or correct errors and omissions will streamline the processes and remove some unnecessary items from Council’s agenda.

1.4 Existing London Plan policies

The London Plan was reviewed to make draft London Plan amendments to be consistent with the changes made by Bill 13. The Plan includes a number of policies

regarding Council's delegated approval authorities for various planning applications under the *Planning Act*.

The Our Tools part of the Plan provides that the Council and its delegated approval authorities consider planning applications including amendments to the London Plan, amendments to the Zoning By-law, site plan approval, consents to sever, and approvals of plans of subdivision, including condominiums, based on required reports and studies. The Plan also establishes a policy framework for the considerations of holding provision by-laws (Policy 1656 to 1661) and temporary use by-laws (Policy 1671 to 1673A) in order to ensure that the general intent and purpose of the Plan is maintained.

Policy 1673A provides additional criteria for the evaluation of applications to permit surface commercial parking lots on a temporary basis in the Downtown. This policy is intended to avoid the underutilization of Downtown lands and ensure high-quality, safe Downtown's pedestrian environments. This policy also assists Council in making its decision on the temporary zoning or extension application based on the criteria, including the need for parking at the subject site's location, the importance of pedestrian streetscapes and the length of time that the parking lot has been in place on a temporary basis.

1.5 Minor Variances and Minor Zoning By-law Amendments

The proposed draft London Plan amendments do not include or replace minor variances.

A minor variance is a minor deviation from requirements of the zoning by-law, most often for an individual property. The variance does not change the by-law, however, allows for relief from a specific requirement of the by-law. Minor variance applications may be made to the Committee of Adjustment and include:

- Changes in the use of land or buildings, from one non-conforming use to another;
- Extensions or enlargements of existing non-conforming uses; and
- Permissions of the use of land or building not specifically mentioned in the zoning by-law.

The Committee of Adjustment is the approval authority appointed by Council under the *Planning Act* for minor variances. The Committee approves the variance when it is satisfied that the variance is minor in nature and desirable for the appropriate development or use of the land, building or structure and maintains the general intent and purposes of the official plan and the zoning by-law.

Changes to the zoning by-law that are beyond the limited scope of the Committee of Adjustment must proceed through the zoning by-law amendment process. Some Ontario municipalities have criteria established to accept and consider minor zoning by-law amendments. The criteria generally indicate that a zoning by-law amendment is considered minor if it is small in scale or scope and has minimal or no impact beyond the subject lands. In few municipalities, a minor zoning by-laws amendment includes temporary rezoning or removal of a holding provision.

2.0 Draft London Plan Amendments

This report includes draft amendments to the London Plan with respect to the new delegation authority and provides a rationale for each change. These amendments were the result of a review of the amended *Planning Act* requirements through changes made by Bill 13 and a preliminary review and discussion of staff from various City Departments. The amendments consist of the addition of new policies and a minor change to existing policy in the Our Tools part of the London Plan.

2.1 New policies to include new delegation

The draft amendments include the addition of a subsection which consists of three policies to the Public Engagement and Notice section in the Our Tools part of the Plan. These policies provide new directions on what Zoning By-law Amendments will be

considered minor and alternative measures for public engagement. The draft policies are included in their entirety in Appendix A. The first policy includes:

DELEGATED AUTHORITY AND ALTERNATIVE ENGAGEMENT TECHNIQUES FOR MINOR AMENDMENTS

1633A_ City Council may delegate approval authority for minor amendments to the Zoning By-law. Such minor Zoning By-law amendments may include:

1. Removing a holding symbol where the provision has been met.
2. Renewal of an existing temporary use provision, except where the temporary use includes a surface commercial parking lot in the Downtown Place Type.
3. Correcting of minor errors and omissions.
4. Housekeeping updates to reflect changes to job titles, City departments, external agencies and organizations, or other policy documents and legislation.

Policy 1633A introduces new delegation for minor Zoning By-law Amendments to remove a holding symbol, extend temporary uses, correct errors and omissions, and make housekeeping changes.

Consistent with the *Planning Act*, this policy considers the lifting of a holding symbol and extensions to temporary zoning to be minor while providing some exceptions to temporary zoning. Temporary surface commercial parking lots in the Downtown may have significant impact or issues, including the impact on the pedestrian environment and low parking lot utilization rates. An application for temporary zoning or extension to permit commercial parking lots in the Downtown would require a public meeting and Council's decision and should not be subject to the new delegation.

A minor Zoning By-law Amendment would also be made to address minor errors and omissions that may include typographical, grammatical and formatting errors or to reflect housekeeping changes. The amendment is intended to refine wording and improve clarities of the regulations in the Zoning By-laws.

2.2 New policies to permit alternative measures for public consultation

The second and third policies establish alternative measures for public consultation for minor Zoning By-law Amendments and London Plan Amendments.

1633B_ A public meeting is not required for a minor Zoning By-law Amendment application described above unless concerns have been identified by written submission during the commenting period identified in the Notice of Application, if required.

1633C_ A public meeting may not be required for minor amendments to this Plan unless concerns have been identified by written submission during the commenting period identified in the Notice of Application. Such minor London Plan amendments may include:

1. Correcting of minor errors and omissions.
2. Housekeeping updates to reflect changes to job titles, City departments, external agencies and organizations, or other policy documents and legislation.

Policy 1633B sets out an alternative measure for public consultation on a Zoning By-law Amendment under Section 34(14.3) of the *Planning Act*. This section provides for alternative notice and consultation procedures for zoning by-law amendments. The policy provides that a public meeting could be waived for a minor Zoning By-law Amendment if no comments are received by the deadline established in the notice. As noted in Section 1.2, certain holding provisions (e.g. "h-5" and "h-106") require that a public meeting be held. These holding provisions will still be subject to a public meeting and Council's input prior to their removal.

Policy 1633C identifies minor London Plan Amendments and establishes an alternative consultation measure for these amendments. Similar to minor Zoning By-law Amendments, a minor London Plan Amendment would include correction of errors and omissions and housekeeping changes to improve clarities and consistencies of London Plan policies. The policy will also allow Council to forego a public meeting for a minor London Plan Amendment that has no concerns identified under Section 17(19.3) of the *Planning Act*. The section includes a similar provision for alternative measures for notice and public consultation with respect to official plan amendments. The London Plan Amendment would still be subject to Council approval, however, could be submitted as a consent report to the Planning and Environment Committee.

These alternative measures would be more innovative than the prescribed requirements under the *Planning Act* in notifying and engaging while reducing the time and costs associated with public meetings.

2.3 Changes to Existing Policy

A minor change to existing Policy 1658 in the Holding Provision By-law section in the Our Tools part improves consistency with the new policies by adding new words as underlined in the following:

1658_ *The Zoning By-law* will be amended by application to remove the holding symbol when City Council or its delegated approval authority determines that the requirements relating to the appropriate purpose as set out in the by-law have been met.

The change clarifies that the new delegation has included decisions for the lifting of holding provisions.

Conclusion

This report is intended to provide information on changes made to the *Planning Act* by Bill 13 to Council and the public and draft London Plan amendments that will be circulated for public review. The amendments in Section 2.0 will introduce a new delegation with respect to minor Zoning By-law Amendments and permit alternative measures for minor Zoning By-law and London Plan Amendments pursuant to the amended *Planning Act*. A report recommending finalized amendments will be brought forward to a future Planning and Environment Committee meeting.

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April 11, 2022
JL/jl

Appendix A – Draft London Plan Amendment

Add New Section:

DELEGATED AUTHORITY AND ALTERNATIVE ENGAGEMENT TECHNIQUES FOR MINOR AMENDMENTS

1633A_ City Council may delegate approval authority for minor amendments to the Zoning By-law. Such minor Zoning By-law amendments may include:

1. Removing a holding symbol where the provision has been met
2. Renewal of an existing temporary use provision, except where the temporary use includes a surface commercial parking lot in the Downtown Place Type.
3. Correcting of minor errors and omissions
4. Housekeeping updates to reflect changes to job titles, City departments, external agencies and organizations, or other policy documents and legislation.

1633B_ A public meeting is not required for a minor Zoning By-law Amendment application described above unless concerns have been identified by written submission during the commenting period identified in the Notice of Application, if required.

1633C_ A public meeting may not be required for minor amendments to this Plan unless concerns have been identified by written submission during the commenting period identified in the Notice of Application. Such minor London Plan amendments may include:

1. Correcting of minor errors and omissions
2. Housekeeping updates to reflect changes to job titles, City departments, external agencies and organizations, or other policy documents and legislation.

Amend the Following Policies:

1658_ The Zoning By-law will be amended by application to remove the holding symbol when City Council or its delegated approval authority determines that the requirements relating to the appropriate purpose as set out in the by-law have been met.