



Report to: Development Services Committee

Report Date: June 13, 2023

SUBJECT: City of Markham's Response to Bill 109 - [More Homes for Everyone Act, 2022, and Bill 23 – More Homes Built Faster Act, 2022;](#)

File No: PR 22 260697

WARD: City-Wide

PREPARED BY: Brad Roberts, Manager, Development Facilitation Office
Geoff Day, MCIP, RPP, Senior Planner II, Development Facilitation Office

REVIEWED BY: Stephen Lue, MCIP, RPP, Senior Development Manager

RECOMMENDATION:

- 1) That the report titled, "City of Markham's Response to Bill 109 - [More Homes for Everyone Act, 2022, and Bill 23 – More Homes Built Faster Act, 2022;](#) File: PR 22 260697", be received;
- 2) That the City-initiated Draft Official Plan Amendment, attached hereto as Appendix 'A', be finalized and brought forward to the next available Council meeting to be adopted without further notice;
- 3) That the City-initiated Draft Municipal Servicing By-law Amendment, attached hereto as Appendix 'B', be finalized and brought forward to the next available Council meeting to be enacted without further notice;
- 4) That the City-initiated Pre-Application Consultation By-law Amendment, attached hereto as Appendix 'C', be finalized and brought forward to the next available Council meeting to be enacted without further notice;
- 5) That the City-initiated Draft Development Fee By-law Amendment, attached hereto as Appendix 'E', be finalized and brought forward to the next available Council meeting to be enacted without further notice;
- 6) That the City-initiated Draft Municipal Fee By-law Amendment, attached hereto as Appendix 'F', be finalized and brought forward to the next available Council meeting to be enacted without further notice;
- 7) And that Staff be authorized and directed to do all things necessary to give effect to this resolution.

EXECUTIVE SUMMARY:

In response to the Province of Ontario's changes to the *Planning Act* under Bill 109, Bill 23, and Bill 97, Staff propose amendments to the City's Official Plan, and Pre-Consultation By-law (to be renamed Pre-Application Consultation By-law).

The proposed Official Plan Amendment includes a number of changes relating to the deeming complete of Official Plan, Zoning By-law, and Site Plan applications. The proposed Pre-Application Consultation By-law Amendment implements the policy

changes in the draft Official Plan Amendment.

Correspondence from York Region was received on November 7, 2022 delegating approval authority for the Official Plan Amendment to the City of Markham.

Staff also propose necessary amendments to impacted City by-laws, including the Municipal Services By-law, Development Fee By-law, and Municipal Fee By-law.

Staff recommend that the City-initiated Official Plan Amendment, Pre-Application Consultation By-law Amendment, Municipal Services By-law Amendment, Development Fee By-law, and Municipal Fee By-law Amendment be finalized, and brought forward to the next available Council meeting to be enacted and adopted without further notice.

PURPOSE:

This report provides an overview of the City's current development approval process and recommends changes and improvements to reflect the Province of Ontario's *Bill 109, More Homes for Everyone Act, 2022* (Bill 109), *Planning Act* amendments that received Royal Assent on April 14, 2022, as well as the Bill 23, More Homes Built Faster Act, 2022 amendments to the *Planning Act* that received Royal Assent on November 28, 2022.

BACKGROUND:

The stated intention of Bill 109 is to build homes faster by streamlining development approvals, facilitating faster decisions, increasing certainty of parkland requirements for Transit Oriented Communities, and ensuring certainty of development costs. Through amendments to the *Planning Act*, Bill 109 places the onus on municipalities to address the matters noted above. Markham Staff provided an [information report \(item 8.1\)](#) to the Development Services Committee ("DSC") on July 11, 2022, which provided a summary of the key changes to the *Planning Act* and a complete analysis of the planned and existing programs that Markham currently has in place to streamline planning and development processes. Staff recommendations are outlined later in this report.

On November 22, 2022, Markham Staff provided Council with an [information report \(item 5\)](#) on Bill 23, which proposed additional changes to the development process through amendments to various Acts, including the *Planning Act*. On November 28, 2022, Bill 23 received Royal Assent, with many changes going into effect immediately.

Staff provided an [updated report \(item 10.1\)](#) related to proposed changes to the Official Plan and the Pre-Application Consultation By-law in response to Bill 109 to DSC on November 29, 2022. This report included an outline of the current development process, along with a proposed Pre-Application Consultation process. The City held a subsequent statutory public meeting on the proposed Official Plan amendment on December 7, 2022, to solicit feedback on the proposed changes. Feedback at the meeting included residents expressing concern about notice, and their ability to access information on incoming development applications. Staff also received a letter from BiLD, (Building Industry and Land Development Association), expressing concerns with the proposed process. In addition to the public meeting on November 29, 2022, Staff engaged Markham's building industry through the City Builder's forum, and through direct meetings with BiLD.

The City received confirmation from the Minister of Municipal Affairs and Housing that the implementation date for certain components of Bill 109 would be delayed until July 1, 2023, to provide Cities with additional time to evaluate the implementation of their new processes. The City provided an [information report \(item 8.3\)](#) on May 2, 2023 on Bill 97, which imposes these changes to the Bill 109 implementation timelines.

Many aspects of Bill 23 are already in force, including the changes to site plan applications for developments of 10 units and under, and that design review of site plan is limited to sustainability issues, and matters of health and safety.

Throughout the consultation process, Staff identified potential risks with the initial process developed in 2022 in response to Bill 109. In light of these potential risks, and the need to address changes under Bill 23, Staff have revised the proposed processes.

OPTIONS/ DISCUSSION:

Legislative Changes

As identified in the [June 11, 2022 Staff report](#), Bill 109 requires municipalities to partially or entirely refund fees for applications for stand-alone Zoning By-law Amendment, combined Official Plan Amendment and Zoning By-law Amendment, and Site Plan applications if a decision by the municipality is not made within the prescribed *Planning Act* timelines. The application types, timelines, and associated refunds of fees are shown in Appendix 'D'. These changes were to take effect on January 1, 2023. Bill 97 proposes to amend that timeline to July 1, 2023. Bill 97 is not yet in force and effect.

Bill 23 exempts residential buildings from site plan control where a parcel of land to be developed will contain no more than ten residential units. As such, staff can no longer require site plan approval for applications of ten units or less. Bill 97 is proposing additional changes that would permit the requirement for site plan applications for developments of 10 units and under within areas prescribed through regulation by the Minister. It is proposed that the requirement for site plan may still apply to lands within 120 metres of a shoreline or 300 metres of a railway line, however this is not yet in force and effect.

Bill 23 also provided that exterior design is no longer subject to site plan control, except where it relates to exterior access to a building containing affordable housing units. Bill 23 added to site plan control, those matters relating to building construction required under green roofs or environmental standards by-laws, as well as that site plan control may apply where the appearance "impacts matters of health, safety, accessibility, sustainable design or the protection of adjoining lands".

Bill 23 further amended the *Planning Act* to allow up to 3 residential units per lot as of right in existing residential areas. These "additional residential units" are second and third residential units that are in addition to a primary residential unit, for a total of three units on a residential lot. A residential unit must have self-contained rooms with exclusive use of kitchen, sleeping and sanitary facilities.

Proposed Process Changes

Staff have conducted an in depth review of all three processes affected by the fee refund provisions under Bill 109, as well as the current site plan approval process for 10 units and under. Markham's current Official Plan and Zoning By-law amendment processes, along with the Site Plan approval process, have evolved over time to streamline the overall development process by consolidating application and approval processes.

Site Plan Approval

One key risk identified through the recent legislative changes under Bill 109 and Bill 23 is the City's ability to leverage the site plan agreement process to secure necessary works associated with the development. Historically, cities have relied on conditional site plan approvals to require site plan agreements to secure the delivery of necessary works, including the provision water, sanitary sewers, storm water management, road and boulevard improvements, and other off site works required to service a property. Cities also leverage site plan control to obtain any required parkland dedication, and secure other reviews to ensure City by-laws are complied with. Under Bill 109, the City is required to issue site plan approval within 60 days of submission of a complete application, failing which, the City is required to issue refunds on a sliding scale (Appendix 'D'). As the City is compelled to issue site plan approval within a prescribed time, the ability to secure an agreement with applicant is significantly diminished.

Staff considered the use of conditional site plan approval to leverage an applicant to enter into an agreement, however the Building Code is clear that non-compliance with a condition of site plan approval does not prevent the issuance of a building permit. The City's ability to enforce conditions of site plan approval are limited as enforcement of conditions will likely occur post construction. The City's ability to levy fines for non-compliance often doesn't align with the cost of rectifying issues at a post construction stage. Enforcement actions in these cases will also likely fall on future owners after construction is complete. For these reasons, Staff has sought alternative methods of securing required works through other aspects of the development process.

Staff have identified a number of components of the site plan process that are separately regulated, and can be safely eliminated or can be addressed through other procedures. As the City can no longer rely solely on the site plan process to secure necessary works to facilitate development, Staff have developed processes that leverage other legislative authority where available, to facilitate sound development through good planning. This includes, but is not limited to, adding a requirement for municipal servicing agreements to ensure adequate roads and infrastructure are provided to the site, and a separate process to secure the dedication of parkland through agreements, both of which can be captured as part of the applicable law review under the Building Code.

Components of the City's site plan review process will be redistributed into the following categories:

1. Reviews/approvals that can be required prior to deeming an application complete
2. Reviews/approvals - Applicants should initiate prior to application submission
3. Reviews/approvals that are applicable law under the Building Code, and which are required prior to building permit or occupancy

4. Reviews/approvals that will be applied as redlined changes to submitted plans
5. Reviews/approvals that are authorized by separate By-laws or legislation
6. Reviews that, if not addressed, may result in appeals from other agencies
7. Alternative process for addressing developments of 10 units or less

Additional information regarding the above noted categories can be found in Appendix 'G' attached to this report.

By redistributing these separately legislated processes, Staff will be able to meet the 60-day approval timeline as prescribed within the Act.

Official Plan and Zoning By-law Amendment Process

Unlike the site plan process, where the City must approve the application within 60 days or provide refunds, the Zoning By-law Amendment process (90 Days), along with the combined Official Plan Amendment and Zoning By-law amendment processes (120 days) only requires the City to render a decision within the prescribed timelines. To avoid exceeding timelines for review and ensure that refunds are not required, the applications will need to follow rigid timelines, including when the public meeting is held, when recommendation reports are put on DSC agendas, and when Council will need to render decisions on a proposal.

Options for additional public consultation will be limited, and the City may be forced to render a decision to refuse an application in cases where an applicant has not provided sufficient information to support approval.

For this reason, rezoning and OP/ZBL applications will fall within three main categories:

- Applications that can be supported
- Applications that can be supported with modifications
- Applications that cannot be supported

While it has been common practice to defer key discussions or issues to the site plan stage in order to quickly implement zoning for a development, as changes in the site plan process require the City to approve site plan applications, it is increasingly important to address all major issues that can be addressed, including parking, heights, and building massing, and other key elements at the zoning stage. Additional information on the above noted categories can be found in Appendix 'G', attached to this report.

BILL 23 AND PLANNING APPROVALS FOR 10 UNITS OR LESS

Approvals for 10 units or less

As noted above, developments of 10 units or less are no longer subject to site plan control, and the City has no ability to review and approve these developments by way of site plan review.

Where applicable, applications for these developments will still have to proceed through all the other areas of City review or compliance noted above that are outside of

the site plan process, including the municipal services agreement, zoning by-law approvals, building permit, and compliance with by-laws such as the Road Occupancy By-law (2018-109) and the Infill Construction By-law (2018-77). Since some aspects of the site plan review have been moved into these other processes to accommodate the reduced timelines under Bill 109, staff will still be able to review some elements of these developments.

The City's current and proposed zoning under the new Comprehensive Zoning By-law does not create many opportunities for developments of 10 units or less "as of right" as most of these developments will require some level of new or modified zoning permissions. The few possible instances where these permissions exist will likely also be subject to additional development application processes, such as consent, deeming by-law, or condominium applications.

In order to provide some notice to the public of these developments under 10 units, Staff propose that building permit applications be posted to the City's MappiT public web service. This is an online and interactive map that is available to the public showing current development applications, and certain plans associated with those applications. Any application for rezoning to permit 10 residential units or less, or any site plan applications for developments of 10 units or less are already included in the MappiT public web service.

Posting of Building Permits on MappiT will allow residents to see the active applications in their neighborhoods however; building plans and drawings, particularly drawings of private residences, will not be available to be viewed through the MappiT software.

Approvals for 3 units or less

Bill 23 amended the Planning Act to allow up to 3 units per lot as of right in existing residential areas. As the units are permitted as of right through zoning, and they are exempt from the site plan process due to being less than 10 units, the City will only have an opportunity to review these developments through the building permit process. Further, the City will have no notice of these developments, except through the building permit application process.

Additional residential units must comply with Ontario Building Code and Fire Code requirements. The City requires all additional units to be registered with the Fire Department.

Similar to staff's recommendation above, in order to provide some notice to the public of these 3 unit developments, Staff propose that building permit applications also be posted to the City's MappiT public web service. As noted above, building permit plans and drawings will not be available on the MappiT web service for public viewing.

REQUIRED AMENDMENTS TO BY-LAWS TO IMPLEMENT NEW PROCESSES

Municipal Services By-law

Under Section 34(5) of the Planning Act, the City can pass a by-law that prohibits the use of land or the erection of a building or structure unless municipal services, as set out in a by-law, are made

available to service the land, building or structure. The City's current Municipal Services By-law, 2005-105, is limited in nature, and doesn't apply to non-residential sites. The City has historically been able to use the site plan agreement to secure all the necessary municipal infrastructure for the appropriate development of a site. The proposed revisions to the Municipal Services By-law incorporate requirements for the necessary municipal infrastructure for all building types and uses, including residential units now exempt from site plan control under Bill 23. Staff also propose to revise the Municipal Services By-law to include offences for failure to comply.

Development Fee By-law

The City's Development Fee By-law is passed under Section 69 of the Planning Act. The City is proposing one amendment to the Development Fee By-law at this time. Under the current Fee By-law, 60% of site plan fees is deferred to the agreement stage, however the City is no longer pursuing site plan agreements. The City recently reduced site plan application fees by 50%, so Staff are proposing to collect 100% of the reduced application fee at the time of application.

Staff also collect a fee for Pre-Application Consultation under Section 69 of the Planning Act. Section 69 authorizes the City to collect a fee or tariff for the process of application in respect of planning matters. Under the new process, the City's Pre-application consultation will not only outline what is required for a complete application for required Planning Act applications associated with the development of the site, it will also address the requirements of number of other applications and processes that may be required as part of applicable law under the Building Code, to facilitate the development independent of the proposed Planning Act application. Staff are proposing that this fee be relocated to the Municipal Act Fee By-law, as permits the City to apply fees for services or activities provided or done on its behalf, so Staff are proposing that a Pre-Application Consultation fee be imposed under Section 391 of the Municipal Act.

The City is presently undertaking an in-depth review of the development fee by-laws related to *Planning Act* applications. Staff anticipate significant changes to the Development Fee By-law, and possible correlating changes to the Municipal Fee By-law in the fall of 2023.

Staff will continue to assess the need for any possible future amendments to City By-laws that may be required in response to the proposed process changes.

ADDITIONAL EFFICIENCY OPPORTUNITIES

In addition to the above proposed changes, Staff have explored several avenues to create efficiencies in Markham's development processes, including the following:

- Undertaking a "LEAN" review process
- The establishment of a working group with Regional partners to develop a strategy to address Bill 109
- An open dialogue through consultation with the development industry (Markham City Builders Forum)
- The development of Terms of References for key studies required for certain development applications in order to provide clear direction on submission expectations
- The establishment of minimum submission standards to reduce the number of department and external agency circulations
- The establishment of a new Pre-Application Consultation By-law that clearly outlines the City's expectations for the preparation, review and processing of

development applications

NEXT STEPS:

The components of Bill 109 and Bill 23 that affect the development approval process will be implemented through the enactment, adoption, and modification of the following:

a) The draft Official Plan Amendment (Appendix ‘A’)

- i) Technical Amendments to various Section 9 policies presently identify the [1987 Official Plan](#) as the operative policy document until such time as new general official plan amendments are adopted for a specific area, new secondary plans are adopted for a specific area, or updates to existing secondary plans are adopted for a specific area. The technical amendments to Section 9 would require conformity to the new policies of Section 10 of the [2014 Official Plan](#), notwithstanding that the 1987 Official Plan applies to the specific lands.
- ii) The proposed modifications to Section 10.4 of the draft Official Plan Amendment responds to subsection (4.0.1) of Bill 109 by delegating Site Plan Approval to the Director of Planning and Design, or their delegate.
- iii) Amending Section 10.6 of the 2014 Official Plan to include an updated list of materials that may be required as part of a complete development application.

Note: Correspondence from York Region was received on November 7, 2022 delegating approval authority for the OPA to the City of Markham.

b) The Draft Pre-Consultation By-law (Appendix ‘C’).

The City’s existing Pre-Consultation By-law 2008-148 is to be amended to implement the new policy changes in the draft Official Plan Amendment related to the Pre-Application Consultation and Complete Application processes.

c) Update to the Municipal Services By-law (Appendix ‘B’).

Revisions to/Repeal and replacement of the City’s Municipal Service By-law, and replacing it with a Municipal Infrastructure By-law that captures requirements for all the City services necessary to facilitate the development of a site, inclusive of road infrastructure.

d) Updates to the Development Fee By-law (Appendix ‘E’).

Staff are proposing one amendment to the Development Fee By-law, which is to eliminate the deferral of 60% of the site plan application fees to the site plan agreement stage, and require 100% of the site plan application fees to be paid at application submission.

Staff are also proposing to remove the fee for Pre-Application Consultation from the Development Fee By-law.

e) Updated to the Municipal Fee By-law (Appendix ‘F’)

Staff are proposing a fee for Pre-Application Consultation be incorporated into the Municipal Fee By-law.

f) Updates to the Site Alteration By-law, Demolition Control By-law, and Refuse By-laws

Staff have identified a need to amend the Site Alteration, Demolition Control, and Refuse By-laws to secure certain reviews. Proposed amendments to these by-laws will be brought forward to Council to be passed at a later date as required.

g) Updates to ePLAN

In addition, Staff will be undertaking an update to ePLAN to include a Site Plan process to deem an application complete, the creation of processes for Municipal Infrastructure agreements, as well as parkland dedication. Other administrative changes to implement an improved development application submission process will also be undertaken.

FINANCIAL CONSIDERATIONS:

Staff are currently conducting a detailed review of the implications of Bill 109 from a financial perspective. Upon a high level review, Staff note that based on the current processes and timelines, a significant majority of the development application fees collected would be subject to fee refunds without significant process improvements that reduce timelines. To implement the proposed changes will require further updates to the ePLAN system.

The adoption of the Official Plan Amendment (Appendix ‘A’) would reduce the risk of fee refunds by updating the requirement for complete application to reflect the City’s new processes for site plan review. The passing of accompanying by-laws to this report will serve to secure and protect against some of the financial losses that may occur when processes are removed from the site plan application process.

Staff’s ongoing review of the Development Fee by-law will consider the proposed changes to the development review process in its recommendations. Subsequent amendments to the fee by-law may be required to address these changes.

While it is Staff intent to mitigate or eliminate any financial losses as a result of changes to these process, it is still unclear what the full impact will be on the various Departments and Agencies involved in the review of development applications. The proposed changes related to Site Plan process, particularly the redistribution of components of the site plan agreement may have unanticipated impacts.

HUMAN RESOURCES CONSIDERATIONS:

In order to meet the new accelerated timelines, additional staffing resources may be required for those City departments involved in the development review process and enforcement of regulatory by-laws.

ALIGNMENT WITH STRATEGIC PRIORITIES:

This report addresses Growth Management and Municipal Services priorities with an emphasis on the goals “Exceptional Services by Exceptional People” and “Safe, Sustainable and Complete Community” of the Building Markham’s Future Together Strategic Plan.

BUSINESS UNITS CONSULTED AND AFFECTED:

These City-wide applications affect numerous City Departments. All impacted City departments and external agencies have been consulted through this project.

Giulio Cescato, MCIP, RPP
Director, Planning and Urban Design

Arvin Prasad, MCIP, RPP
Commissioner Development Services

ATTACHMENTS:

Appendix 'A': Draft Official Plan Amendment
Appendix 'B': Draft Municipal Infrastructure By-law
Appendix 'C': Draft Pre-Application Consultation By-law
Appendix 'D': Bill 109 Fee Refunds
Appendix 'E': Draft Development Fee By-law Amendment
Appendix 'F': Draft Municipal Fee By-law Amendment
Appendix 'G': Additional Process Information

Appendix 'A'
Draft Official Plan Amendment
CITY OF MARKHAM

OFFICIAL PLAN AMENDMENT NO. XXX

To amend the City of Markham Official Plan 2014, as amended.

Entire Municipality

December 2022

CITY OF MARKHAM
OFFICIAL PLAN AMENDMENT NO. XXX

To amend the City of Markham Official Plan 2014, as amended.

This Official Plan Amendment was adopted by the Corporation of the City of Markham, By-law No. 2023-xxx in accordance with the *Planning Act*, R.S.O., 1990 c.P.13, as amended, on the XXth day of June 2023.

Kimberley Kitteringham
City Clerk

Frank Scarpitti
Mayor

By-law 2023-XXX

Being a by-law to adopt Amendment No. XXX
to the City of Markham Official Plan 2014, as amended

THE COUNCIL OF THE CORPORATION OF THE CITY OF MARKHAM, IN ACCORDANCE WITH THE
PROVISIONS OF THE PLANNING ACT, R.S.O., 1990, HEREBY ENACTS AS FOLLOWS:

1. THAT Amendment No. XXX to the City of Markham Official Plan 2014, as amended, attached hereto, is hereby adopted.
2. THAT this by-law shall come into force and take effect on the date of the final passing thereof.

READ A FIRST, SECOND AND THIRD TIME AND PASSED THIS XXth DAY OF JUNE, 2023.

Kimberley Kitteringham
City Clerk

Frank Scarpitti
Mayor

CONTENTS

PART I - INTRODUCTION

1.	GENERAL	6
2.	LOCATION	6
3.	PURPOSE	6
4.	BASIS	6

PART II - THE OFFICIAL PLAN AMENDMENT

1.	THE OFFICIAL PLAN AMENDMENT	9
2.	IMPLEMENTATION AND INTERPRETATION	16

PART I - INTRODUCTION

(This is not an operative part of Official Plan Amendment No. XXX)

PART I - INTRODUCTION

1.0 GENERAL

- 1.1** PART I - INTRODUCTION, is included for information purposes and is not an operative part of this Official Plan Amendment.

- 1.2** PART II - THE OFFICIAL PLAN AMENDMENT constitutes Official Plan Amendment No. XXX to the City of Markham Official Plan 2014, as amended. Part II is an operative part of this Official Plan Amendment.

2.0 LOCATION

This Amendment applies to all of the lands within the geographic boundary of the City of Markham.

3.0 PURPOSE

The purpose of this Official Plan Amendment is to amend certain existing policies and add additional policies due to changes that have been made to the *Planning Act* resulting from the *More Homes for Everyone Act, 2022*.

The amendment modifies Section 10 “Implementation” of the 2014 Official Plan in order to implement the City’s new pre-application and complete application requirements.

4.0 BASIS OF THIS OFFICIAL PLAN AMENDMENT

Ontario's *More Homes for Everyone Act, 2022* received Royal Assent on April 14, 2022. Some provisions were immediately in force, while others were proclaimed on July 1, 2022, or will come into force as of June 1, 2023. This Official Plan Amendment addresses those changes that came into effect on July 1, 2022 and those that will come into effect June 1, 2023.

Ontario's *More Homes for Everyone Act, 2022* made changes to the *Planning Act* regarding Site Plan Control, Zoning By- Law Amendments, and Combined Zoning By-Law and Official Plan Amendment applications. The changes include new direction relating to pre-consultation with municipalities before Site Plan applications are submitted to the Approval Authority, particularly as it applies to determining completeness of the application and potential application fee refunds if a decision is not made by the Approval Authority within the specified timeframes for Site Plan Control, Zoning By- Law Amendments, and Combined Zoning By-Law and Official Plan Amendment applications.

This Official Plan Amendment responds to these changes by updating the City’s policies regarding pre-application and complete application submission requirements. The objective of these new and amended policies is to create a clearer, more transparent and more efficient development application process. This approach will assist in ensuring applications are processed within the regulated timeframes and reduce delays once an application has been deemed complete.

The Official Plan Amendment includes technical Amendments to various Section 9 policies, which presently identify the 1987 Official Plan as in-force policy document until such time as new general official plan amendments are adopted for a specific area, new secondary plans are adopted for a specific area or, updates to existing secondary plans are adopted for a specific area. The technical amendments to Section 9 will require conformity to the new policies of Section 10 of this Plan, notwithstanding that the 1987 Official Plan applies to these specific lands.

PART II - THE OFFICIAL PLAN AMENDMENT
(This is an operative part of Official Plan Amendment No. XXX)

PART II - THE OFFICIAL PLAN AMENDMENT

1.0 THE OFFICIAL PLAN AMENDMENT

1.1 Section 9 of the Official Plan 2014, as amended, is hereby further amended by:

- a) Re-numbering Section 9.3.7.3 to 9.3.7.3 a)
- b) Adding a new Section 9.3.7.3 b) as follows:
“b) Notwithstanding Section 9.3.7.3 a) above, Sections 10.4 and 10.6 of this Plan shall apply.”
- c) Re-numbering Section 9.6.5 to 9.6.5 a)
- d) Adding a new Section 9.6.5 b) as follows:
“b) Notwithstanding Section 9.6.5 a) above, Sections 10.4 and 10.6 of this Plan shall apply.”
- e) Re-numbering Section 9.7.8.3 to 9.7.8.3 a)
- f) Adding a new Section 9.7.8.3 b) as follows:
“b) Notwithstanding Section 9.7.8.3 a) above, Sections 10.4 and 10.6 of this Plan shall apply.”
- g) Re-numbering Section 9.10.4 to 9.10.4 a)
- h) Adding a new Section 9.10.4 b) as follows:
“b) Notwithstanding Section 9.10.4 a) above, Sections 10.4 and 10.6 of this Plan shall apply.”
- i) Re-numbering Section 9.11.4 to 9.11.4 a)
- j) Adding a new Section 9.11.4 b) as follows:
“b) Notwithstanding Section 9.11.4 a) above, Sections 10.4 and 10.6 of this Plan shall apply.”
- k) Re-numbering Section 9.12.4 to 9.12.4 a)
- l) Adding a new Section 9.12.4 b) as follows:
“b) Notwithstanding Section 9.12.4 a) above, Sections 10.4 and 10.6 of this Plan shall apply.”
- m) Re-numbering Section 9.14.4.3 to 9.14.4.3 a)
- n) Adding a new Section 9.14.4.3 b) as follows:
“b) Notwithstanding Section 9.14.4.3 a) above, Sections 10.4 and 10.6 of this Plan shall apply.”
- o) Re-numbering Section 9.15.3.3 to 9.15.3.3 a)
- p) Adding a new Section 9.15.3.3 b) as follows:
“b) Notwithstanding Section 9.15.3.3 a) above, Sections 10.4 and 10.6 of this Plan shall apply.”
- q) Re-numbering Section 9.18.8.3 to 9.18.8.3 a)
- r) Adding a new Section 9.18.8.3 b) as follows:
“b) Notwithstanding Section 9.18.8.3 a) above, Sections 10.4 and 10.6 of this Plan shall apply.”

1.2 Section 10.4 of the Official Plan 2014, as amended, is hereby further amended by:

- a) Deleting Section 10.4.4 in its entirety.
- b) Deleting Section 10.4.5 in its entirety.

1.3 Section 10.6 of the Official Plan 2014, as amended, is hereby amended by:

- a) Deleting Section 10.6.1 in its entirety and replacing it with the following:

“10.6.1 Pre-Application Consultation

“Prior to the submission of certain development applications, the development proponent is required

to meet with Markham Staff and external agencies, including senior levels of government if required, and participate in a pre-application consultation process that is intended to streamline the development process. ”

It is the policy of Council:

- 10.6.1.1 **To require** the development proponent meet with Markham Staff, and external agencies including senior levels of government, where applicable, to determine the submission requirements associated with an application for an Official Plan Amendment, Zoning By-law Amendment, Plan of Subdivision, Plan of Condominium or Site Plan Control.
- b) Deleting Sections 10.6.2, 10.6.2.1 to 10.6.2.3, 10.6.2.5 to 10.6.2.7 and replacing them with the following:

“10.6.2 Complete Application

The *Planning Act* authorizes municipalities to include policies in their Official Plan to require additional information or materials to be provided in support of development applications, including:

- an official plan amendment;
- a zoning by-law amendment;
- a plan of subdivision;
- site plan control; and,
- consent (severance).

The Pre-Application Consultation process outlined in Section 10.6.1.1 will be used to identify major issues and determine supporting information and materials submission requirements that will constitute the requirements for a “complete application.”

It is the policy of Council:

- 10.6.2.1 **That** where a development proponent does not follow the Pre-Application Consultation process, and does not submit all of the required supporting information and materials, without specific approval from Markham Staff, an application for Official Plan Amendment, Zoning By-law Amendment or Site Plan Control may be deemed incomplete.
- 10.6.2.2 **To require** all development proponents to submit the following to the satisfaction of Markham Staff and external agencies, where applicable:
1. The minimum submission requirements in accordance with the *Planning Act* incorporated into a standardized application form, established by the City;
 2. All information and materials, studies and plans, required by the City, shall be prepared in compliance with any applicable Terms of Reference, Standards, and Guidelines prepared and/or approved by the City, as amended from time to time; and,
 3. Some or all of the information, materials, plans and studies identified in the checklist below may be required for a complete application, including any additional technical studies, plans and/or other items required by this Plan or specified in an implementing secondary plan that is relevant to the proposal.

The specific information, materials, plans and studies required for a complete application will be confirmed through the pre-application consultation stage of a development proposal. All checklist items confirmed as necessary for a complete application shall be prepared by qualified, registered and/or, licensed professionals, as applicable.

Development Application Checklist by Application Type

Required Documentation	Official Plan Amendment	Zoning By-law Amendment	Plan of Subdivision	Plan of Condominium	Site Plan Control
------------------------	-------------------------	-------------------------	---------------------	---------------------	-------------------

Development Planning

Planning Justification Report or Brief	√	√	√	√	
Precinct Plan	√				
Concept Plans and Drawings including but not limited to: conceptual site plan, ground floor plan, roof plan, landscape plan, elevations, typical floor plates and underground plans.	√	√	√	√	
Comprehensive Block Plan	√	√	√		
Housing Impact Statement	√		√	√	
Draft Official Plan Amendment	√				
Draft Zoning By-law Amendment		√			
Draft Plan of Subdivision			√		
Draft Plan of Condominium				√	
Site Plan					√
Building Elevations					√
Floor Plans					√
3D Coloured Elevation Drawings					√
Surveyor's Certificate for SOR /88-148					√
Zoning Certificate					√
Payment of any outstanding taxes or levies	√	√	√		√
Community Facilities Study	√	√	√		
R-plan of conveyances or easements to the City or other Public Authority					√
Tree Permit and Tree Protection					√

Heritage Planning

Archaeological Assessment	√	√	√		√
Heritage Impact Assessment	√	√	√		
Heritage Conservation Plan			√		
Pre-Construction Condition Survey of Cultural Heritage Resource(s)					√
Structural Condition Review Plan			√		
Heritage Permit					√

Environmental Planning

Environmental Impact Study	√	√	√		√
Delineation of the Rouge Watershed Protection Area	√	√	√		√
Master Environmental	√				

Required Documentation	Official Plan Amendment	Zoning By-law Amendment	Plan of Subdivision	Plan of Condominium	Site Plan Control
Servicing Plan					
Natural Heritage Constraints Map	√	√	√		√
Natural Heritage Compensation Plan	√	√	√		√
Agricultural Impact Assessment	√	√			
Headwater Drainage Feature Assessment	√	√	√		√
Geotechnical Study	√	√	√		√
Meanderbelt Analysis	√	√	√		√
Floodplain Analysis	√	√	√		√
Buffer/Restoration Plan			√		√
Contaminant Management Plan					√
Sustainable Development Assessment Checklist		√	√		√
Water Balance Assessment			√		√
Woodland & Open Space Management Plan			√		√
Restoration Buffer Plan			√		√

Urban Design

Urban Design Brief	√	√	√		√
Computer 3D Massing Models	√	√			
Wind Study	√	√			√
Sun Shadow Study	√	√			
Public Realm Plan	√	√	√		
Tree Inventory and Preservation Plan			√		
Lotting Distribution Plan			√		
Lot Siting Plan			√		
Demonstration of Soil Volume for trees			√		
Right Of Way Cross Sections			√		
Trail Design Plan			√		
Building Cross Section Drawings					√
Landscape/ Streetscape Plans and Details					√
Landscape Cost Estimate					√
3D Coloured Renderings					√
Digital Material/Colour Palette					√
Bird Friendly Specifications Checklist					√
Land Appraisal Report					√
Topographic Survey / Grading Plan Overlay					√

Development Engineering

Transportation Impact	√	√	√		√
-----------------------	---	---	---	--	---

Required Documentation	Official Plan Amendment	Zoning By-law Amendment	Plan of Subdivision	Plan of Condominium	Site Plan Control
Assessment Study					
Functional Traffic Design Study			√		
Parking Justification Study		√			√
Transportation Demand Management Study	√	√	√		
Functional Servicing Report	√	√	√		√
Site Servicing Plan					√
Site Grading Plan					√
Erosion and Sediment Control Plan					√
Detailed Stormwater Management Report		√	√		√
Street Lighting / Photometric Assessment					√
Noise Impact Study, if required	√	√	√		√
Environmental Site Assessment Phase I (and Phase II, if required)			√		√
Record of Site Condition, if required			√		√
Engineering cost estimate for both internal and external works					√
Submitted application for Municipal Infrastructure Agreement					√

4. Payment of the application fees established by Council, from time to time.
5. Clearances, approvals or permits from external agencies on matters within their jurisdiction, where applicable.
6. Where an application for Zoning By-law Amendment is submitted concurrently with an Official Plan Amendment, the City shall require confirmation from the Regional Municipality of York that final approval of the Official Plan Amendment has been delegated to the City of Markham or, that the Regional Municipality of York has approved the required Official Plan Amendment, prior to the Zoning By-law Amendment being deemed complete.
7. Where an application for Site Plan Control is requested, confirmation from the City that the proposal complies with the applicable Zoning By-law.
8. Where an application for Site Plan Control is requested, any lands or easements to be conveyed to the City or any other agency have been conveyed or registered on title.
9. Any other technical documentation required by this Plan or specified in an applicable secondary plan.

- 10.6.2.5 **To have regard for** previous technical studies, plans and other materials submitted in support of and accepted for, prior phases of the same development, as subsequent phases are developed. The technical studies, plans and other items submitted in support of a phased development may be required to be updated in subsequent phases.
- 10.6.2.6 **To require** the following information and materials as part of any application for consent (severance):
1. The minimum submission requirements as set out in the City's Application of Consent to Sever Property form, or its successor;
 2. Confirmation from the City that an application for consent to sever complies with the applicable Zoning By-law; and,
 3. Confirmation from the City that the application for consent is consistent with Section 10.3.2 of this Plan.
- 10.6.2.7 **That** prior to the submission of a complete *Planning Act* application, where complete application requirements have been determined through a formal pre-consultation application process prior to January 1, 2023, the City shall require:
- a) An amendment to the formal pre-consultation requirements; or,
 - b) A new pre-application consultation application.
- 10.6.2.9 **To encourage** the development proponent to hold a minimum of one community information meeting for applications for Official Plan Amendment or Zoning By-law Amendment.
- 10.6.2.10 **That** additional information or materials not listed in this Plan or Markham's Development Application Checklist by Application Type may be requested, despite the fact that an application has been deemed "complete" in accordance with the *Planning Act* and the regulations thereto, prior to a decision by Council or the approval authority on a development application. These additional requirements will not affect the original date of the complete application.

2.0 IMPLEMENTATION AND INTERPRETATION

The provisions of the Official Plan, as amended, regarding the implementation and interpretation of the Plan, shall apply in regard to this Amendment, except as specifically provided for in this Amendment.

This Amendment to the City of Markham's Official Plan 2014, as amended, is exempt from approval by the Regional Municipality of York. Following adoption of the Amendment, notice of Council's decision will be given in accordance with the *Planning Act*, and the decision of Council is final, if a notice of appeal is not received on or before the last day for filing an appeal.

Appendix 'B'
Draft Municipal Infrastructure By-law



By-law 2023-xx

A by-law to Prohibit the Use of Land or the Erection or Use of Buildings or Structures unless
Municipal Services are Available

WHEREAS it is considered desirable for the control of development within the City of Markham to prohibit the use of land or the erection or use of buildings or structures, unless such municipal services as may be set out in the by-law are available to service the land, buildings or structures, as the case may be, in accordance with the provisions of subsection 34 (5) of the Planning Act, R.S.O. 1990, c. P. 13, as amended;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE CITY OF
MARKHAM HEREBY ENACTS AS FOLLOWS:

1. In this by law,
 - a. "Multiple-Unit Building" means a building containing three or more Residential Units.
 - b. "Municipal Services" means any municipal services, infrastructure and facilities required to service and/or support a Residential Unit, Multiple-Unit Building, Institutional Building, Commercial Building, or Industrial Building, including but not limited to: water, storm sewer, sanitary sewer, stormwater management, streetlights, roadways, sidewalks, multiuse pathways (MUP), bicycle lanes or cycle tracks, traffic control devices, signage, and access connections for pedestrians, cyclists, and motor vehicles,, , all of which municipal services are located within the municipal right-of-way or boulevard.
 - c. "Residential Unit" means a unit that,
 - i. consists of a self-contained set of rooms located in a building or structure;
 - ii. is used or has the capability of being used as a residential premise;
 - iii. contains kitchen and bathroom facilities designated for the exclusive use of its occupants; and
 - iv. has a means of egress to the outside of the building, which may be a means of egress through another residential unit;
 - d. "Subdivision" means a plan of subdivision, draft approved or registered in accordance with section 51 of the *Planning Act*, R.S.O. 1990, c. P.13, or similar legislation, where the public highways and lanes within the plan have not been assumed by the authority having jurisdiction.
 - e. "Operational" means infrastructure placed in a condition of readiness and active service where a facility can be utilized for its designed and intended purpose without physical or safety limitations, i.e. fit for use.

- f. Institutional Building means a building or part of a building containing uses such as places of worship, community centres, libraries, educational facilities or government offices.
 - g. Commercial Building means buildings that are used for commercial purposes, and includes but is not limited to buildings containing offices, retail stores, personal service shops, and restaurants.
 - h. Industrial Building means a premises used for the warehousing of goods and materials, the assembly of manufactured goods, the manufacturing of goods, the repair and servicing of goods and similar uses-
2. For the purposes of this by-law, Municipal Services are deemed to be available to a Residential Unit, Multiple-Unit Building, Institutional Building, Commercial Building, or an Industrial Building within a Subdivision when the Municipal Services required to service the Residential Unit, Multiple-Unit Building, Institutional Building, Commercial Building, or Industrial Building satisfy the following requirements:
- a. the public highways and lanes in the Subdivision have been constructed to base course asphalt;
 - b. the watermains, sanitary sewers, and associated facilities, storm sewers and stormwater management facilities necessary to service the Residential Unit Multiple-Unit Building, Institutional Building, Commercial Building, or Industrial Building have been constructed and are Operational;
 - c. where any watermain, sanitary sewers and associated facilities, storm sewers and stormwater management facilities external to the Subdivision have not been constructed, confirmation of the following has been provided to the Director of Engineering:
 - i. all property and/or easements required for the service has been dedicated to The Corporation of the City of Markham or other government having jurisdiction, if applicable;
 - ii. all property required for external roads has been conveyed to the City or alternative arrangements have been made to the satisfaction of the Director of Engineering and the City Solicitor.
 - iii. the contract for the construction of the service has been awarded;
 - iv. a construction schedule, confirming completion and operation of the external service prior to occupancy, has been provided to the satisfaction of the City's Director of Engineering;
 - v. the City or other government having jurisdiction has received adequate security for the construction of the external services, if it is intended to be constructed by a private party; and
 - vi. approvals have been received by the owner from the City or other agencies having jurisdiction for the construction of the services."
 - d. where municipal sanitary sewers or watermains are not available to the lot on which the Residential Unit, or the Multiple-Unit Building, Institutional Building, Commercial Building, or Industrial Building is to be located, a permit for a private sewage disposal system and private water supply system is granted;
 - e. the watermain and any required service connections 50 mm in diameter or greater in size have been disinfected in accordance with the latest Ontario Provincial Standard

Specification and the latest American Water Works Association Standards disinfection standards, and the water meets Provincial quality standards and such other standards as are adopted by The Corporation of the City of Markham;

- f. the watermain and any required service connections 50 mm in diameter or greater in size have been hydrostatically tested in accordance with the latest Ontario Provincial Standard Specification and the latest American Water Works Association Standards or such other standards adopted by The Corporation of the City of Markham;
 - g. a water flow test has been conducted in accordance with NFPA Standard 291 and at no point in the system are the following flow standards for firefighting purposes not met: 5,000 litres/minute at 140 kpa for detached Residential Units and 7,000 litres/minute at 140 kpa for Multiple-Unit Buildings or such other standard adopted by the City's Fire Chief
 - h. two separate accesses into any Subdivision have been provided and kept open for the purposes of emergency services access and egress, to the satisfaction of the City's Fire Chief; and
 - i. notwithstanding clause (g) above, a single access into any Subdivision, to the satisfaction of the City's Fire Chief, may be permitted where any Residential Unit or any Multiple-Unit Building to be constructed is not more than 100 metres, measured along the said access, from an existing, assumed public highway that is connected to the said single access.
3. For the purposes of this by-law, Municipal Services are deemed to be available to a Residential Unit, Multiple-Unit Building, Institutional Building, Commercial Building, or Industrial Building that is not within a Subdivision when the Municipal Services required to service the Residential Unit, Multiple-Unit Building, Institutional Building, Commercial Building, or Industrial Building satisfy the following requirements:
- a. where the Residential Unit, Multiple-Unit Building, Institutional Building, Commercial Building, or Industrial Building does not front directly on an assumed public highway, an access route for fire department use, in accordance with the provisions of the Building Code, O. Reg. 350/06 or any successor legislation or regulation, has been provided;
 - b. where any watermain, sanitary sewers and associated facilities, storm sewers and stormwater management facilities external to the site have not been constructed, confirmation of the following has been provided to the Director of Engineering.
 - i. all property and/or easements required for the service has been dedicated to The Corporation of the City of Markham or other government having jurisdiction, if applicable;
 - ii. the contract for the construction of the service has been awarded;
 - iii. a construction schedule, confirming completion and operation of the external service prior to occupancy, has been provided to the satisfaction of the City's Director of Engineering;
 - iv. the City or other government having jurisdiction has received adequate security for the construction of the external service, if it is intended to be constructed by a private party; and
 - v. approvals have been received by the owner from the City or other agencies having jurisdiction for the construction of the services.

- c. where municipal sanitary sewers or watermains are not available to the lot on which the Residential Unit, Multiple-Unit Building, Institutional Building, Commercial Building, or Industrial Building is to be located, a permit for a private sewage disposal system and private water supply system is granted;
 - d. the watermain and any required service connections 50 mm in diameter or greater in size have been disinfected in accordance with the latest Ontario Provincial Standard Specification and the latest American Water Works Association Standards disinfection standards, and the water meets Provincial quality standards and such other standards as are adopted by The Corporation of the City of Markham;
 - e. the watermain and any required service connections 50 mm in diameter or greater in size have been hydrostatically tested in accordance with the latest Ontario Provincial Standard Specification and the latest American Water Works Association Standards or such other standards adopted by The Corporation of the City of Markham;
 - f. where a new watermain extension is required to provide water service, a water flow test has been conducted on the watermain and any service connections 100mm in diameter or greater in size in accordance with NFPA Standard 291 and at no point in the system are the following flow standards for firefighting purposes not met: 5,000 litres/minute at 140 kpa for detached Residential Units and 7,000 litres/minute at 140 kpa for Multiple-Unit Buildings, such other standard adopted by the City's Fire Chief.
 - g. Where transportation facilities external to the site have been secured to the satisfaction of the Director of Engineering, including the following:
 - i. Conveyance of additional lands to the City or other agencies having jurisdiction, needed to achieve the designated right-of-way widths in accordance to the applicable and in-effect Official Plan;
 - ii. Approvals have been received by the owner from the City or other agencies having jurisdiction for the construction of the site access, including implementation of geometric improvements, and traffic control devices and signage required for the site access to be operational, and that adequate security has been provided for the works;
 - iii. Approvals have been received by the owner from the City or other agencies having jurisdiction for the construction of sidewalk and/or alternative active transportation, which may include MUP, bike lanes or cycle track, abutting the subject site, and that adequate security has been provided for the works;
 - iv. To obtain to the satisfaction of the City, all required access easements whereby an access is shared by multiple properties.
4. Notwithstanding the provisions of any other by-law hereinbefore or hereafter enacted pursuant to s. 34 of the Planning Act, or any predecessor thereof, by the Council of The Corporation of the City of Markham, or any predecessor thereof, no land shall be used and no building or structure shall be erected or used unless:
- a. With respect to the creation of any new or additional Residential Units, Municipal Services are deemed available in accordance with the below, or the said Council has exempted the development or the class of development from the requirement for Municipal Services:
 - i. the City's Director of Engineering has confirmed that Municipal Services are available in accordance with Clauses 2(a) to (e) both inclusive or Clauses 3(b),

- (d),(e), and (g) as applicable, and
 - ii. the City's Fire Chief has confirmed that Clauses 2(f) to (i) both inclusive or Clauses 3(a) and (f), as applicable, and
 - iii the City's Chief Building Official has confirmed that clause 3(c) have been complied with
 - b. with respect to Multiple-Unit Buildings, Institutional Buildings, Commercial Buildings, or Industrial Buildings, the Council of The Corporation of the City of Markham has approved a site plan under section 41 of the *Planning Act*, R.S.O. 1990 c. P. 13, as amended, and the owner of the land has executed a site plan agreement for Municipal Services, or entered into a separate municipal servicing agreement with the City for Municipal Services, where applicable, and
 - i. the City's Director of Engineering has confirmed that Municipal Services are available in accordance with Clauses 2(a) to (e) both inclusive or Clauses 3(b), (d) and(e), as the case may be,
 - ii. the City's Fire Chief has confirmed that Clauses 2(f) to (h) both inclusive or Clauses 3(a) and (f), as the case may be, and
 - iii the City's Chief Building Official has confirmed that clause 3(c) have been complied with, or
 - c. a conditional building permit therefore has been issued by the City's Chief Building Official.
- 5. Nothing in this by-law shall prevent:
 - a. The erection of buildings for uses incidental to construction, such as a construction camp or other such temporary work camp, tool shed, scaffold or other building or structure incidental to the construction only for so long as the same are necessary for work in progress which has neither been finished nor abandoned; and
 - b. The erection of model homes and sales offices, subject to such terms and conditions as established by the City and provided that an access route for fire department use in accordance with the Building Code, O. Reg. 403/97 has been provided.
- 6. This by-law shall apply to all of the lands within the City of Markham.
- 7. By-law 2005-104 is hereby repealed upon the enactment of this By-law.

READ A FIRST, SECOND, AND THIRD TIME AND PASSED THIS XXth DAY OF JUNE, 2023.

KIMBERLEY KITTINGHAM
CITY CLERK

FRANK SCARPITTI
MAYOR

Appendix ‘C’
Draft Pre-Application Consultation By-law

BY-LAW 2023-____

**A BY-LAW TO REQUIRE PRE-APPLICATION CONSULTATION BY DEVELOPMENT PROPONENTS
PRIOR TO SUBMISSION OF APPLICATIONS FOR AN OFFICIAL PLAN AMENDMENT, A ZONING
BY-LAW AMENDMENT, A PLAN OF SUBDIVISION APPLICATION OR A SITE PLAN CONTROL
APPLICATION WITHIN THE CITY OF MARKHAM**

WHEREAS the Council of The Corporation of the City of Markham is authorized by subsections 22(3.1), 34(10.0.1), 41(3.1) and 51(16.1) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, to pass a by-law to require that property owners or their agents proposing official plan amendments, zoning by-law amendments, approval of plans of subdivision or site plans, consult with the municipality before submitting an application for such an amendment or approval;

AND WHEREAS the City of Markham requires a development proponent to meet with the City, and external agencies, where applicable, to discuss the merits of a development proposal before any such application is submitted, to ensure that all information and material that may be required to accompany a development application is identified and, to confirm the City’s and external agencies’, where applicable, technical submission requirements for a complete application;

NOW THEREFORE THE COUNCIL OF THE CITY OF MARKHAM ENACTS AS FOLLOWS:

1. DEFINITIONS

In this by-law:

- (1) **"Act"** means the *Planning Act*, R.S.O. 1990, c. P.13, as amended or any successors thereto;
- (2) **"Development Approval"** includes:
 - (a) an official plan amendment;
 - (b) a zoning by-law amendment;
 - (c) a plan of subdivision approval, including a plan of condominium; and
 - (d) a site plan approval, including an application to amend an existing site plan approval.
- (3) **"Development Proponent"** means anyone, including a public body, a landowner or authorized agent, seeking a Development Approval.
- (4) **"Supporting Documents"** includes plans, studies and other documents drafted to conform with the City’s terms of reference, submission requirements, scope of work, and any other standards and guidelines, provided by the Development Proponent to the City of Markham and external agencies.

2. PRE-APPLICATION CONSULTATION

Prior to a Development Proponent submitting an application for an Official Plan Amendment, Zoning By-law Amendment, Plan of Subdivision, Plan of Condominium or Site Plan Control, the Development Proponent shall engage in pre-application consultation with the City of Markham as follows:

Pre-Application Consultation Meeting:

- (1) The Development Proponent shall apply for pre-application consultation to the Development Services Commission. The request for pre-application consultation shall include, but is not limited to:
 - (a) a description of the property;
 - (b) the location of the property;
 - (c) preliminary plans; and,
 - (d) the nature of the proposal.
- (2) Development proposals will not be accepted for pre-application consultation processing by the City of Markham prior to:
 - (a) the submission of a pre-application consultation request form; and,
 - (b) a pre-application consultation meeting, identified in subsection (3).
- (3) The Development Proponent shall attend a pre-application consultation meeting with City of Markham Staff (“Staff”) and external agencies, where applicable, including the appropriate Staff member(s) responsible for the development area in which the development proposal is located, unless the Director of Planning and Urban Development, or delegate determines that such a meeting is not required due to the scope, scale, location or phase of the development proposal;
- (4) Staff shall notify the Development Proponent prior to a pre-application consultation meeting, which external agencies or senior levels of government have been invited to attend the meeting; and,
- (5) Staff shall provide the Development Proponent with the list of Supporting Documents including information, materials, plans and studies identified in the pre-application consultation checklist that may be required for a complete application.

Complete Application:

- (7) Prior to the submission of a complete *Planning Act* application:
 - a) The Development Proponent shall obtain clearances, approvals or permits from external agencies on matters within their jurisdiction, where applicable.
 - b) The Development Proponent shall enter into: a Municipal Servicing Agreement with the City and shall obtain any necessary permits relating to municipal connections, where applicable.
 - c) The Development Proponent shall submit a Sustainability Checklist for approval as identified in the City’s Sustainability Matrix, where applicable.
 - d) The Development Proponent shall enter into any required agreement, where applicable.
 - e) The Development Proponent shall obtain any Tree Permit, in accordance with the City’s Tree Preservation By-law, where applicable.
 - f) The Development Proponent shall obtain any Heritage Permits, where applicable.
 - g) All City requirements shall be met relating to any easements or land conveyances, where applicable or, satisfactory arrangements have been made with the Director of Planning and Urban Design and/or the Director of Engineering, or delegate.
 - h) The Development Proponent shall obtain a Zoning Preliminary Review confirming that the proposal, as submitted, complies with the applicable Zoning By-law.

- i) Where complete application requirements have been determined through a formal pre-consultation application process prior to July 1, 2023, Markham Staff shall require the following:
 - i) An amendment to the former pre-consultation requirements; or,
 - ii) A new pre-application consultation application.
- (8) Upon completion of all required processes outlined in applicable items 1-7 above, a formal complete development application shall be accepted by Markham Staff.

In the absence of a Development Proponent following pre-application consultation processes identified above, at the discretion of the Director of Planning and Urban Design or delegate, a formal development application may be deemed incomplete, and may not be accepted.

3. DATE BY-LAW EFFECTIVE

This By-law shall come into force and effect on June XX, 2023.

4. SHORT TITLE

This By-law may be cited as the "City of Markham Pre-Application Consultation By-law".

5. REPEAL OF FORMER BY-LAW

By-law 2008-148 is hereby repealed upon the enactment of this By-law.

READ A FIRST, SECOND, AND THIRD TIME AND PASSED THIS XXth DAY OF JUNE, 2023.

KIMBERLEY KITTERINGHAM
CITY CLERK

FRANK SCARPITTI
MAYOR

Appendix ‘D’
Bill 109 Fee Refunds

Application type	No Refund	50% Refund	75% Refund	100% Refund
Zoning By-Law	Decision within 90 days	Decision between 90 and 150 days	Decision between 150 and 210 days	Decision after 210 days
OPA/Zoning	Decision within 120 days	Decision between 120 and 180 days	Decision between 180 and 240 days	Decision after 250 days
Site Plan	Approval within 60 days	Approval between 60 and 90 days	Approval between 90 and 120 days	Approval after 120 days

Appendix 'E'
Draft Development Fee By-law Amendment



By-law 2023-xx
A by-law to amend By-law 211-83, as amended

(A by-law to prescribe a Tariff or Fee for the Processing of Planning Applications)

THE COUNCIL OF THE CORPORATION OF THE CITY OF MARKHAM HEREBY ENACTS AS FOLLOWS:

1. By-law 211-83, as amended, be and the same is hereby further amended as follows:
 - 1.1 By amending Schedule 'A' to By-law 211-83, as amended,
2. All other provisions of By-law 211-83, as amended, not inconsistent with the provisions of this bylaw shall continue to apply.
3. This By-law comes into force and takes effect on January 1, 2023

NOW THEREFORE the Council of the Corporation of the City of Markham enacts as follows:

1. THAT Table 1 is hereby repealed:
2. THAT Special Provision 10 of Table 6 is hereby repealed from the by-law

Read a first, second, and third time and passed on xxth day of the Month, 2023.

Kimberley Kitteringham
City Clerk

Frank Scarpitti
Mayor



EXPLANATORY NOTE

BY-LAW NO: 2023-xxx

A by-law to amend By-law 211-83, as amended

Title

A by-law to prescribe a Tariff or Fee for the Processing of Planning Applications

Lands Affected

All lands within the City

Purpose and Effect

The purpose and effect is to amend certain sections of the City's Development Fee by-law to reflect changes in process as a result of Bill 109 and Bill 23

Appendix 'F'
Draft Municipal Fee By-law Amendment



By-law 2023-xx
A By-law to amend By-law 2002-276,

A by-law to impose fees or charges for services or activities provided or done by the City of Markham

The Council of The Corporation of the City of Markham hereby enacts as follows:

That By-law 2002-276, being a by-law to impose fees or charges for services or activities provided or done by the City of Markham, be amended as follows:

1. THAT fees for Pre Consultation, as outlined on Schedule 'A', be added

Read a first, second, and third time and passed on xxth day of the Month, 2023.

Kimberley Kitteringham
City Clerk

Frank Scarpitti
Mayor



EXPLANATORY NOTE

BY-LAW NO: 2023-xxx

A By-law to amend By-law 2002-276

Title

A by-law to impose fees or charges for services or activities provided or done by the City of Markham

Lands Affected

City Wide

Purpose and Effect

The purpose and effect is to establish a Major and Minor pre-application consultation fees for Planning Act applications

Schedule ‘A’

Fees for Pre-consultation

Application for Pre Consultation		Rate	
1.	Pre-Consultation Application	\$791	Per Application

Appendix ‘G’ Additional Process Information

Site Plan Approval Process

Reviews/Approvals that can be required prior to deeming an application complete:

1. Compliance with the applicable zoning by-law
2. Payment of any outstanding taxes
3. Issuance of any tree permits
4. Demolition permits
5. Submission of plans by qualified professionals

A number of key aspects of the site plan approval process can be addressed through the complete application process. Ensuring the proposed site complies with the applicable zoning by-law as part of the process determining whether an application is complete will address many components of site plan review that are currently negotiated. This includes, but is not limited to, minimum sizes for waste rooms, bicycle parking, minimum amenity area requirements, hard and soft landscaping requirements, and certain AODA standards.

The City’s new draft Comprehensive Zoning By-law has included these, and other development standards that have historically only be obtained through site plan negotiations. The City’s Draft Comprehensive Zoning By-law was sent to the DSC on June 12, 2023 with Staff recommendations for Council enactment.

Reviews advised to be initiated prior to submission:

1. Ministry of Transportation
2. Region of York
3. Rail Operators
4. School Boards
5. Utilities
6. Adjacent Municipalities
7. Other Provincial and Federal Agencies

Under the Planning Act, the City is required to circulate applications to external agencies, but are not required to withhold approval of a site plan pending receipt of an agency comment. The City will therefore be compelled to issue site plan approval, even if agency comments are not addressed, to ensure that the City meets the legislated timelines as these agencies often take well in excess of 60 days to respond to a request for comments. Agencies may appeal the City’s approval of the site plan to ensure changes are made to satisfy their requirements. Staff will be directing applicants to consult with external agencies prior to their site plan submission.

Reviews that are “applicable law” under the Building Code

1. Entering into a Parkland Dedication Agreement or Payment of cash-in-lieu of parkland
 - The payment of Cash in Lieu of Parkland is applicable law under the Building Code.
 - Under Bill 23, proposed amendments would permit an applicant to dictate whether to provide parkland dedication, or pay cash in lieu of parkland. This provision is not yet in effect, and therefore the City can dictate whether land is dedicated, or if Cash in Lieu of parkland is paid.
 - Where identified, the City will require the conveyance of park land, including entering into any necessary agreements and the provision of any Record of Site Condition for the dedication of lands, as a requirement for a complete application for site plan.
 - The development of this agreement and the process for conveyance of parkland will be a separate process from the site plan application process.
 - Should the Province implement sections of Bill 23 that allow the applicant to decide whether to provide Parkland or Cash in Lieu, the City can enter into required agreements for the dedication of lands at any time prior to the issuance of a building permit.
2. Entering into a municipal servicing agreement, where required
 - This agreement is a separate process from the site plan application process. This entails the review and approval of municipal services, as authorized in Section 34(5) of the Planning Act.
 - Staff are proposing amendments to the Municipal Services By-law to incorporate a broader range of infrastructure requirements that were previously addressed through site plan agreements. As such, the municipal servicing agreement will, at a minimum, cover:
 - Roadway and other boulevard improvements
 - Water and sewer line improvements
 - Stormwater management improvements
 - Other municipal service requirements within the City’s street and boulevard
3. Review for compliance with the Fire Code
 - Site plan applications will be circulated to Fire for comments prior to site plan approval.
 - Aspects of the building’s design related to provisions for firefighting are regulated Building Code
 - If the site plan is not designed to comply with all aspects of the Building Code, Applicants will be required revise site plans to ensure compliance.

4. On-site servicing

- On-site servicing would be subject to building and/or plumbing permits as required under the Building Code.
- The City's Engineering Department will provide comments, as needed, at the site plan stage related to on-site servicing. The intent of engineering review is to identify possible issues with the proposed servicing, and their connection with the existing or proposed infrastructure in the street. Functionality of the proposed on site servicing will be confirmed, and any outstanding issues will be rectified at the building permit stage
- Staff will also secure grading plans and site servicing plans as necessary in the site plan as the drawings are applicable law under the building code act

Reviews that are subject to separate By-laws or Acts

As part of the current site plan approval process, approvals have been provided only when an applicant has been able to demonstrate compliance with a number of City By-laws, and in some cases, letters of credit were required and only returned following construction, when compliance was confirmed.

Under the new proposed process, the City will advise and update applicants on the need to comply with certain by-laws in the City. Staff will continue to require plans and studies demonstrating compliance of these standards, and can leverage a number of tools to secure this compliance. These tools include incorporating certain plans in the approval documents, conditional site plan approvals, or applying warning clauses at the approval stage to advise of deficiencies and the need to correct aspects of the plan after approval, and prior to construction. Staff can also separately leverage the enforcement sections municipal by-laws to ensure compliance. Common By-laws identified during the development process include but are not limited to:

- Keep Markham Beautiful By-law (2017-27)
 - Lighting
 - Addressing
 - Property standards
- Refuse By-law (32-95)
 - Storage of waste within waste rooms
- Road Occupancy By-law (2018-109)
 - Curb cuts
 - Restoration of roads and boulevards
 - Storage of materials and parking of vehicles on public roads
- Infill Construction By-law (2018-77)
 - Nuisance construction noise
 - Maintenance of tree protection
 - Site fencing
- Sign By-law (2002-94)
 - Sign uniformity plan
 - Sign permit

Reviews that will be applied as conditions of site plan approval

Where the City does not have specific by-laws with respect to standards or requirements associated with development, Staff can similarly leverage the approval of certain plans, or applying conditions of site plan approval. In these cases however, Staff do not have the added benefit of a separate by-law to leverage for enforcement.

While Staff will continue to require these plans, listed below, to be submitted by qualified professionals, Staff will not be in a position to withhold site plan approval pending their demonstration of compliance. Staff will continue to leverage the site plan process, where possible, to secure compliance and, where applicable, revise the drawings to make them compliant.

- Sustainability metrics
- Bird friendly guidelines
- Addressing
- Noise study compliance
- Wind study compliance
- Requirement for warning clauses
- Archeological requirements
- Groundwater conditions

Site Plan Approval and Redlining Drawings

The current site plan approval process ensures that all the necessary modifications to a site plan are made prior to the City stamping the plans approved. For this to occur, the applicant is required to provide clean versions of the drawings addressing all comments for Staff to approve.

Under the new proposed process, any necessary modifications to the plans will need to be made by Staff through redlining the drawings, in order to approve them. Staff do have concerns about this process as applicants will need to incorporate the redline changes in their building permit drawings, and may find co-ordination issues exist that will require an applicant to further revised their plans. Staff are seeking to mitigate the need for redlined drawings by incorporating a number of standards into applicable zoning provisions.

Applicants may also find they disagree with the approved site plan as redlined by the City. In this instances, an applicant or owner has the right to appeal the City's approval to the Ontario Land Tribunal.

Official Plan and Zoning By-law Amendment Process

Applications that can be supported

Zoning By-laws can be complex in nature. Even when the City supports an application in principle, Staff are often required to work with applicants to ensure the by-law amendment will properly implement the proposed development. Staff will continue to work with applicants on these drafts, but the statutory timelines may limit Staff's ability to undertake a comprehensive negotiation on the finer details of the by-law with the applicant.

Applications that can be supported with modifications

Some applications may be supported in principle by the City, but with differences of opinion on some key components of the application. Historically, the City has been able to delay a decision on these types of applications while negotiating options and alternatives. Under the proposed amendments, the City is compelled to make a recommendation and subsequent decision on a proposed amendment with modifications recommended by Staff that may or may not be acceptable to the applicant, and may result in the applicant appealing an approval. An applicant can withdraw their application at any time prior to the decision, so as to avoid a lengthy appeal process, and re-apply to “re-start” the clock.

Applications that cannot be supported

Where an application is submitted that cannot be supported by Staff, Staff will recommend refusal to Council. Council may support Staff’s decision to deny the application, may support the applicant’s position, or may support the application with modifications. As with the modified decisions, the applicant has the right to appeal to the OLT, or can withdraw the application before a decision is rendered, and re-apply at a later date. Staff will continue to work with applicants to resolve OLT appeals, or work with applicants who have withdrawn their submissions but intend on re-applying at a later date.