

THE CORPORATION OF THE MUNICIPALITY OF MISSISSIPPI MILLS

STAFF REPORT

DATE: June 7, 2022

TO: Committee of the Whole

FROM: Melanie Knight, Senior Planner

SUBJECT: Planning Act Changes, Pre-consultation By-law and Planning Department Level of Service Report

RECOMMENDATION:

Recommendation #1:

THAT Committee of the Whole recommend that Council receive this report as information; and

Recommendation #2:

THAT Committee of the Whole approve the Pre-consultation By-law as detailed in Attachment A; and

THAT Committee of the Whole recommend that Council direct staff to provide a report on the number of mandatory pre-consultations for 2022 with recommendations for a pre-consultation fee to be considered for the 2023 budget; and

Recommendation #3:

THAT Committee of the Whole recommend that Council direct staff to implement the use of the Zoning Certificate charge of \$100 for the planning review of building permits as of July 1, 2022; and

Recommendation #4:

THAT Committee of the Whole recommend that Council direct staff to develop staffing options including a Cooperative Planning Student Program and/or an additional full-time Planning Staff position with associated budget and review of planning application fees to be considered for the 2023 budget.

BACKGROUND:

Planning Act Changes

There have been notable changes to the *Planning Act* that received Royal Assent in April 2022. These changes were the result of the [Province's Housing Affordability Task Force Report](#)

In the previous report provided to Committee of the Whole as part of the Agenda for June 7, 2022 staff discussed the changes to key components of Site Plan Control provisions of the *Planning Act* including timeframe for decision, required delegation of authority and refund of application fees. The Province has also enacted changes to the *Act* with respect to Zoning By-law Amendment applications.

The change to the *Act* includes the implementation of mandatory refunds on planning application fees for Zoning By-law Amendment applications if a decision on these types of applications is not made within the statutory timeframe.

The specific wording of the changes to the *Act*, with respect to the refund of application fees are as follows:

(10.12) With respect to an application received on or after the day subsection 4 (2) of Schedule 5 to the More Homes for Everyone Act, 2022 comes into force, the municipality shall refund any fee paid pursuant to section 69 in respect of the application in accordance with the following rules:

1. If the municipality makes a decision on the application within the time period referred to in subsection (11) or (11.0.0.0.1), as the case may be, the municipality shall not refund the fee.

2. If the municipality fails to make a decision on the application within the time period referred to in subsection (11) or (11.0.0.0.1), as the case may be, the municipality shall refund 50 per cent of the fee.

3. If the municipality fails to make a decision on the application within the time period that is 60 days longer than the time period referred to in subsection (11) or (11.0.0.0.1), as the case may be, the municipality shall refund 75 per cent of the fee.

4. If the municipality fails to make a decision on the application within the time period that is 120 days longer than the time period referred to in subsection (11) or (11.0.0.0.1), as the case may be, the municipality shall refund all of the fee.

The above noted additions to the *Act* require that if a decision on an application is not rendered by the municipality within the statutory timeframe of 120 days for a Zoning By-law Amendment application, the municipality is obligated to refund the planning application fees on a gradual basis until such time that a decision is rendered. These changes come into effect on January 1, 2023 and will apply to applications received after January 1, 2023.

IMPLICATIONS TO ZONING BY-LAW AMENDMENT APPLICATIONS – MANDATORY PRE-CONSULTATIONS

Historically, the municipality has not tracked Zoning By-law Amendment applications within a program that can easily allow staff to advise Council of the average timeframe that the municipality renders decisions on Zoning By-law Amendment applications. Anecdotally, staff can advise that many municipalities struggle to render decisions on Zoning By-law Amendment applications within 120-days of receipt of an application.

In the Mississippi Mills context, the additional challenge to the 120-day timeframe are those Zoning By-law Amendment applications that are associated with a related Official Plan Amendment application (commonly referred to as “joint applications”). These require the approval of Lanark County as the upper tier approval authority. The Act is silent on these situations, where a lower-tier municipality is reliant on an upper-tier municipality for approval of one of the two joint applications. Joint applications are usually dealt with in tandem with each other by ‘approving in principle’ the Zoning By-law Amendment application until such time that the County approves the related Official Plan Amendment application. Unfortunately, this may result in staff deeming Zoning By-law Amendment applications incomplete until such time that the related Official Plan Amendment is approved by the County and is in full force and effect as staff will have no control over the timing of approval of Official Plan Amendment applications.

Mandatory Pre-Consultation

One tool that is available to the municipality is to pass a by-law requiring mandatory pre-consultations to be completed prior to the submission of an application. Staff are recommending that Council pass a Pre-Consultation By-law to ensure that for certain applications, including Major Zoning By-law Amendment applications, applicants are required to have a formal pre-consultation meeting staff to provide them with a list required of plans and studies for the submission of a Major Zoning By-law Amendment application.

The purpose of this mandatory pre-consultation is to ensure that applicants have a good understanding of the minimum requirements for the Zoning By-law Amendment application and to allow staff an opportunity to provide preliminary feedback on a development proposal prior to an applicant preparing the required plans and studies. This mandatory pre-consultation can help to avoid unnecessary delays in the application process.

If the Pre-consultation By-law is passed and an applicant does not have a mandatory pre-consultation with staff prior to submitting a Major Zoning By-law Amendment application, the application would automatically be ‘deemed incomplete’ and the applicant will be required to attend a mandatory pre-consultation with staff prior to staff reviewing the application to assess its ‘completeness’.

The Planning Department has developed a Pre-Consultation Request Form for individuals to fill out to formally request a pre-consultation meeting with staff. In addition, staff have also developed a List of Plans and Studies Checklist for pre-consultations (both in Attachment B) that has already been implemented for formal pre-consultations

with applicants. This list of plans and studies, as well as written feedback from staff, assists applicants in understanding the minimum requirements of a planning application.

Similar to the Site Plan Control process, staff are currently developing a Zoning By-law Amendment internal procedure document with a process flow to assist staff in the processing of Zoning By-law Amendment applications.

Inquiries Versus Pre-consultation

A common question with respect to mandatory pre-consultation by-laws are the differences between inquiries and formal pre-consultations. Generally speaking, inquiries are the first step in the process of a planning application and do not qualify as pre-consultations. For example, if someone inquires about the existing zoning on a property, this is considered an inquiry. If the person finds out that the use they are proposing is not permitted in the existing zoning and wants to meet to discuss a Zoning By-law Amendment application to add the use, this 'next step' would be considered a pre-consultation.

Staff encourage applicants to ensure that they come prepared to a pre-consultation with the appropriate team (professional planner, engineer and/or other consultants) as well as a concept plan or proposal for staff to consider.

Fees for Mandatory Pre-consultations

Many municipalities that have mandatory pre-consultations charge fees to offset the costs of staff time for the pre-consultation. It should be noted that pre-consultations include representatives from the Planning Department and Public Works Department, at a minimum. Most municipalities will charge a fee for the pre-consultation to compensate for staff's time in preparing for the pre-consultation, the meeting and the follow up written comments and list of plans and studies.

Some municipalities will apply the pre-consultation fee that is paid as a credit towards subsequent planning application fees that arises out of the pre-consultation, while others have implemented a 'first pre-consultation is free' approach whereby any subsequent pre-consultation for the same proposal, is charged an additional fee.

Staff are recommending that further study should be completed after the mandatory pre-consultation has been implemented, including a review of the average amount of staff time dedicated to a pre-consultation, and report back to Council with a recommended approach and fee structure for the 2023 budget considerations.

CGIS Inquiry and Planning Application Tracker

Staff worked with the company that provides the CGIS services to develop a program within CGIS to track the status of all planning applications as well as all inquiries received.

The 'inquiry tracker' was implemented in November 2021 to track all inquiries (including pre-consultations) in CGIS. This inquiry tracker is linked to the subject property and allows staff to easily reference historical feedback provided by other staff, ensuring that

the information provided to the public is consistent and that there is a formal, written record. Attachment C contains the detailed data of all inquiries received since the implementation of the tracker in November 2021. Staff note that the municipality receives a very large number of inquiries, which puts an additional burden on the Planning Department, in addition to planning applications. Further discussion on this topic is contained in the Level of Service Section of the report.

With respect to planning applications, staff worked with CGIS to develop a planning application tracker, including Zoning By-law Amendments, for implementation starting in January of this year. This tracker will allow staff to track and update the status of all planning applications into the CGIS program allowing all planning staff to easily access information on planning applications. In 2023, staff will be working with CGIS to create a 'public facing' version of this tracker to allow the public to easily access information on active planning applications.

In addition, the Planning and Building students are working on implementing historical planning applications into CGIS so that moving forward the Planning Department will have a good understanding of the status of historical and current planning applications

PLANNING DEPARTMENT – LEVEL OF SERVICE

CGIS Inquiry Tracking

As mentioned above, the Planning Department implemented a tracking system within CGIS in November 2021 to track inquiries, link them to specific properties and ensure that there is documented, written records of the information. A detailed spreadsheet of the inquiries received are contained in Attachment C.

Below is a synopsis of some of the more time-consuming inquiries. Consent inquiries are notably more time consuming than many inquiries because it requires historical research and review of previous consents and requires a detailed review of any land use constraints (such as environmental features) which results in required studies to be submitted with the consent application. The County requires that any applicants who apply for a consent application have pre-consulted with the lower-tier municipality. Staff developed a Consent Inquiry Form to help to streamline the inquiries as much as possible. This inquiry form requires the inquirer to provide detailed information on the consent inquiry such as property location, current use of the property, approximate size of lot to be severed and proposed use of the severed parcel.

Other inquiries depend on what the nature of the inquiry is and the complexity of the proposal. Staff have averaged the amount of time spent on the different types of inquiries. This staff time includes the time taken to receive the inquiry, undertake the review and provide feedback to the inquirer.

Type of Inquiry	Average Staff time per inquiry in hours	Number of Inquiries received (2022)	Total amount Staff Time in 2022 (to date)
Consent	3.0 to 3.5	61	183 to 213.5
Zoning	2.0 to 2.5	130	260 to 325
Pre-consultations	2.5 to 3.0	8	20 to 24
Total staff time spent on top three types of inquiries in 2022 to date (in hours)			463 to 562.5
Percentage of staff time to date			25.5% to 31%
Percentage of staff time extrapolated to end of 2022			61% to 74%

It is noted that the above data only represents the amount of time spent on the most time-consuming inquiries (and popular types) and does not include the remaining different types of inquiries that are also answered by staff in the data in Attachment C.

Response Time – Inquiries

After implementing the inquiry tracking system, staff had initially targeted a response time for inquiries for five (5) business days. Currently, and in the past number of months, staff have needed to extend this targeted response time from 5 days to 2 to 3 weeks due to workload demands. Even with this extended timeframe, staff are still finding it challenging to respond to the sheer number of inquiries which are received by the Planning Department.

The Planning Department has made a series of additions to the website including fact sheets on different types of planning applications. There is the availability of a publicly accessible GIS system that allows the public to look up Zoning and Official Plan information for individual properties. The Department will make additional improvements to the online information to assist the public in their ability to access planning information.

This data does not include any staff time spent on planning applications, planning review of building permits or policy projects that also consume a large amount of staff time. With a team of only two, full-time Planners on staff, keeping up with inquiries, planning applications, planning review of building permits and necessary policy planning work is a challenge.

Zoning Compliance Letters and Zoning Certificates

It should be noted that at this time, the only type of tracked inquiry that the municipality receives payment for are Zoning Compliance Letters and Zoning Certificates. The Zoning Compliance Letters are usually requested by solicitors during the sale of a property and the municipality charges a fee of \$200 per letter issued.

Zoning Certificates are listed in the Fees and Charges By-law; however, there is little historical data to determine the purpose or common use of these certificates. The

municipality charges a fee of \$100 for a Zoning Certificate. Further discussion on a recommended use of Zoning Certificates is included in the Building Permit Section.

Building Permit Review

As part of the building permit process, a review of almost every building permit is required to ensure that the proposed construction meets zoning requirements. The Zoning By-law is considered 'applicable law' under the Ontario Building Code and thus, zoning confirmation is required prior to the issuance of a building permit. The exception to this is interior renovations that are not changing or adding a use to an existing structure. All other types of building permits are reviewed by the Planning Department to confirm the permit adheres to zoning. No fees are collected through the building permit process for this zoning review.

In addition, the Planning Department also confirms for the Building Department if the permit requires approval from other agencies such as the Mississippi Valley Conservation Authority (MVCA) or the Ministry of Transportation (MTO). If required, these are also two examples of other 'applicable law' under the Ontario Building Code.

Over the past three (3) months, Planning staff have been developing a more streamlined review of building permits including the use of a zoning checklist for permits to ensure that there is a formal, documented review of the zoning for building permits and have also been tracking the number of building permits that are reviewed by Planning staff. The staff time taken on building permit review varies depending on the construction that is proposed; however, on average, staff time on a per building permit basis is approximately 45 minutes. Based on building permit data, the average number of permits per year in the past three years has hovered around 400 permits.

Below is a summary of the review of the planning review of building permits:

Average staff time per building permit for zoning review	Number of building permits reviewed since March (3 months)	Total (average) staff time spent on building permit review since 2022
0.75 hours	135	101.25 hours
Total staff time (extrapolated) for planning review of building permits for 2022 assuming 400 permits		300 hours
Total percentage of staff time (extrapolated) for planning review of building permits for 2022		6%

This amount of time may appear to be low on an annual basis; however, when combined with also fielding inquiries, the amount of time dedicated to answering inquiries combined with building permit review is 66% to 81% of a full-time Planner's time for inquiries and building permit review. On average, there is only 25% of the one of the two, full-time Planners capacity to handle planning applications, assist or lead policy planning projects and engage in other duties as part of the day-to-day operations of the Planning Department.

As noted in the previous section, the current Fees and Charges By-law includes a \$100 fee for a Zoning Certificate; however, there is no clear indication what the Zoning Certificate fee is used for. Based on the data above, if there was a fee of \$100 charged for planning review of building permits, with an average of 400 permits per year, it would result in a cost recovery for the review of \$40,000.

In light of the above information, staff are recommending that the existing Zoning Certificate be implemented on July 1, 2022, as part of a cost recovery mechanism for the planning review of building permits. This fee can be charged along with the other applicable fees charged at the building permit issuance stage and will align with the date of the implementation of the other changes by the Department related to mandatory pre-consultations and planning application approval changes.

Staffing

In light of the above, staff are suggesting two options to consider increasing the staffing capacity of the Planning Department.

Year-Round, Cooperative Student Program

This summer, the municipality hired two (2) students to work in the Planning and Building Department. One student is dedicated to the Planning Department and the other student is a shared resource between the Planning and Building Departments. The students are both enrolled in the cooperative planning student program at Waterloo University and in the first month have assisted staff greatly including research on policy projects, inputting historical planning application data into CGIS and preparing checklists for building permit reviews.

With the success of year-round, student cooperative programs in other municipalities, staff are recommending that the Planning Department undertake a review of cooperative student planning programs in other municipalities and report back on the potential of implementing a similar program at the municipality along with budget implications in time for the 2023 budget review. There are two Planning Programs that offer students coop opportunities – University of Waterloo as part of the undergraduate program and Queen's University as part of the masters planning program. In addition, Algonquin College offers programs geared towards skilled trades, which could also be an opportunity for students more interested in experience in Building Departments.

Additional Planning staff

In addition to the potential for a year-round cooperative student program, staff are also recommending that the Planning Department undertake a review of staffing options for the Planning Department, including the potential of adding additional staff within the Department to provide greater capacity to provide an improved level of service to the residents of Mississippi Mills, public and applicants.

With the changes in the *Act* requiring mandatory refunds of Site Plan Control and Zoning By-law Amendment applications, this level of service is even more important on a budgetary basis for the Planning Department. In addition, with the recent decision on Official Plan Amendment 22 and the County's Official Plan Amendment 11, which implements the boundary expansion to Almonte, it is anticipated that the Planning

Department will continue to experience a large volume of work related to development applications.

In addition to a review of staffing capacity options, a review can also include a fee review of the planning application fees to confirm if the current planning application fees are reflective of the level of effort required for these applications and remain at a cost recovery basis. Staff can undertake the review and report back to Council in time for budgetary considerations for 2023.

SUMMARY

In summary, the Planning Department is facing staffing capacity challenges and the recent changes to the *Act* regarding mandatory refunds requires the Department to not only improve upon its processes and procedures, but will also need to increase its staffing capacity in some way to ensure the planning application timelines are met.

In the spirit of continuous improvement and trying to operate efficiently and effectively, the Department is recommending that a review of staffing options contained in this report be undertaken in time for the 2023 budgetary considerations.

All of which is respectfully submitted by,



Melanie Knight
Senior Planner

Approved by,



Ken Kelly
CAO

ATTACHMENTS:

Attachment A – Pre-consultation By-law

Attachment B – Pre-consultation Request Form and List of Plans and Studies

Attachment C – CGIS Inquiry Tracker Information