

Report to Planning and Environment Committee

To: Chair and Members
Planning & Environment Committee

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

Subject: Modifications to Public Site Plan Holding Provisions as a
Result of Bill 23 (Z-9588 – City Wide)
Public Participation Meeting

Date: April 11, 2023

Recommendation

That, on the recommendation of the Director, Planning and Development, the following actions be taken with respect to the application of The Corporation of the City of London relating to the h-5 and h-217 Holding Zones, the proposed by-law attached hereto as Appendix “A” **BE INTRODUCED** at the Municipal Council meeting to be held on April 25, 2023 to amend Zoning By-law No. Z.-1, in conformity with The London Plan, to change the h-5 and h-217 Holding Zone to exempt Public Site Plan Meetings for residential developments with 10 or fewer units in accordance with the provisions of Bill 23.

Executive Summary

Summary of Request

An amendment to Zoning By-law No. Z.-1 to exempt Public Site Plan Meetings for residential developments with 10 or fewer units. Possible change to the Zoning By-law to revise the wording of the Holding provision zones related to public site plan to permit interim permitted uses.

Purpose and Effect of Recommended Action

The purpose and effect of this zoning change is to align the City of London’s development policies with the provisions of Bill 23, which exempts residential developments of 10 or fewer units from Site Plan Control.

Rationale of Recommended Action

1. The recommended amendment is consistent with the *Provincial Policy Statement, 2020*.
2. The recommended amendment is consistent with the *Planning Act*, as amended through *Bill 23* which exempts residential developments of 10 or fewer units.
3. The recommended amendments support Council’s goals in the 2019-2023 Strategic Plan, to improve the delivery of service through streamlined Council’s decision-making process.

Linkage to the Corporate Strategic Plan

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

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

Analysis

1.0 Subject Sites

As of March 17, 2023, there are 73 sites with h-5 zones and one site with the h-217 zone: 48 are residential; 14 are commercial; 5 are industrial; 4 are institutional; 1 is open space; and 1 is agricultural. In total, there are 201 addresses with either h-5 or h-217 zones.

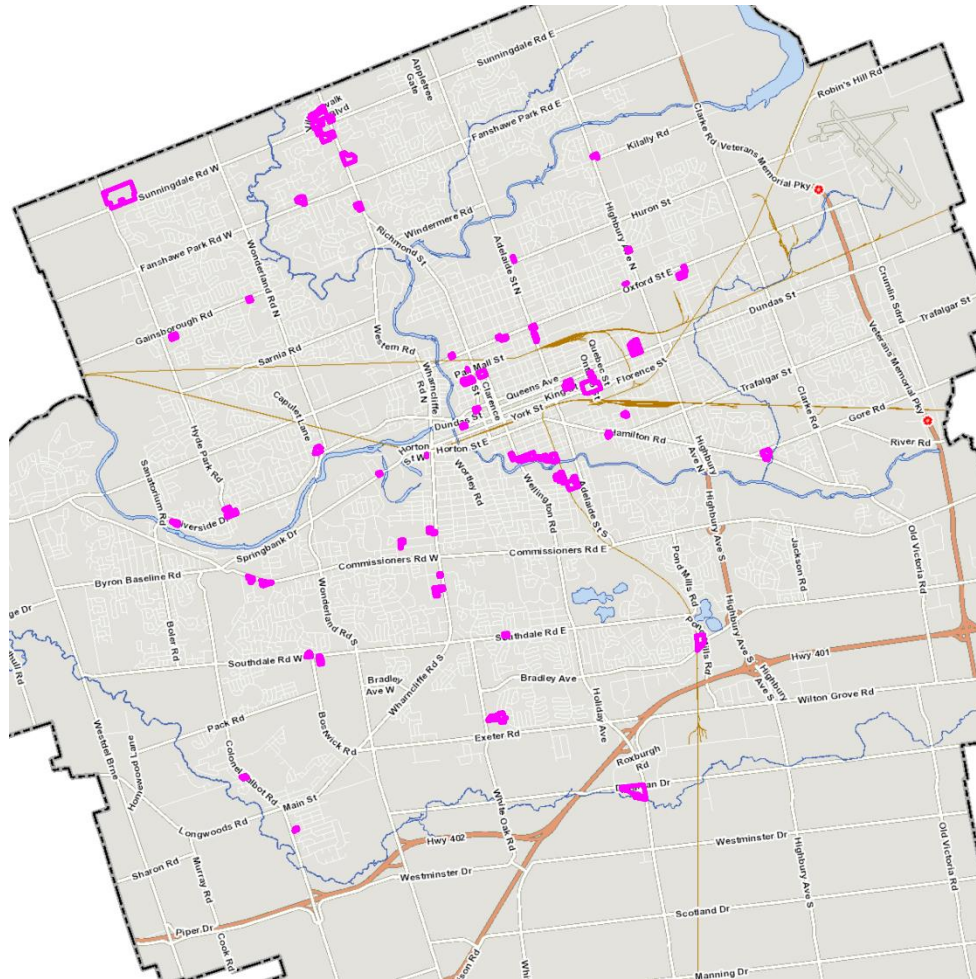


Figure 1. Map of subject sites with either h-5 or h-217 holding provision zones, indicated by purple outlines, as of March 16, 2023.

As of 2023, the application fee for holding provision removal is \$1,393. If approved, this amendment would exempt residential proposals of 10 or fewer units from requiring removal of either the h-5 or h-217 holding provisions. As a result, this amendment would spare affected proposals from the holding provision fee while saving City staff and the applicant the time associated with processing the removal of these holding provisions; approximately one month's time.

1.1 Bill 23, More Homes, Built Faster Act, 2022

On November 28th, 2022, Bill 23, *More Homes Built Faster Act, 2022* received Royal Assent. Bill 23 changes affected the following acts: *Conservation Authorities Act*, *Development Charges Act, 1997*; *Municipal Act, 2001*; *New Home Construction Licensing Act, 2017*; *Ontario Heritage Act*; *Ontario Underground Infrastructure Notification System Act, 2012*; *Planning Act*; *Ontario Land Tribunal Act, 2021*; and two others not applicable to the City of London. *More Homes, Built Faster Act, 2022* added the following provision to section 41, Site Plan Control of the *Planning Act*.

Subject to subsection (1.3), the definition of “development” in subsection (1) does not include the construction, erection or placing of a building or structure for residential purposes on a parcel of land if that parcel of land will contain no more than 10 residential units.

As a result, Site Plan Control now exempts residential developments of 10 or fewer units. To ensure compliance with Provincial policy, the City of London must amend the

Holding zones to exempt Public Site Plan meetings and approvals for residential developments with 10 or fewer units.

In instances where Council has applied a holding provision related to public site plan, or in the future where Council wishes to apply such a holding provision, this amendment will permit development of 10 residential units or fewer to occur with the holding provision remaining in place. This allows for greater certainty should applicants increase the number of units at the time of permit or at a later date.

Additionally, allowing exceptions ensures that the holding provision remain in place in perpetuity, while also reducing the need for applicants who are developing 10 units or fewer to apply for additional Planning Act permissions (to remove the holding provision on a technical basis). This would ensure that the intent of Bill 23 remains, which is maintaining streamlined development review, while concurrently providing certainty to municipal Council that a public Site Plan meeting is eligible should applicants wish to increase development to more than 10 units.

1.2 The London Plan

The London Plan includes a number of policies regarding Council's delegated approval authorities for various planning applications under the *Planning Act*. The holding provision by-law policies provides that City Council determines that the requirements for removal of a holding symbol have been met (1658), which reflects that City Council is solely the approval authority. The London Plan includes the Public Engagement and Notice section (policy 1615-1633) in the Our Tools part that provides public notice and meeting requirements pursuant to the *Planning Act*.

Policy 1632 states that City Council may forego public notification and public meetings and may adopt changes in instances to correct a minor technical error or omission contained in an amendment which has undergone full public review, to change punctuation or format, alter language, or correct clerical, grammatical, or typographical errors, and to insert footnotes or similar annotations to indicate the origin and approval of each provision.

The Public Meetings and Notices policies do not apply to the removal of the holding symbol under Policy 1660. This policy also provides that a notice of Council's intent to remove the holding symbol shall be given in accordance with the requirements of the *Planning Act* and associated regulations.

1.3 Zoning By-law Z.-1

The Zoning By-law Z.-1 includes provisions for holding symbols pursuant to the Section 36 of the *Planning Act* (Holding Provision By-laws). Council may add a holding symbol as a prefix to a zone to specify the future uses of lands, buildings or structures. the zone must not be developed or used until conditions for removing the holding symbol are met and the holding symbol is removed.

Site Plan approval is delegated to staff for review and approval. Public meetings are not required unless requested by Council through an approval of a holding provision indicating as such. The Zoning By-law Z.-1 includes the following holding provisions that require a public Site Plan meeting prior to the removal of the holding:

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

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

These holding provisions are intended to ensure that there is a public site plan review/approval process prior to development and that it will still be subject to a public meeting and Council's input. The recommended amendment will not change this requirement for a public meeting where there is such a requirement in the holding provision, except for residential developments of 10 or fewer units, as per Bill 23, *More Homes, Built Faster Act, 2022*.

The proposed exception being added to the holding zones, indicate that the holding provisions do not apply to situations where development is proposed for residential uses consisting of ten units or fewer.

As noted, the exceptions to these holding zones are recommended to ensure that the intent of *More Homes, Built Faster Act, 2022* is maintained by not requiring additional Planning Act approvals for developments which no longer trigger Site Plan Control (to remove holding provisions that don't apply). This also maintains the mechanism for Council to ensure that certain developments maintain a requirement for public review, should developers propose more than ten (10) units for a development.

Financial Impacts

There are no direct municipal financial expenditures with this amendment.

Conclusion

The recommended Zoning By-law Amendment is a City-initiated technical amendment to comply with Bill 23, *More Homes, Built Faster Act, 2022*. The recommended amendment will permit the development of sites while removing the need for Site Plan Control. These revisions are intended to avoid the requirement of Site Plan Control for development proposals that are now exempt. The recommended zoning amendment is consistent with the *Provincial Policy Statement, 2020* and conforms to the in-force policies of *The London Plan*, including but not limited to the Key Directions.

Prepared by: **Stuart Filson, MCIP, RPP**
Site Development Planner, Site Plans

Reviewed by: **Michael Pease, MCIP, RPP**
Manager, Site Plans

Recommended by: **Heather McNeely, MCIP, RPP**
Director, Planning and Development

Submitted By: **Scott Mathers, MPA, P. Eng.**
**Deputy City Manager, Planning and Economic
Development**

April 3, 2023
SF/sf

Copy:

Michael Corby, Manager, Planning Implementation

Britt O'Hagan, Manager, Current Development

Peter Kavcic, Manager, Subdivisions and Development Inspections

Bruce Page, Manager, Subdivision Planning

Kevin Edwards, Manager, Community Planning

Kyle Gonyou, Manager, Urban Design and Heritage (Acting)

Appendix A

Bill No. (number to be inserted by Clerk's Office)
2023

By-law No. Z.-1-23_____

A by-law to amend the h-5 Holding Zone to exempt Public Site Plan Meetings for residential developments of 10 or fewer units, as per Bill 23, *More Homes, Built Faster Act, 2022*.

1. The Municipal Council of The Corporation of the City of London enacts that Section 3.8 of the h-5 Holding Zone is amended as follows:

h-5 *Purpose:* To ensure that development takes a form compatible with adjacent land uses, agreements shall be entered into following public site plan review specifying the issues allowed for under Section 41 of the *Planning Act, R.S.O. 1990, c. P.13*, prior to the removal of the "h-5" symbol. Notwithstanding this, residential developments of 10 or fewer units are exempt from Public Site Plan Meetings, as per *Bill 23, More Homes Built Faster Act, 2022*.
Permitted Interim Uses: Residential Developments of 10 units or fewer.

h-217 *Purpose:* To ensure that residential development takes a form compatible with adjacent land uses, agreements shall be entered into following public site plan review specifying the issues allowed for under Section 41 of the *Planning Act, R.S.O. 1990, c. P.13*, prior to the removal of the "h-_" symbol.
Permitted Interim Uses: Residential Developments of 10 units or fewer

Amendment No. (to be inserted by Clerk's Office) to The London Plan for the City of London Planning Area – 2016, as contained in the text attached hereto and forming part of this by-law, is adopted.

2. This Amendment shall come into effect in accordance with subsection 17(27) of the *Planning Act, R.S.O. 1990, c.P.13*.

PASSED in Open Council on March 27, 2023.

Josh Morgan
Mayor

Michael Schulthess
City Clerk

First Reading – April 25, 2023
Second Reading – April 25, 2023
Third Reading – April 25, 2023

Appendix B – Community Engagement

Community Engagement

Public Liaison: Notice of Application was published in the *Public Notices and Bidding Opportunities* section of *The Londoner* on February 9th, 2023.

Responses: No responses received.

Nature of Liaison: Application to exempt Public Site Plan Meetings for residential developments with 10 or fewer units in accordance with the provisions of Bill 23. Possible change to Zoning By-law to revise the wording of the h-5 Holding Zone to permit interim permitted uses. The City may also consider additional considerations such as additional special provisions.

Agency or Departmental Comments

Urban Design (February 1, 2023)

No comments.

London Hydro (February 14, 2023)

London Hydro has no objection to this proposal or possible official plan and/or zoning amendment. Any new or relocation of the existing service will be at the expense of the owner.

Bell Canada (March 27, 2023)

Bell Canada is Ontario's principal telecommunications infrastructure provider, developing and maintaining an essential public service. The Bell Canada Act, a federal statute, requires that Bell supply, manage and operate most of the trunk telecommunications system in Ontario. Bell is therefore also responsible for the infrastructure that supports most 911 emergency services in the Province. The critical nature of Bell's services is declared in the Bell Canada Act to be "for the general advantage of Canada" and the Telecommunications Act affirms that the services of telecommunications providers are "essential in the maintenance of Canada's identity and sovereignty."

Provincial policy further indicates the economic and social functions of telecommunications systems and emphasizes the importance of delivering cost-effective and efficient services:

- The 2020 Provincial Policy Statement (PPS) requires the development of coordinated, efficient and cost-effective infrastructure, including telecommunications systems (Section 1.6.1).
- Section 1.7.1 I) of the 2020 PPS recognizes that "efficient and coordinated telecommunications infrastructure" is a component of supporting long-term economic prosperity.
- We note that the definition of infrastructure in the 2020 PPS is inclusive of communications / telecommunications, which is indicative of the importance in providing efficient telecommunications services to support current needs and future growth (Section 1.6.1).
- Furthermore, the 2020 PPS states that infrastructure should be "strategically located to support the effective and efficient delivery of emergency management services" (Section 1.6.4), which is relevant to telecommunications since it is an integral component of the 911 emergency service.

To support the intent of the Bell Canada Act and Telecommunications Act and ensure consistency with Provincial policy, Bell Canada has become increasingly involved in

municipal policy and infrastructure initiatives. We strive to establish partnerships which allow for a solid understanding of the parameters of Bell's infrastructure and provisioning needs and the goals and objectives of the municipality related to utilities.

Comments on the Zoning By-Law Amendment

We would like to thank you for the opportunity to be included in this process and the City of London's recognition of the importance of telecommunications and broadband infrastructure as critical components to the development and economic viability of the City of London. As such, to facilitate the provisioning of this infrastructure, we appreciate London's continued support in ensuring that sufficient notice and time to comment on planning applications are provided, particularly for Draft Plan of Condominium, Draft Plan of Subdivision and Site Plan Control/Approval. This ensures an understanding by applicants of Bell's conditions and provisioning requirements.

Bell would also emphasize that receiving engineering and servicing/utility plans/drawings, as soon as possible in the process, assists in the development and expedition of our provisioning plan. As a result, we would strongly recommend that this consideration be highlighted in any pre-circulation/consultation meetings with prospective applicants. This will assist Bell in providing comments and clearance letters in an efficient manner, assisting the Municipality in meeting approval times. Such drawings should be submitted to: planninganddevelopment@bell.ca by the applicant/their agents.

Appendix C – Policy Context

The following policy and regulatory documents were considered in their entirety as part of the evaluation of this requested amendment. The most relevant policies, by-laws, and legislation are identified as follows:

Planning Act

- 17(15) to (19.2) – Notice and public meeting requirements for official plan amendments
- 17(19.3) – Alternative measures for notice and public meeting requirements regarding official plan amendments
- 34 – Zoning by-laws
- 34(12) to (14.2) – Notice and public meeting requirements for zoning by-law amendments
- 34(14.3) Alternative measures for notice and public meeting requirements regarding zoning by-law amendments
- 36 – Holding provision by-law
- 39 – Temporary use provisions

The London Plan

- 1615 to 1633 – Public engagement and notice
- 1656 to 1661 – Holding provision by-law
- 1671 to 1673A – Temporary use provisions

Zoning By-law Z.-1

- 3.8 – Holding “h” zones
- 50 – Temporary (T) Zone

Municipal Act

- 23.1 – General power to delegate
- 23.3 – Powers that cannot be delegated