

October 8, 2024

Mr. Jacob Saltiel
Planning Services
City of Ottawa
Ottawa, Ontario

Re: FCA Position on Official Plan Amendment D01-01-24-0020

Dear Mr. Saltiel,

The Federation of Citizens' Association (FCA), after thorough review and discussion of the above-mentioned Official Plan Amendment (OPA) at the meeting of its Planning and Zoning Committee on October 2, 2024, wishes to provide the position and comments of FCA with respect to the proposed OPA.

We understand that the purpose of the proposed OPA is to add, in Ottawa's Official Plan, the types of applications that are to be classified as "minor zoning by-law amendments" to allow delegation of authority to staff under section 39.2 of the *Planning Act*. The proposed OPA is also intended to allow delegation of authority to accelerate the approval process of development applications, which is a condition of the Housing Accelerator Fund Agreement between the City and the Federal Government.

If this OPA is approved, minor rezoning applications subject to delegated authority would be approved directly by staff and would not be submitted to Committee and Council.

FCA opposition and basis of opposition

After careful review of the list provided in the OPA Summary (see Schedule A) and further to FCA Planning and Zoning Committee's recommendation to not support the proposed list of minor zoning by-law amendment applications, FCA wishes to express its opposition to the Official Plan Amendment in its current form. FCA has serious concerns about the delegation to staff of the authority to process directly these types of applications without any advance public notice, any opportunity for public input and any oversight of the Agriculture and Rural Affairs Committee, the Planning and Housing Committee or Council.

In particular, the proposed delegation to staff of height increase applications mentioned in the Summary is a critical and contentious issue that has serious implications for neighbourhoods. FCA finds that it is ill-advised to raise the issue at this time, considering the ongoing public consultation on the draft Zoning By-law where there is already a height issue not yet resolved by Council.

Residents expect the Zoning By-law to be followed with respect to heights or that a submission to the Committee of Adjustment be made for a minor variance, enabling residents to participate and have their say. The proposed delegation to staff removes this advance notice and any opportunity for residents to participate and present their arguments against a proposal.

Furthermore, FCA does not support approval of a new group home by a planner alone. This would only create friction and resistance at community level. Early engagement with the community is essential in such a case, and pre-consultation of all stakeholders and “Good Neighbour Agreements” are prerequisites to ensure that a healthy and mutually respectful relationship is developed with the community.

List from 2001

For the proposed OPA, City staff is using the definition of “minor zoning by-law amendment application” included in the City’s *Planning Fees By-law* for the purpose of cost recovery (planning fees). Most of the items listed in that definition date back to 2001 when the newly amalgamated City of Ottawa created a Cost Recovery Fee System (Schedule B). Recovery of costs of services provided by City staff is a financial matter very distinct from the delegation of powers of Council to staff, and it falls under separate provisions of the *Municipal Act, 2001*. FCA believes that it is unreasonable and ill-advised to extend the definition established for cost recovery purposes to a completely different subject-matter that involves delegating powers of Council to an individual. FCA has not seen any analysis of the risks involved.

Wouldn’t it be reasonable to expect City staff to develop criteria expressly aimed at defining minor zoning amendments for the purpose of delegating authority to staff instead of importing an old list established for a different purpose?

Overlap with Committee of Adjustment

FCA believes that some of the minor rezoning amendments listed in the Summary fall under the jurisdiction of the Committee of Adjustment and could constitute a jurisdictional overlap with the Committee of Adjustment. Will the powers and authority of the Committee of Adjustment be diminished as a result of the proposed delegation? FCA has not seen any analysis of the separation of issues that would fall under the jurisdiction of the Committee of Adjustment and under the authority of the City employee entrusted with the delegation. Furthermore, the Committee of Adjustment process provides advance public notice, an open process and an opportunity for public input, whereas the delegated process would be an internal and closed process and exclude advance public notice and public input.

Other cities limit delegation to more truly “minor” amendments

As part of its due diligence, FCA researched what other Ontario cities are doing (see Schedule C) and found that the delegation of authority to staff for “minor zoning by-law

amendments” is much more limited in other large cities than what is proposed in this OPA. In general, other cities limit this type of delegation of authority to: (a) removal of holding symbols; (b) temporary use of land; and (c) housekeeping revisions. If the largest city of Ontario (Toronto) limits this type of delegation to four topics, why should Ottawa exceed this limit?

Ethical concerns

FCA is of the opinion that the proposed list of minor zoning by-law amendments subject to delegation to staff presents a risk of undue influence by developers on City planners and a risk of corruption. The decision-making process would exclude advance public notice, public input and public scrutiny, and FCA believes that this closed process is inconsistent with the City’s pledge of an open, transparent and accountable government.

For all the reasons outlined above, the Federation of Citizens’ Associations is opposed to the proposed Official Plan Amendment D01-01-24-0020 and respectfully requests that the Agriculture and Rural Affairs Committee and Planning and Housing Committee as well as Council reject the proposed Official Plan Amendment in its current form.

If you wish to meet with FCA representatives to discuss our position and concerns in relation to the OPA proposal, please do not hesitate to contact us.

Best regards,

Paul Johanis

Chair

Federation of Citizens’ Associations (FCA)

johanis@fca-fac.ca

cc. Ottawa Mayor and Councillors

SCHEDULE A

From list in the published Summary on DEV APPS:

1. Modifications to performance regulations only (not adding a new use to the zone, but only requesting a change to regulations such as height, floor space index, density, yards etc.)
2. Extension of a zoning boundary to reflect addition of lands to existing property
3. Establishment of a group home (request that this use be permitted)
4. Lifting of interim control for one use only
5. Temporary rezoning
6. Any zoning changes required as a condition of severance
7. A change in use that is wholly contained within an existing buildings envelope, where no building permit has been issued within the previous two years to increase the size of the building and which is not located within a residential zone, as defined by Zoning By-law 2008-250, to introduce one new non-residential use. No additional amendments to performance standards may be sought and the change in use cannot result in the establishment of any of the following uses:

Amusement centre or amusement park
Automobile body shop
Automobile dealership
Automobile rental establishment
Automobile service station
Heavy equipment and vehicle sales, rental and servicing
Drive-through facility
Bar
Kennel
Nightclub
Payday loan establishment

A new item 1 will read as follows: "A height increase of up to 5 storeys (15 metres) or 25% of the permitted building height, rounding to the nearest half-metre, whichever is the lesser [*Item 1 in the above list will be re-numbered to Item 2 and the word "height" will be deleted, with all following items to be re-numbered accordingly.*]

Item 6 is proposed to be amended so that it reads "Any zoning changes required as a condition of severance, including a severance of surplus farm dwelling".

From City webpage mentioned in Summary

<https://ottawa.ca/en/planning-development-and-construction/residential-property-regulations/development-application-review-process/development-application-submission>

To limit the amount of height that can be request, a new threshold to minor re-zoning criteria is proposed. The proposed new height threshold would limit the maximum available requested height to for a minor re-zoning to the lesser of five storeys, or 25 per cent of the zone's permitted building height, rounded to the nearest half-metre.

Table 1 - Sample height thresholds for minor re-zoning applications

#	Permitted height (metres)	Height increase (metres)
1	8.5 metres	2 metres
2	14.5 metres	4 metres
3	25 metres	6 metres (2 storeys)
4	30 metres (10 storeys)	7.5 metres
5	45 metres	11.25 metres
6	50 metres	12.5 metres
7	60 metres (20 storeys)	15 metres (5 storeys)

Further to the height threshold, this project proposes to have surplus farm severance applications delegated to staff for approval.

Applications delegated to staff are proposed to have lower requirements for public notification and remove the requirement for deliberation at Planning and Housing Committee or Agricultural and Rural Affairs Committee, unless requested by the Ward Councillor.

SCHEDULE B

LIST from 2001 defining minor zoning by-law amendment application:

Ottawa City Council- Disposition- Meeting 18

12 September 2001

Committee Recommendations as Amended

That Council approve:

1. The following types of Zoning By-law Amendment applications as “minor” amendments for the purpose of applying a \$1,500 application fee:

- modifications to performance regulations only
- extension of a zoning boundary to reflect addition of lands to existing property
- establishment of a temporary garden suite, an accessory apartment or a special needs/group home
- lifting of interim control for one use only
- any zoning changes required as a condition of severance

and that all other types of Zoning By-law Amendment applications be considered as “major” amendments subject to a \$3,000 application fee.

CARRIED

SCHEDULE C

FCA JURISDICTIONAL SCAN

How do other Cities define a Minor Zoning By-law Amendment subject to a delegation of authority to staff?

1. City of Toronto

2. Council may delegate one or more of the following types of minor zoning by-laws:
- a) a by-law to remove a holding provision, including any associated zoning provisions where applicable, where the conditions for the removal of the holding provision have been satisfied;
 - b) a by-law to authorize the temporary use of land, buildings or structures in accordance with subsection 39(1) of the *Planning Act*, including any grant of extension in accordance with subsection 39(3) of the *Planning Act*;
 - c) a by-law to amend Zoning By-law 569-2013 to bring in lands that are not currently subject to Zoning By-law 569-2013, where the owner of the lands consents and no substantive additional permissions are granted beyond what is permitted in the currently applicable zoning by-law; and
 - d) without limitation, a housekeeping by-law to amend Zoning By-law 569-2013 or a site-specific zoning by-law, for the purpose of:
 - i. correcting errors or omissions; and/or
 - ii. making technical and/or stylistic revisions;provided that the purpose, effect, intent, meaning and substance of Zoning By-law 569-2013 or site-specific zoning by-law are in no way affected.”

2. City of Kitchener

Delegation of Minor ZBLA to:

- a) remove a holding symbol; and
- b) make minor amendments and revisions to the Zoning by-law, where the effect of regulations is not substantively changed.

3. City of Mississauga

19.23 Delegated Authority

19.23.1 The City may, by by-law, delegate the authority to pass zoning by-law amendments that are of a **minor** nature, to a committee of Council or to an individual who is an officer or employee of the municipality.

19.23.2 Delegation of authority to pass zoning by-laws shall be limited to:

a. a by-law to remove a holding provision

19.23.3 The delegation of authority authorized under section 19.23 may be subject to such conditions as Council may, by by-law, provide.

4. City of Oakville

b) Delegation of authority to pass by-laws under section 34 of the *Planning Act* shall be limited to:

- i. a by-law to remove a holding “H” symbol;
- ii. a by-law to authorize the temporary use of land, buildings, or structures; ~~and~~;
- iii. a housekeeping by-law for the purpose of making clerical or other changes to assist in the interpretation of the zoning by-law; ~~and~~.
- iv) a by-law to permit amendments to the zoning by-law which are **minor** in nature and for the purpose of accommodating new dwelling units greater than the current number of dwelling units that exist on a site, including *affordable housing* and modular housing.

5. City of Brantford

Minor Zoning By-law Amendment subject to delegation:

- Add one permitted use to site specific zones
- Change the floodplain overlay with Conservation Authority’s floodplain limits data
- Remove holding symbols
- Permit or extend a temporary use

- Make technical amendments to the Zoning By-law

6. City of London

MINOR ZONING BY-LAW AMENDMENTS SUBJECT TO DELEGATION

2.1 Types of Minor Zoning By-law Amendments

Applications to amend the City of London Zoning By-law, Z.-1 that are of a minor nature, as specified in the Official Plan pursuant to section 39.2(2) of the Act, to which the herein delegation applies are:

- (a) removing a Holding Provision where the requirements of the Holding Provision have been met pursuant to section 36 of the Act;
- (b) correcting minor errors and omissions; and
- (c) housekeeping updates to reflect changes including but not limited to job titles, City departments, external agencies and organizations, or other policy documents, by-laws, and legislation.

7. City of Niagara Falls

Minor Zoning By-law Amendments may include:

- a) Updates to terminology or mapping to align with the Official Plan,
- b) The lifting of a holding provision,
- c) The approval of a temporary use by-law,
- d) A Zoning By-law amendment required as part of a surplus farm dwelling severance to prohibit future residential uses on agricultural lands,
- e) Any other amendments that meet the following criteria:
 - i. No studies or reports are required to review the application, other than a Planning Justification report, and
 - ii. The proposal does not contradict any Provincial Policies, and
 - iii. The proposal conforms to the Region and City's Official Plan.

8. City of Ajax

'Minor' zoning by-laws generally include bylaws to

- remove a holding (H) provisions,
- establish or extend a temporary use for a maximum of three years, and
- implement housekeeping or technical amendments that assist in interpreting the Zoning By-law

Table from City of Toronto website:

<https://www.toronto.ca/legdocs/mmis/2023/ph/bgrd/backgroundfile-237610.pdf>

Municipality	OPA Adopted	Types of Minor Zoning By-laws			
		Removal of "H"	Temporary Use	Housekeeping	Other
Brampton	July 2022	X		X	
Brantford	December 2022	X	X	X	X
Halton Hills	June 2022	X	X		X
Hamilton	August 2022	X	X	X	X
Kingston	April 2022	X			X
London	June 2022	X		X	
Mississauga	July 2022	X			
Oakville	March 2022	X	X	X	