

November 11, 2024

Mayor Mark Sutcliffe and
Members of Council
City of Ottawa

Dear Mayor Sutcliffe and Members of Council,

Re: FCA Concerns about the proposed Delegation to staff of Minor Zoning Applications under s. 39.2 of the *Planning Act*

The Federation of Citizens' Associations of Ottawa (FCA) made representations at the Planning and Housing Committee meeting of November 5, 2024 on the above-mentioned issue, but our concerns have not been fully addressed. There are a few points we wish to bring to your attention prior to your consideration of the issue at full Council on November 13, 2024. These are described in items 1 through 4 below. The FCA hopes that Council will take the necessary corrective action before voting on the matter on November 13.

Exclude changes to performance regulations and change in use to group home

1. FCA understands that the City is seeking to define minor zoning amendments in the Official Plan so that they can be subjected to an accelerated process of review and approval. Seven classes of zoning amendments have been identified as minor, including changes to performance regulations and changes in use to group home.

FCA does not agree that changes to performance regulations – and building height in particular – and change in use to group home should be considered as “minor” zoning amendments. Why? These are very significant changes from the point of view of residents and community associations. Most zoning issues that are of concern to residents and community associations are things like building height, footprint, setbacks, all of which are performance standards. Similarly, changes in use to collective dwellings like group homes, halfway houses and other like uses are high-profile zoning changes for local residents that cannot be considered as minor because of their impact on the surrounding community and the need for additional safeguards to be provided.

Furthermore, in relation to minor changes to performance regulations, Council has already delegated to the Committee of Adjustment the authority to approve minor variances to performance regulations, including increase in building height. Is it cost effective to have a duplication of process under the same provincial Act for the same delegated matters? No other City includes this subject-matter in their delegation of minor rezoning amendments.

Delegation process is not a true delegation of enactment authority

2. As noted by Senior Legal Counsel Tim Marc at the PHC meeting of November 5, 2024 (see from 2:11:00 to 2:11:47 of the recording of the meeting), the proposed delegation is not a delegation of enactment authority, but rather an accelerated administrative process. This accelerated process reduces the public comment period from 28 days to 14 days and calls for favourable staff reports to be delivered upon completion for approval by Council on the bulk consent agenda at next Council meeting.

In the case of staff refusal of an application, there is no gain in efficiency as the staff report is referred for consideration at the next Planning and Housing Committee meeting (or ARAC), where the Committee then recommends approval or rejection to Council. Therefore there is no change from the status quo.

FCA does not agree that approval at a Council meeting via the bulk consent agenda complies with the mandatory public meeting requirement of section 34 of the *Planning Act*. FCA could agree to this process if the mandatory public meeting were held as part of Council meeting, with an opportunity provided for public delegations. FCA could also agree to 14-day public comment period if public notification was provided beyond signage on the property.

Gatekeeping Mechanism

3. The proposal gives the ward councillor the option to choose either the accelerated administrative process or the regular process for each case that meets the definition of minor zoning amendment.

FCA could agree to this role by the local councillor if both the accelerated and regular processes included an opportunity for public delegations, as per our comment above. Otherwise, residents living in different wards would not have access to the same opportunity for public engagement. Residents of wards where councillors opt for the full status quo process (see statement by Chair Leiper from 2:34:40 to 2:38:00), would have the benefit of making representations in person at Committee. Residents of wards where councillors opt for the accelerated process could only resort to making written submissions to Council on consent agenda items. This creates inequity and cannot be supported by the FCA.

Exclude City-initiated minor zoning amendment applications

4. To avoid any actual or perceived conflict of interest, the delegation process should not include City-initiated minor zoning amendments. These should be submitted to the regular process of review and approval by Committee and Council. FCA urges Council to specify that the delegation of authority to staff applies only to those minor zoning by-law amendment applications **where the City is not the applicant.**

Conclusion

In summary, FCA urges Council to:

- (1) Exclude from the category of minor zoning amendments: changes to performance regulations, including increases in building height, and changes in use to group homes;
- (2) Exclude City-initiated minor zoning amendment applications from the accelerated process
- (3) Provide quick notification of receipt of minor zoning amendment applications by means beyond signage on the property
- (4) Allow public delegations as part of the accelerated process by holding the mandatory public meeting as part of Council meetings
- (5) Avoid differential treatment of residents based on where they live due to the choice of process made by ward councillors; and
- (6) Either add a delegation provision in Schedule I of the *Delegated Authority By-law 224-265* to create a delegation framework – thereby delegating to Managers of Development Review the power to pass a minor zoning by-law under the Planning Act – OR avoid calling the proposed process “Delegation of authority to staff for minor zoning amendments”, because there is no delegation of enactment authority involved in the proposed process.

FCA would support a delegation of enactment authority to staff for truly minor zoning amendments (i.e. excluding changes to performance regulations and changes in use to group homes).

We have attached for your information a Schedule showing how eight other municipalities have drafted their Delegated Authority By-law for Minor Rezoning Applications.

Respectfully,

Paul Johanis
Chair, Federation of Citizens' Associations (FCA)

cc.: Mr. Jacob Saltiel, City of Ottawa
Mr. Tim Marc, Chief Legal Counsel, City of Ottawa
Ms. Caitlin Salter-MacDonald, City Clerk

SCHEDULE

Delegation of Authority By-law under s. 39.2 of the *Planning Act* re Minor Rezoning

(1) Toronto:

The Council of the City of Toronto enacts:

1. City of Toronto Municipal Code Chapter 415, Development of Land is amended by adding a new Section 415-18.2 as follows:

§ 415-18.2. Delegation of Minor Zoning By-Laws.

- A. The Chief Planner and their designate is delegated the authority to pass a Minor Zoning By-law under Section 39.2 of the *Planning Act*.
 - B. A "Minor Zoning By-law" means:
 - (1) a by-law to remove a holding provision from a zoning by-law, including any associated zoning provisions where applicable, where the conditions for the removal of the holding provision have been satisfied.
 - C. Despite Section 415-18.2.A above, the Chief Planner and their designate are not delegated the power to remove a holding provision from a zoning by-law where a condition to be satisfied relates to, or has an impact on any expenditures of City funds not previously authorized by Council.
 - D. Any existing by-law containing a holding provision that references the satisfaction of Council shall be deemed to be interpreted as to the satisfaction of the Chief Planner and their designate, subject to Section 415-18.2.C above.
 - E. The City Clerk shall determine in each circumstance whether notice will be provided by email or such alternative method as deemed appropriate;
 - F. Despite Section 415-18.2.A., nothing shall prevent the Chief Planner and their designate from making recommendations to Council regarding any by-law delegated in Section 415-18.2.B above through the appropriate Committee of Council.
2. City of Toronto Municipal Code Chapter 169, Officials, City, Section 169-2.4 is amended by adding a new subsection C as follows:

"C. The City Clerk may process by-laws if the Chief Planner and Executive Director, City Planning and their designate exercises delegated authority under Section 415-18.2 of the Toronto Municipal Code."
 3. City of Toronto Municipal Code Chapter 169, Officials, City, Section 169-5.2 is amended by adding a new subsection E as follows:

"E. If the Chief Planner and Executive Director, City Planning and their designate exercises delegated authority under Section 415-18.2 of the Toronto Municipal Code, the City Solicitor will submit the by-law to the City Clerk for processing under Section 169-2.4.C. of the Toronto Municipal Code."
 4. Section 1, Section 2 and Section 3 come into force and effect on the day Amendment 660 to the Official Plan of the City of Toronto is in force and effect.

Enacted and passed on [date], 2023.

(2) Hamilton:

- City of Hamilton minor zoning matters consist of:
 - To make amendments related to surplus farm dwellings and farm lot consolidation;
 - To remove or amend an existing holding provision;
 - To establish a new holding provision;
 - To add a use permitted by the City's Official Plans;
 - To remove existing site-specific zoning and revert the zoning to the parent zone; and
 - Pass, adopt, and extend temporary use by-laws.
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NOW THEREFORE the Council of the City of Hamilton enacts as follows:

1. That the Director of Planning and Chief Planner, or their designate, be delegated the authority to pass a by-law to remove a Holding Symbol that forms part of any zone within the City of Hamilton Zoning By-law No. 05-200, Town of Ancaster Zoning By-Law No. 87-57, Town of Dundas Zoning By-Law No. 3581-86, Town of Flamborough Zoning By-Law No. 90-145-Z, Township of Glanbrook Zoning By-Law No. 464, City of Hamilton Zoning By-Law No. 6593, and City of Stoney Creek Zoning By-law No. 3692-92, and any successor thereto.
 2. That the Director of Planning and Chief Planner, or their designate, be delegated the authority to pass a by-law to establish a temporary use or extend an existing temporary use by-law that forms part of any zone within the City of Hamilton Zoning By-law No. 05-200, Town of Ancaster Zoning By-Law No. 87-57, Town of Dundas Zoning By-Law No. 3581-86, Town of Flamborough Zoning By-Law No. 90-145-Z, Township of Glanbrook Zoning By-Law No. 464, City of Hamilton Zoning By-Law No. 6593, and City of Stoney Creek Zoning By-law No. 3692-92, and any successor thereto.
 3. That the Director of Planning and Chief Planner, or their designate, be delegated the authority to pass a by-law that is of a minor nature, that forms part of any zone within the City of Hamilton Zoning By-law No. 05-200, Town of Ancaster Zoning By-Law No. 87-57, Town of Dundas Zoning By-Law No. 3581-86, Town of Flamborough Zoning By-Law No. 90-145-Z, Township of Glanbrook Zoning By-Law No. 464, City of Hamilton Zoning By-Law No. 6593, and City of Stoney Creek Zoning By-law No. 3692-92, and any successor thereto.
 4. In the event the Director of Planning and Chief Planner, or any successor, is absent for any reason, the said authority of Council is delegated to the Manager, Development Planning or any successor. Where both the said Director of Planning and Chief Planner and the said Manager, Development Planning are absent, the authority delegated pursuant to this By-law is hereby delegated to the person or persons designated in writing by the Director of Planning and Chief Planner, or any successor, to act as the said Director during their absence.
 3. That this By-law shall come into force and take effect immediately upon the final passing thereof.
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(3) Brampton:

By-law 248-2022

WHEREAS the Council of the City of Brampton has delegated authority to officers, employees, committees or tribunals through By-law 216-2017;

AND WHEREAS an amendment to the *Planning Act*, R.S.O, 1990 c. P13 allows for the delegation of authority to staff pertaining to the approval of by-laws of a minor nature under s.34 of the *Planning Act* with respect to certain matters;

AND WHEREAS an Official Plan Amendment Number OP2006-230 has been approved in order to delegate such authority;

NOW THEREFORE the Council of The Corporation of the City of Brampton ENACTS as follows:

1. THAT Administrative Authority By-law 216-2017, as amended, is hereby further amended;

By adding the following to Schedule A – Delegation of Powers and Duties, as row number 76 in the table; and renumbering the proceeding rows:

#	Delegation	Delegate	Limitation
78	Exercise the authority of Council under Section 39.2 of the <i>Planning Act</i> , to approve Zoning By-law Amendments to lift holding "H" symbols and housekeeping by-laws for the purpose of making clerical or other changes to assist in the interpretation of a zoning by-law	Commissioner	Provided the authority is exercised in accordance with the Corporation's Official Plan.

(4) Mississauga:

Official Plan Amendment:

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.

By-law 0186-2022: A By-law to delegate authority to the Commissioner of Planning and Building to pass by-laws to amend Zoning By-law 0225-2007, as amended to remove holding symbols (All Wards) (CONSENT) PDC-0067-2022/July 5, 2022

Council Procedure By-law 0044-2022

94.1 Notwithstanding Section 93(1), a By-law to remove a holding provision from Zoning Bylaw 0225-2007, as amended, as delegated in accordance with By-law 0186-2022, shall be presented to and enacted by the Commissioner of Planning and Building, or designate. (0201-2022)

(5) London:

NOW THEREFORE the Municipal Council of The Corporation of the City of London enacts as follows:

SHORT TITLE

Minor Zoning By-law Amendments Delegation and Approval By-law

Part 1

DEFINITIONS

1.1 In this by-law,

"Act" shall mean the *Planning Act*, R.S.O. 1990, c.P.13, as amended.

"Approval Authority" shall mean the appointed officer or officer delegated by by-law passed by Municipal Council from time to time.

"Council" shall mean the Municipal Council of the Corporation of the City of London.

"Director, Planning and Development" shall mean the person who holds the position of Director, Planning and Development for the Corporation of the City of London.

"Holding" or "Holding Provision" means a by-law subject to the provisions of section 36 of the Act.

"Official Plan" shall mean the Official Plan for the City of London Planning Areas as amended from time to time.

"Manager, Current Planning" shall mean the person who holds the position of Manager, Current Planning for the Corporation of the City of London.

"Manager, Subdivisions and Development Inspections" shall mean the person who holds the position of Manager, Subdivisions and Development Inspections.

"Minor Amendment" shall mean the types of zoning by-law amendments described in Part 2.

Part 2

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.
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Part 3

DELEGATION OF APPROVAL AUTHORITY

3.1 Delegation of Approval Authority – Director, Planning and Development – General Powers

The Director, Planning and Development, in lieu of the Council, has all powers and rights in respect of the authority delegated by this by-law, and the Director, Planning and Development shall be responsible for all matters pertaining thereto, subject to the terms and limitations of this by-law and in exercising such authority may affix their signature as required to all documents arising from or connected with the operation of this by-law.

3.2 Approval Authority – Director, Planning and Development

The Council hereby delegates to the Director, Planning and Development, the authority to pass a by-law with respect to a Minor Amendment application, including the authority:

- (a) to determine whether or not an application made in respect of a Minor Amendment is complete; and if determined to be incomplete, to refuse to accept it and return it to the applicant, detailing the outstanding information required;
- (b) to determine whether or not the requirements of a Holding Provision have been met at the time of considering a zoning by-law amendment to remove the Holding Provision.
- (c) to determine whether or not an application for a Minor Amendment is required to be referred to Council for the purpose of holding a public meeting, in accordance with the following considerations, and notwithstanding that London Plan policy

1633B does not require that a public meeting be held for Minor Amendments:

- a. Certain holding symbols require a site plan public meeting as part of conditions for their removal. In these cases, the Approval Authority will request that the Planning and Environment Committee convene a public meeting on behalf of the Approval Authority to obtain input from the public and receive advice from Council and subsequently report to the Approval Authority the results of the public meeting and any comments of Council without further notice or by adding a direction for staff to hold a public meeting at Planning and Environment Committee.
- b. If written comments are received from the public within the prescribed time period following the mailing of notice of application, a public meeting will be required.

3.3 Approval Authority – Director, Planning and Development – Limitation of Powers

If the Approval Authority has determined that the Minor Amendment application is not consistent with the Provincial Policy Statement, 2020, and does not conform with Official Plan policy, a public meeting shall be held in accordance with the requirements of section 34 of the Act, and it shall be referred to Council for decision and the delegated authority with respect to that particular application is hereby revoked.

Part 4

DELEGATION OF APPROVAL AUTHORITY IN DIRECTOR, PLANNING AND DEVELOPMENT'S ABSENCE

4.1 Approval Authority – Director, Planning and Development – Absence

When the Director, Planning and Development is absent or their office is vacant, the Manager, Subdivisions and Development Inspections or the Manager, Current Development shall act in the place and stead of the Director, Planning and Development, under this by-law and while so acting, the Manager, Subdivisions and Development Inspections or the Manager, Current Development has and may exercise all the rights, powers, and authority of the Director, Planning and Development as delegated by this by-law subject to the same responsibilities and limitations as set out in this by-law.

(6) Town of Ajax:

NOW THEREFORE The Council of The Corporation of the Town of Ajax hereby enacts as follows:

1. That the Director of Planning and Development Services or their designate is hereby delegated authority to pass a minor Zoning By-law Amendment under Section 34 of the *Planning Act* to:
 - i. Remove a holding (H) provision;
 - ii. Authorize the temporary use of land, building or structure, or the extension of an existing temporary use By-law, in accordance with the policies of Section 7.1.11 of the Official Plan for a period not exceeding three (3) years; and
 - iii. Minor housekeeping or technical amendments for the purposes of updating language or other changes to assist in interpreting the Zoning By-law.

2. Council may, at any time prior to the Director of Planning and Development Services or their designate, making a decision on a minor Zoning By-law Amendment referenced in Section 1 of this By-law, withdraw delegation of authority by By-law.
3. Council may, at any time prior to the Director of Planning and Development Services or their designate, making a decision on a minor Zoning By-law Amendment referenced in Section 1 of this By-law, add conditions by By-law.
4. By-law 11-2014 (Site Plan Control), as amended by By-law 74-2017 is hereby further amended by striking out part of section 8 and substituting the following:
 - "8. Council of The Corporation of the Town of Ajax hereby delegates its approval authority for site plan applications to the Director of Planning and Development Services or their designate, ~~subject to the following limitations:~~
 - a) ~~Any member of Council retains the right to withdraw the delegated approval authority on any site plan application."~~
5. This By-law, as amended, shall come into force and effect as of the date that Official Plan Amendment No. 71 is in force and effect.

(7) City of Guelph:

Delegation of powers and duties By-law- By-law Number (2024) - 20994 A By-law to delegate certain administrative powers and duties to City staff, to govern the execution of documents, and to repeal By-law (2023) – 20794

Table 14.4: Planning and Building Services

Number	Delegation	Delegate	Limitation
14.5	<p>Authority to pass minor zoning by-law amendments pursuant to any condition of approval by Council under the <i>Planning Act</i>, as amended, in connection with the development of land, where the City is not the applicant including, but not limited to:</p> <p>section 36, holding provisions</p> <p>section 39, temporary use by-laws</p> <p>section 39.2, minor by-law amendments</p> <p>Authority to approve and execute any regulations pursuant to such by-laws</p>	<p>General Manager, Planning and Building Services/Chief Planner</p>	<p>Review: If concerns have been identified by written submission during the commenting period identified in the Notice of Application, a statutory public meeting will be held at Council.</p> <p>If the General Manager, Planning and Building Services/Chief Planner refuses the Application, applicants can request a decision meeting of Council.</p> <p>Reporting: Annual information report on the number of zoning by-law amendments passed under section 39.2 of the <i>Planning Act</i>.</p>

(8) Halton Hills:

NOW, THEREFORE, BE IT RESOLVED THAT THE COUNCIL OF THE CORPORATION OF THE TOWN OF HALTON HILLS ENACTS AS FOLLOWS:

1. **THAT** the delegation of authority authorized by this By-law shall not be exercised until and unless Official Plan Amendment No. 46 or portion of Official Plan Amendment No. 46 related to the delegated power comes into effect in accordance with Section 24(2.1) of the Planning Act.
2. **THAT** the authority to pass by-laws under Section 34 of the Planning Act, that are of a minor nature, is hereby delegated to the Commissioner of Planning & Development, or designate.
3. **THAT** the delegation of authority to pass by-laws under Section 34 of the Planning Act shall be limited to:
 - a) a by-law to remove a holding "H" symbol;
 - b) a by-law to authorize the temporary use of land, buildings, or structures subject to the criteria contained in Section G4.1.2 of the Town of Halton Hills Official Plan; and
 - c) minor zoning by-law amendments.
4. **THAT** the delegation of authority to pass a by-law to authorize the temporary use of land, buildings, or structures and to pass minor zoning by-law amendments is subject to the following criteria:
 - a) an Official Plan Amendment is not required, and the proposal maintains the general intent and purpose of the Town's Official Plan, including its vision, goals, objectives, and policies;
 - b) a Draft Plan of Subdivision is not required in accordance with Section F1.1 of the Town's Official Plan; and
 - c) any concerns raised by the public and/or staff during the application review and consultation process are resolved prior to the passing of the by-law.
5. **THAT** the delegation of authority to pass by-laws under Section 34 of the Planning Act may be withdrawn by Council, by by-law, in respect of any by-law for which a final disposition was not made before the withdrawal.
6. **NOTWITHSTANDING** any portion of this by-law, the Commissioner of Planning & Development, or designate, will have the discretion to refer any by-law under Section 34 of the Planning Act to Council for consideration and passing.

BY-LAW read and passed by the Council for the Town of Halton Hills this 13th day of June, 2022.