

Implementing the One-Stream Preliminary Review Program for Building Permit Applicants

Date: December 20, 2021

To: Planning and Housing Committee

From: Chief Building Official and Executive Director, Toronto Building

Wards: All

SUMMARY

Toronto Building currently provides clients with two programs that can provide a preliminary zoning review of proposed plans, in advance of a building permit application. The Preliminary Project Review Program consists of a single review to confirm if the application complies with the City's Zoning By-law. The Certificate Program provides clients with a detailed review of the proposal and confirms that the submitted plans comply with zoning and identifies applicable laws, allowing for a "complete" building permit application. With a "complete" building permit application under the Ontario Building Code, applicants have their submission reviewed within provincially established timeframes.

Based on client and industry feedback however, these similar yet different review streams cause confusion amongst permit applicants as to which preliminary program they should apply. This leads to clients applying to the incorrect stream resulting in delays and additional fees.

To improve service delivery, eliminate confusion for applicants, and introduce a more cost effective fee structure, this report recommends changes to Toronto Municipal Code Chapter 363 (Construction and Demolition) and Chapter 441 (Fees) which will allow Toronto Building to operationalize a merger of the two existing zoning review programs into a one-stream preliminary review program. As a result, all clients applying for preliminary review will be provided with a detailed review of a project proposal confirming compliance with the City's Zoning By-law(s) and applicable law.

The report also recommends that City Planning, in consultation with Toronto Building, review application requirements for the Committee of Adjustment to consider requiring a preliminary zoning review to verify the minor variances and remove the option of a zoning waiver.

Toronto Building previously proposed the One-Stream Preliminary Review Program through its 2020 Operating Budget. However, this initial implementation was delayed as a result of COVID-19. The report recommends that the new program take effect on

March 1, 2022, supported by staff training and proactive communication with industry stakeholders and the public.

RECOMMENDATIONS

The Chief Building Official and Executive Director, Toronto Building recommends that:

1. City Council amend Toronto Municipal Code, Chapter 363 (Construction and Demolition), in accordance with Appendix 1 attached to this report, to come into effect on March 1, 2022, subject to such stylistic and technical changes to the draft by-law as may be required.
2. City Council amend Appendix C, Schedule 8 of the Toronto Municipal Code, Chapter 441, Fees and Charges, by deleting items 141 to 144 inclusive, 146, and 157 to 160 inclusive and adding items 161 to 166 inclusive substantially in accordance with Appendix 2 of this report, to reflect City Council's approval of the 2021 Staff Recommended Operating Budget for Toronto Building.
3. City Council authorize the City Solicitor to prepare the necessary Bills for introduction in Council to implement the above noted amendments to the City of Toronto Municipal Code, subject to such stylistic and technical changes to the draft by-law as may be required.
4. City Council request the Chief Planner and Executive Director, City Planning, in consultation with the Chief Building Official and Executive Director, Toronto Building, to review application requirements for the Committee of Adjustment to consider requiring a preliminary zoning review to verify the minor variances and remove the option of a zoning waiver.

FINANCIAL IMPACT

The Toronto Building Division confirms that there are no financial implications resulting from the recommendations included in the report in the current budget year or in future years.

The Chief Financial Officer and Treasurer has reviewed this report and agrees with the financial impact information.

DECISION HISTORY

At its meeting on February 19, 2020, City Council approved the 2020 Staff Recommended Operating Budget for Toronto Building that included the one-stream zoning review program as a new service.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2020.EX13.2>

At its meeting on February 18, 2021, City Council approved the 2021 Staff Recommended Operating Budget for Toronto Building that included user fee changes for the one-stream zoning review program.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2021.EX21.2>

<https://www.toronto.ca/wp-content/uploads/2021/04/9044-TB-2021-Public-Book.pdf>

COMMENTS

Background

The regulatory framework for the construction, demolition, renovation and change of use of a building is governed by the Province of Ontario through the Building Code Act, 1992 (the Act). Under the Act, the Chief Building Official has a positive obligation to issue a building permit when all 'applicable laws' have been met. The Ontario Building Code (the "Code"), prescribes by-laws and statutes that must be complied with for the purposes of issuing a building permit. These include, for example, site plan approval and zoning by-laws, among others.

The Code sets out mandatory service standards in order to provide consistency across Ontario municipalities in the processing of complete building permit applications. More specifically, the Code prescribes timelines during which a complete application is to be reviewed. A "complete" permit application is essentially one that meets the submission requirements of both the Code and any by-law passed to this effect by a municipality under section 7 of the Act. An incomplete building permit application is one that does not meet these submission requirements and accordingly does not trigger the timelines for review prescribed by the Code.

Current Zoning Review Programs

In order to assist applicants in making a complete application, Toronto Building offers two voluntary preliminary zoning review programs to determine Zoning By-law compliance prior to submission of a building permit application.

1. Preliminary Project Review Program

The Preliminary Project Review program is offered to applicants who require confirmation that a proposal is in compliance with the City's Zoning By-law. It also identifies other municipal applicable law approvals that would be required prior to the

issuance of a building permit or sign permit. The Preliminary Project Review is limited to one review. Any revisions or additional information requires the submission of a new application along with new fees (which vary based on project type). This results in a lengthier approval process as applicants must wait the processing time to receive a subsequent review. Toronto Building's service level for submissions is 20 days.

2. Zoning Certificate Program

A Zoning Certificate is a detailed preliminary review of a project proposal specifically intended for application for a building permit confirming its compliance with the City's Zoning By-law(s) and identifies all applicable law related to the proposal as defined in the Ontario Building Code. Fees for Zoning Certificates are 25 percent of the total prescribed building permit fee for the proposal. Building permit application fees are reduced by the amount of the fee paid for a Zoning Certificate, with certain limitations.

The approval process for a Zoning Certificate is iterative, often resulting in applicants making numerous resubmissions to address items of noncompliance to the applicable Zoning By-law(s) that staff have identified. The review timelines for Zoning Certificates correspond with the Ontario Building Code requirements for a complete building permit application:

- House-10 Business Days
- Small Building-15 Business Days
- Large Building-20 Business Days
- Complex Building-30 Business Days

Once the approval process is complete, Toronto Building issues a Zoning Certificate along with an approved set of drawings that must be submitted with a building permit application for the application to be considered in the 'complete' building permit application stream under the Ontario Building Code.

Challenges with Current Zoning Review Programs

The current preliminary review programs were introduced in 2005 by Toronto Building to help implement a number of broad changes to provincial legislation which affected how municipalities deliver building code services, including the prescribed timeframes for review of a complete building permit application.

Over time, however, feedback from clients, the building industry and staff have identified issues with the two programs. For example:

- Applicants are confused about which program to choose and as a result apply to the incorrect stream resulting in delays and additional fees
- The complete list of applicable law requirements are not identified through the Preliminary Project Review process, potentially resulting in project delays
- Re-submissions are limited in the Preliminary Project Review program, which may be frustrating to clients in terms of expectations and costs
- Multiple reviews of Zoning Certificate applications has created workload challenges for the Division

In order to address these frustrations and challenges from clients, Toronto Building consulted with other local area municipalities and engaged the building industry. The Division determined that the best practice is to offer a one-stream preliminary review program that combines the benefits of the existing programs.

Proposed One-Stream Zoning Review Program

In order to address the challenges and increase service levels with the two-stream preliminary review programs, Toronto Building proposed a harmonized one-stream preliminary review service through the 2020 budget process. However, as recommended in this report, changes to the Toronto Municipal Code are required in order to implement the program. (See attachment 1 for proposed amendments to Chapter 363 (Construction and Demolition) and Attachment 2 for proposed amendments to Chapter 441 (Fees).) The changes are primarily contained in Article 2 "Preliminary Reviews" of the Toronto Municipal Code Chapter 363, which set out the application requirements and other administrative elements of the program. Additional minor edits have been made in other areas of the Chapter for consistency.

In the one-stream preliminary review program, clients will be provided with a detailed review of a proposal confirming compliance with the City's Zoning By-law and applicable law related to the proposal. The applicant will be able to make two additional submissions to address items of non-compliance that staff have identified in the initial review. Toronto Building will issue a Zoning and Applicable Law Certificate along with an approved set of drawings that must be submitted with a building permit application for the application to be considered in the "complete" building permit application stream under the Ontario Building Code.

The flat fee structure for the new program is intended to be more cost effective. The existing fees for Preliminary Project Reviews and Zoning Certificates (25 percent of the total building permit fee) have proven to be cost prohibitive for many clients. The fees paid in the new program will be credited to the total building permit application fee. The new set of fees are outlined in Appendix 2 of this report.

Finally, by merging the two existing zoning review programs into a one-stream preliminary review program, efficiencies will be gained by eliminating confusion and introducing a more cost-effective fee structure. Larger proposals were not feasible with the existing fee structure of 25 percent for Zoning Certificates. The service standard target for preliminary zoning reviews will be improved from 65 percent to 75 percent for zoning certificate review for all building types.

Benefits for Clients

The proposed one-stream preliminary review program supports innovation in service delivery. It champions client centered services by providing one preliminary review program enabling applicants to apply for a 'complete' building permit application and removing any confusion about the type of application to submit.

The one-stream preliminary review program will improve efficiency in service delivery by eliminating the ambiguity of competing preliminary zoning review programs. This will reduce applicant and staff confusion as to which type of application should be made. Clients will receive enhanced service as the one-stream preliminary zoning review program will also provide a comprehensive zoning and applicable law review which will expedite permit issuance.

Efficiency is further realized as the new program allows a total of three submissions to be made by the applicant without having to go through the application process again.

Existing Waiver Process

The current preliminary review programs are used by many Committee of Adjustment applicants to verify zoning and identify the minor variances that a project requires. Alternatively, Committee of Adjustment applications may submit a zoning waiver, which means that they apply for minor variances without relying on a preliminary review by Toronto Building. Under a waiver, an applicant assumes any risk associated with incorrectly identifying required variances.

In order to more accurately identify any required variances early in the Committee of Adjustment application process, various stakeholders have previously requested the Toronto Building and City Planning Divisions to consider a Preliminary Project Review to accompany an application to the Committee of Adjustment.

The introduction of the harmonized preliminary review program provides an opportunity to consider whether application submission requirements to Committee of Adjustment should change to require a preliminary zoning review. City Planning, in consultation with Toronto Building, is reviewing the Committee of Adjustment application requirements in this regard and will report back to Planning and Housing Committee by the end of Q2 2022 on this matter.

Implementation

This report recommends that the Toronto Municipal Code changes take effect on March 1, 2022. Preliminary zoning applications made on and after that date will be subjected to the new fees proposed and requirements of the new program. Applications that were applied prior to March 1, 2022 will be processed under the previous program and fee structure.

Toronto Building is actively preparing for the transition to the new program, with staff training, engagement with Divisional partners and stakeholder communication.

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SIGNATURE

William M. Johnston, P.Eng.
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Toronto Building

ATTACHMENTS

Appendix 1: Proposed Amendments to Toronto Municipal Code, Chapter 363
(Construction and Demolition)

Appendix 2: Proposed Amendments to Toronto Municipal Code, Chapter 441 (Fees)