

Town of Whitby

Staff Report

whitby.ca/CouncilCalendar



Report Title: Infill Development By-law

Report to: Committee of the Whole

Date of meeting: March 4, 2024

Report Number: PDE 01-24

Department(s) Responsible:

Planning and Development Department
(Engineering Services)

Submitted by:

Roger Saunders, Commissioner,
Planning and Development

Acknowledged by M. Gaskell, Chief Administrative Officer

For additional information, contact:

Peter Angelo, Director, Engineering
Services

Seva Marouchko, Sr. Manager,
Development Engineering

1. Recommendation:

1. That an Infill Development By-law in accordance with the recommendations contained in Report No. PDE 01-24, be brought forward for Council's approval;
2. That the Director of Engineering Services be directed to finalize and implement the Guidelines to Infill Developments and Grading, Servicing and Drainage Permit in accordance with the recommendations contained in Report No. PDE 01-24 and in the proposed Infill Development By-law;
3. That the Director of Engineering Services be provided with the delegated authority to amend the Guidelines to Infill Developments and Grading, Servicing and Drainage Permit from time to time;
4. That Council approve the proposed Infill Development Fees and Securities as outlined in Report No. PDE 01-24; and,
5. That the Fees and Charges By-law # 7220-17, as amended, be further amended to include the proposed Infill Development By-law Fees and Securities, as outlined in Report No. PDE 01-24.

2. Highlights:

- Currently small-scale Developments in the Town of Whitby, such as Infill Developments (Infills) are not regulated with regard to engineering design, review, construction and securities/agreements.
- Lack of control over Infill Developments leads to adverse effects to existing private and public properties and infrastructure during both construction and post-construction stages.
- The intent of the proposed Infill Development By-law is to give to the Town tools and processes to manage all stages of Infill Developments and, to alleviate negative impacts associated with the Infill sites.
- It is critical for the Town not only to be enabled to coordinate/control different stages of the growing number of development/construction sites, but also to protect existing residents from adverse effects of construction activities, such as flooding, dust, mud, traffic etc.

3. Background:

Historically, in the Town of Whitby, small-scale Developments such as Infill Developments (single or several lots) have not been regulated to the same level as Site Plan or Draft Plan of Subdivision Developments. The only process to regulate these types of Infill Developments falls under the Building Permit application system and unfortunately that system would be restricted to just those elements within the building envelope that fall under the Ontario Building Code (OBC), which does not address the concerns related to engineering, traffic, drainage, and other issues identified within this report.

Unlike Site Plan or Draft Plan of Subdivision Developments, the Applicants for Infills are not required to enter into Development Agreements with the Town or provide securities for proposed works. Additionally, the Applicants for Infills are not obligated to provide Construction Management Reports and other engineering documents that would otherwise be a standard requirement for a typical development application review/approval process.

The Town has no existing process or mechanism that allows the Town to have control over design and construction stages of Infill Developments, outside of OBC processes and requirements. This has been a long-standing issue as every year a large number of Development related complaints are due to Infill sites, which are typically surrounded by existing residences and businesses. The primary complaints relate to drainage, construction activities and safety concerns for both the Towns' residents and the Town itself. Addressing and rectifying these types of issues can be very time-consuming and costly.

Over the last several years the Town has experienced an enormous increase in the number and scope of new developments, including Infills and, it is expected that the number of development projects will continue to increase in the coming years.

The introduction of Bill 23 by the Province of Ontario last year specified an exemption of developments up to 10 units from any Site Plan Control process, further increasing the number of Infills and small-scale developments that are not regulated by the Town in terms of design, review, approval and construction processes. This will lead to a growing number of concerns and complaints related to construction activity across the Town and, as a result, will exacerbate problems associated with these types of unregulated Developments.

4. Discussion:

The lack of control mechanisms over small scale Development processes is a long standing problem for the Town. The Town does not have any processes to ensure that engineering standards and designs of the Infill Developments adhere to the Town's Design Criteria and Engineering Standards. Not following Towns' criteria/standards and review processes, often results in a number of negative impacts to public infrastructure (e.g. surcharge of storm sewers, utility conflicts) and private properties (e.g. surface and basement flooding, traffic and safety issues). In the absence of financial securities and legal tools, such as By-laws or Development Agreements, the Town does not have the means to rectify construction/post-construction and safety issues related to traffic, drainage, dust, mud, hauling routes, noise etc.

Management and control over small scale Developments is a common issue for Ontario municipalities. The City of Burlington, Town of Wasaga Beach, Town of Ajax and some other municipalities have enacted control mechanisms, including by-laws, permits and processes, which ensure Infill Development projects align with their respective municipal standards, minimizing impacts and disruptions on utilities, transportation, and other community resources and infrastructure.

It is important for the Town to introduce a reliable control mechanism for Infill Development projects. The proposed Infill Development By-law (refer to Attachment #1) will provide Town staff with tools and procedures, such as a Grading, Servicing and Drainage Permit process, required to adequately and effectively manage Infill Development related processes. As a result, this will decrease the overall number of complaints received related to these developments, and increase the level of service the Town provides to the existing community. The Infill Development By-law will be supported by a number of documents, including a questionnaire, guideline and permit form (refer to Attachments #2 – 4).

5. Financial Considerations:

The proposed Infill By-law is a comprehensive document that incorporates not only new processes, but also new fees and financial securities related to Infill Developments. The proposed fees will help to ensure that the Town costs associated with the review and approval of new Grading, Servicing and Drainage Permits are recovered on a fee for service basis and are not an added burden on the Town's tax base. The proposed securities will ensure Applicants complete approved

works in accordance with approved engineering designs and, provide the Town with the means to rectify issues should the Applicants fail to comply or refuse to rectify deficiencies in a timely manner. The proposed fees and securities are outlined in Attachment #5. It is recommended that the Fees and Charges By-law be amended to incorporate the fees and securities as outlined in Attachment #5.

6. Communication and Public Engagement:

There is no statutory requirement for consultation or public engagement regarding the introduction of the Infill Development By-law. Staff did not engage with developers and/or development groups (e.g., BILD) as the proposed fees and financial securities are similar to those charged for small scale developments of similar scope, so the impacts on Infill Development projects would be considered negligible.

7. Input from Departments/Sources:

The Infill Development By-law has been developed in collaboration with Legal, Building, Planning and other Town staff.

8. Strategic Priorities:

The information presented in this report contributes to meeting the priorities of the Community Strategic Plan, specifically under Pillar 1: Whitby's Neighbourhoods, by supporting road safety and the provision of a diverse housing stock through orderly Infill Developments.

9. Attachments:

Attachment 1: By-law XXXX-24 Infill Dev By-law

Attachment 2: Grading, Servicing and Drainage Permit Pre-Screening Questionnaire and Permit Application form

Attachment 3: Guideline to Infill Developments

Attachment 4: Grading, Servicing and Drainage Permit

Attachment 5: Proposed Fees and Securities for Infill Development