



**March 28, 2025**

## **City Council Committee Report**

**To: Kyle Attanasio, CAO**

**Fr: Janis Pochailo, Director of Planning and Building Services**

**Re: Amendment to the Terms of Reference for the Committee of Adjustment and Property Standards Committee**

### **Recommendation:**

That as recommended by the Planning Advisory Committee Council hereby approves the Terms of Reference and Rules of Order and Procedure for the City of Kenora Committee of Adjustment and Property Standards Committee; and further

That Council delegate authority for the Approval of Plans of Subdivision and Condominium to the Director of Planning and Building Services; and further

That three readings be given to two bylaws for these purposes; and further

That by-law number 77-2016 and 74-2021 be hereby repealed.

### **Background:**

By-law 74-2021 is a By-law to establish Terms of Reference and Rules of Order and Procedure for the City of Kenora Planning Advisory Committee. This review revealed several procedural challenges as well as inconsistencies with By-law 77-2016 being a By-law for Consent, Subdivision and Condominium delegation and approval under the *Planning Act*.

Proposed changes include:

### **1. Removal of PAC responsibility to make Council recommendations for Zoning By-law and Official Plan Amendments**

The Planning Advisory Committee (PAC) is currently responsible for conducting an open house and providing recommendations to Council on Zoning By-law and Official Plan amendments. The open house is conducted as a formal Public Meeting. The applicant and planning staff present reports, and the public provides written and/or verbal input. PAC considers the information presented and provides a written recommendation to Council.

The following issues have been identified with the current process:

- The procedure is very formal and there are limited opportunities for the public to ask questions;
- Planning staff prepare their report without the benefit of public input;
- extra time is added to the process;

- PAC members do not necessarily have expertise in urban planning, architecture, engineering, or land use so their recommendations may be contrary to the recommendations of the City's professional planners.

It is therefore recommended that the Planning and Building Department conducts a traditional open house, as deemed appropriate (under the Planning Act, an open house is optional for zoning or official plan amendments) and present their recommendations directly to Council at a Public Meeting. PAC would be renamed as the City of Kenora Committee of Adjustment and Property Standards Committee.

## **2. Delegate the Approval of Plans of Subdivision and Condominium to the Director of Planning and Building Services**

By-law number 77-2016 delegates this authority to the City Planner and in their absence the Associate Planner. Despite this, By-law number 74-2021, the PAC Terms of Reference, includes direction for PAC on what to consider when making decisions on subdivisions and condominiums. This contradiction needs to be corrected.

The Planning Act permits Council to delegate the power to approve or refuse a draft plan of subdivision to a staff member, such as the Director of Planning and Building Services, or another designated official. This delegation streamlines the approval process for simple or straightforward subdivisions that don't require extensive public consultation or complex decision-making, but it does not automatically remove the Council's involvement. If, based on the complexity, scale, or nature of the application, a public hearing is required (for example, due to significant community impact or policy changes), the staff member may refer the matter back to Council for review. When this happens, the final decision rests with Council. This is because the Council is responsible for ensuring that public input and consultation are considered before making a final decision.

A Committee of Adjustment (COA) is generally responsible for handling applications for minor variances, consent severances, and other zoning-related matters. The COA does not typically have the authority to approve or refuse draft plans of subdivision because subdivisions are larger-scale developments that often require comprehensive planning and public consultation.

At present the City does not have a position with the title 'City Planner.' Therefore, it is recommended that By-law 77-2016 be amended, Council delegating the approval of Plans of Subdivision and Condominiums to the Director of Planning and Building Services and remove reference to these responsibilities from the COA terms of reference.

## **3. Clarify the procedures for the consideration of amended applications**

It is common practice for applicants to propose revisions to their application when, through the Public Meeting, they become aware of a public concern that could be addressed by an amendment. Procedures for amended application are not currently addressed in the PAC Terms of Reference. It is recommended that the City adopt the same procedure as the Ontario Land Tribunal as follows:

*The Committee may consider an amended application for a consent or variance after the statutory public meeting. The Committee will determine whether the amended application addresses concerns raised in the statutory public meeting. If it lessens the impacts of concerns raised by the public or public agencies at the statutory public meeting, the Committee may proceed to render its decision without further public notice and circulation of materials. If the amended application does not address or*

*increases the impacts of concerns raised by the public or public agencies at the statutory meeting, the Committee will issue fresh notice and circulate the amended application materials for a further public meeting prior to deliberating on and rendering a decision.*

#### **4. Various housekeeping changes to both by-laws to eliminate duplication, make corrections, and clarify current processes.**

**Budget:** There are no budget considerations for these by-laws.

**Risk Analysis:** There is a minimal risk associated with these by-laws. Both by-laws were drafted by legal counsel for compliance with the *Planning Act*, *Municipal Act*, and *Building Code Act*. The proposed changes clarify and streamline processes. They also ensure that Council continues to be responsible for complex subdivision and condominium approvals.

The Planning Advisory Committee reviewed and provided input on the proposed changes to the PAC Terms of Reference and passed a resolution to recommend the amended Terms of Reference and Rules of Order and Procedure for the City of Kenora Committee of Adjustment and Property Standards Committee; and further support the delegation of Approval of Plans of Subdivision and Condominium to the Director of Planning and Building Services. Link to PAC meeting: <https://youtu.be/GeLzIZSQoxI>

**Communication Plan/Notice By-law Requirements:** Notice of by-laws must be provided through the Council Agenda.

#### **Strategic Plan:**

Goal 4.1 Modernize City service provision to improve customer experience.

#### **Other Guiding Documents:**

The Planning Act and The Building Code Act.