

# **REPORT**

## ***Climate Action, Planning and Development and Legislative Services***

**To:** Mayor Cote and Members of Council,  
Regular Council Meeting

**Date:** July 11, 2022

**From:** Emilie Adin  
Director Climate Action, Planning and  
Development

Jacque Killawee  
City Clerk

**File:** 05.1035.10

**Item #:** 2022-552

**Subject: Public Hearing Process – Correcting an Administrative Error**

---

### **RECOMMENDATION**

That Council direct staff to correct the administrative error by proceeding as outlined in the Next Steps Section of this report.

That Council give three readings to Bylaw 8353, 2022, which would repeal the following bylaws: Bylaw No.8317, 2022 (Parking Reduction for Patios); Bylaw No.8325, 2022 (122 Eighth Ave); and, Bylaw No. 8323, 2022 (817 St. Andrews St)

---

### **PURPOSE**

This report requests Council direction on next steps regarding correcting an administrative error in the public hearing waiver process that had been utilized for five recent rezoning applications.

**BACKGROUND**

The City made an administrative error in the Council consideration process for five recent rezoning applications, in light of recent changes in the Local Government Act. The five applications are:

*Table 1. Zoning Amendment Bylaws Impacted by Errors in Process in Waiving Hearings*

<b>Bylaw No.</b>	<b>Address</b>	<b>Land Use Proposed</b>	<b># of Readings completed</b>
8317, 2022	Parking Reduction for Patios	--	4 readings (adopted)
8325, 2022	122 Eighth Ave	A duplex	4 readings (adopted)
8323, 2022	817 St. Andrews St	A triplex	4 readings (adopted)
8324, 2022	337-339 Keary St	An infill townhouse development	3 readings (bylaw not adopted)
8348, 2022	616-640 Sixth St	Mixed-use secured market rental tower (with ltd. affordable housing)	3 readings (bylaw not adopted)

A need for a larger conversation between the City and the public regarding public hearings (e.g. how to get input on development projects earlier in the review process, setting/reviewing criteria on when to waive hearings, questions relating to appropriate conduct) has previously been identified, to be undertaken at a future date.

**DISCUSSION**

**Issue of Timing**

Since November 2021, for projects where Council has resolved not to hold a public hearing, notifications ought to have been sent out to neighbouring property owners and residents before first reading of the bylaws, per the “new system” of Local Government Act (LGA) regulations as adopted under Bill 26 (Attachment 1 – extract from the LGA). Instead, the City had continued to follow the process it had for decades under the “former system” of LGA regulations, during which notifications went out between second and third readings.

Except for the timing of certain steps, the “former system” process used for these five applications is consistent with the “new system” process, and current City policy, as summarized below:

- The content of the notifications and geographic area where the notifications were received have not changed between the old and the new LGA regulations.
- The City’s principles for determining when staff recommend not holding a public hearing for an application were applied, as set up and endorsed by Council under the “former system” prior to the new legislation coming into place.

- There is no material difference as to opportunities to participate in a public process, or to speak to Council between the “former system” and “current system.” I.e., there are the same number of reports, decisions and notifications. Only the timing of the bylaw readings would have altered, as summarized in Table 2 below.

Table 2. Comparison of Consideration Process Steps between “Former” and “New” Sets of LGA Regulations for Zoning Bylaws without a Public Hearing

Steps in Bylaw Consideration Process	Actions in Each Step	
	“Former System” (under former LGA regulations)	“New System” (under new LGA regulations adopted under Bill 26)
Recommendation not to hold a Public Hearing	<ul style="list-style-type: none"> <li>• Council-endorsed (July 2021) principles used to determine when to recommend Council consider a public hearing waiver</li> </ul>	<ul style="list-style-type: none"> <li>• Council-endorsed (July 2021) principles used to determine when to recommend Council consider not holding a public hearing</li> </ul>
Council Meeting 1*	<ul style="list-style-type: none"> <li>• Comprehensive Report to Council recommending consideration of zoning bylaw, plus staff recommendation to waive public hearing</li> <li>• 1<sup>st</sup> and 2<sup>nd</sup> reading</li> <li>• Council issues resolution to waive PH</li> </ul>	<ul style="list-style-type: none"> <li>• Comprehensive Report to Council recommending consideration of zoning bylaw, plus staff recommendation that a public hearing not be held.</li> <li>• Council directs staff to provide notice that they intend not to hold a Public Hearing</li> </ul>
Public Notification prior to Council Meeting 2	<ul style="list-style-type: none"> <li>• Notifications of PH waiver in compliance with Local Government Act</li> <li>• Comprehensive Report available on line for public review during notification period</li> </ul>	<ul style="list-style-type: none"> <li>• Notifications of intent not to hold a public hearing in compliance with Local Government Act</li> <li>• Comprehensive Report available for public review during the notification period</li> </ul>
Council Meeting 2	<ul style="list-style-type: none"> <li>• 3<sup>rd</sup> reading</li> </ul>	<ul style="list-style-type: none"> <li>• 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> reading</li> </ul>
Council Meeting 3	<ul style="list-style-type: none"> <li>• Adoption</li> </ul>	<ul style="list-style-type: none"> <li>• Adoption</li> </ul>

\*Note – it is fully at Council’s discretion whether to accept the staff recommendation not to hold a public hearing, or to instead forward the application to a public hearing. In the latter case, the next steps would be slightly different than laid out in this table, consistent with the LGA.

**NEXT STEPS**

Though there is no material difference between the “Former System” (under old legislation) and “New System” (under new legislation), staff recommends the City redo the Council consideration process for all five of the bylaws. The next steps would be:

- A. Restart the Council consideration process – To restart the Council consideration process for the five bylaws, the following is requested of Council through a number of on table reports at this July 11, 2022 meeting:
  - i. Give three readings to Bylaw No. 8353, 2022, Attachment 1 to this report which would begin the process to repeal the current adopted zoning bylaws for Eighth Ave, St. Andrews St, and the parking reduction for patios;
  - ii. Through consideration of the recommendations in the five additional on-table reports, restart the approvals process. The on-table reports include:
    - a. Three reports, one each for the Eighth Ave, St. Andrews St, and Parking Reduction for Patios zoning bylaws, which provide new bylaw numbers for these unchanged bylaws;
    - b. Two reports request Council rescind the existing three readings for the two zoning bylaws not yet adopted (Keary St, Sixth St); and,
    - c. All five reports request Council approve issuing notification for all five zoning bylaws that a public hearing will not be held, and direct staff to proceed with public notification consistent with the Local Government Act.
- B. Notifications – the City would send out new notifications, consistent with the “new system” LGA requirements, detailing the need to correct an administrative error, and that no material changes have been made to the zoning bylaws. The notification period will be August 18<sup>th</sup> to August 29<sup>th</sup>.
- C. Consideration of bylaws – at the August 29 Regular Meeting, all five zoning bylaws would be referred to Council for consideration of three readings. This meeting would have an open delegation period that would allow the public to speak to the bylaws.
- D. Consideration of adoption – at a new August 31 Regular Meeting Council would consider:
  - i. Adoption of Bylaw No. 8353, 2022, which would repeal the current adopted zoning bylaws for Eighth Ave, St. Andrews St, and the parking reduction for patios; and,
  - ii. Adoption of all five zoning bylaws (Keary St, Sixth St, if all conditions have been met;, and the new bylaws for Eighth Ave, St. Andrews St, Parking Reduction for Patios).

As this would have some impact to the ability of those of the projects without an existing adopted zoning bylaw to proceed – to the next stages of the development process, staff would work with the applicants to minimize these impacts.

**OPTIONS**

The following are three resolutions for Council’s consideration:

- 1. That Council direct staff to correct the administrative error by proceeding as outlined in the Next Steps Section of this report.
  
- 2. That Council give three readings to Bylaw 8353, 2022, which would repeal the following bylaws: Bylaw No.8317, 2022 (Parking Reduction for Patios); Bylaw No.8325, 2022 (122 Eighth Ave); and, Bylaw No. 8323, 2022 (817 St. Andrews St)
  
- 3. That Council provide staff with other direction.

Staff recommends 1 and 2.

**ATTACHMENTS**

Attachment 1.            Extract of new regulations from the Local Government Act

**APPROVALS**

This report was prepared by:  
Jackie Teed, Senior Manager of Climate Action, Planning and Development  
Jacqueline Killawee, City Clerk

This report was approved by:  
Emilie K. Adin, Director of Climate Action, Planning and Development  
Lisa Spitale, Chief Administrative Officer