


The Corporation of the Town of Ajax
SPECIAL COUNCIL



Wednesday, December 4, 2019 at 4:00 p.m.
Council Chambers, Town Hall
65 Harwood Avenue South

Confirmed by: 

AGENDA

*Alternative formats available upon request by contacting:
accessibility@ajax.ca or 905-619-2529 ext. 3347*

Online Agenda Anything in **blue** denotes an attachment/link. By clicking the links on the agenda page, you can jump directly to that section of the agenda.

1. Call To Order & Acknowledgement

- An acknowledgment of *Traditional Territory* is an invitation to reflect on personal relationships with Indigenous Nations.
- When we *acknowledge Treaty* we are asking individuals to explore their rights and responsibilities to place and people.
- And when *Land is acknowledged* we are encouraging you to seek out the history and teachings of the natural world.

2. Disclosure of Pecuniary Interest

3. Delegations and Presentations / Public Hearings

- 3.1 Public Meeting **Repealing of By-laws 92-2015 & 93-2015**
Picov Holdings Inc. & Picov Cattle Co. Inc.
G. Romanowski, Acting Director of Planning & Development
Services..... 2

4. By-Laws

- 73-2019 Repeal of By-laws 92-2015 & 93-2015** 5

5. Confirming By-Law 74-2019

6. Adjournment

Town of Ajax Report



Report To: Special Meeting of Council

Prepared By: Geoff Romanowski, MCIP, RPP, CPT
Acting Director, Planning & Development Services

Subject: **Repealing of By-laws 92-2015 & 93-2015
Picov Holdings Inc. & Picov Cattle Co. Inc.**

Ward(s): 2

Date of Meeting: December 4, 2019

Reference: Official Plan Amendment Application OPA15-A2
Zoning By-law Amendment Application Z5/15

Recommendations:

1. That the draft by-law to repeal by-laws 92-2015 and 93-2015 (included as ATT-1 to this report) be presented to Council for approval; and
2. That Ritchie, Ketcheson, Hart & Biggart be directed to complete the closing out of any or all hearing proceedings related to the above noted applications.

Background:

In November 2015, Council approved an Official Plan Amendment (OPA15-A2) and a Zoning By-law Amendment (Z5/15) for the Ajax Downs lands to:

- permit an expansion to an existing gaming and gambling establishment to include casino-type games;
- to remove the existing 800 slot machine limitation within the Town of Ajax Official Plan and Zoning By-law; and
- to enable the realignment of a portion of an existing collector road (Alexander's Crossing) north of Kingston Road East such that its existing terminus at Kerrison Drive East would be removed in favour of a new terminus at Audley Road North.

These amendments were appealed by Pickering Developments (401, Bayly, & Squires) and 2322244 Ontario Inc.

A hearing before the Local Planning Appeal Tribunal (LPAT) was held over two sitting periods, being March 13 – 15, 17, 20, 23 and September 18 – 22, 2017, in the Town of Ajax, Council Chambers.

The hearing was 11 days in length and significant costs were incurred to cover legal representation (provided by Ritchie, Ketcheson, Hart, & Biggart), expert transportation evidence

(provided by WSP), and Town of Ajax staff preparation time leading up to and during the hearing.

On August 29, 2018 the LPAT issued their decision/order on the Ajax Downs lands and this decision/order was favourable for the Town of Ajax, Picov Holdings Inc., and Picov Cattle Co. Inc. approving Official Plan Amendment (OPA 49) in the form adopted by Town of Ajax Council. As for the Zoning By-law Amendment (ZBA 93-2015), the Tribunal found that the proposed zoning by-law should be further amended to provide clarity and consistent language. The LPAT issued their decision/order on the zoning by-law amendment on December 18, 2018.

However, before the LPAT issued their final approval on the zoning by-law amendment, on September 12, 2018, Pickering Developments (401) Inc., et al. filed a Motion for Leave to Appeal to Divisional Court of Ontario regarding the LPAT's decision/order on the Ajax Downs applications to permit the expansion of the gaming and gambling establishment at Ajax Downs.

The request for leave to appeal is based on the allegation of procedural unfairness at the hearing and a claim that the Tribunal exceeded its authority by effectively granting the Town power to amend a Holding Provision (H) in the approved zoning by-law, when the *Planning Act* only allows an (H) to be lifted, not amended. This hearing will be scheduled during the week of January 27, 2020.

Discussion:

On September 11, 2019, Picov Holdings Inc. & Picov Cattle Co. Inc. submitted a request to the Town of Ajax to have both by-laws, approved by Ajax Council and by the Local Planning Appeal Tribunal (OPA15-A2 (OPA 49) – By-law 92-2015 & Z5/15 - By-law 93-2015) repealed.

The intended purpose of the request to repeal these by-laws is to bring the legal proceedings related to this file to a close. It is our understanding that the Picov's wish to no longer pursue legal action to maintain the status of the planning approvals that were granted by Ajax Council and the LPAT.

By repealing these by-laws the land use permissions would revert back to the permissions that were in place prior to November 2015.

Financial Implications:

There are no financial implications to the Town of Ajax as a result of repealing these by-laws and endorsing the recommendations being put forward in this report.

However, there will be expenses related to closing out any or all hearing proceedings (if they are to occur) and these expenses will be paid to Ritchie, Ketcheson, Hart & Biggart from the Planning Department's operating budget, which is offset corporately, as is the case with incurred legal expenses associated with LPAT hearings.

Communication Issues:

Notice of the Statutory Public Meeting was circulated to all lands owners within 120 metres of the subject lands as per the requirements under the *Planning Act*. Notice was also served to all parties that requested further information regarding any future decisions on these applications, including those that appealed the applications to the LPAT, being Pickering Developments (401, Bayly, & Squires) and 2322244 Ontario Inc. Notice was also posted in the November 20th and November 27th editions of the Ajax News Advertiser Community Page and on the Town's website within the In My Opinion (IMO) online engagement portal.

Relationship to the Strategic Plan:

N/A

Conclusion:

The submitted request has been made by Picov Holdings Inc. and Picov Cattle Co. Inc. as result of the casino relocating to the City of Pickering and their desire to no longer pursue legal action to uphold the approvals of these by-laws.

By repealing these by-laws, the permissions previously established in By-law 95-2003, Exception 68, would be restored fully and the amendments approved through the repealed by-law (By-law 93-2015) would no longer apply.

The process to bring this by-law forward has been carried out in accordance with *Planning Act* and is subject to appeal by any party that makes representation at a statutory public meeting (20 days following the mailing out of the notice of decision).

If no appeals are filed, the repealing by-law can take effect as late as January 8, 2020.

Attachments:

ATT-1: Draft By-law to Repeal By-laws 92-2015 & 93-2015

Prepared & Submitted by:

Geoff Romanowski, MCIP, RPP, CPT
Acting Director, Planning & Development Services

Approved by:

Shane Baker – Chief Administrative Officer

THE CORPORATION OF THE TOWN OF AJAX

BY-LAW NUMBER 73-2019

Being a By-law to repeal by-laws 92-2015 and 93-2015

WHEREAS the *Regional Municipality of Durham Act* and the *Planning Act*, as amended, authorize the Town of Ajax to pass by-laws for the adoption or repeal of the Official Plan and amendments thereto;

AND WHEREAS authority is granted under Section 34 of the *Planning Act*, R.S.O., 1990, c.P.13, for Council of the Corporation of the Town of Ajax to pass zoning by-laws;

AND WHEREAS The Corporation of the Town of Ajax previously adopted by-laws 92-2015 and 93-2015;

AND WHEREAS a Statutory Public Meeting was held in accordance with Section 34 of the *Planning Act*, R.S.O. 1990, c.P.13, as amended, on December 4, 2019 for the purposes of presenting this repealing by-law;

AND WHEREAS Council of the Corporation of the Town of Ajax deems it expedient to repeal by-laws 92-2015 and 93-2015;

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

1. THAT By-laws 92-2015 and 93-2015 are hereby repealed.
2. THAT this by-law shall come into force and effect immediately upon final passing.

READ a first and second time this 4th day of December, 2019.

READ a third time and passed this 4th day of December, 2019.

Mayor

D-Clerk