

Report to Planning and Environment Committee

To: Chair and Members
Planning & Environment Committee
From: Scott Mathers, MPA, P.Eng
Deputy City Manager, Planning and Economic Development
Subject: Delegation of Authority – Part Lot Control
Meeting on: October 3, 2023

Recommendation

That, on the recommendation of the Director, Planning and Development, the following actions be taken with respect to the report regarding Delegation of Authority – Part Lot Control:

- (a) the proposed by-law attached hereto as Appendix “A” **BE INTRODUCED** at the Municipal Council meeting to be held on October 17, 2023 to amend By-law CP-17 being “A by-law to delegate certain portions of Council’s assigned authority with respect to approvals for plans of subdivision and condominium pursuant to the *Planning Act*” to delegate the authority to pass by-laws to exempt all, or parts of, registered plans of subdivision from part-lot control.

Executive Summary

Summary of Request

This request is to amend By-law CP-17, being “A by-law to delegate certain portions of Council’s assigned authority with respect to approvals for plans of subdivision and condominium pursuant to the Planning Act” to delegate to Staff the authority to approve requests and pass by-laws to exempt all, or parts of, registered plans of subdivision from part-lot control. The proposed amendments will streamline the approval process by delegating an administrative step in the approvals process and allow for development to proceed in more a timely manner.

Linkage to the Corporate Strategic Plan

Council’s 2023 to 2027 Strategic Plan for the City of London identifies “Housing and Homelessness as a strategic area of focus. This includes increasing the efficiency and consistency of processes to support housing access and supply.

Analysis

1.0 Background Information

1.1 Previous Reports Related to this Matter

December 2, 2019, Planning and Environment Committee, Agenda Item 2.4, Delegation Authority for Consent

May 25, 2020, Planning and Environment Committee, Agenda Item 2.2, Exception to Delegated Authority for Consent

February 15, 2022, Strategic Priorities and Policy Committee, Agenda Item 2.1, Streamline Development Approval Fund – Transfer Payment Agreement

April 25, 2022, Planning and Environment Committee, Agenda Item 2.4, Streamline Development Approval Fund: Continuous Improvement of Development Applications: Single Source Contract Award

January 30, 2023, Planning and Environment Committee, Agenda Item 2.4, Streamline Development Approval Fund: Streamlining Development Approvals (2022) – Final Report

May 1, 2023, Planning and Environment Committee, Agenda Item 3.4, Delegation of Authority – Subdivisions and Condominiums and Official Plan Amendment on policies for Public Meetings (O-9606)

1.2 Background and Purpose

As part of the streamlining development approvals process, Staff have been reviewing existing application processes and determining ways to improve the level of service for straightforward applications. Staff have been undertaking this review to support the housing target goal through the *More Homes Built Faster Act, 2022*.

Through the review of the development approvals process, staff identified several processes that could be delegated to allow Council to focus on strategic priorities rather than administrative functions involved in the planning process. On May 16, 2023, Council Passed By-Law No. CP-17-23007, to amend By-law CP-17 to delegate certain portions of Council's assigned authority with respect to approvals for plans of subdivision and condominium pursuant to the *Planning Act*. The amendments to By-law CP-17 delegated the Director, Planning and Development as the Approval Authority for three types of applications:

- (a) minor revisions of draft approved plans of subdivisions;
- (b) extensions of draft approved plans of subdivisions and condominiums; and
- (c) Subdivision Agreement Special Provisions.

As part of the continued review of the development approvals process, the part-lot control process has also been identified as a possible delegation to the Director, Planning and Development as the Approval Authority. This would allow developments to proceed in a timely manner, and allow Council to focus on strategic priorities rather than the administrative functions involved in the planning process.

2.0 Discussion and Considerations

2.1 Overview of the Existing Part-Lot Control Application Process

In Ontario, the subdivision of land is governed by the *Planning Act*. Under section 50 of this legislation, subdivision of land is permitted through the following means: approval of the Plan of Subdivision; the granting of a Consent, also known as a severance; and, through a by-law for an exemption from part-lot control for lots or blocks within a registered Plan of Subdivision. There are provisions within the *Planning Act* to ensure that part of a lot or block within a registered Plan of Subdivision cannot be transferred without approval from the municipality. These provisions allow a municipality to remove part-lot control from all, or part, of a registered Plan of Subdivision to legally divide a lot or block so that these parts can be conveyed.

In 2019 Council enacted By-law No. CPOL.-392-153 being "A by-law to enact a new Council policy entitled "Part-Lot Control Policy" to guide the consideration of request for exemption to Part-Lot Control" to guide the consideration of requests for exemption to Part-Lot Control. The by-law identifies the situations where consideration of an exemption from Part-Lot Control is appropriate including where:

- (a) the existing zoning on the block is appropriate for the proposed lots and where municipal services or agreements for extension of services are in place;
- (b) the exemption is used to implement the intended lotting of a portion of a registered plan where it was not practical to complete the division of land at the time of subdivision approval and registration;
- (c) the nature and character of the subdivision are not to be changed by part-lot control exemption;
- (d) the removal of part-lot control is appropriate when a series of land divisions is necessary;

- (e) reference will be made to guidelines in applicable policy, such as the London Plan, for land severances; and
- (f) all costs associated with the registration of by-laws to exempt lands from part-lot control will be borne by the applicant.

The current process for considering a request for exemption from part-lot control is shown in Figure 1 within the development of subdivisions. Requests for exemption from Part-Lot Control are part of the subdivision build out portion of the development process. The current process involves the applicant submitting a request for exemption. Staff then review the request to determine if an exemption from part-lot control is the appropriate mechanism to create the lots, and draft conditions that must be satisfied prior to Council granting the request. The conditions are a standard set of conditions that is used for all applications. Council then approves the conditions that must be satisfied prior to granting the exemption. The applicant then works to satisfy the conditions and submits documentation that this has been completed, before Council reviews the submission and approves the exemption from Part-Lot Control.

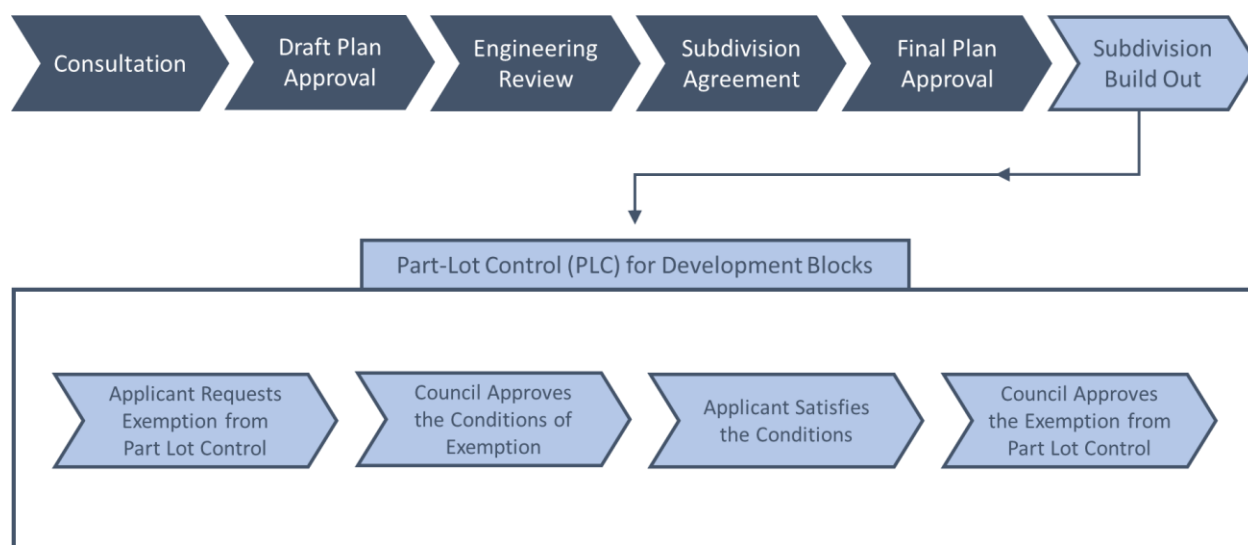


Figure 1 - Existing Process for Reviewing and Approving a Request for Exemption from Part-Lot Control

Exemption from part-lot control is often used to create freehold, street townhouse lots once the foundations and dividing walls of attached dwellings have been constructed. It is not practical to create these lots at the time of draft plan approval or registration of the subdivision as the exact location of the dividing walls cannot be known until after they are constructed. Exemptions from part-lot control are only applicable for lands within a registered Plan of Subdivision, and as such these lands have already undergone a public consultation process to determine the permitted land uses and layout. One of the considerations for using an exemption from part-lot control is that the nature and character of the subdivision is not changed.

It is standard practise for the City to specify a time period of not more than three (3) years after which time the exemption from part-lot control by-law will expire consistent with the policies of the *Planning Act*. Applicants can also request that Council extend the time period specified for the expiration of the by-law at any time before the time period elapses.

Due to the technical requirements within the *Planning Act* and the City's *Part-Lot Control Exemption Policy* (By-law No. CPOL.-392-153) exemptions from part-lot control are an administrative development approval process that is considered minor in nature.

2.2 Proposed Revisions to Delegation of Authority By-Law

Staff recommend that the following be delegated to the Director, Planning and Development as the approval authority with regard to exemptions from part-lot control:

- 1) to establish appropriate conditions of approval which are required to be completed prior to the passage of a by-law,
- 2) to approve requests for exemption from part-lot control,
- 3) to enact by-laws to give effect to such approvals as required under Section 50(7)

of the *Planning Act*, and

- 4) to approve an extension of the expiry period for an existing part-lot control by-law.

Since these applications are more administrative in nature, delegating this approval to Civic Administration will improve the customer service to development community by reducing the timeline for approval. The proposed process will also create further efficiencies for Council by delegating an administrative process and allowing Council to consider more pertinent matters.

The proposed process change would require an amendment to By-law CP-17, Delegation Authority – Subdivisions and Condominiums by adding the following regulation:

2.2 Approval Authority – Director, Planning and Development – Specific Powers

The Council hereby delegates to the Director, Planning and Development the authority: [...]

- (u) to approve requests for exemption from part-lot control or an extension of the expiry period for an existing part-lot control by-law, enact by-laws to give effect to such approvals as required under Section 50(7) of the *Planning Act*, and to establish appropriate conditions of approval which are required to be completed prior to the passage of a by-law, subject to the following:
 - i. Any by-law enacted to exempt lands from part-lot control shall indicate that the exemption will expire at the end of the time period specified in the by-law, which shall not exceed three (3) years; and
 - ii. Exemption requests shall be considered in accordance with the City of London's Part Lot Control Exemption Policy, as amended.

2.3 Proposed Revisions to Procedure for Processing Applications

The procedure for processing applications for exemption from part-lot control is proposed to be modified to streamline the approval (See Figure 2). The Approval Authority (the Director, Planning and Development) will receive and review applications, before issuing a notice to applicants with the conditions that must be satisfied prior to approval. Where previously this notice would have had to wait to be sent until after the Committee and Council meetings, the proposed process would allow the notice to be sent directly to the applicant. Once the applicant has satisfied the conditions and submitted the required documentation the approval authority will review and approve the exemption from part-lot control and sign the implementing by-law. The approval authority will then provide the by-law to the City Clerks Office for signature.

The applicant will be notified that the by-law has been passed (by delegated authority) and that payment must be submitted to the City Clerks Office for costs of the registration of the by-law. Planning and Development will maintain a record of all part-lot control by-laws passed by virtue of the delegated authority for accountability and transparency purposes. If Council approved this process improvement, Staff anticipate this will result in a time savings of 60 calendar days for part-lot control applications.

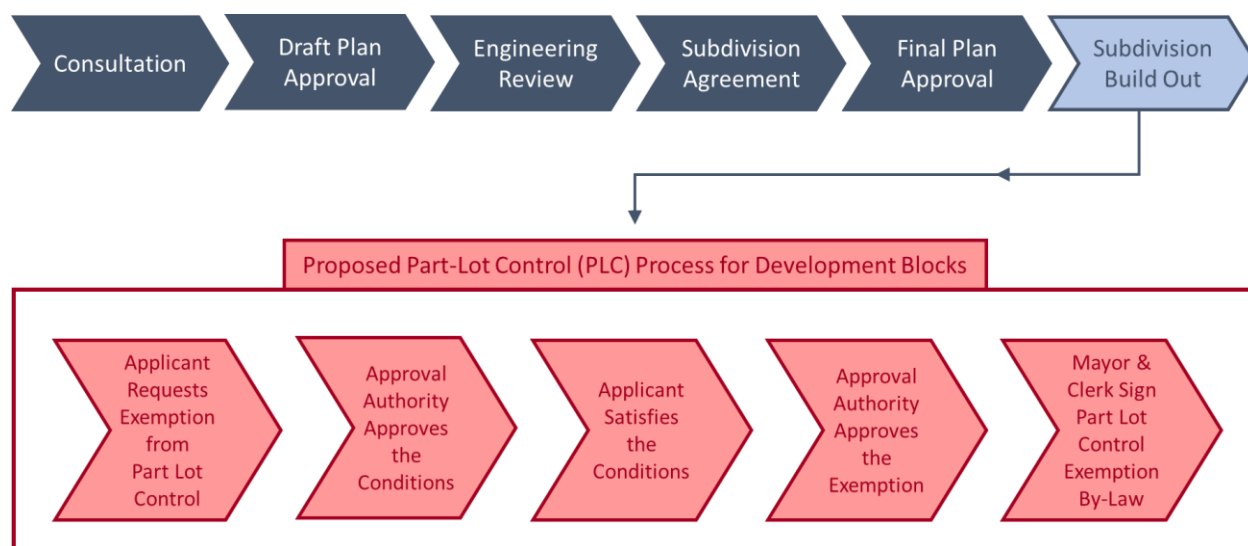


Figure 2 - Proposed Process for Reviewing and Approving a Request for Exemption from Part-Lot Control

2.4 Input from City Teams

The City Clerk's Office and City Solicitor's Office have assisted in the development of the proposed amendment to By-law CP-17 and the new procedure for processing exemptions from Part-Lot Control and are supportive of the report's recommendation.

3.0 Financial Impact/Considerations

There is no financial impact to the City of London with the delegation of these *Planning Act* processes. These processes will allow the Planning and Development team to streamline our development approvals as we strive to achieve our housing targets.

Conclusion

This report offers background information and context regarding process adjustments relevant to part-lot control procedures. It recommends delegating approval authority concerning exemptions from part-lot control to Civic Administration. These proposed process changes aim to simplify the development approval process, with the expectation of reducing the process timeline by 60 calendar days.

Prepared by: Michael Clark, MA
Planner, Subdivision Planning

Reviewed by: Peter Kavcic, P.Eng.
Manager, Subdivisions and Development Inspections

Recommended by: Heather McNeely, MCIP, RPP
Director, Planning and Development

Submitted by: Scott Mathers, MPA, P.Eng
Deputy City Manager,
Planning and Economic Development

cc: Sachit Tataavarti, Solicitor
cc: Heather Lysynski, Committee Clerk
cc: Bruce Page, Manager, Subdivision Planning
cc: Matt Davenport, Manager, Subdivision Engineering

PK/mc

Appendix A – By-Law Amendment

Bill No. (Number to be inserted by Clerk's Office)
2023

By-law No. C.P.-17- _____

A bylaw to amend By-law CP-17, as amended, being “A by-law to delegate certain portions of Council’s assigned authority with respect to approvals for plans of subdivision and condominium pursuant to the Planning Act” to delegate certain portions of Council’s assigned authority with respect to approvals for plans of subdivision and condominium pursuant to the *Planning Act*.

WHEREAS subsection 5(3) of the *Municipal Act, 2001, S.O. 2001 c. 25*, as amended, provides that a municipal power be exercised by by-law;

AND WHEREAS section 23.1 of the *Municipal Act, 2001, S.O. 2001, c. 25*, as amended, provides that Municipal Council is authorized to delegate its powers and duties under this or any other Act to a person or body subject to any restrictions set out;

AND WHEREAS subsection 51.2(1) of the *Planning Act*, as amended, provides that Municipal Council may by by-law delegate the authority of the council under section 51.2 of the Act or any part of that authority to a committee of council or to an appointed officer identified in the by-law by name or position occupied;

AND WHEREAS the Council deems it appropriate to amend By-law CP-17, as amended, being “A by-law to delegate certain portions of Council’s assigned authority with respect to approvals for plans of subdivision and condominium pursuant to the *Planning Act*;

THEREFORE The Municipal Council of The Corporation of the City of London enacts as follows:

1. By-law CP-17, as amended, is hereby amended by deleting section 2.2 in its entirety and replacing it with the following new section 2.2 as follows.

2.2 Approval Authority – Director, Planning and Development – Specific Powers

The Council hereby delegates to the Director, Planning and Development the authority:

- (a) to determine whether or not an Application made in respect of a draft Plan is complete; and if determined to be incomplete, to refuse to accept it and return it to the applicant, detailing the outstanding information required;
- (b) to determine whether or not a draft Plan is or is not required to be circulated for comments among administrative units of relevant government authorities and to circulate same pursuant to section 51 of the *Planning Act*;
- (c) to determine whether or not a draft Plan of Condominium is or is not required to be referred to Council for the purpose of holding a public meeting pursuant to section 51 of the *Planning Act*, with the understanding where a public meeting or *Planning Act* process has been completed, an additional public meeting for the draft Plan of Condominium isn’t required;
- (d) to extend time limits for the receipt of comments from the administrative units which received the draft Plan;
- (e) to settle and give Draft Plan Approval to any Plan of Subdivision the

approval of which has been recommended by the Council where there have been no written requests for referral received in accordance with the *Planning Act* prior to the time the Director, Planning and Development proceeds to settle and give Draft Plan Approval to the said Plan subject to the following;

- (i) on the understanding that when a dispute involves the approval or denial of the draft Plan contrary to the recommendations of a Ministry of the Provincial Government, the Director, Planning and Development shall consult with the Council, and Council shall make the decision; and
 - (ii) on the further understanding that the Director, Planning and Development may consult with the Council prior to making his/her decision to refuse approval of an application;
- (f) to sign a proposed Plan of Subdivision and issue letters of draft approval with conditions for the purpose of indicating draft approval of such Plan by the Director, Planning and Development by the Council pursuant to paragraph (e) above;
- (g) to exempt a proposed Plan of Condominium from approval in accordance with section 9 of the Condominium Act, S.O. 1998, c.19 or to settle and to give draft Approval to any proposed Plan of Condominium where there have been no written requests for referral received in accordance with the *Planning Act* prior to the time the Director, Planning and Development proceeds to settle and give draft Approval to the said Plan subject to the following;
 - (i) on the understanding that when a dispute involves the approval or denial of the draft Plan contrary to the recommendations of a Ministry of the Provincial Government, the Director, Planning and Development shall consult with the Council, and Council shall make the decision;
- (h) to sign a proposed Plan of Condominium and issue letters of draft approval with conditions for the purpose of indicating draft approval of such Plans by the Director, Planning and Development or by the Council pursuant to paragraph (f) above;
- (i) to enter into negotiations/dispute resolution with those parties involved in a referral of a draft Plan or conditions thereof, which has been referred to the Ontario Municipal Board, in an attempt to resolve the issues and avoid an Ontario Municipal Board Hearing, if possible;
- (j) to resume and finalize consideration of the proposed Plan where a proposed Plan has been referred to the Ontario Municipal Board under section 51 of the *Planning Act*, and the Ontario Municipal Board notifies the Approval Authority that the Approval Authority may proceed to make a decision under Section 51 (31) of the *Planning Act*;
- (k) to refer the Plan and/or conditions of approval Plan of any draft to the Ontario Municipal Board pursuant to subsection 51(31) of the *Planning Act*;
- (l) to make any change in the conditions of approval imposed by the Director, Planning and Development;
- (m) to make any change to any conditions of approval imposed by the Council provided the request for the change is made by or endorsed by the Council;
- (n) to sign a final Plan for the purpose of indicating the final approval of the Director, Planning and Development or the Council, as the case may be, and the acceptability of the said Plan or Plans for tendering for registration;
- (o) to grant extensions of draft approval to a proposed Plan, where the applicant hasn't caused a delay at the discretion of the Director, Planning and Development;
- (p) to grant extensions of draft approval to a proposed Plan for not more than

six (6) months on an emergency basis without the approval of the Council, in order that a decision may be obtained from the Council, in respect of any requested extension unless the Director, Planning and Development has been given written notice of an objection to such emergency extension;

- (q) to refuse a draft Plan where the file has remained inactive for more than one (1) year, and only after the applicant has been given written notice that the draft plan will be refused, and given 60 days to respond;
- (r) to resume and finalize consideration of the proposed Plan where a proposed Plan has been referred to the Ontario Municipal Board under section 51 of the *Planning Act*, and the Ontario Land Tribunal by Order has assigned responsibilities back to the Approval Authority to make a decision under Section 51 (58) of the *Planning Act*;
- (s) to approve minor revisions to a draft Plan of Subdivision or Condominium, where minor revisions are considered that the revision doesn't require additional technical studies or revisions to existing technical studies, changes to lot or block lines which do not significantly affect the number of units or road network, changes to proposed road right of way width, proposed changes are consistent with Provincial Policy, and proposed changes do not conflict with The London Plan or Zoning By-law;
- (t) to approve and execute a subdivision agreement with special provisions as part of an approved draft plan of subdivision, where there are no financial impacts or required financing can be accommodated within an existing approved capital budget; and
- (u) to approve requests for exemption from part-lot control or an extension of the expiry period for an existing part-lot control by-law, enact by-laws to give effect to such approvals as required under Section 50(7) of the *Planning Act*, and to establish appropriate conditions of approval which are required to be completed prior to the passage of a by-law, subject to the following:
 - (i) Any by-law enacted to exempt lands from part-lot control shall indicate that the exemption will expire at the end of the time period specified in the by-law, which shall not exceed three (3) years; and
 - (ii) Exemption requests shall be considered in accordance with the City of London's Part Lot Control Exemption Policy, as amended.

2. This by-law comes into effect on the day it is passed subject to the provisions of PART VI.1 of the Municipal Act, 2001.

Passed in Open Council on October 17, 2023 subject to the provisions of PART VI.1 of the Municipal Act, 2001.

Josh Morgan
Mayor

Michael Schulthess
City Clerk

First Reading - October 17, 2023
Second Reading - October 17, 2023
Third Reading - October 17, 2023