

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: Delegated Authority for Consent
Meeting on: January 30, 2024

Recommendation

That, on the recommendation of the Director, Planning and Development, the proposed by-law attached hereto as Appendix “A” BE INTRODUCED at the Municipal Council meeting to be held on February 13, 2024, to amend By-law CP-23 to provide for the Committee of Adjustment and Consent Authority and to repeal By-law CP-23, as amended.

Executive Summary

Summary of Request

The purpose and effect of the recommended action is to change the appointment of Municipal Council’s consent granting authority from the Committee of Adjustment to an approval authority (Director, Planning and Development). The proposed amendments will streamline the approval process by delegating to an Approval Authority and allow for developments to proceed in a timelier manner.

Rationale of Recommended Action

The recommended change to the appointment of an Approval Authority is consistent with the authority to grant consents set out in the *Planning Act* R.S.O. 1990, c. P.13 (“*Planning Act*”). The recommended change will bring decisions back to the Director, Planning and Development as the Approval Authority body, allowing decisions to be made in a more timely manner while still allowing for the required community engagement under the *Planning Act*.

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 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, Delegated Authority for Consent

1.2 What is a Consent?

The *Planning Act* requires that consent (i.e., permission) be granted before land can be divided into smaller parts – commonly referred to as a “severance”. Consent is typically required for lot creation, lot adjustments (of property boundaries), registration of easements, leases and mortgages or charges over part of a property. The consent approval process described in Section 53 of the *Planning Act* is an alternative for land

division proposals that are relatively less complex and where a plan of subdivision is not required.

1.3 Criteria for Reviewing a Consent

The review of consent applications is subject to the criteria and requirements of the *Planning Act*, the Provincial Policy Statements, and the Official Plan; and these criteria and requirements are similar to the matters which are to be regarded when considering a plan of subdivision, such as whether:

- The application is in the public interest or is premature;
- The application impacts Provincial interests;
- The application conforms to the Official Plan (The London Plan) and any adjacent plans of subdivision;
- The lands suit the proposal;
- The size and scale of the lots and the overall plan are suitable;
- The layout addresses energy conservation of natural resources and flood control;
- Utilities, road systems, municipal services and schools are adequate; and
- The area of land being dedicated for public purposes is suitable.

To assist with the decision-making process, Planning and Development is responsible for the intake, processing and review of all consent applications and prepares a recommendation report to the London Consent Authority.

1.4 Authority to Grant Consents (the “London Consent Authority”)

The authority to grant consents to divide land originates in the *Planning Act*. Section 50(1) of the *Planning Act* assigns single-tier municipalities the consent-granting authority. Municipal councils may in turn delegate, by by-law, their consent-granting authority, or any part of their authority, to:

- A committee of Council,
- The Committee of Adjustment, or
- An appointed officer in accordance with Section 54(5) of the *Planning Act*.

The “London Consent Authority” is the title of the committee or officer to which Municipal Council has delegated their authority.

From 1988 to 2019, the London Consent Authority was delegated to an appointed official. During that time, there were periodic changes to the title or position of the appointed official. At present, the City of London Committee of Adjustment is appointed the London Consent Authority for the purpose of lot creation; however, the Director of Planning and Development is the London Consent Authority for all other consent applications including lot additions/adjustments, mortgages and leases, easements (rights-of-ways), power of sale, and validation of title.

This report and the attached bylaw recommend the delegated authority for lot creation be given back to the Director, Planning and Development for consistency and expediency of process.

The Committee of Adjustment will continue to serve as the delegated authority for Minor Variance applications.

1.5 Background and Purpose

To streamline the development approval process, remove barriers for approval of Consent Applications, and to improve levels of service, the proposed amendments to By-law CP-23 delegate the Director, Planning and Development as the Approval Authority for the following application types:

- (a) Lot creation
- (b) Lot additions/adjustments
- (c) Mortgages and leases
- (d) Easements (rights-of-ways)

- (e) Power of Sale
- (f) Validation of Title

2.0 Discussion and Considerations

2.1 Current Consent Application Process

Applications for Consent are subject to prescribed notification and consultation requirements, issuance of decisions, processing appeals to the Ontario Land Tribunal (OLT), clearance of conditions and issuance of certificates as set out in the *Planning Act* and its regulations.

The current lot creation consent process is as follows:

Landowners and/or their agents may apply for a consent and the consent-granting authority may grant a consent if satisfied that a plan of subdivision is not necessary for the proper and orderly development of land. The required documents and information for a complete application are set out in the *Planning Act* regulations and reflected in the City of London's Consent Application form.

Upon acceptance of a complete application, notice of consent application is satisfied by way of providing notice by publication in a newspaper, *The Londoner*, and mailing a notice to landowners within a 60-metre radius of the subject lands. As part of the circulation process, there is a prescribed list of City departments and external agencies that receive notice of consent applications to provide comments.

The notices include a concept plan (consent sketch), a brief explanation of the purpose and effect of the consent application, a description or map of the lands subject to the application and information on where and when additional information about the application can be obtained and how to provide comment. The notice also includes direction regarding requests to receive a notice of decision, and the appeal rights. Notice of consent applications are subject to a 14-day commenting period.

Under the current process, following the 14-day commenting period, a hearing date at the Committee of Adjustment is confirmed and the Notice of Public Hearing is prepared for applications requiring a decision by the Committee of Adjustment (lot creation).

The Notice of Public Hearing is circulated and published in *The Londoner* for an additional 14-day commenting period with a scheduled public hearing before the Committee of Adjustment. During this period, the staff report is prepared, and draft conditions provided to the applicant.

Following the Committee of Adjustment meeting, the Notice of Provisional Consent Decision is issued with a 20-day appeal period. Following this appeal period, the Notice of Final Consent Decision is issued.

In 2022, Bill 23, *More Homes Built Faster Act, 2022*, amended the *Planning Act* to limit appeal rights for consent applications to the owner, applicant, agent, special purpose body and the City of London. The general public no longer have the ability to appeal consent applications, however the public notification and commenting processes remain and are considered by the delegated authority in granting applications.

2.2 Proposed Revisions to the Consent Application Process

In effort to increase efficiency and consistency of processes, the proposed amendments to By-law CP-23 are to remove the Committee of Adjustment as the delegated authority for consent matters relating to lot creation. The London Plan, Policy 1696_, notes that in accordance with the provisions of the *Planning Act*, City Council may delegate the authority to give consents to a body such as the Committee of Adjustment or to an office of the municipality. This report and the attached bylaw recommend that all Consent Applications will be at the discretion of the Director, Planning and Development as the sole delegated authority.

The new process for Consent Applications (lot creation) would then be consistent with the processes for all other consent applications where approval authority is delegated to the Director, Planning and Development.

The submission of a complete application and the notice of consent application and circulation for comments will remain the same as the current process outlined above.

There will no longer be the need to schedule the public hearing at the Committee of Adjustment for these applications, nor provide additional mailout or newspaper notices. The 14-day circulation timeline for public hearing notices will no longer be necessary. This will save staff resources required for the administrative tasks associated with notices as well as running the meetings, as well as Planning staff time to attend the meetings, and Committee of Adjustment time and efforts to review consent applications and attend public hearings for these items.

Following the 14-day commenting period, staff will prepare a report evaluating the proposal and work with internal agencies to determine the appropriate conditions under the *Planning Act* and The London Plan. Through this process, staff have the ability to work closely with applicants to resolve any issues with the proposed conditions prior to the report going to the Director, Planning and Development for review.

Applications may be revised, approved, approved with conditions and a notice of decision is provided to the applicant and any person or body that provided comments or requested to receive the notice of decision. The appeal period commences with the issuance of the notice of decision. The decision or any conditions attached to the decision, may be appealed to the OLT, only by the owner, agent, applicant, special purpose body or the City of London can appeal decisions, consistent with the amendments to the *Planning Act* through Bill 23.

Applicants have a period of 2-years from the notice of decision to complete any conditions. If conditions are not cleared within this 2-year period, the consent lapses. Conditions may include but are not limited to matters of land dedication (i.e., road widening, parkland); the provision of easements; submission of subsequent studies and/or plans; and Consent Agreements, among others.

A certificate of consent is issued to the applicant by the consent-granting authority upon the clearance of conditions. If the division of land enabled by the consent has not been registered within 60 days of the issuance of the certificate of consent, the consent lapses.

3.0 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:

- 1) To render decisions relating to lot creation; and
- 2) To establish appropriate conditions of approval which are required to be completed prior to the issuance of decision.

The delegation of applications to Civic Administration will improve customer service to the development community by reducing the timeline for approval. The proposed process will also create further efficiencies for the Committee of Adjustment.

3.0 Conclusion

The recommended change to the appointment of Municipal Council's consent-granting authority from the Committee of Adjustment to one appointed officer (The Director, Planning and Development) will allow decisions to be made in a timely manner and better align with the delivery of service provided to the public.

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**Reviewed by: Mike Corby, MCIP, RPP
Manager, Planning Implementation**

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

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

copy: Britt O'Hagan, Manager, Current Development
Peter Kavcic, Manager, Subdivision and Development Inspections
Michael Pease, Manager, Site Plans
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Appendix A

Bill No.

2024

By-law No. CP-

A by-law to provide for the Committee of Adjustment and Consent Authority and to repeal By-law CP-23, as amended.

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

AND WHEREAS section 9 of the *Municipal Act, 2001*, as amended, provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act;

AND WHEREAS section 44 of the *Planning Act*, R.S.O. 1990, c.P.13, as amended, provides for a municipality to constitute and appoint a committee of adjustment;

AND WHEREAS section 45 of the *Planning Act*, as amended, sets out the powers of committee of adjustment with respect to minor variance applications;

AND WHEREAS section 5(1) of the *Planning Act*, as amended, permits Municipal Council by by-law to delegate the authority of a council under section 4 of the Act to a committee of council or to an appointed officer identified by the by-law by name or position occupied;

AND WHEREAS subsection 54(5) of the *Planning Act*, as amended, provides that Municipal Council of a single-tier municipality authorized to give a consent under section 53 may by by-law delegate the authority of the council under section 53 or any part of that authority to a committee of council, to an appointed officer identified in the by-law by name or position occupied, to a municipal planning authority or to the committee of adjustment;

AND WHEREAS it is deemed expedient to pass this by-law;

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

Part 1 – Committee of Adjustment

1.1 Established

The Committee of Adjustment for The Corporation of the City of London is established and constituted pursuant to section 44 of the *Planning Act*, R.S.O. 1990, c.P.13, as amended.

1.2 Composition

The Committee of Adjustment for The Corporation of the City of London shall be composed of five (5) individuals appointed by Municipal Council.

1.3 Powers – authority – set out – Planning Act

The Committee of Adjustment for The Corporation of the City of London is empowered pursuant to section 45 of the *Planning Act*, R.S.O. 1990, c.P.13, as amended, and the regulations thereunder to grant minor variances and to change, to extend and/or to enlarge non-conforming uses with respect to the

provisions of any Zoning By-law of the municipality that implements the Official Plan for the City of London Planning Area.

Part 2 – Consent Authority

2.1 Established – Director, Planning and Development

The Director, Planning and Development is hereby delegated the authority with respect to the granting of consents provided for under section 54 of the *Planning Act*, R.S.O. 1990, c.P.13 as amended, and the Director, Planning and Development shall act as the “London Consent Authority”.

2.2 Director, Planning and Development – Further Delegation

For the purpose of granting consents in accordance with section 2.1 of this by-law or entering into agreements in accordance with section 2.4, in the absence or vacancy of Director, Planning and Development, The Corporation of the City of London hereby delegates the authority under section 2.1 and 2.4 to the Manager, Current Development.

2.3 Authority to Execute Certificates

The Secretary-Treasurer of the Committee of Adjustment shall be delegated the authority to give a certificate to the applicant stating that the consent has been given pursuant to sections 53(42) of the *Planning Act*, R.S.O. 1990, c.P.13 as amended.

2.4 Authority to Execute Agreements

The Director, Planning and Development, shall be delegated the authority to execute any agreements prepared in accordance with a condition imposed by the London Consent Authority.

Part 3 – Repeal - Enactment

3.1 By-law – previous

By-law CP-23, being "A by-law to provide for the Committee of Adjustment and Consent Authority and to repeal By-law CP-7," as amended. is hereby repealed.

3.2 Effective Date

This by-law comes into force and effect on February 13, 2024 subject to the provisions of PART VI.1 of the *Municipal Act, 2001*.

PASSED in Open Council on February 13, 2024 subject to the provisions of PART VI.1 of the Municipal Act, 2001.

Josh Morgan
Mayor

Michael Schulthess

City Clerk

First Reading – February 13, 2024.
Second Reading – February 13, 2024.
Third Reading – February 13, 2024.