

Report to Planning and Environment Committee

To: Chair and Members
Planning & Environment Committee

From: George Kotsifas P. Eng.,
Managing Director, Development & Compliance Services and
Chief Building Official

Subject: Exception to Delegated Authority for Consent

Meeting on: May 25, 2020

Recommendation

That, on the recommendation of the Director, Development Services, the following actions be taken with respect to the delegation of Municipal Council's authority to grant consent:

- (a) Section 2.2, Exception, London Consent Authority, of By-law No. CP-23 be amended to number the exception(s), and exceptions **BE ADDED** to appoint the Director, Development Services as the London Consent Authority for all consent matters during the COVID-19 emergency, and until December 1, 2020; and
- (b) the proposed by-law attached hereto as Appendix "A" **BE INTRODUCED** at the Municipal Council meeting on June 2, 2020 to amend By-law No. CP-23 to enact the changes in clause (a).

Executive Summary

Purpose and the Effect of Recommended Action

The purpose and effect of the recommended action is to add a new exception to Municipal Council's delegated consent-granting authority to appoint the Director, Development Services as the temporary London Consent Authority for all consent matters during the COVID-19 emergency and until December 1, 2020, when the Committee of Adjustment's ("CoA's") ability to conduct public hearings and capacity to carry-out consent decisions would be disrupted.

Rationale of Recommended Action

1. The recommended action will allow Consent Applications to be advanced during the COVID-19 emergency.
2. The recommended action will alleviate capacity constraints anticipated to be experienced by the CoA immediately following the COVID-19 emergency.
3. The recommended action will allow Development Services to conduct the planned orientation for the CoA related to consent matters disrupted by the COVID-19 emergency.

Analysis

1.0 Relevant Background

1.1 Consents and Current Roles and Responsibilities

Consent Applications facilitate the division of land into smaller parts through lot creation, adjustment of property lines, registration of easements for rights-of-way, or for mortgages or charges over part of a property. The authority to grant consent to divide land is derived from the *Planning Act, R.S.O 1990 (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, to the CoA, or to 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.

Historically, the London Consent Authority has been delegated to an appointed officer, with periodic changes made to which officer the consent-granting authority has been delegated. However, more recently Municipal Council passed a by-law in December 2019 that would change Municipal Council’s delegated consent-granting authority from one appointed officer (the City Planner) to the CoA and another appointed officer (the Director, Development Services). The by-law took effect on May 1, 2020. The CoA now acts as the consent-granting authority for all instances, except for technical matters for which the Director, Development Services acts as the consent-granting authority.

The rationale for the recent change in Municipal Council’s delegated consent-granting authority was to improve community engagement, participation, and transparency in the decision-making process through the introduction of public hearings before the CoA; allow decisions on related Consents and Minor Variance applications to be made concurrently by the CoA in a coordinated and consistent manner; and for technical matters that typically result in minimum public engagement and would not benefit from public hearings before the CoA, allow decisions to continue to be made by an appointed officer (the Director, Development Services) that is part of the service area that intakes and processes Consent Applications.

1.2 COVID-19 Impacts on Service Delivery

The novel coronavirus, or COVID-19 as it is commonly known, is causing an unprecedented disruption to the daily activities of individuals, businesses and institutions around the world. Included in this disruption is the regular operation and delivery of services by the Corporation of the City of London and Development Services. The processing of planning and development applications in particular have been affected by the implementation of social distancing measures aimed at slowing the spread of the virus and the subsequent suspension of public hearings or public participation meetings that are legislated requirements under the *Planning Act* for many planning and development applications.

2.0 Key Issues and Considerations

Although, advantageous for Consent Applications, public hearings are not a legislated requirement under the *Planning Act*. As such, in an effort to advance planning and development applications where possible, and provide the best possible level of service during this time, Development Services is recommending an exception be added to Municipal Council’s delegated consent-granting authority to appoint the Director, Development Services as the temporary London Consent Authority for all consent matters during the COVID-19 emergency, and until December 1, 2020.

The CoA has been suspended since meeting last on March 16, 2020, and at this time, Staff continue to investigate options and logistical matters to resume public hearings before the CoA with public participation opportunities. The recommended exception would allow an appointed officer to continue to advance consent decisions during the COVID-19 emergency, while public hearings are cancelled and the CoA is suspended. Recently, Development Services has expanded the types of new planning and development applications being accepted during the COVID-19 emergency to include Consent Applications in support of development and construction industry partners.

Capacity constraints are anticipated to be experienced by the CoA immediately following the COVID-19 emergency, since the CoA carries-out multiple quasi-judicial duties. Specifically, the CoA is the decision-making body for Consent Applications, Minor Variance Applications, and will continue to act as the Property Standards Appeals Committee until Property Standards Appeals are scheduled to transition to separate hearings officers.

At present, there are approximately thirty-five Consent Applications in various stages of review that have yet to receive a Consent decision. Twenty-one Minor Variance Applications and thirteen Property Standard Appeals were scheduled for public hearing dates in March and April 2020 and will need to be rescheduled. At present, Development Services is not accepting new Minor Variance Applications while public hearings are cancelled. However, once public hearings before the CoA can resume and Development Services transitions to accepting new Minor Variance Applications there may be a subsequent influx in new Minor Variance Applications.

The recommended exception to Municipal Council’s delegated consent-granting authority would help to alleviate the anticipated capacity constraints by allowing an appointed officer to make decisions on Consent Applications until December 1, 2020, while the CoA focuses on progressing Minor Variance Applications and transitioning Property Standards Appeals.

Moreover, the recommended exception will provide Development Services the opportunity to conduct the planned orientation for the CoA related to consent matters, which was put on hold with the move to minimal operations and delivering essential services during the COVID-19 emergency.

4.0 Conclusion

The recommended exception to the appointment of Municipal Council’s consent-granting authority will allow an appointed official to continue to advance consent decisions during the COVID-19 emergency and until December 1, 2020, when the CoA’s ability to conduct public hearings and capacity to carry-out consent decisions would be disrupted. In a period of unprecedented uncertainty, the recommended exception assists in advancing the business and service delivery of Development Services, and the Corporation of the City of London as a whole, in support of development and construction industry partners.

Prepared by:	Melissa Campbell, MCIP, RPP Manager, Development Planning, Development Services
Recommended by:	Paul Yeoman, RPP, PLE Director, Development Services
Submitted by:	George Kotsifas, P.ENG Managing Director, Development and Compliance Services and Chief building Official
<p>Note: The opinions contained herein are offered by a person or persons qualified to provide expert opinion. Further detail with respect to qualifications can be obtained from Development Services.</p>	

May 15, 2020

cc: Michael Tomazincic, MCIP, RPP, Manager, Current Planning

Appendix A

Bill No. (number to be inserted by Clerk's Office)
2020

By-law No. CP-23-__

A by-law to amend By-law No. CP-23
entitled "Committee of Adjustment and
Consent Authority By-law".

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 a committee of adjustment with respect to minor variance applications;

AND WHEREAS section 5 of the *Planning Act*, as amended, permits municipal council by by-law to delegate the authority of the Council under section 53 of the *Planning Act* to a committee of council or to an appointed officer identified in the by-law by name or position occupied;

AND WHEREAS subsection 54(5) of the *Planning Act*, as amended, provides that Municipal Council may by by-law delegate the authority of the council under section 53 of the Act or any part of that authority to an appointed officer identified in the by-law by name or position occupied 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:

- 1) Section 2.2, Exception, London Consent Authority, of By-law No. CP-23 is amended by numbering the exception(s) (a), (b) and (c), and adding the following exceptions:
 - (b) Notwithstanding the delegation described in 2.1 of this by-law, The Corporation of the City of London hereby delegates the authority with respect to the granting of consents provided for under section 53 of the *Planning Act*, as amended, to the Director, Development Services, acting as the "London Consent Authority" during the emergency declared in the Province of Ontario pursuant to Order in Council 518/2020 (Ontario Regulation 50/20) on March 17, 2020 pursuant to section 7.0.1 of the *Emergency Management and Civil Protection Act*, and until December 1, 2020.
 - (c) The powers delegated to the Committee of Adjustment under 2.1 of this by-law shall be suspended for the period of the time described in 2.2 (b) of this by-law. Notwithstanding this section, the Committee of Adjustment may continue to exercise powers delegated under section 1.3 of this by-law.

Planner: M. Campbell

This by-law comes into force and effect on the day that is passed.

PASSED in Open Council on June 2, 2020.

Ed Holder
Mayor

Catharine Saunders
City Clerk

First reading – June 2, 2020
Second reading – June 2, 2020
Third reading – June 2, 2020

Additional Reports

December 2, 2019, Report to the Planning and Environment Committee; *“Delegated Authority for Consent”*